

**LAFAYETTE TOWNSHIP  
SUSSEX COUNTY, NEW JERSEY**

**RESOLUTION 2021-41**

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF LAFAYETTE AUTHORIZING A SECOND AMENDMENT TO  
THE DEVELOPER'S AGREEMENT WITH **SHOTCO ENERGY LLC**

WHEREAS, **Beaver Run Solar Farm, LLC** (the "Original Developer") and the Township of Lafayette (the "Township") entered into a Developer's Agreement on July 14, 2015 with regard to the construction, operation, and removal/restoration of a photovoltaic energy generation facility on property located on Beaver Run Road, designated as Block 25, Lots 2 and 4.01, and Block 30, Lot 6 on the Township's tax assessment map; and

WHEREAS, the Original Developer entered into an Assignment and Assumption Agreement with **SHOTCO ENERGY, LLC**, dated December 18, 2015, in which the Original Developer assigned all of its right, title and interest in and to the solar facility and the Developer's Agreement with the Township to **SHOTCO ENERGY LLC** (the "Developer"), a Delaware limited liability company registered with the State of New Jersey with an address of 10 Wagaraw Road, Hawthorne, New Jersey 07506; and

WHEREAS, the solar facility was constructed and has been in operation since 2016; and

WHEREAS, the Developer made a cash deposit of \$339,000 to fund the Restoration Guaranty; and

WHEREAS, by Resolution approved by the Township on May 7, 2019, the Township permitted the Developer to substitute the Restoration Guaranty with a current cash bond in the amount of \$339,000, with an assignment by Lakeland Bank of a Certificate of Deposit in the same amount, with interest to be paid to the Developer; and

WHEREAS, the Developer and the Township entered into a First Amendment to the Developer's Agreement, dated on or about May 7, 2019, permitting the removal of the Cash Restoration Bond / Restoration Guaranty in the amount of \$339,000 from the Township escrow account, and permitting its deposit into an interest-bearing account, with the Township as beneficiary of the cash portion, and the Developer the beneficiary of any interest earned thereon; and

WHEREAS, it appears that the assignment of the Letter of Credit was not acted upon, and the Township continued to hold in escrow the sum of \$339,000 to fund the Restoration Guaranty; and

WHEREAS, the Developer now wishes to withdraw the cash and guaranty the restoration of the premises with a "Solar Installation Decommissioning Plan Surety Bond;" and

WHEREAS, Roy E. Kurnos, Esq., the Lafayette Township attorney, has reviewed the form of Solar Installation Decommissioning Plan Surety Bond and finds the same to be satisfactory, and permitted by the Developer's Agreement in the place and stead of a cash bond; and

WHEREAS, the Developer has requested and the Township has agreed to make a second change to the Developer's Agreement to permit the return of the Cash Restoration Bond /

Restoration Guaranty to the Developer within a reasonable time of the Township receiving a Performance Bond issued by a surety acceptable to the Township in the amount of \$339,000.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lafayette, Sussex County, New Jersey as follows:

1. The Mayor and Municipal Clerk are hereby authorized and directed to execute a Second Amendment to Developer's Agreement, a copy of which is attached hereto.
2. This Resolution shall take effect immediately.

#### CERTIFICATION

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Lafayette Township Committee at a meeting held on September 7, 2021.

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AnnaRose Fedish, RMC  
Municipal Clerk