

**CITY COUNCIL MEETING**

**AGENDA ITEM VII**



**CITY OF FRANKLIN  
COUNCIL AGENDA REPORT**  
*City Council Meeting of May, 2016*

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**Subject: Other Business**

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- 1. Committee Reports**
- 2. City Manager's Update**
- 3. Late Items**



**CITY OF FRANKLIN  
COUNCIL AGENDA REPORT**  
*City Council Meeting May 2016*

**Date:** April 25, 2016  
**From:** Elizabeth Dragon, City Manager  
**Subject:** **Manager's Update**

**Contingency Grant Line Activity:** The City received the following in the contingent grant line this month:

\$100	Knights of Columbus for book club
\$1400	Fraternal Order of Eagles for K-9 training suit

**Youth government week :** This year will be held on Tues May 24<sup>th</sup>, Wed May 25<sup>th</sup> and Thurs May 26<sup>th</sup>.

Typically the schedule is Tuesday kick off at the Franklin City Hall (Mayor & any city councilors & local legislators & Elks representatives are invited to speak) 12:15-2:30 alongside dept heads as we give an overview of city government & state government.

Wed 12:15-2:30 students report to respective departments within the city and shadow dept heads.

Thursday students work with their department heads all day (8am-2:30) and at 6:30pm the Elks host a banquet. (please make sure to RSVP if you plan to attend)

**VFW Loyalty Day Celebration-** The Franklin VFW holds an annual loyalty celebration and this year it was held on Sunday May 1<sup>st</sup> at 2pm.

**FY 17 Budget:** Tonight I submit the City Manager's budget for Fiscal year 2017. City Council Budget work sessions are scheduled for Monday May 9<sup>th</sup>, Monday May 16<sup>th</sup>, Monday May 23<sup>rd</sup>, Monday June 13<sup>th</sup>, Tuesday June 14<sup>th</sup>, and if necessary Monday June 20<sup>th</sup>. All meetings have been posted for 6pm here at city hall.



CITY OF FRANKLIN  
COUNCIL AGENDA REPORT  
City Council meeting May 2016

**LATE ITEM**

**From:** Elizabeth Dragon – City Manager

**Subject:** City Council to consider approval of Lease for a portion of city owned property (recently acquired from the Co-op) for a solar project identified as Ash Fill Solar LLC.

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***Recommended Motion: "I move that the Franklin City Council Approve the proposed lease for a portion of the property at 73 punch brook road subdivided from the ashfill identified as Tax/Map lot #82-409 (solar project site plan approval #P15-006) and authorize the city manager to execute documents necessary to complete the transaction. The City manager will not execute the lease until the lessor has provided a more accurate description of the portion of the parcel to be used for solar project which meets with the approval of the Planning Director"***

1. Mayor calls for a second, discussion, and the vote.

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**Background:**

Seven solar projects were approved by the council last August/September (including the PILOT) agreement for this particular site. However, the Concord Regional Solid Waste Recovery Cooperative (co-op) was in the process of subdividing the parcel from the piece of land which included the ash fill. This prevented the final execution of the lease until now.

Last month, the City Council accepted the newly divided property. NH Solar Garden is now requesting the formalization of the lease agreement previously approved by the council "in concept" for the parcel.

The lease agreement is the same as the others previously approved and reviewed by the city attorney. The project has already received site plan approval by the planning board (#P15-006).

There was a great deal of negotiation that occurred prior to last years approval relative to the lease amount. The final agreements were lease payments (\$17,000 & 13,000 per year depending on the location) and Payment in Lieu of taxes (\$3,500 per year for each site).

Attachments/Exhibits: 1. NH Solar Garden lease & site plan layouts



## LAND LEASE AGREEMENT

Landlord:	City of Franklin
Landlord Address:	316 Central St, Franklin NH 03235
Tenant:	Ashfill Solar, LLC
Tenant Address:	23 Rosemary Lane, Durham NH 03824
Lease area (ft2):	Up to 226,050 ft2 (as approved by Franklin Planning Board)
Annual Rent:	\$13,000 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 82, Lot 409 (“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.



