

# City of Fall River Massachusetts

## Office of the City Clerk

**ALISON M. BOUCHARD**  
CITY CLERK

**INÊS LEITE**  
ASSISTANT CITY CLERK

### **REGULAR MEETING OF THE CITY COUNCIL**

**MEETING:** Tuesday, May 5, 2020 at 7:00 p.m.  
Zoom (Virtual Meeting Application) pursuant to the Governor's Declaration of State of Emergency due to the Coronavirus (COVID-19) Pandemic

**PRESENT:** President Cliff Ponte, presiding;  
Councilors Shawn E. Cadime, Michelle M. Dionne, Bradford L. Kilby,  
Pam Laliberte-Lebeau, Christopher M. Peckham, Trott Lee, Leo O. Pelletier  
and Linda M. Pereira

**ABSENT:** None

**IN ATTENDANCE:** Mary Sahady, Director of Financial Services  
Kenneth C. Pacheco, Chief Operating Officer, Fall River Public Schools

President Cliff Ponte called the meeting to order at 8:35 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

### **PRIORITY MATTERS**

1. Mayor requesting confirmation of the appointment of Ian Schachne to the position of Treasurer-Collector

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Linda M. Pereira, it was voted 9 yeas to waive the rules to allow the Director of Financial Services to speak. The Director of Financial Services, Mary Sahady, stated that Ian Schachne has been doing a great job with collections. She also stated that the clerks in both the Treasurer's and Collector's Offices are working at keeping all work up to date. Councilor Linda M. Pereira stated that she believes a city the size of Fall River should have a Treasurer and a Collector. Councilor Bradford L. Kilby stated that he has a great deal of respect for Mr. Schachne and feels that he is very capable of performing both duties. On a motion made by Councilor Trott Lee and seconded by Councilor Linda M. Pereira, it was voted 9 yeas to confirm the appointment.*

2. Mayor and order regarding a utility easement for the Waste Water Treatment Plant

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Leo O. Pelletier, it was voted 9 yeas to adopt the order.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

3. Mayor and Executive Order re: extension of real estate and personal property tax due dates, application deadlines and waiver of certain interest and penalties  
*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas that the communication be accepted and placed on file.*
4. Mayor and order appropriating \$40,155.00 from the CPA Undesignated Fund to the CPA Historic Resources Preservation Projects for Little Theatre of Fall River  
*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to adopt the order.*
5. Mayor and order appropriating \$1,200,000 from the State and County Assessments to the School Appropriation  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Trott Lee, it was voted 9 yeas to adopt the order.*
6. Mayor and order to transfer rights of interest in vehicular bridge on Weaver Street to the Commonwealth of Massachusetts through MassDOT  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Trott Lee, it was voted 9 yeas to adopt the order.*  
*Approved, May 6, 2020, Mayor Paul E. Coogan*
7. Mayor and request to include the former Adams House located at 1168 Highland Ave. to the Downtown HD Zone  
*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 8 yeas to refer the matter to the Planning Board, with Council President Cliff Ponte abstaining.*
8. Mayor and orders re: the City of Fall River Public Schools and Solect Energy Development, LLC as follows:
  - a. Power Purchase Agreement
  - b. PILOT and lease agreement for use of the roof of the Durfee Field House*On a motion made by Councilor Leo O. Pelletier and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to waive the rules and allow the Chief Operating Officer, Kenneth C. Pacheco, to speak. Councilor Leo O. Pelletier asked if this agreement will cost the City of Fall River any money. Kenneth C. Pacheco stated that there will be no cost to the City. He also stated that the City will be leasing the use of the roof for 20 years and will receive a lesser rate for electricity, which will save the City of Fall River approximately \$300,000.00 over the 20 year lease. Councilor Linda M. Pereira asked how much the electricity savings will be at the new B.M.C. Durfee High School. Kenneth C. Pacheco stated that the new facility will use approximately 50% less electricity. On a further motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to adopt both the Power Purchase Agreement and the PILOT and lease agreement for the use of the roof of the Durfee Field House.*  
*Approved, May 6, 2020, Mayor Paul E. Coogan*
9. Mayor and resolution re: Statement of Interest for the Core Program of the Massachusetts School Building Authority on the former Stone School located on Globe Street  
*The Chief Operating Officer, Kenneth C. Pacheco, gave a brief overview of the project. He also stated that the School Department is working to have all kindergarten classes in one building. Councilor Michelle M. Dionne asked if an addition to the school will be constructed. Kenneth C. Pacheco stated that renovations and an addition to the school will be made, as the original building*

was erected in 1910. Councilor Michelle M. Dionne then asked if there will be sufficient parking facilities for the teachers and staff. Kenneth C. Pacheco stated that there will be sufficient parking in the rear of the building and there will be a loop in front of the school for bus loading and unloading.

