



Fairhaven Board of Selectmen

December 4, 2017 Meeting Minutes

Present: Chairman Robert Espindola, Vice Chairman Daniel Freitas, Clerk Charles Murphy, Town Administrator Mark Rees, and Administrative Assistant Vicki Paquette

Mr. Espindola called the meeting to order in the Town Hall Banquet Room at 6:33 p.m. The meeting was recorded by Cable Access.

MINUTES

Mr. Freitas motioned to approve the minutes of the November 20, 2017 meeting, open session. Mr. Murphy seconded. Vote was unanimous. (3-0).

TOWN ADMINISTRATOR REPORT

Mr. Rees updated the Board on several matters:

- Mr. Rees mentioned that the Town's financial auditors were at Town Hall. He also met with the principal partner of the firm, Frank Biron, who said the audit was going well.
- Mr. Rees met with Wayne Fostin, the Building Inspector and Lori Pina, Selectmen's Senior Clerk to go over renewals for used car dealerships and auto repair licenses.
- Upon the recommendations of Police Chief, Mr. Rees was happy to announce the hiring of a new police officer, Michael Carrette. Mr. Carrette will have to pass several exams and pass the Police Academy before starting his employment.
- Mr. Rees met with Town Counsel and the Board of Health on November 29 to discuss the ABC Disposals contract. The Board of Health authorized Mary Friere- Kellogg, Board of Health Agent, with Mr. Rees's assistance, to enter discussions with ABC about the validity of their problems and steps the town may take to continue the recycling program.
- Mr. Rees also updated the Board regarding the new Ladder Truck. Greenwood Emergency will be building the Emergency One apparatus and it is expected to be in Fairhaven in approximately a year to a year and a half.

COMMITTEE LIAISON REPORTS

Under committee liaison reports:

- Mr. Murphy met with the Commission on Disability. He said that with the Commissions support, the Town Hall will be applying for CPC funds to get the rest of Town Hall handicapped accessible
- Mr. Murphy said the Marijuana Advisory Committee will be meeting soon.
- Mr. Espindola told the Board that he will be meeting with Mass Development on Wednesday
- Mr. Espindola had a conference call with the Department of Revenue regarding assessment trends
- Mr. Espindola told the Board the Comcast negotiations will meet this Friday

BREEZEWAY FARMS CONSULTING INC

Bill Roth, Planning and Economic Development Director, spoke to the Board regarding the new part time position in the Planning Department. This position is being funded by the CDBG grant and is a reimbursable expense. Mr. Freitas made a motion to sign the contract with Breezeway Farms Consulting LLC and not to exceed \$3500 in funds. Mr. Murphy second. Vote was unanimous. (3-0).

P.I.L.O.T. AGREEMENT WITH CEC SOLAR #1114, LLC

Mr. Rees explained to the Board that at a prior Town Meeting it was voted to enter an agreement with CEC Solar #1114. This agreement will bring in \$804,725 in taxes to the Town over a 25 year period. Mr. Freitas made a motion to approve and authorize the Town Administrator to sign the contract for the Town. Mr. Murphy second. Vote was unanimous. (3-0). (Attachment A)

APPROVAL OF LIQUOR LICENSE

In attendance were Cathy Melanson and Drew Tillet. Ms. Melanson asked the Board for permission to hold a Christmas party where alcohol will be served on December 8 at the former EJ's Restaurant. The liquor license was voluntarily surrendered at a BOS meeting in on August 30, 2017. Mr. Freitas made a motion to approve a one day liquor license for E.J's Restaurant. Mr. Murphy second. Vote was unanimous. (3-0).

