

**CITY COUNCIL MEETING**  
**AGENDA ITEM VI**



CITY OF FRANKLIN  
COUNCIL AGENDA REPORT

December 14, 2015 City Council Meeting

**Subject: Approval of Annual Agricultural Real Estate Lease,  
Tax Map 123, Lot 403, with Mr. Daniel L. Fife**

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**Motion: *"I move that the Franklin City Council approves an Agricultural Real Estate Lease with Mr. Daniel L. Fife for the portion of the 34 acres City owned property located off River Street which is not being used for an approved solar project, identified as Tax Map 123, Lot 403, and to authorize City Manager Dragon to duly execute the lease on behalf of the City."***

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Mr. Fife contacted me a few weeks ago and asked to lease the portions of the city property he has leased in the past (portions not being used for the approved solar projects). He plans to begin stockpiling materials soon and would like the lease to be approved before moving his materials for next year's growing season.

The lease agreements with NH Solar Garden reference the continued possibility of agricultural use by Mr. Fife on the unused portions.

The proposed lease with Mr. Fife has been amended in the second paragraph-entitled PREMISES- to address the existing lease agreements for the approved solar projects. The amended lease language has been sent to Attorney Fitzgerald for review.

Attachment: One Year Lease Agreement & relevant sections of approved solar leases

**AGRICULTURAL REAL ESTATE LEASE**

**City of Franklin  
And  
Daniel L. Fife**

**LEASE AGREEMENT** made this \_\_\_\_ day of December, 2015, by and between the City of Franklin, New Hampshire, a municipal corporation located in the County of Merrimack, hereinafter referred to as the Lessor, and Daniel L. Fife of 925 South Main Street, Franklin, County of Merrimack and State of New Hampshire, hereinafter referred to as the Lessee.

**PREMISES:** The parties agree that the Lessor shall lease to the Lessee a portion of a certain parcel of land located within the City of Franklin, and owned by the Lessor and located off River Street. The Lessor is leasing the portion of the 34 acres not being used for the solar projects approved in Franklin Solar 1 and Franklin Solar 2. Said parcel is more specifically identified on the Franklin Tax Map as Parcel #123-403-00 and Land Lease Agreements for solar arrays between the City and Franklin Town Solar 1 & 2 LLC. It is understood that such agricultural purposes and operations supporting those purposes shall not interfere with the installation, ownership, maintenance or use of the solar arrays.

**CONSIDERATION:** Consideration for this rental shall be in conformance with RSA 72:23 and any amendments thereto. Annual payments shall be equivalent to \$25.00 per acre.

**LEASE TERM:** This lease shall be for a period of one year subject to cancellation as described herein. However, it is hereby understood and agreed by the parties that the Lessee shall have the use and enjoyment of the premises only from the period of May 1 through November 1 of 2016. For the remaining six months of any year, the property shall be subject to the use and occupancy of the Lessor.

**PURPOSES:** It is understood and agreed that the leased premises are to be used solely for agricultural purposes. Any other use of the premises shall be approved by the Lessor prior to such a use being established by the Lessee. The Lessee may not sublet any portion of the premises or assign his responsibilities or rights under this lease agreement to any other party without the written consent of the Lessor.

**CANCELLATION:** Either party may cancel this agreement upon 60 days notice to the other. However, in the event that the Lessor exercises its option to cancel this agreement during the months of May, June, July, August, September or October of any year, then the Lessor shall allow the Lessee the right to enter upon the leased premises, care for and harvest any crops which have been planted prior to receipt of notice of cancellation. Cancellation notice by any party shall be in writing, certified mail with return receipt requested.

**LIABILITY:** The Lessee agrees to hold the Lessor harmless for any injury, loss or occurrence to any party that arises or is in any way connected with the Lessee's use of the premises. Lessee shall, upon request of the City Manager, provide the City with proof of insurance in an adequate amount to protect the City's interest in this **LIABILITY continued:** regard. Lessee shall not be required to have insurance coverage of higher face amounts than that carried by Lessor. However, in the event of claims which exceed Lessee's coverage, any overage payment shall be borne by the Lessee.