Councilor Leo O. Pelletier asked if the City can afford this proposal. Kenneth C. Pacheco stated that this will not occur for three to four years and there is no cost for the Statement of Interest. He then stated that some of our present debt will be paid off by then and this new debt will replace the old debt that was paid off.

On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 8 yeas, 1 nay to adopt the order, with Councilor Leo O. Pelletier voting in the negative.

Approved, May 6, 2020, Mayor Paul E. Coogan

### **PRIORITY COMMUNICATIONS**

10. State Senator Michael J. Rodrigues re: H4598, An Act to address challenges faced by Municipalities and state authorities resulting from COVID-19

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas that the communication be accepted and placed on file.

### **COMMITTEE REPORTS** – None

### **ORDINANCES** – None

### **RESOLUTIONS**

11. Committee on Public Safety convene to discuss safety concerns at the intersection of North Main and Weaver Streets

A motion was made by Councilor Bradford L. Kilby and seconded by Councilor Leo O. Pelletier to adopt the resolution. Councilor Linda M. Pereira stated that she has received many calls regarding safety in this area. She then stated that maybe more signage is needed. On a further motion made by Councilor Michelle M. Dionne and seconded by Councilor Trott Lee, it was voted 9 yeas to amend the resolution to request that the committee also look at lighting and other areas of concern. On yet a further motion made by Councilor Linda M. Pereira and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to adopt the resolution, as amended.

12. Committee on Real Estate convene to discuss the possibility of selling parcels of land used for drainage improvements in the area

Councilor Leo O. Pelletier, Chair of the City Council Committee on Real Estate, stated that he will gladly have the Committee discuss this resolution, but he does not anticipate these parcels of land being sold for much money since there would be easements for the drainage equipment that was installed in and on these parcels. On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to adopt the resolution.

### **CITATIONS** – None

### **ORDERS – HEARINGS**

#### **Curb Removal:**

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Bradford L. Kilby, it was voted 9 yeas to take items #13 and #14 together.

13. Michael Couto, 555 Broadway, requests the removal of 3 feet at 555 Broadway, removal on Oliver Street for a total of 30 feet 7 inches

14. Steve Steen, 82 and 84 Harvard Street, requests the removal of 8 feet at 82 and 84 Harvard Street for a total of 24 feet

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Linda M. Pereira, it was voted 9 yeas to adopt both items #13 and #14.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

15. Robert Medeiros, 97 Whittier Street, requests the removal of 19 feet at 97 Whittier Street for a total of 60 feet

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Leo O. Pelletier, it was voted 9 yeas to refer the matter to the Committee on Public Works and Transportation.*

Joint Pole Re-Location:

16. Massachusetts Electric Company and Verizon New England, Inc. – one pole re-location on Robin Street

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Leo O. Pelletier, it was voted 9 yeas to adopt the order.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to take items #17 through #19 together.*

Storage License:

17. Colbea Enterprises, LLC, 7 Starline Way, Cranston, RI – to store 30,000 gallons underground at 372 Plymouth Avenue on Lot I-19-10, Assessors Plan
18. Franklin Service Auto Care, LLC, 1101 North Main Street, Fall River, MA – to store 30,000 gallons underground at 1101 North Main Street on Lot O-07-0013, Assessors Plan

Underground Conduit:

19. Massachusetts Electric Company – installation of approximately 200 feet of underground conduit and underground primary on Highland Avenue

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to take adopt items #17 through #19.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

**ORDERS – MISCELLANEOUS**

20. Police Chief's report on licenses:

2020 Taxicab Drivers:

Rashaun T. Browne, Sr.      John E. Fortes      Kendra Ross

Second Hand License Renewals:

William F. Leach d/b/a Marine Consignment of Fall River – 75 Ferry Street

Melissa Resendes d/b/a Melissa's New to you – 2577 South Main Street

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to adopt the order.*

21. Auto Repair Shop License Renewals:

Christopher Pineault d/b/a MP's Auto Repair located at 851 Globe Street

Geoffrey Brisbon, Brisbon Diesel Service, Inc. located at 2524 North Main Street

Bridgestone Retail Opp., LLC d/b/a Firestone Complete Auto Care located at 748 Pleasant Street

Jessica Rodrigues d/b/a Stafford Road Auto Repair and Sales located at 182 Stafford Road

*On a motion made by Councilor Christopher M. Peckham and seconded by Councilor Michelle M. Dionne, it was voted 9 yeas to adopt the order.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

22. Auto Body Shop License Renewal:

Antonio F. Pinto, Pinto's Auto Repair and Sales, Inc. located at 2447 South Main Street