2018 CDBG APPLICATION PROCESS

At 6:59 Chairman Espindola opened the public hearing for the 2018 CDBG application process. In attendance was Bill Roth, Planning and Economic Development Director. Mr. Roth explained that the project will be in two parts. The first part will be the Oxford Terrace Parking Lot. This project will be \$528,000 to complete. The second part will be Hedge Street and is estimated to cost \$960,000. Part of the Hedge street phase will consist of redesigning the head wall near the water, adding drainage and sidewalks. All sewer lines need replacing as well. The application is due by the beginning of March. Mr. Roth said he will be asking for matching money from BPW. There was no public comment. The Chair closed the meeting at 7:12pm

SECTOR 9 FISHING PROGRAM

Selectmen met with Richard Canastra, co-owner of BASE New England/ Whaling City Seafood Display Auction and Attorney Andrew Saunders, the attorney representing Sector 9, regarding the closing of Sector 9. The Sector system was started in 2010 to help the fishermen. Mr. Canastra explained to the Board that Sector 9 is one of 19 fishing cooperatives in the Northeast and is primarily made up of permits held by Carlos Rafael. Mr. Rafael was sentenced to 46 months of prison for charges including conspiracy, false entries and bulk cash smuggling. Four of Mr. Rafael's fishing vessels were also seized as part of his sentence. Because of the closing of Sector 9 and the seizing of the vessels this has created a large void in the fishing community. Mr. Canastra explained the impact this has had among the jobs in our area from the Boat Captains down to the lumpers who unload the boats, the shipyards that work on the ships and the consumers who purchase the fish. This is a loss to the whole community.

John K. Bullard who has most recently retired from his position as Regional Administrator for the National Marine Fisheries Service, has also stopped trading among the sectors.

Mr. Canastra and Atty. Saunders would like the Board to allow Mr. Rees to be able to make comments to NOAA and to write a strong letter in favor of keeping Sector 9 open and allowing ground fishing to begin again. All Board members agreed that they were in no way condoning anything that Carlos Rafael has done, but would like to help those affected by his criminal actions and find a resolution to closing the sector. Mr. Rees suggested that something be drafted for the next meeting. Mr. Freitas made a motion to ask Mr. Rees to assist Atty. Saunders and Mr. Canastra and to prepare comments for the NOAA registry. Mr. Murphy second. Vote was unanimous. (3-0)

OTHER BUSINESS

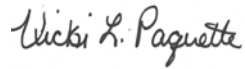
In other business:

- Mr. Freitas congratulated Fairhaven resident John Garcia on being the newly appointed Marion Police Chief
- Mr. Murphy thanked COA director Anne Silvia for putting on the Thanksgiving dinner at the Senior Center. Mr. Murphy and his granddaughter were in attendance to pass out candy canes. Mr. Freitas also volunteered that morning. It is estimated that there were at least 80-100 people who enjoyed delicious meal.
- Mr. Murphy updated the Board about the great things that the FHS PTO are doing to create awareness for parents regarding the recent Opioid crisis
- Mr. Murphy thanked Sue Fitzgerald and her team for a very healing and emotional event at the Unitarian Church honoring the victims of tragedy
- Mr. Murphy thanked all those that supported the MO LIFE winter fundraiser
- Mr. Espindola reported that FXM had extremely positive comments regarding our school system
- Mr. Espindola congratulated the organizers of the Turkey Trot for another successful road race

- Mr. Espindola said the recent Prize-a-Palooza event went well and they beat their record fundraising amount from previous years. All proceeds go to benefit The Neediest Families
- Mr. Espindola said he has received another email regarding graffiti at Rogers School
- Mr. Espindola noted that this Saturday will be the Old – Time Holiday Fair at the Town Hall
- Mr. Espindola told the Board that the Benny’s buildings have all been sold
- Mr. Freitas thought it would be a nice idea to have local artist Arthur Moniz create something for the Selectmen to give to dignitaries when they visit

At 7:47p.m. Mr. Freitas motioned to adjourn. Mr. Murphy seconded. Vote was unanimous.
(3- 0)

Respectfully,



Vicki L. Paquette
Administrative Assistant
(Minutes approved 12/18/2017)