2. **Term.** This Lease shall be for an initial term of twenty (20) years. At the Tenant's option, there shall be up to two (2) five (5) year extensions of this agreement. In order to exercise either of these extensions, the Tenant shall notify the Landlord of its desire for an extension between one hundred twenty (120) and one hundred thirty (130) days prior to the expiration of any term. Either party may require the reopening of negotiations in reference to the rental payment amount prior to the execution of an extension document. In the event that the parties are unable to voluntarily resolve that issue, either party may require that it shall be submitted to binding arbitration.

3. **Uses and Conditions:** Landlord may permit use of the Premises by any other party except, as set forth herein and such use by any other party shall not in any way interfere with Tenant's use of the Premises. Landlord shall not use, nor shall Landlord permit its lessees, licensees, employees, invitees or Agents to use, any portion of the Property in any way that unreasonably interferes with the operations of Tenant. Landlord acknowledges and agrees that access to sunlight ("**Insolation**") is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not knowingly authorize any interference with Insolation on and at the Premises. Without limiting the foregoing, Landlord shall not construct or permit to be constructed any structure on the Property that could adversely affect Insolation levels. In the event of foliage growth on the premises that could adversely affect Insolation levels, Tenant shall have the right to remove the growth. If Landlord becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Premises, Landlord shall advise Tenant of such information and reasonably cooperate with Tenant, at no cost to Landlord, unless such interference is caused by Landlord or its affiliates, officers, Agents or employees, in measures to preserve existing levels of insolation at the Premises. Landlord represents and warrants to Tenant that there are no liens, security interests or other encumbrances burdening the Premises that will interfere with Tenant's use and operation of the Facility. Landlord covenants to Tenant that it will not cause, create, incur, assume, permit or suffer to exist any liens (including mechanics', labor or material man's lien), security interests or other encumbrances on the Premises that will interfere with Tenant's use and operation of the Facility. If Landlord breaches its obligations under this Section, it shall immediately notify Tenant in writing, shall promptly cause such liens to be discharged and released of record without cost to Tenant.

Landlord shall execute such documents and take all actions as may be necessary for application to membership and continued participation in the GNM for or on behalf of Facility. Landlord shall cooperate with Tenant, at Tenant's sole cost and expense, to obtain all permits, franchises, approvals and authorizations required to install and operate the Facility, and Landlord shall





execute all necessary consents and applications and perform other reasonable ministerial requirements as and to the extent required.

Tenant acknowledges that the Planning Board and the Zoning Board are independent agencies and Landlord's agreement to cooperate with Tenant does not insure that these agencies will make decisions in Tenant's favor.

**4. Improvements; Utilities; Access:** Landlord hereby consents to the construction and installation of the Facility, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections as required for the Facility to generate electricity. Tenant shall have the right, at its expense, to erect and maintain the Facility on the Premises, as required. Tenant shall have the right to alter, replace, expand, enhance or upgrade the Facility at any time during the Term of this Lease. Tenant shall cause all construction to occur in compliance with all applicable laws and ordinances, including, without limitation, all requirements of the New Hampshire Department of Environmental Services, and shall discharge or bond any mechanic's lien filed or recorded. Landlord acknowledges that it shall not interfere with any aspects of installation, including, without limitation, attempting to direct construction personnel as to the location of or method of installation of the Facility. The Facility shall remain the exclusive property of Tenant. Tenant may, but shall not be required to, use appropriate means of restricting access to the Facility. Tenant shall, at Tenant's expense, keep and maintain the Facility now or hereafter located on the Premises in commercially reasonable condition and repair during the Term of this Lease, normal wear and tear as excepted. Subject to the terms of this Lease, Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises to install, repair, replace, expand, inspect, test, replace, enhance, alter, upgrade and maintain the Facility at all times during the Term of this Lease. Such continuous access shall be used solely for emergency repairs to the facility. Routine equipment replacement, upgrades and similar activities shall occur during the hours of 7:00 a.m. until 7:00 p.m., Monday through Saturday, inclusive (Sundays are excluded) without further written agreement of the Landlord. If required, Tenant shall arrange for and pay any expense for snow plowing or removal that is required for such access. Tenant represents and warrants that the construction of the Facility will be done in a manner such that no coverage provided there under will be waived. Tenant covenants to Landlord that it will not cause, create, incur, assume, permit or suffer to exist any liens (including mechanics', labor or material man's lien), security interests or other encumbrances on the Property.