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to adopt the order.*

*Approved, May 6, 2020, Mayor Paul E. Coogan*

**COMMUNICATIONS – INVITATIONS – PETITIONS**

23. Claims

*On a motion made by Councilor Leo O. Pelletier and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to refer the claims to Corporation Counsel.*

City Council Meeting Minutes:

24. Joint Meeting of the City Council and Board of Assessors – March 10, 2020

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to approve the minutes.*

25. Regular Meeting of the City Council – March 10, 2020

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Linda M. Pereira, it was voted 9 yeas to approve the minutes.*

*The City Clerk stated that items #26j and #26p had not submitted all necessary forms. On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to table items #26j and #26p. On a further motion made by Councilor Leo O. Pelletier and seconded by Councilor Bradford L. Kilby, it was voted 9 yeas to approve the drainlayer licenses with the exception of #26j and #26p.*

26. Drainlayer Licenses:

- a. Albert Moreira and Son
- b. Alexandre's Excavating, Inc.
- c. B&B Contracting & Excavation, Inc.
- d. Bartlett Consolidated, LLC
- e. Bristol Pacific Homes, Inc.
- f. East Coast Landscaping & Construction, Inc.
- g. ELJ, Inc.
- h. Franklin Utility Corp.
- i. G. Lopes Construction, Inc.
- j. Geosearch, Inc.
- k. Green Acres Landscape and Construction Co., Inc.
- l. Joseph Botti Co., Inc.
- m. K.R. Rezendes, Inc.
- n. LAL Construction Co., Inc.
- o. MJD Excavating, Inc.
- p. Narragansett Improvement Company
- q. Nathanyl Gomes Construction Corp.
- r. Raposo Company Landscape and Construction, LLC
- s. S. Oliveira Construction Corp.

- t. Sherry Construction Corp.
- u. Steen Realty and Development Corporation

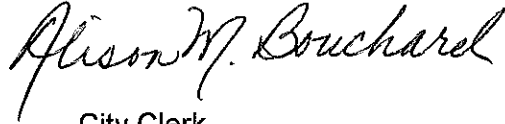
**BULLETINS – NEWSLETTERS – NOTICES** – None

*On a motion made by Councilor Leo O. Pelletier and seconded by Councilor Christopher M. Peckham, it was voted 9 yeas to adjourn at 9:52 p.m.*

**List of documents and other exhibits used during the meeting:**

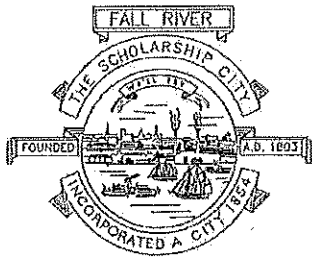
Agenda packet (attached)  
DVD of meeting

A true copy. Attest:

A handwritten signature in cursive script, reading "Alison M. Bouchard".

City Clerk

In City Council, June 9, 2020  
Approved, 9 yeas



**City of Fall River Massachusetts**  
**Office of the City Clerk**

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2020 MAY -1 P 12:19

CITY CLERK  
FALL RIVER, MA

**ALISON M. BOUCHARD**  
CITY CLERK

**MEETINGS SCHEDULED**  
**VIRTUAL MEETINGS**

**INÊS LEITE**  
ASSISTANT CITY CLERK

**MEETINGS WILL BE AVAILABLE FOR VIEWING AT [HTTP://FRGTV.FREDTV.US/](http://FRGTV.FREDTV.US/)  
AND CHANNEL 18**

**TUESDAY, MAY 5, 2020**  
**AGENDA**

**6:30 P.M. PUBLIC HEARINGS**

**Curb Removals**

1. Michael Couto, 555 Broadway, Fall River, MA, for the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
555 Broadway on Oliver Street	27' 7"	3'	0'	30' 7"

The petitioner is requesting to remove an additional 3 feet of curbing on an existing 27 foot 7 inch driveway opening on the north side of the property facing Oliver Street. This parcel contains a commercial building and a residential building. The existing curb opening is necessary for the viability of the commercial business. The additional removal of 3 feet will provide access to park a vehicle. The property owner was recently approved for a significant widening of the driveway opening. However, once the site work and original driveway construction were completed, the owner requested a small additional opening due to a measurement error in the original request.

2. Steve Steen, 82 and 84 Harvard Street, for the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
82 Harvard Street	8'	4'	0'	12'
84 Harvard Street	8'	4'	0'	12'
Total	16'	8'	8'	24'

The petitioner has two existing 8 foot driveway openings serving two townhomes, and is requesting the removal of 4 feet on each driveway to improve ease of access to the property.