Documents appended:

A: PILOT Agreement

AGREEMENT

**FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL
PROPERTY between**

CEC Solar #1114, LLC

and

Town of Fairhaven, MA

dated as of November 6, 2017

AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL PROPERTY

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL PROPERTY (the "Agreement") is made and entered into as of this 6th day of November, 2017 by and between CEC Solar #1114, LLC, a Colorado limited liability company with a principal place of business at 361 Centennial Parkway, Third Floor, Louisville, CO 80027 ("Developer"), the TOWN OF FAIRHAVEN, a municipal corporation duly established by law and located in Bristol County, Commonwealth of Massachusetts and unless otherwise expressly stated, acting in all instances, by and through its Board of Selectmen (the "Town"). Developer and the Town are collectively referred to in this Agreement as the "Parties" and are individually referred to as a "Party".

WHEREAS, Developer plans to build, own and operate a photovoltaic power plant with an expected alternating current ("AC") capacity of approximately 1.69 megawatts ("MW AC") on approximately twelve (12.02) acres of land located at 197 New Boston Road, Fairhaven, Massachusetts, (the "Project") such and being more particularly described in Exhibit A (the "Property");

WHEREAS, it is the intention of the Parties that Developer make annual payments to the Town for the term of this Agreement in lieu of personal property taxes on the Project, in accordance with M.G.L. c. 59, § 38H(b) (Acts of 1997 Chapter 164, Section 71(b), as amended) and the Massachusetts Department of Revenue regulations adopted in connection therewith;

WHEREAS, because both Developer and the Town need an accurate projection of their respective expenses and revenues with respect to the personal property that is taxable under law, the Parties believe that it is in their mutual best interests to enter into this Agreement fixing the payments that will be made with respect to all taxable personal property incorporated within the Project for the term of the Agreement;

WHEREAS, the Parties intend that, during the term of the Agreement, Developer will be assessed for statutory personal property taxes as set forth in Exhibit B, and this Agreement will provide for the exclusive schedule of payments of such personal property taxes that Developer (or any successor owner of the Project) will be obligated to make to the Town with respect to the Project during the term hereof, provided, however, that the Parties do not intend for this Agreement to affect any direct payments for services provided by the Town to the Project, including but not limited to, permit fees, consultant services associated with any permit applications, water and sewer services, and similar payment obligations not in the nature of personal property taxes that Developer is otherwise obligated to pay the Town;

WHEREAS, the Town is authorized to enter into this Agreement with Developer;

WHEREAS, the parties recognize that the taxes due under M.G.L. c. 59 based upon the full and fair cash valuation of the Project would result in a tax burden which would be highest at the inception of the Project and would decline over the life of the Project, and that as a result

of their agreement to a schedule of fixed annual payments there will be an accruing tax burden owed by the Developer to the Town as set forth in Exhibit B (the "Accrued Tax Burden") which will be paid over the term of the Agreement, and; WHEREAS, the Parties have reached this Agreement after good faith negotiations:

NOW THEREFORE, in exchange for the mutual commitments and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Payment In Lieu of Personal Property Taxes. Developer agrees to make payments to the Town in lieu of personal property taxes for a period of twenty-five (25) consecutive fiscal tax years, commencing on the Commercial Operations Date (as defined below) (the "Term") at a rate of \$19,024 per MW AC capacity of the Project per annum, totaling an anticipated annual payment of \$32,189. Each annual payment will be paid to the Town in two (2) equal installments during the term of this Agreement and the annual payment amount and payment date will be noted on a semi-annual bill issued by the Town to the Developer. Except to the extent that Paragraph 2 of the Agreement provides otherwise, Developer agrees that the payments in lieu of taxes under this Agreement will not be reduced on account of a depreciation factor, revaluation or reduction in the Town's tax rate or assessment percentage beyond that anticipated by the Parties and already reflected in the agreed per megawatt rate, and the Town agrees that the payments in lieu of taxes will not be increased on account of an inflation factor, revaluation or increase in the Town's tax rate or assessment percentage beyond that anticipated by the Parties and already reflected in the agreed per megawatt (MW) rate.