If Tenant breaches its obligations under this Section, it shall immediately notify Landlord in writing, shall promptly cause such liens to be bonded, discharged and released of record without cost to Landlord, and shall indemnify Landlord against all costs and expenses (including reasonable attorney's fees and court costs at trial and on appeal) incurred in bonding, discharging and releasing such liens.



5. **Taxes:** Tenant shall pay when due all real property taxes, including those assessed pursuant to RSA 72:23, I(b) attributable to the installation of the Facility. The Tenant shall pay when due any personal property tax or any other tax or fee which are directly attributable to the presence or installation of the Facility. Landlord hereby grants to Tenant the right to challenge, whether in a court, Administrative Proceeding, or other venue, any personal property or real property tax assessments that may affect Tenant. If Landlord receives notice of any personal property or real property tax assessment against the Landlord, which may affect Tenant and is directly attributable to Tenant's installation, Landlord shall provide timely notice of the assessment to Tenant sufficient to allow Tenant to consent to or challenge such assessment. Further, Landlord shall provide to Tenant any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section. Notwithstanding any future increase in taxes for the Premises and any real property attributable to the installation of the Facility, Tenant shall remain entitled to any and all tax credits available through municipal, state, federal or international programs. The failure by Tenant to pay the duly assessed personal and real estate taxes when due shall be cause to terminate this Lease by Landlord.

6. **Insurance; Waiver of Subrogation:** Tenant shall maintain throughout the Term, Commercial general liability insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence protecting Landlord and Tenant against any liability occasioned by any occurrence on or about the Premises and all-risk property insurance in an amount insuring the full replacement value of the Facility. Landlord shall maintain throughout the Term Commercial General Liability Insurance (or equivalent protection provided by the Landlord's participation in a shared risk pool or its equivalent) with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence protecting Landlord and Tenant against any liability occasioned by any occurrence on or about the Premises. Each such policy shall be issued by one or more insurers with general policy holders ratings of not less than A-, as rated in the most current available insurance reports published by A.M. Best & Company, Inc., or the then-equivalent thereof, and licensed to do business in the State of New Hampshire and authorized to issue such policies. Each policy of insurance procured by Tenant shall: (i) name Landlord as loss payee (to the extent covering risk of loss or damage to tangible property) and as an additional named insured as its interests may appear (to the extent covering any other risk); and (ii) contain endorsements providing that such policy shall not be cancelled or amended with respect to Landlord and Landlord's said designees without thirty (30) days' prior notice to Landlord and such designees. Each party shall have the right to insure and maintain the insurance coverage required hereunder under blanket insurance policies. Each party shall, within ten (10) days of written request, furnish current certificates of insurance evidencing the required insurance. Landlord and Tenant shall each secure an appropriate clause in, or an endorsement upon, each insurance policy obtained by it pursuant to which the respective insurance companies waive subrogation or permit the insured, prior to any loss, to agree with a third party to waive any claim it might





have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the Agents of each party. Each party hereby releases the other and its Agents with respect to any claim (including a claim for negligence) that it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) or otherwise occurring during the Term to the extent of the limits of coverage under such insurance policies. The parties agree to reopen negotiations in reference to the limits of insurance or shared risk pool coverage no more frequently than every three (3) years. In the event that the parties are unable to voluntarily resolve issues arising from such negotiations, the issues shall be submitted to binding arbitration.

**7. Notices.** All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, upon receipt if by facsimile with confirmation or personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

**8. Legal Authority.** Landlord covenants and warrants to Tenant that: (i) Landlord has full right, power and authority to execute this Lease; (ii) it has good and unencumbered title to the Premises free and clear of any liens or mortgages, except those disclosed to Tenant, appear as exceptions on the commitment of title insurance the Tenant may obtain and which will not interfere with Tenant's rights to or use of the Premises; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord or to which Landlord is a party.