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

One Government Center • Fall River, MA 02722  
TEL 508-324-2220 • FAX 508-324-2211 • EMAIL [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org)

3. Robert Medeiros, 97 Whittier Street, Fall River, MA, for the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
97 Whittier Street	41'	19'	0'	60'

The petitioner is requesting the removal of 19 feet of curbing to the existing 41 foot driveway opening on the north side of the property to allow for additional access.

#### **Joint Pole Re-location**

4. Massachusetts Electric Company and Verizon New England, Inc. for a jointly-owned pole re-location for the following:

##### **Robin Street**

One (1) pole re-location

Relocate existing jointly owned Pole 2 on Robin Street approximately 30 feet northwest of its current location. This pole relocation will service a new home at 155 Robin Street without aerial trespass.

In accordance with Plan No. 29432527

Dated: 2/12/2020

#### **Storage License**

5. Colbea Enterprises, LLC, 7 Starline Way, Cranston, RI for permission to store 24,000 gallons of unleaded/super gasoline and 6,000 gallons of diesel fuel, for a total of 30,000 gallons underground; an increase of 2,000 gallons at 372 Plymouth Avenue on Lot I-19-10, Assessors Plan.

6. Franklin Service Auto Care, LLC, 1101 North Main Street, Fall River, MA for permission to store two (2) 10,000 gallon tanks of regular gasoline, 5,000 gallons of super gasoline and 5,000 gallons of diesel fuel for a total of 30,000 gallons underground at 1101 North Main Street on Lot O-07-0013, Assessors Plan.

#### **Underground Conduit**

7. Massachusetts Electric Company for an underground conduit location, as follows:

##### **Highland Avenue**

Massachusetts Electric Company requests to install approximately 200 feet of underground conduit and underground primary from Pole 113 in front of 2789 Highland Avenue, heading north to a pull box on the right of way by 2809 Highland Avenue. Primary cable to be installed for a transition station in electrical right of way for transmission towers.

In accordance with Plan No. 29188604 dated November 26, 2019.

##### **Condition:**

Construction shall be executed entirely within the sidewalk.  
Full replacement required.

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**



**6:45 P.M. COMMITTEE ON FINANCE (OR IMMEDIATELY FOLLOWING THE PUBLIC HEARINGS IF THEY RUN PAST 6:45 P.M.)**

1. Citizen Input  
*Due to the COVID-19 Essential Services Advisory, Government Center is closed to the public. Citizen input must be submitted by email to [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org) by May 5, 2020 at 5:00 p.m. to be read at the meeting.*
2. Update from Mayor Paul E. Coogan regarding COVID-19
3. Continuation of discussion relating to Fiscal Year 2020 – Quarter 3 Budget Report with Director of Community Maintenance
4. \*Transfer and Appropriation (see item # 4 and #5 below)

**7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL (OR IMMEDIATELY FOLLOWING THE COMMITTEE ON FINANCE MEETING IF THAT MEETING RUNS PAST 7:00 P.M.)**

**PRIORITY MATTERS**

1. \*Mayor requesting confirmation of the appointment of Ian Schachne to the position of Treasurer-Collector
2. \*Mayor and order regarding a utility easement for the Waste Water Treatment Plant
3. \*Mayor and Executive Order re: extension of real estate and personal property tax due dates, application deadlines and waiver of certain interest and penalties
4. \*Mayor and order appropriating \$40,155.00 from the CPA Undesignated Fund to the CPA Historic Resources Preservation Projects for Little Theatre of Fall River
5. \*Mayor and order appropriating \$1,200,000 from the State and County Assessments to the School Appropriation
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7. \*Mayor and request to include the former Adams House located at 1168 Highland Ave. to the Downtown HD Zone
8. \*Mayor and orders re: the City of Fall River Public Schools and Solect Energy Development, LLC as follows:
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9. \*Mayor and resolution re: Statement of Interest for the Core Program of the Massachusetts School Building Authority on the former Stone School located on Globe Street

**PRIORITY COMMUNICATIONS**

10. \*State Senator Michael J. Rodrigues re: H4598, An Act to address challenges faced by Municipalities and state authorities resulting from COVID-19

**COMMITTEE REPORTS** – None

**ORDINANCES** – None

**RESOLUTIONS**

11. \*Committee on Public Safety convene to discuss safety concerns at the intersection of North Main and Weaver Streets
12. \*Committee on Real Estate convene to discuss the possibility of selling parcels of land used for drainage improvements in the area

**CITATIONS** – None

## **ORDERS – HEARINGS**

### **Curb Removal:**

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### **Joint Pole Re-Location:**

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### **Underground Conduit:**

19. Massachusetts Electric Company – installation of approximately 200 feet of underground conduit and underground primary on Highland Avenue