2. Adjustments to Annual Payments. Adjustments to Annual Payments shall be made, if at all, only in accordance with this Paragraph 2.

a. AC Nameplate Capacity Changes. If, as of the date Developer receives from the local electric utility written authorization to interconnect and commence operations of the Project (the "Commercial Operations Date"), the installed AC nameplate capacity of the Project is more or less than the capacity set forth herein by more than 0.001 MW, the remaining Annual Payments shall be increased (if more) or decreased (if less) by a unit price of Nineteen Thousand Twenty Four Dollars and Zero Cents (\$19,024.00) per MW AC for each MW (or portion thereof) change in such capacity. In addition, if after the Commercial Operations Date, as a result of the addition, replacement, enhancement, or removal of Project equipment, improvements or other property, the installed AC nameplate capacity of the Project is increased or decreased by more than 0.001 MW, the taxable valuation of the Project shall be adjusted to reflect that change, and the Accrued Tax Burden after the effective date of the adjustment and the Annual Payments due after the effective date of the adjustment shall be adjusted to reflect that change and to provide for the payment of the taxes, as adjusted, in equal annual payments for the remainder of the term of this Agreement; provided, however, that the portion of those future Annual payments which constitutes payment toward the Accrued Tax Burden which existed prior to the effective date of the adjustment, will not be adjusted. In the event of a removal resulting in a decrease in Annual Payments, such decrease shall not be effective unless and until the Project equipment, improvements or other property have been removed from the Project. Within fourteen (14) days following the Commercial Operations Date,

Developer shall provide written notice to the Town certifying that date and the AC nameplate capacity of the Project as installed as of that date.

b. Notice of Changes in Capacity. Within fourteen (14) days prior to the addition, replacement, removal or enhancement of Project equipment, improvements or other property resulting in a change in DC nameplate capacity, Developer shall provide written notice to the Town describing, in reasonable detail, the equipment, improvements or other property added, replaced, removed or enhanced; the resulting change in DC nameplate capacity; a proposed adjustment to Annual Payments under Paragraph 2; and the basis for such change in capacity.

c. Any dispute between the parties arising under this Paragraph 2 shall be subject to the arbitration provisions of Paragraph 11.

3. Inventory and Inspection. Within six (6) months after the Commercial Operations Date, Developer shall prepare and provide to the Town an inventory of personal property incorporated into the Project as of the Commercial Operations Date (the "Inventory"). To the extent that inventory should change, Developer will promptly update the said Inventory and submit the same to the Town, for approval by the Parties. The Town, its officers, employees and consultants and representatives shall have the right upon not less than ten (10) days prior written notice (except in an emergency) to periodically inspect the Project, on reasonable prior notice to Developer, for the purpose of confirming and verifying the Project and compliance with this Agreement. During any such inspection, the Town shall comply with all reasonable Developer safety requirements. Developer's representative may, at the Developer's sole election, accompany the Town on all such inspections. Any dispute between the parties arising under this Paragraph 3 shall be subject to the arbitration provisions of Paragraph 11.

4. Payment Collection, Security. The provisions of M.G.L. c. 60 and other applicable law will govern the collection of any payments in lieu of taxes provided for in this Agreement as though they were personal property taxes due and payable to the Town.

5. Tax Status, Separate Tax Lot. The Town agrees that during the term of this Agreement, the Town will not assess Developer for any personal property taxes with respect to the Project or the Property to which Developer might otherwise be subject under Massachusetts law, and the Town agrees that this Agreement will exclusively govern the payments of all ad valorem personal property taxes and payments in lieu of such taxes that Developer will be obligated to make to the Town with respect to the Project and the Property, provided, however, that this Agreement is not intended to affect, and will not preclude, other assessments of general applicability by the Town for excise taxes on vehicles due pursuant to M.G.L. c. 60A and for services provided by the Town to the Project, including but not limited to, permit fees and consultant services.