**9. Quiet Enjoyment.** Landlord covenants that at all times during the Term of this Lease, Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

**10. Hazardous Substances.** Landlord and Tenant shall not introduce or use any substance, chemical or waste (collectively, "Hazardous Substance") on the Property in violation of any applicable law. Landlord shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws, for spills or other releases of any Hazardous Substance not caused solely by Tenant, that have occurred or which may occur on Landlord's Property. Each party agrees to defend, indemnify and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that the other party may suffer or incur due to the introduction of any Hazardous Substances not previously existing on

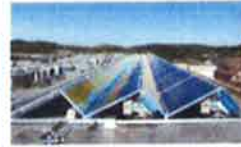


Landlord's Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment, that relate to or arise from any activities on Landlord's Property by any party other than Tenant. The indemnifications in this Section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section shall survive the termination or expiration of this Lease.

**11. Grants and/or Credits:** Tenant shall receive any environmental credits, grants, rebates or tax credits or benefits otherwise available and stemming from the funding, construction and operation of the Facility, from utilities or state and federal authorities. If requested by Tenant, Landlord shall provide reasonable assistance to Tenant in executing all applications and other documents prepared by Tenant necessary for Tenant to receive such payments, including designating Tenant as the customer for purposes of the any applicable solar program or assigning payments therefrom to Tenant.

**12. Assignment and Subleasing:** Except as set forth below, neither Party shall assign this lease to a third party without the written consent of the opposing party, said consent not to be unreasonably withheld. Notwithstanding the preceding sentence, Tenant shall have the right to mortgage or grant a security interest in this Lease and the Facility, and may assign this Lease and the Facility to any lenders, Lenders or holders of security interests, including their successors or assigns (collectively "**Lenders**"), or any third party who acquires all or substantially all of the assets of Tenant or acquires the equity interests of Tenant, provided such Lenders agree to be bound by the terms and provisions of this Lease, and provided further that Tenant shall give Landlord prior written notice of such mortgage security interest or assignment, including contact information of such mortgagor or assignee. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Lenders. Tenant may assign, sell or transfer this Lease without the prior written consent of Landlord. For purposes of this Section, transfer includes any sale of all or substantially all of the assets of Tenant or any merger of Tenant with another person, whether or not Tenant is the surviving entity from such merger, or any other change in control of Tenant.

**13. Termination:** The Tenant shall have the right to terminate this Lease upon twelve (12) month's written notice to the Landlord. In the event Tenant terminates this Lease, and in any event, at the end of the Term or any extended Term, Tenant shall remove the Facility from the Premises. Tenant shall restore the Premises to the same condition it was in prior to the installation of the Facility. If either party hereto fails to comply in any material respect with any term, provision or covenant of this Lease within thirty (30) days after written notice from the non-defaulting party, such uncured breach shall be an event of default ("**Event of Default**") under this Lease; provided that if such default cannot be cured within thirty (30) days, then the period

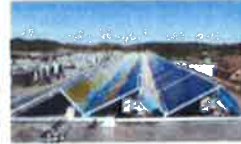


within which to cure such default shall be extended up to an additional sixty (60) days so long as the defaulting party diligently pursues such remedial action and such condition is reasonably capable of being remedied within such additional 60-day period. Upon the occurrence of an Event of Default, in addition to any other rights and remedies available to the non-defaulting party at law or in equity, such non-defaulting party shall have the option to terminate this Lease upon written notice to the defaulting party. In the event the Facility shall be so damaged or destroyed so as to make the use of the Facility impractical as determined by a qualified engineering consultant retained by Landlord and reasonably acceptable to Tenant, then Tenant may elect to terminate this Lease on not less than twenty (20) days' prior notice to Landlord effective as of a date specified in such notice, and on the date so specified, this Lease shall expire as fully as if such date were the date set forth above for the expiration of this Lease and neither party shall have any further obligations to the other party hereunder other than such rights or obligations that expressly survive the termination of this Lease. If Tenant does not elect to terminate this Lease pursuant to the previous sentence, Landlord shall have the right, but not the obligation, to repair the damage to the Premises and return the Facility to its condition prior to such damage or destruction, except that Landlord shall in no event be required to repair, replace or restore any property of Tenant comprising part of the Facility, which replacement or restoration shall be Tenant's responsibility. In the event of an award related to eminent domain or condemnation of all or part of the Premises, each party shall be entitled to take from such an award that portion as allowed by law for its respective property interest appropriated as well as any damages suffered thereby, provided that any Tenant award does not reduce Landlord's award for the Property to an amount less than what Landlord would have received if the Facility had not been installed.