## **ORDERS – MISCELLANEOUS**

20. **Police Chief's report on licenses:**

### **2020 Taxicab Drivers:**

Rashaun T. Browne, Sr.      John E. Fortes      Kendra Ross

### **Second Hand License Renewals:**

William F. Leach d/b/a Marine Consignment of Fall River – 75 Ferry Street  
Melissa Resendes d/b/a Melissa's New to you – 2577 South Main Street

21. **Auto Repair Shop License Renewals:**

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Geoffrey Brisbon, Brisbon Diesel Service, Inc. located at 2524 North Main Street  
Bridgestone Retail Opp., LLC d/b/a Firestone Complete Auto Care located at 748 Pleasant Street  
Jessica Rodrigues d/b/a Stafford Road Auto Repair and Sales located at 182 Stafford Road

22. **Auto Body Shop License Renewal:**

Antonio F. Pinto, Pinto's Auto Repair and Sales, Inc. located at 2447 South Main Street

## **COMMUNICATIONS – INVITATIONS – PETITIONS**

23. \*Claims

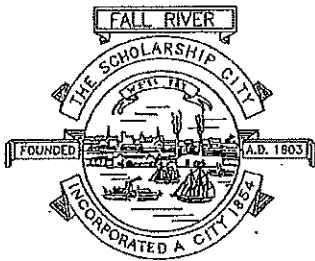
### **City Council Meeting Minutes:**

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25. \*Regular Meeting of the City Council – March 10, 2020

26. Drainlayer Licenses:
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  - l. Joseph Botti Co., Inc.
  - m. K.R. Rezendes, Inc.
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  - o. MJD Excavating, Inc.
  - p. Narragansett Improvement Company
  - q. Nathanyl Gomes Construction Corp.
  - r. Raposo Company Landscape and Construction, LLC
  - s. S. Oliveira Construction Corp.
  - t. Sherry Construction Corp.
  - u. Steen Realty and Development Corporation

**BULLETINS – NEWSLETTERS – NOTICES** – None

  
City Clerk



**City of Fall River**  
**Massachusetts**  
**Human Resources**

RECEIVED  
2020 APR 29 P 12:11  
CITY CLERK  
FALL RIVER, MA

**PAUL E. COOGAN**  
*Mayor*

**MADELINE S. COELHO**  
Director

**April 29, 2020**

**Members of the Honorable Council  
City of Fall River  
One Government Center  
Fall River, MA 02722**

**Dear Members of the Honorable Council:**

**I hereby make the following appointment:**

**Name:** Ian Schachne

**Address:** 81 Martin Street, East Providence, RI 02914

**Position:** Treasurer/Collector

**Effective:** May 4, 2020

**Salary:** \$105,000.00 annually

**Sincerely,**

**Paul Coogan**  
Mayor

**Cc: Auditor's Office  
Human Resource  
City Clerk**



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

2  
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2020 APR 23 P 12:47

CITY CLERK  
FALL RIVER, MA

April 23<sup>rd</sup>, 2020

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

President and Members of the Honorable City Council:

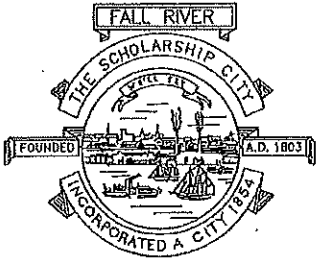
I respectfully submit to the Honorable Council the attached National GRID Basement Application Form for your review and consideration. This application is made in conjunction with the new Electrical Service for the Waste Water Treatment Plant.

I would appreciate your every consideration with this request. Thank you in advance for your time and attention with this matter.

Respectfully,

Paul E. Coogan  
Mayor

PJF/kng



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River**  
**Massachusetts**  
Department of Community Utilities  
WATER • SEWER



**PAUL J. FERLAND**  
Administrator

April 23<sup>rd</sup>, 2020

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

RE: WWTP Electrical Easement

Dear Honorable Council Members,

I respectfully request that the National Grid easement package submitted to you be approved so the project will continue to move forward.

Thank you in advance for your time and attention with the matter.

Respectfully,

Paul J. Ferland, EIT  
Adm. of Community Utilities

PJF/kng

*City of Fall River, In City Council*

2

ORDERED, that the Mayor be and is hereby authorized to grant a utility easement to Massachusetts Electric Company at 1979 Bay Street in the City of Fall River, Massachusetts, as described in the easement attached hereto.

Property Address: 1979 Bay Street, Fall River MA (Bristol Fall River County)

**GRANT OF EASEMENT**

CITY OF FALL RIVER., a Massachusetts municipal corporation having a usual place of business at One Government Center, Fall River, Massachusetts (hereinafter referred to as the Grantor), for consideration of One (\$1.00) dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, One (1 pole, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Fall River, Bristol Fall River County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon certain parcels of land situated on the northerly side of State Avenue, being more particularly shown as Lots 2 and 41 on a Plan of Land recorded with the Bristol Fall River District Registry of Deeds in Plan Book 66 and Page 77.