The Town agrees that no personal property taxes will be due from or assessed to Developer with regard to the Project other than the payments in lieu of taxes described in this Agreement.

6. Successors and Assigns. This Agreement will be binding upon the successors

and assigns of Developer, and the obligations created hereunder will run with the Property and the Project. In the event that Developer sells, transfers, leases or assigns the Property or all or substantially all of its interest in the Project, this Agreement will thereafter be binding on the purchaser, transferee, lessee or assignee. A Notice of this Agreement may be recorded in the applicable Registry of Deeds forthwith upon execution. In the event of bankruptcy filing by the Developer, the Accrued Tax Burden shall be due and payable immediately, and the Town may revoke this Agreement. In the event that the successor or assign of Developer is a tax-exempt entity, the Accrued Tax Burden, and the remaining payments due to the Town as part of this agreement will be paid in a lump sum using a discount rate of ten (10%) percent to calculate the Net Present Value of the remaining future payments due. Developer is expressly permitted to assign all of the rights and obligations of this Agreement to any affiliate or to any successor in interest in the Project.

7. **Statement of Good Faith.** The Parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration of the full and fair cash value of the Project, to the extent that such value is determinable as of the date of this Agreement in accordance with M.G.L. c.59, § 38H. Each Party was represented by counsel in the negotiation and preparation of this Agreement and has entered into this Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this Agreement is fair and mutually beneficial to them because it reduces the likelihood of future disputes over personal property taxes, establishes tax and economic stability at a time of continuing transition and economic uncertainty in the electric utility industry in Massachusetts and the region, and fixes and maintains mutually acceptable, reasonable and accurate payments in lieu of taxes for the Project that are appropriate and serve their respective interests. The Town acknowledges that this Agreement is beneficial to it because it will result in mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes to the Town. Developer acknowledges that this Agreement is beneficial to it because it ensures that there will be mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes for the Project.

8. **Additional Documentation and Actions.** Each Party will, from time to time hereafter, execute and deliver or cause to be executed and delivered, such additional instruments, certificates and documents, and take all such actions, as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement and, upon the exercise by a Party of any power, right, privilege or remedy pursuant to this Agreement that requires any consent, approval, registration, qualification or authorization of any third party, each Party will execute and deliver all applications, certifications, instruments and other documents and papers that the exercising Party may be so required to obtain.

9. **Partial Invalidity.** If, for any reason, including a change in applicable law, a property tax is imposed on the Project in addition to the payments in lieu of taxes due under this Agreement, the payments in lieu of taxes due under this Agreement will be decreased on an annual basis by the amount of the property taxes actually paid to the Town for each year. If for any reason, including a change in applicable law, a payment in lieu of taxes is provided for that is less than that provided for in Paragraph I of this Agreement, any amount provided for in this

Agreement over and above such lesser amount shall be considered a payment by Developer to the Town as the host community of the Project. In no event, except as provided for in Paragraph 2 hereof, shall the payment amounts provided for herein be reduced below the level called for in Paragraph 1.

10. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service or otherwise. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

To: Developer

CEC Solar #1114
146 West Boylston Street, Suite 200,
Worcester, MA 01606
Attn: Jeffrey Lord, Senior Vice President
Email: jeff.lord@easycleanenergy.com

To: Town of Fairhaven

Board of Selectmen
Town Hall Center Street
Fairhaven, MA 02719
Attn: Town Administrator
Email:

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

11. Applicable Law; Arbitration. This Agreement will be made and interpreted in accordance with the laws of the Commonwealth of Massachusetts. The Parties each consent to the jurisdiction of the Massachusetts courts or other applicable agencies of the Commonwealth of Massachusetts regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Venue for any action brought hereunder shall be the courts of Bristol County, Massachusetts, provided that where the provisions of this Agreement expressly provide for arbitration, the subject dispute shall be submitted to final and binding arbitration before the American Arbitration Association under its Rules for Commercial Arbitration, Arbitration proceedings shall be held in Fairhaven, Massachusetts, unless otherwise agreed by the parties.