At the conclusion of this Lease, for whatever purpose, the land subject to it shall be restored to its pre-lease condition (with the exception of planting trees) acceptable to the Landlord unless otherwise agreed in writing.

**14. Liability and Indemnity:** Each party shall indemnify, defend and hold harmless the other party, its affiliates, officers, agents and employees from and against any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Landlord or Tenant, and damage or destruction of property, including, but not limited to, property of Tenant, any utility company or Landlord, or other loss or damage incurred by Landlord or Tenant, arising out of: (i) negligent acts or omissions or willful misconduct of the other party, its agents, officers, directors, employees or contractors; or (ii) the material breach by the other party of any of its obligations, representations or warranties under this Lease. The obligation to indemnify shall extend to and encompass all costs incurred by the party and any indemnitees of the party in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Each party's obligations pursuant to this Section shall not extend to claims, demands,

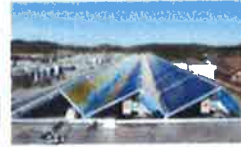




lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of the other party, its indemnitees, or their respective contractors, successors or assigns, or to the acts of third parties. Each party shall pay any cost that may be incurred by the other party or its indemnitees in enforcing this indemnity, including reasonable attorneys' fees. None of the members, managers, officers, directors, or stockholders of Tenant, shall have any personal liability in connection with the performance or failure of performance of any of the covenants, conditions, or provisions of this Lease to be performed by Tenant, and Landlord shall look solely to assets of Tenant for the recovery of any damages sustained by reason of such performance or failure to perform. None of the officers, managers, employees, agents or representatives of Landlord, shall have any personal liability in connection with the performance or failure of performance of any of the covenants, conditions, or provisions of this Lease to be performed by Landlord, and Tenant shall look solely to Landlord's interest in the Property for the recovery of any damages sustained by reason of such performance or failure to perform.

**15. Subordination/Estoppel Certificate.** From time to time, upon written request by Tenant (or its Lenders), Landlord shall provide within ten (10) days thereafter (i) a lien subordination certificate from any party purporting to have a lien, security interest or other encumbrance on the Premises, confirming its interest in Tenant's Facility and Rights to Premises are subject to the Lease and subordinate to any properly perfected Lender Liens granted by Tenant to same, or (ii) an estoppel certificate attesting, to the knowledge of Landlord, of Tenant's compliance with the terms of this Lease or detailing any known issues of noncompliance, and making such other representations, warranties, and accommodations reasonably requested by such Lender. Either party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person, firm or corporation specified by such requesting party: That this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; Whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Lease and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; the dates to which amounts due have been paid; and such other information as may be reasonably requested by a party hereto.

**16. Entire Agreement.** This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties. Each party agrees to cooperate with the



other in executing any documents necessary to protect its rights or use of the Premises. Either party may record a Notice of Lease in compliance with NH RSA 477:7-a. This Lease shall be construed in accordance with the laws of the State of New Hampshire. If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

**17. Waiver.** No provision of this Lease will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party.

**18. Authority.** The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their representative capacity as indicated. This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**19. Broker.** The parties agree that this contract is as a result of direct negotiation and agreement between the parties and no realtor, broker, agent or other third party is entitled to any commission or fees in association with this transaction.

**20. Ancillary Documents.** Upon the receipt of a written request from the other party, each party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. This Lease shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

The following Exhibits will be attached to this Lease and shall be complete and binding:

- A. Legal Description of Real Property and Site Plan for Premises
- B. Proof of Landlord insurance coverage

**21. Amendment.** No term or provision of this Agreement shall be altered, amended or changed in any way except in writing, with such amendment being executed by the parties hereto.

**22. Governing Law.** This contract shall be governed by, and interpreted in accordance with, the laws of the State of New Hampshire. It is specifically agreed that the courts of the State of New Hampshire shall have jurisdiction over any dispute arising herefrom.



**23. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes but all of which shall constitute one in the same agreement.

This document is executed by the City of Franklin, New Hampshire in accordance with authority granted by the Franklin City Council on September 8, 2015.