WR27409134

Address of Grantees:  
Mass El. - 40 Sylvan Road, Waltham, Massachusetts 02451

After recording return to:  
Peter Espinal  
National Grid  
Service Company, Inc.  
40 Sylvan Road  
Waltham, MA 02451



Said "OVERHEAD SYSTEM" is to originate from Pole P. 2, which is located on the northerly side of State Avenue, then proceed in a northerly direction from said Pole P. 2 crossing northerly over, upon and across land of the Grantor to Pole P. 2-1.

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "Easement Sketch; 1979 Bay Street, Fall River, MA; Date: 1/22/19; Drawn By: J. Doherty," a reduced copy of said sketch is attached hereto as "Exhibit A" and recorded herewith, copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns; and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are specifically located, as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantee, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns, then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the Overhead System and Underground System may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent may be withheld by the Grantee in its sole discretion.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's land an "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" for the transmission of intelligence and for the purpose of supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

It is agreed that the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon. Grantor agrees that the rights and easement herein granted are for the purpose of providing service to Grantor's property and the further right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

Grantor, for itself, its successors and assigns, covenants and agrees to reimburse and pay to Grantee upon receipt of an invoice, any increased costs associated with complying with a Notice of AUL, incurred by Grantee in connection with the exercise of its rights and easements granted hereunder. Grantor, its successors and assigns, hereby covenants and agrees to indemnify, save harmless and defend with counsel satisfactory to the Grantee, its affiliates, successors and assigns, from and against any and all claims, costs, expenses (including any and all attorney's fees and expenses of Grantee), damages, actions, causes of action, suits, demands, judgments, penalties, orders, liability or potential liability, whether under any existing or future arising statutory or common law (including, but not limited to those arising under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, G.L. c. 21E. and all applicable rules and regulations promulgated thereunder), whether or not heretofore known or suspected, arising out of or relating to the discharge, release or threatened release at or from the property of oil and/or any pollutant and/or hazardous and/or toxic material, substance and/or waste that causes or contributes to the contamination of and/or damage to the environment and/or natural resources; provided, however, that this indemnity and hold harmless provision shall not apply to any contamination of and/or damage to the environment and/or natural resources that is solely caused by a discharge or release from Grantee's equipment located on the property pursuant to this easement.

2

For Grantor's title, see Order of Taking recorded September 11, 1947 with the Bristol Fall River District Registry of Deeds in Book 486, Page 510, and also Order of Taking recorded March 27, 1979 with the Bristol Fall River District registry of Deeds in Book 1267 Page 42.

IN WITNESS WHEREOF, CITY OF FALL RIVER has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by \_\_\_\_\_, being thereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF FALL RIVER

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Commonwealth of Massachusetts

County of \_\_\_\_\_ } ss.

On this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me,

Day

Month

Year

the undersigned Notary Public,

\_\_\_\_\_  
Name of Notary Public

personally appeared \_\_\_\_\_,

\_\_\_\_\_  
Name(s) of Signer(s)

proved to me through satisfactory evidence of identity, which was/were

\_\_\_\_\_  
Description of Evidence of Identity

to be the persons whose names are signed on the preceding Grant of Easement, and  
acknowledged to me that he/she/they signed it voluntarily for its stated purpose(.)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires \_\_\_\_\_

Place Notary Seal and/or Any Stamp Above

LEGEND	
Proposed NGRID Pole Locations	●
Existing NGRID Pole Locations	○
Existing Pole To Be Removed	⊗
STREET LIGHT	⊙
GUY	—○—
POLE TO POLE GUY	—○—○—
POLE TO BE RELOCATED	⊙
FUSE	⊗
LOAD BREAK	⊗
AIR BREAK	⊗
DISCONNECT	⊗
SINGLE PHASE	⊗
3 PHASE	⊗
PRIMARY OH WIRE	—
SECONDARY OH WIRE	—
URD POLE	⊙
MANHOLE	⊙
PULL BOX	⊙
HAND HOLE	⊙
SINGLE PHASE PAD	⊙
3-PHASE PAD	⊙
XFMR FOUNDATION	⊙
PRIMARY UG WIRE	—
SECONDARY UG WIRE	—
STREET LIGHT WIRE	—
SERVICE	—
ARROW	→