12. Good Faith. The Parties shall act in good faith to carry out and implement this Agreement.

13. Force Majeure. The Parties recognize that there is the possibility during the term of this Agreement that all or a portion of the Property or Project may be damaged or destroyed or otherwise rendered unusable due to events beyond the control of either Party. These events are referred to as "Force Majeure". As used herein, Force Majeure includes, without limitation, the following events:

- a. Acts of God including floods, winds, storm s, earthquake, fire or other natural calamity;

- b. Acts of War or other civil insurrection or terrorism; or
- c. Taking by eminent domain by any governmental entity of all or a portion of the Property or the Project.

In the event an event of Force Majeure occurs during the term of this Agreement with respect to any portion of the Property or Project that renders the Property or Project unusable for the customary purpose of the production of electricity for a period of more than sixty (60) days, then Developer may, at its election, notify the Town of the existence of this condition as well as of its decision whether or not to rebuild that portion of the Property or Project so damaged or destroyed or taken.

The Developer may elect not to rebuild that portion of the Project that has been damaged or taken, but to continue with the Agreement as to the remaining portion of the Project, in which case the Accrued Tax Burden for the damaged or taken portion of the Project shall be immediately due and payable, and the Developer may notify the Town of its termination of all other provisions of this Agreement as it relates to the damaged or taken portion of the Project, and the damaged or taken portion of the Property and Project will thereafter be assessed and taxed as though this Agreement does not exist, to the extent further taxation of the damaged or taken portion of the Project is applicable. Any dispute between the parties relating to the determination of the Annual Payment under this provision shall be subject to the arbitration provisions of Paragraph 11.

In the alternative, the Developer may elect not to rebuild that portion of the Project that has been damaged or taken, and to terminate the Agreement as to the whole Project, in which case the Accrued Tax Burden shall be immediately due and payable in full, and the Developer shall notify the Town of its termination of all provisions of this Agreement and the whole Property and Project will thereafter be assessed and taxed as though this Agreement does not exist, to the extent further taxation of the Project is applicable.

14. Covenants of Developer. During the term of the Agreement, Developer will not voluntarily do any of the following:

- a. seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement, except as expressly provided herein;
- b. convey by sale, lease, assignment or otherwise any interest in the Project to any entity or organization that qualifies as a charitable organization pursuant to M.G.L. c.59 Section 5 (Third); or
- c. fail to pay the Town all amounts due hereunder when due in accordance with the terms of this Agreement.

15. Representation and Warranty of Developer. Developer represents and warrants:

- a. It is a corporation or other business entity duly organized, validly existing and in

good standing under the laws of the state in which it was formed, and if a foreign corporation or entity, is, to the full extent required by law or regulation, registered with the Massachusetts Secretary of the Commonwealth, and has full power and authority to carry on its business as it is now being conducted.

b. This Agreement constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms, except to the extent that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally or by general equitable principles.

c. It has taken all necessary action to authorize and approve the execution and delivery of this Agreement.

d. To Developer's knowledge, none of the documents or information furnished by or on behalf of Developer to the Town in connection with the negotiation and execution of this Agreement contains any untrue, false or inaccurate statement of a material fact or omits to state any material fact required to be stated therein, or necessary to ensure that the statements contained herein or therein, in the light of the circumstances in which they were made, are not misleading.

e. The person executing this Agreement on behalf of Developer has the full power and authority to bind it to each and every provision of this Agreement.

f. Developer is a "generation company" as such term is used and defined in M.G.L.

c.
59, § 38H(b) and M.G.L. c. 164, § 1 (or their successor provisions).