IN WITNESS WHEREOF, the undersigned have signed this Lease as of April 21, 2016.

**LANDLORD:** City of Franklin

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Name: Elizabeth Dragon  
Title: City Manager

**Tenant:** Ashfill Solar, LLC



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Name: Andrew Kellar  
Title: Manager





EXHIBIT A

**Legal Description of property:**

Know All Men By These Presents That **Industrial Park Investors, LLC**, with an address of 20 Canal Street, Franklin, N.H. 03235, for good and valuable consideration paid, grants to **Verizon New England Inc.**, (formerly known as New England Telephone and Telegraph Company), a New York corporation having its principal place of business at 185 Franklin Street, Boston, Massachusetts 02110, and their successors and assigns, with quitclaim covenants, a non-exclusive right, privilege and easement for the sole purpose of locating, relocating, erecting, constructing, reconstructing, installing, operating, maintaining, patrolling, inspecting, repairing, replacing, altering, extending, and/or removing one or more overhead/underground telecommunication cables and lines for communication, microwave and/or electricity and any necessary manholes, handholes, equipment, pedestals, handholes, poles and anchors, appurtenances and attachments incidental thereto for all the above purposes within, along, under and across the hereinafter described portion of Grantor's land. Said conduit, poles and anchors, cable and wire being located off of the public way known as Industrial Park Drive in the City of Franklin, County of Merrimack, State of New Hampshire, however the location of said conduit, cable and wire facilities being more particularly described as follows:

Beginning at Industrial Park Drive at existing Verizon pole #155777 and continuing across the Grantor's property overhead to pole no. 155777A thence continuing underground to and including the Grantee's equipment at the strongwell cabinet location (by others) within the cellular tower leased area. Said easement area shall provide utility service to the cellular antenna tower and shall be ten feet in width, the centerline of the easement area being the location of the buried conduit, cable and wire, as constructed.

As recorded in the Merrimack County Registry of Deeds, Book 2516, Page 742, dated June 12, 2003

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





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NOT FOR CONSTRUCTION

- NOTES
1. NOMINAL SIZE OF PV SYSTEM IS 673.81 RW MOUNTED ON GAMECHANCE POST DRIVEN RACKING SYSTEM.
  2. FINAL COMPONENTS AND CONFIGURATION ARE SUBJECT TO CHANGE.
  3. PROPOSED PV SYSTEM LAYOUT BASED ON 20% LOSS AT 180 DEGREE SHADING. INTER ROW SPACING ON DECEMBER 21 BETWEEN 10 AM AND 7 PM APPROXIMATELY 10' TO 15'.
  4. ALL SETBACKS ASSUMED TO BE APPROXIMATELY 15' UNLESS OTHERWISE NOTED PRIOR TO FINAL DESIGN.