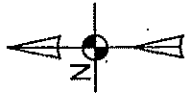
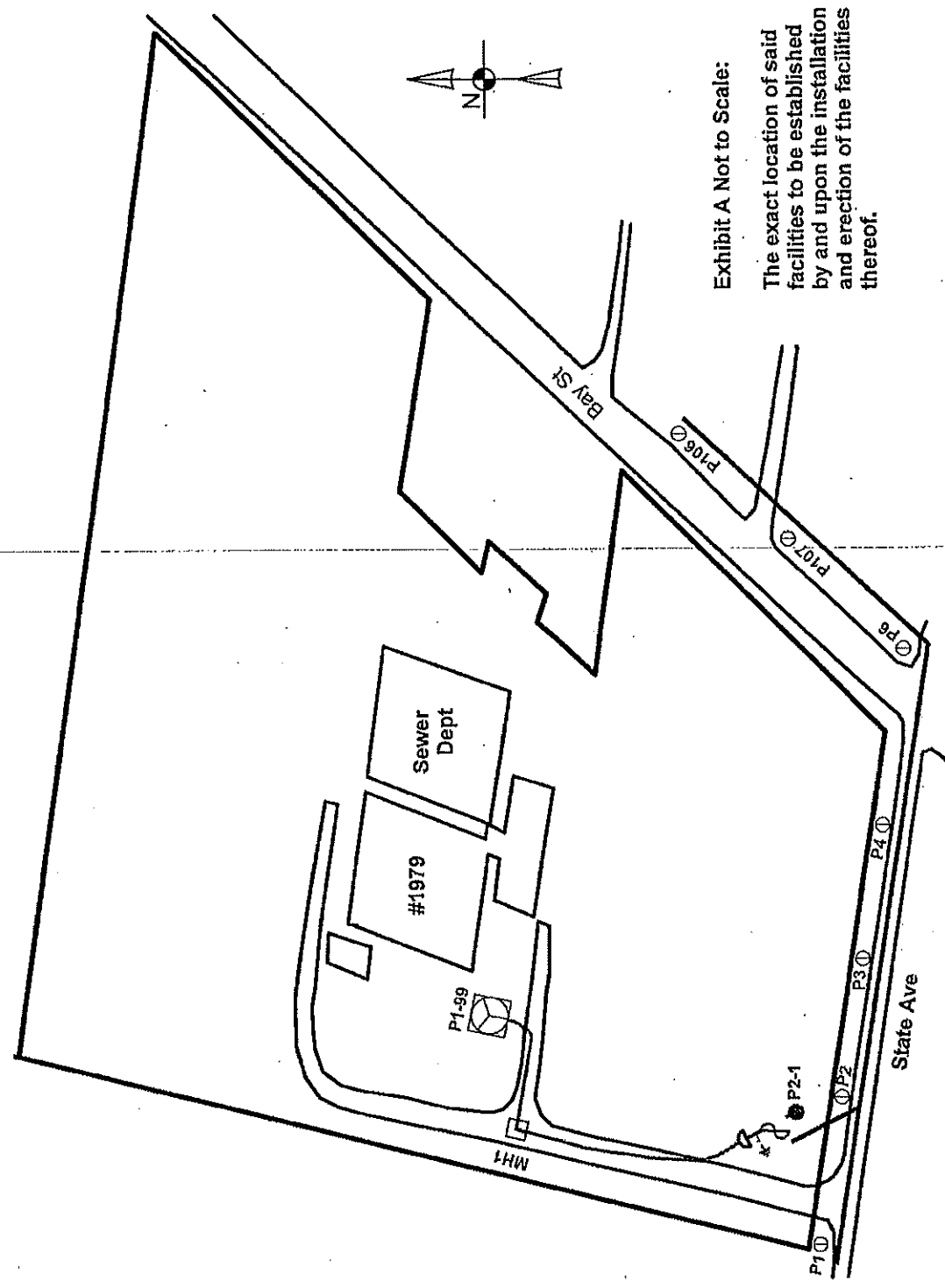


Exhibit A Not to Scale:

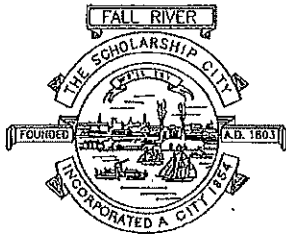
The exact location of said facilities to be established by and upon the installation and erection of the facilities thereof.