**MERGER:** All agreements and representations made by the parties are contained herein and, unless specifically enumerated in this document shall not form a part of this agreement.

**AMENDMENT:** Any amendment to this agreement shall be in writing executed by the parties.

**SEVERABILITY:** Should any clause, sentence or paragraph of this document be found void, illegal or of no effect, the remainder of the document shall not be affected by such a finding and shall remain in full force and effect.

**APPLICABLE LAW:** The parties agree that this contract shall be construed under the laws of the State of New Hampshire. Should any future statutory amendments or court decisions revise the applicable law with regard to the lease of municipal property, such provisions shall be incorporated into this agreement to the highest degree possible.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Elizabeth Dragon, City Manager  
City of Franklin, Duly Authorized

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Daniel L. Fife



## LAND LEASE AGREEMENT

Landlord:	City of Franklin
Landlord Address:	316 Central St, Franklin NH 03235
Tenant:	Franklin Town Solar 1, LLC
Tenant Address:	23 Rosemary Lane, Durham NH 03824
Lease area (ft2):	Up to 217,800 ft2 (as approved by Franklin Planning Board)
Annual Rent:	\$17,000 a year, per 1.2 MW/Dc with a 2% annual escalation rate over the prior term (rent amount to be calculated based on final size of the project)
Term:	20 years with (2) 5 year extensions
Payment due dates:	30 days after first full month of production and monthly thereafter

### Lease Terms & Conditions:

1. **Background:** Landlord desires to receive land lease payments and other benefits generally available in the state of New Hampshire under the Group Net Metering Program ("**GNM**") offered by the New Hampshire Public Utility Commission ("**PUC**") for those properties that install a solar photovoltaic system, as further described below. In consideration for Landlord's obligations hereunder for the Term of this Lease, Tenant will fund, construct, own, operate and maintain a solar power generation facility for the generation of electric energy, including any necessary electrical transmission lines, transformers, converters, conduits, inverters, transformers, wiring, switchgear, metering equipment, monitoring and control equipment, safety equipment and other equipment (the "**Facility**") to be located on a portion of Landlord's property located at and known as Tax Map 123, Lot 403 ("**Landlord's Property**"). The Facility shall be specifically located on that portion of Landlord's Property (approximately 5 acres in size, excluding access) identified on the site plan to be attached to this Lease as Exhibit A. The Facility, together with access to it are referred to herein as the "**Premises**."

Landlord hereby grants to Tenant, together with its Agents (defined below), non-exclusive access under and across Landlord's Property for ingress, egress and access (including access for the purposes described herein) to the Premises, adequate to, without limitation, install, repair, replace, expand, inspect, test, replace, enhance, alter, upgrade, maintain and operate the Facility and all interconnection facilities required to connect the Facility to either the Tenant's or the Landlord's switchgear, as applicable, including electrical transmission lines, upgrades, transformers, inverters and associated equipment, substations, relay and switching equipment and safety equipment the Facility at all times during the term of this Lease. In addition, if required Landlord agrees to transfer the meter to Tenant to receive payments for power from PUC (if necessary for the Project). The term "**Agents**" means the officers, directors, shareholders, members, partners, employees, contractors, consultants and other third persons acting under a party's direction and control.