ASHFILL SOLAR - FRANKLIN, NH  
GROUND MOUNTED SOLAR ARRAY  
CONCEPTUAL LAYOUT

DRAWN BY	APPROVED BY	DESCRIPTION
BMP	JRS	ASHFILL SOLAR
DATE	COMP/CHG/REV	AMERICAN CAPITAL ENERGY, INC.
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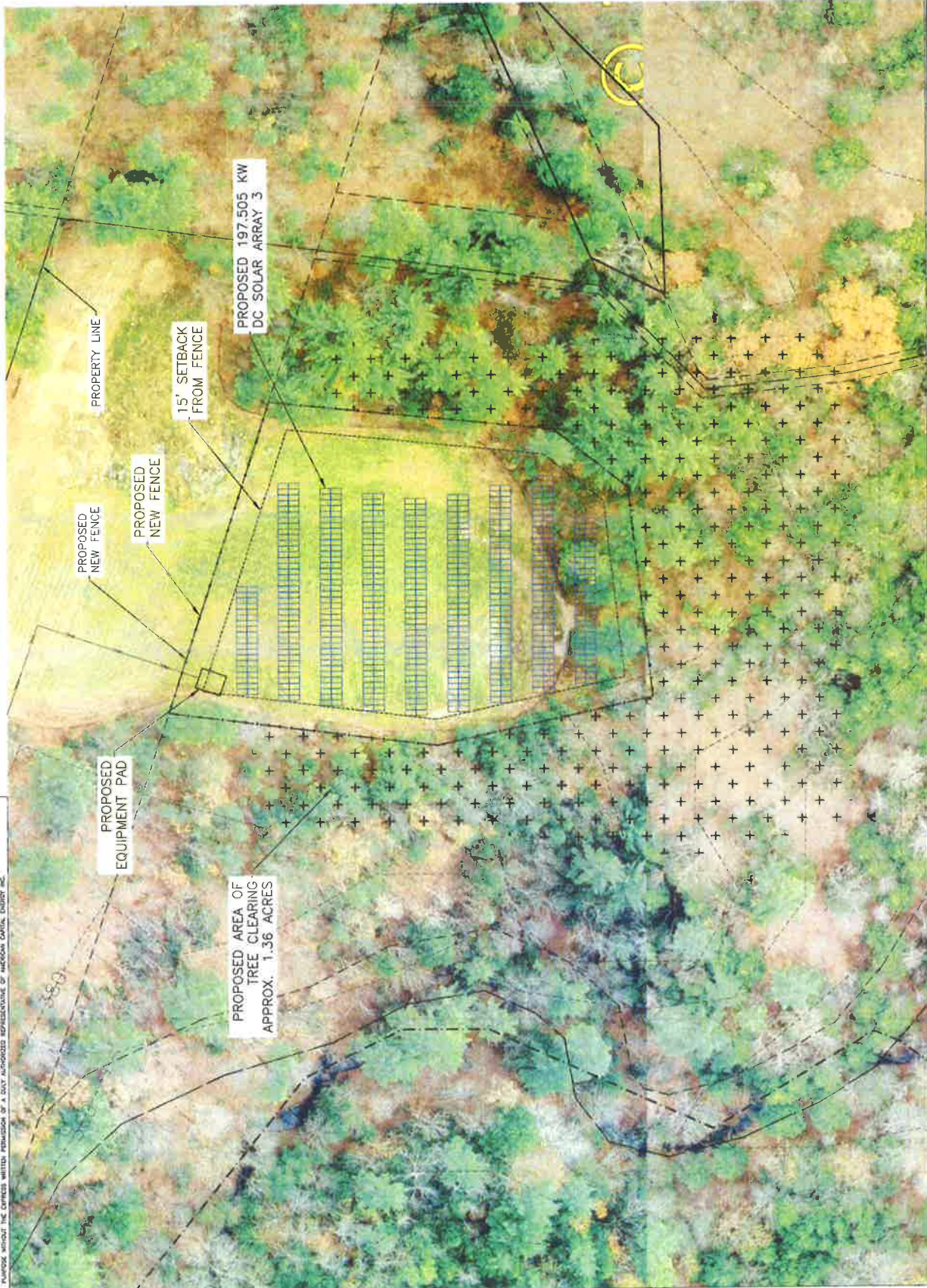
AMERICAN CAPITAL ENERGY, INC.  
360 Alcommede St., Building 9, Enniscorthy, MA 01843  
Phone: 978-221-2600



DWG #  
PV-1  
REV 1.0



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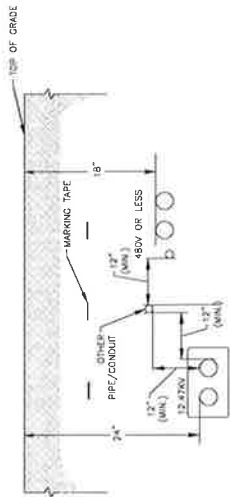
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- NOTES
1. NOMINAL SIZE OF PV SYSTEM IS 197,505 KW DC USING 055 (677) JA SOLAR 312WP SILICON BACKING SYSTEM.
  2. FINAL COMPONENTS AND CONFIGURATION ARE SUBJECT TO CHANGE.
  3. PROPOSED PV SYSTEM LAYOUT BASED ON 20° TILT ANGLE AT 142° AZIMUTH. ROW SPACING IS 12.5 METERS. THE SYSTEM WILL BE OPERATIONAL BETWEEN THE HOURS OF 10 AM AND 2 PM APPROXIMATELY.
  4. TREE HEIGHTS ASSUMED TO BE APPROXIMATELY 10 METERS. TREE HEIGHTS WILL BE OBTAINED PRIOR TO FINAL DESIGN.

