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VIA EMAIL AND U.S. MAIL

Town of Farmington Planning Board
c/o Mr. John Robortella, Clerk
1000 County Road 8
Farmington, New York 14425

**RE: Application of Delaware River Solar to construct a 7 MW solar facility at 466
Yellow Mills Road**

**SEQRA Determination of Significance
PB # 1003-18 Preliminary Four-Lot Subdivision Plat
PB # 1004-18 Preliminary Site Plan
PB # 1006-18 Special Use Permit**

Dear Planning Board Members:

We are counsel for Delaware River Solar (DRS) and submit this letter (1) in support of the pending application of DRS for a Special Use Permit, and (2) in response to the letter submitted by Bridget O'Toole, Esq. on July 22, 2020.

The Town of Farmington Planning Board has invested an incredible amount of time and energy reviewing this project since it was first proposed in May of 2018. Over two years later, the Board has addressed this project at no less than thirty separate board meetings and received at least 164 separate written submissions on this project. We recognize and appreciate the significant burden this review has placed on the Board and our comments in this submission will be brief as all relevant information has already been provided to the Board.

The Town of Farmington has enacted clear standards for the approval of a special use permit for solar photovoltaic systems, such as the community solar project proposed by DRS. Those standards address, among other things, important considerations such as setbacks, environmental monitoring, fencing and watering systems, location of collection lines and access roads, drainage, erosion control, traffic, facility decommissioning and removal, and site restoration. *See* Town of Farmington Code (Code) § 165-65.3(E). DRS has submitted an overwhelming amount of information that fully addresses each of those considerations. All additional information that has been requested of DRS by the Board has similarly been provided.

In addition to the specific requirements of Code § 165-65.3(E), which Ms. O'Toole does not specifically dispute, DRS is required to demonstrate that the proposed project will not, as far as applicable:

- Adversely effect the orderly development and character of the surrounding neighborhood.
- Be a nuisance to neighboring land uses in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, unsightliness, contamination, or other similar conditions.
- Create hazards or dangers to the general public or to persons in the vicinity of the project from fire, explosion, electricity, radiation, crowds, traffic congestion, parking of automobiles or other similar conditions.
- Cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts, such as significant erosion and/or sedimentation, slope destruction, flooding or ponding of water or degradation of water quality.
- Be incompatible with the type, extent and direction of building development and/or the creation of access roads or ingress/egress points for the site and surrounding areas, as proposed in the Town of Farmington Master Plan or in the Route 96/Route 332 Corridor Development Plan, as adopted and amended by the Town of Farmington.
- Destroy or adversely impact significant historic and/or cultural resource sites.
- Create disjointed vehicular circulation paths or create vehicular/pedestrian conflicts.
- Provide inadequate landscaping, screening or buffering between adjacent uses which are incompatible with the proposed project.

See Code § 165-99(C)(5)(a)-(h). As stated above, we will not repeat the entire factual record in this letter, but briefly describe how DRS has satisfied each of these requirements.

First, DRS has demonstrated that the project will not “adversely effect the orderly development and character of the surrounding neighborhood” by providing the Board with evidence that property values will not be negatively impacted, agricultural land will

be preserved for the future via a minimally intensive use that will be decommissioned with an environmentally compliant plan that includes full site restoration, and provide the surrounding area with clean, renewable energy that will enhance and improve the character of the surrounding neighborhood. The opponents have no evidence to contradict the evidence submitted by DRS on this point.

Second, DRS has demonstrated that the project will not be a “nuisance” to neighboring land uses. The project will not damage the environment and will be regularly monitored to ensure environmental compliance. Similarly, the project will not produce any nuisance for the neighbors because it is essentially a passive project – that is the very nature of solar photovoltaic systems. The only substantive issue raised by the neighbors is glare, but, as explained previously, the panels do not produce glare. They absorb sunlight rather than reflecting it.

Third, the project will not create a public hazard. Apart from alleged glare, which is discussed above and is not an actual reality (solar panels absorb light, not reflect it), the only alleged hazard identified by Ms. O’Toole is traffic. There is reliable evidence before the Board on traffic impacts, in the form of the Technical Letter submitted by SRF Associates on May 31, 2019 (Abstract #107). Our letter of July 31, 2019 (Abstract #120), discusses this study in detail, but it is worth repeating that the outcome of the SRF analysis was that “the proposed project will not have any potentially significant adverse impact on traffic operations” when completed, and that during construction there will be less than 100 vehicles per hour [vph], which is the threshold that the NYSDEC uses for traffic concerns, stating that “a project generating fewer than 100 peak [vph] will not result in any significant increases in traffic.”

Fourth, the project will not create an adverse environmental impact. In essence, Ms. O’Toole is attempting to reopen the SEQR determination that has already been completed by the Board. Potential environmental impacts have been examined at great length and there is no evidence that the project will have an adverse environmental impact. Rather, the project will be subject to environmental regulation and has addressed all relevant environmental concerns raised by the Board.

Fifth, the project will not be incompatible with the Town of Farmington Master Plan. The Town has specifically provided an avenue for the introduction of community solar into the Town via the passage of the Town’s solar ordinance in 2017. Solar is an important part of the Town’s vision for the future and a contributing factor in the Town’s effort to preserve and conserve its natural resources by providing clean, renewable energy.

Sixth, the project will not adversely impact historic or cultural resources because it will be built on vacant farmland. This is a point Ms. O’Toole does not contest.

Seventh, the project will not create disjointed vehicular paths or create vehicular/pedestrian conflicts. The project will not require the rerouting of traffic and, as mentioned above, the SFR Associates Technical Letter clearly states that the project will have no adverse impact on traffic.

Eighth, the project will have adequate landscaping and buffering. As the Board is well aware, DRS has submitted a detailed and robust landscaping plan that will provide ample buffering and protect sight lines to the extent practicable.

In sum, DRS appreciates the thorough and thoughtful review that the Board has undertaken. Ample evidence has been submitted to support the approval of the pending application for a special use permit, and DRS respectfully requests that the Board approve that application. We look forward to answering any additional questions that the Board may have at the next meeting of the Board.

Sincerely,

A handwritten signature in cursive script that reads "Terence Robinson".

Terence L. Robinson Jr.

TLR/sms