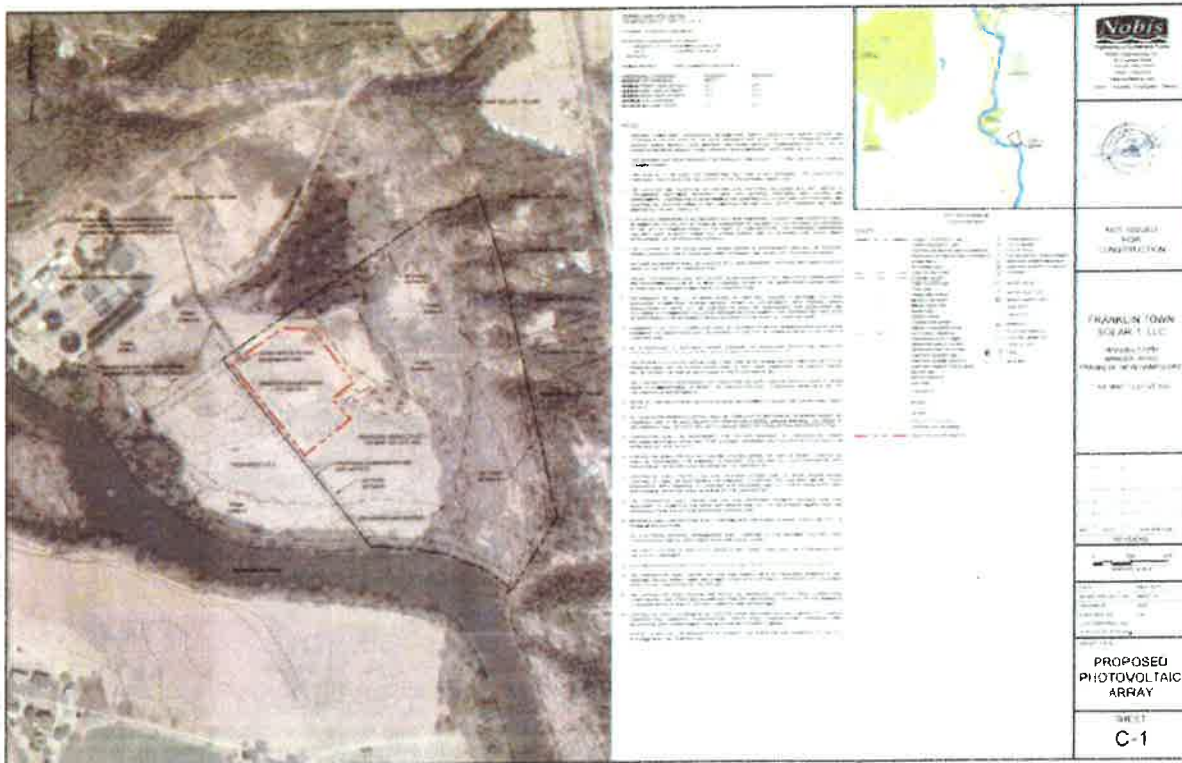
EXHIBIT A

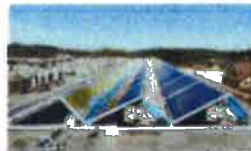
**Legal Description of property:**

A Certain tract or parcel of land situate in said Franklin, bounded and described as follows, to wit: Beginning at the Southwest corner of the within described tract of land on the Easterly side of the Merrimack River at land now or formally of Concord Lumber Company; thence Northeasterly and Northerly along land now or formally of Concord Lumber Company and continuing Northerly along land of Robert Clough and land of Harold W. Retter to the public highway known as Manuel Road; thence continuing Northerly across said Manuel Road to the Northerly side thereof; thence Northerly in the same line to the top of the bank; thence Westerly along the top of the bank to a point; thence turning Northeasterly and running along the top of the bank to the property line of Samuel Carpenter; thence Westerly along line of land of Carpenter to the Merrimack River; thence Southwesterly, Southerly and Southeasterly along said river to the point of beginning. Meaning to convey the fee title to the thread of the river. As recorded in Merrimack County Registry of Deeds, Book 1133, Page 225 on May 31, 1972.

**Site plan:** (plan approved and on record with Franklin Planning Board)

The Landlord retains the right to allow those portions of the leased premises not physically encumbered by the anticipated solar array project to be utilized by the landlord or its assignee or other tenant or lessee for agricultural purposes. It is understood that such agricultural purposes and operations supporting those purposes shall not interfere with the installation, ownership, maintenance or use of the solar array.





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