16. Covenants of the Town. So long as Developer is not in breach of this Agreement during its term, and except as authorized in this Agreement, the Town will not do any of the following:

a. seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement;

b. seek to collect from Developer any property tax upon the Project or any other improvement thereon in addition to the amounts herein;

c. impose any lien or other encumbrance upon the Property or the improvements thereon (including the Project) except as is expressly provided herein;

17. Certification of Tax Compliance. Pursuant to M.G.L. c. 62C, § 49A the undersigned Developer by its duly authorized representative certifies that it is in tax compliance with the tax laws of the Commonwealth of Massachusetts.

18. Enforceability. Developer and the Town understand and agree that this Agreement shall be null and void and that no portion of this Agreement shall be enforceable, if: (a) this Agreement, or any material portion of this Agreement, is determined or declared to be illegal,

void, or unenforceable; or (b) Developer or any successor or assignee of Developer, if any, is not a "generation company" as such term is used or defined in M.G.L. c. 59, § 38H (b), and M.G.L. c. 164, § 1 (or their successor provisions), and the Developer shall be liable under all applicable laws for the payment of taxes owed to the Town, with credit for those payments made by the Developer to the Town in reliance on this Agreement.

19. Default.

a. Except as provided in subparagraph B., below, it shall be a default of this Agreement if either Party or any successor or assignee violates any of the material terms and conditions of this Agreement, provided, in the event of such violation, the violating Party or its successor or assignee (i) has not cured such violation within thirty (30) calendar days of receipt of written notice of such violation, or (ii) where such cure cannot be reasonably made within thirty (30) days, if violating Party or its successor or assignee has not begun the cure within thirty days and worked toward it with reasonable diligence, or (iii) where despite such efforts, has failed to cure such violation within one year of written notice of such violation.

b. Notwithstanding any other provisions in this Agreement for payment in lieu of taxes, in the event that the Developer or its successor or assign fails to maintain compliance with the tax laws of the Commonwealth of Massachusetts, or fails for any reason to make any payment due under the terms of this Agreement when such payment is due, and fails to cure that default within thirty (30) days of receipt of written notice of such violation, then the full amount of the Accrued Tax Burden, and of any other taxes due, shall be immediately due and payable, and collectible under all laws applicable to the collection of taxes.

20. Successor Agreement. Unless otherwise undertaken beforehand, not less than six (6) months prior to the last payment called for in Paragraph I above, the Parties may meet and negotiate a successor agreement to the within Agreement governing the tax treatment of the Project and/or the continuation of payments to the Town of Fairhaven as the host community for the Project.

(Signature Page Follows)

Executed under seal by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

TOWN OF FAIRHAVEN, acting by
And through its Board of Selectman

CEC Solar #1114, LLC

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
LEGAL DESCRIPTION

THE PROPERTY:

BEGINNING AT THE SOUTHERLY MOST COMMON CORNER OF THE LINE OF THE PROPOSED LEASE AREA AND THE LINE OF THE PROPOSED ACCESS EASEMENT, THENCE;
NORTH 15° 12' 49" WEST, A DISTANCE OF 31.99 FEET TO THE NORTHERLY MOST COMMON CORNER OF THE LINE OF THE LEASE AREA AND THE LINE OF THE ACCESS EASEMENT, THENCE;
NORTH 15° 12' 49" WEST, A DISTANCE OF 560.59' FEET TO A POINT FOR A CORNER, THENCE;
NORTH 69° 43' 03" EAST, A DISTANCE OF 629.64' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 41° 10' 20" EAST, A DISTANCE OF 196.59' FEET TO A POINT FOR A CORNER, THENCE;
NORTH 88° 52' 15" EAST, A DISTANCE OF 255.57' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 06° 00' 06" EAST, A DISTANCE OF 412.22' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 74° 21' 17" WEST, A DISTANCE OF 251.50' FEET TO A POINT FOR A CORNER, THENCE;
NORTH 15° 12' 19" WEST, A DISTANCE OF 22.00' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 74° 47' 41" WEST, A DISTANCE OF 402.50' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 14° 47' 41" WEST, A DISTANCE OF 30.80' FEET TO A POINT FOR A CORNER, THENCE;
SOUTH 75° 50' 28" WEST, A DISTANCE OF 225.77' FEET TO THE POINT OF BEGINNING
MEANING AND INTENDING TO CONVEY A LEASE AREA ON LOT 40, CONTAINING 12.02 ACRES.