	<b>AMERICAN CAPITAL ENERGY, INC.</b> 360 Alameda St., Building 9, Lawrence, MA 01843 Phone: 978-221-2600		DRAWN BY: JES INSP: JES DATE: 10/25/13	APPROVED BY: JES DESCRIPTION: ASHFILL SOLAR COPYRIGHT 2013 AMERICAN CAPITAL ENERGY, INC. ALL RIGHTS RESERVED	DWG.#: <b>PV-2</b> REV 1/0
	ASHFILL SOLAR - FRANKLIN, NH GROUND MOUNTED SOLAR ARRAY CONCEPTUAL LAYOUT				



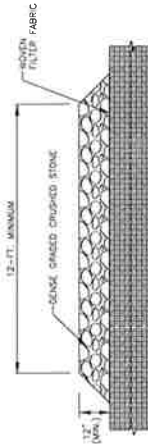
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- NOTE:
1. UNLESS OTHERWISE INDICATED, MINIMUM DEPTH AND CLEARANCES AS INDICATED.
  2. THIS UNDERGROUND CONDUIT DETAIL WILL BE USED AT ALL OTHER UNDERGROUND INSTALLATIONS.

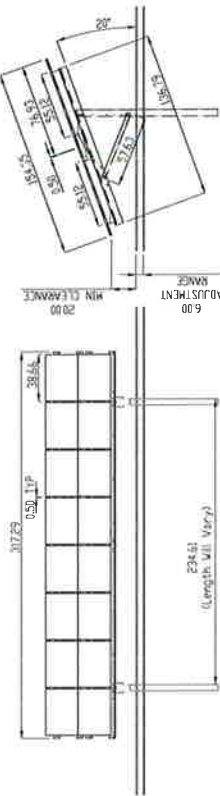
1 UNDERGROUND CONDUIT DETAIL

SCALE N.T.S.



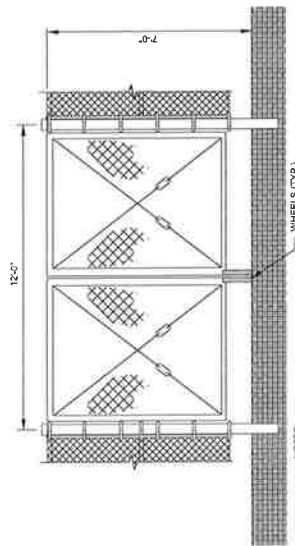
3 ACCESS ROAD DETAIL

SCALE N.T.S.



2 RACKING ELEVATION DETAIL

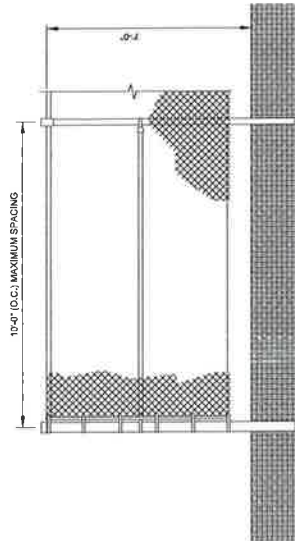
SCALE N.T.S.



- NOTES:
1. FINAL FENCE DESIGN DETAILS TO BE BASED UPON DETAILED DESIGN AND MAY VARY FROM DEPICTION.
  2. ALL FENCING AND HARDWARE SHALL BE GALVANIZED.

4 TYPICAL CHAIN LINK FENCE GATE DETAIL

SCALE N.T.S.



- NOTES:
1. FINAL FENCE DESIGN DETAILS TO BE BASED UPON DETAILED DESIGN AND MAY VARY FROM DEPICTION.
  2. ALL FENCING AND HARDWARE SHALL BE GALVANIZED.

5 TYPICAL CHAIN LINK FENCE DETAIL

SCALE N.T.S.

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ASHFILL SOLAR - FRANKLIN, NH  
GROUND MOUNTED SOLAR ARRAY  
REPRESENTATIVE DETAILS

DATE	APPROVED BY	DESCRIPTION
10/26/15	JRS	ASHFILL SOLAR
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