197 New Boston Road, Fairhaven, MA

Date: 11/21/2017 - DG

System Information

System Size (MW AC)

System Size (Watts AC)

Cost Per Watt

First Cost

Depreciation Schedule

Investment Tax Credit Value

Depreciation Schedule

Year 2-10 Depreciation Rate

Actual Tax Burden

Year 1 Tax Rate

Annual Tax Increase

Average Tax Burden

Tax Burden Total

Proposed Payments

Annual Tax Payment

Tax Payment Total

Year

2018

2019

2020

2021

2022

2023

2024

2025

2026

2027

2028

2029

2030

2031

2032

2033

2034

2035

2036

2037

2038

2039

2040

2041

2042

Value

\$ 2,681,205

\$ 2,466,709

\$ 2,269,372

\$ 2,087,822

\$ 1,920,796

\$ 1,767,133

\$ 1,625,762

\$ 1,495,701

\$ 1,376,045

\$ 1,265,961

\$ 1,164,684

\$ 1,071,510

\$ 985,789

\$ 908,926

\$ 834,372

\$ 767,622

\$ 706,212

\$ 649,715

\$ 597,738

\$ 549,919

\$ 505,925

\$ 465,451

\$ 428,215

\$ 393,958

\$ 362,441

Tax Rate

0.02476

0.02507

0.02538

0.02570

0.02602

0.02635

0.02668

0.02701

0.02735

0.02769

0.02804

0.02839

0.02874

0.02910

0.02946

0.02983

0.03020

0.03058

0.03096

0.03135

0.03174

0.03214

0.03254

0.03295

0.03336

Tax Burden

66,387

61,839

57,603

53,657

49,982

46,558

43,369

40,398

37,631

35,053

32,652

30,415

28,332

26,391

24,583

22,899

21,331

19,870

18,509

17,241

16,060

14,960

13,935

12,980

12,091

Tax Burden Per MW

39,236

36,548

34,044

31,712

29,540

27,517

25,632

23,876

22,240

20,717

19,298

17,976

16,745

15,598

14,529

13,534

12,607

11,743

10,939

10,190

9,492

8,841

8,236

7,672

7,146

Tax Payment Per MW

19,024

19,024

19,024

19,024

19,024

19,024

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19,024

Proposed PILOT

32,189.01

32,189.01

32,189.01

32,189.01

32,189.01

32,189.01

32,189.01

32,189.01

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32,189.01

32,189.01

32,189.01

32,189.01

Accrued Tax Burden

34,197.62

63,847.76

89,261.91

110,730.25

128,523.06

142,892.12

154,071.95

162,281.01

167,722.80

170,586.88

171,049.83

169,276.12

165,418.95

159,621.06

152,015.38

142,725.73

131,867.48

119,548.08

105,867.60

90,919.29

106,979.01

57,560.60

39,306.48

20,097.82

-

Total

804,725

475,600

475,600

804,725

475,600

804,725

475,600

804,725

475,600

804,725

475,600

804,725

475,600

804,725

475,600

804,725

Annual Average

32,189.01

19,024

19,024

32,189.01

19,024

32,189.01

19,024

32,189.01

19,024

32,189.01

19,024

32,189.01

19,024

32,189.01

19,024