**nationalgrid**

Easement Sketch  
1979 Bay St  
Fall River, Ma

National Grid to install a 40' pole on the property of 1979 Bay St to be used as a 3 phase riser pole. National Grid to install 3 phase underground primary from pole 2-1 State Ave, to a manhole, then to the transformer pad on the property of 1979 Bay St. Also installing a 2500kva 277/480v pad mounted transformer with connections and 3 phase meter. Installation being done for the purpose of electrical service. Contractor to a heavy duty manhole, install 2 1/4" conduits encased in concrete from pole 2-1 to manhole 1, then to pad 1-99. Also installing a 3 phase precast concrete transformer pad w/oil containment

Scale: NONE	Drawing Number
Date: 1/22/79	27409134
Drawn By: J. Doherty	Approved By: NAME



**PAUL E. COOGAN**  
Mayor

**City of Fall River  
Massachusetts  
Office of the Mayor**

RECEIVED

2020 APR 16 P 3:16

CITY CLERK  
FALL RIVER, MA

**Executive Order**  
**Extending Real Estate and Personal Property Tax Dues and Application**  
**Deadlines for Certain Statutory Exemptions, and**  
**Authorizing the Tax Collector to Waive Certain Interest and Penalties**

- Whereas,** Chapter 53 of the Acts of 2020 (hereinafter "the Act") provides certain relief to municipalities in the Commonwealth due to the State of Emergency declared by Governor Baker on March 10, 2020; and
- Whereas,** Section 10 of the Act authorizes the chief executive officer of a municipality in the Commonwealth to extend the May 1, 2020 due date of Real Estate Taxes and Personal Property Taxes to a date no later than June 1, 2020, and to extend the date by which applications for certain statutory exemptions must be filed from April 1, 2020 to a date not later than June 1, 2020; and
- Whereas,** Section 11 of the Act authorizes the chief executive officer of a municipality in the Commonwealth to waive the payment of interest and other penalties in the event of late payment of any excise, tax, betterment assessment or apportionment thereof, with a due date on or after March 10, 2020 and made before June 30, 2020; and
- Whereas,** Section 7, Clause Fifth B of the General Laws of Massachusetts Chapter 4, provides that a "Chief Executive Officer," when used in connection with the operation of municipal governments shall include the mayor in a city unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter; and
- Whereas,** Section 3-2 of the Charter of the City of Fall River provides that the executive powers of the City shall be vested solely in the Mayor; and
- Whereas,** the City of Fall River is cognizant of its responsibility to act in a fiscally prudent manner regarding municipal revenues necessary to pay for essential municipal functions such as public safety, public health, and first responders during the current State of Emergency, yet is also cognizant of the adverse impact that strict social distancing orders, necessary to prevent the unchecked spread of COVID-19, have had on the finances of taxpayers in the City of Fall River,

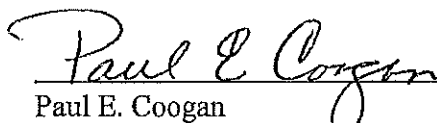
3

Now, Therefore, I, Paul E. Coogan, hereby order as follows:

1. I am exercising the authority granted to me by Section 10 of Chapter 53 of the Acts of 2020 and hereby extend the May 1, 2020 due date for Real Estate Taxes and Personal Property Taxes in the City of Fall River to May 15, 2020.
2. I am exercising the authority granted to me by Section 10 of Chapter 53 of the Acts of 2020 and hereby extend the April 1, 2020 deadline by which to file applications for statutory exemptions from certain real estate taxes, as set forth in Section 59 of Chapter 59 of the General Laws of Massachusetts, to May 15, 2020.
3. I am exercising the authority granted to me by Section 11 of Chapter 53 of the Acts of 2020 and hereby authorize the Tax Collector of the City of Fall River to waive interest and penalties, including demand fees, on unpaid Real Estate Tax and Personal Property Tax payments now due May 15, 2020, and on unpaid payments of the City of Fall River 2020 Motor Vehicle Excise Tax Commitment #2 provided that full payment of said unpaid amounts is received by the Tax Collector's Office no later than June 29, 2020. I hereby direct the Tax Collector to develop a Guidance further setting forth the requirements and procedures by which said interest and penalties may be waived.

This Order is effective immediately and shall remain in effect until rescinded or until July 1, 2020, whichever happens first.

Given in Fall River, at this 3:08 P.M this 16<sup>th</sup> day of April, 2020.



Paul E. Coogan  
Mayor of the City of Fall River

4



**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

RECEIVED

2020 APR 22 P 12:48

**PAUL E. COOGAN**  
*Mayor*

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

April 22, 2020

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

The Community Preservation Committee (CPC) has identified an emergency community project for the fiscal year 2020 and has made recommendation for funding in accordance with the Community Preservation Act (CPA) MGL Chapter 44B Sections 4 to 7.

The CPA funding request for this emergency project is \$40,155 as outlined in the proposed Appropriation Order.

Your approval of the associated Appropriation Order is respectfully requested.

Should you have any questions or concerns in this regard, please do not hesitate to contact me.

Best Regards,

*Paul E. Coogan*

Paul E. Coogan  
Mayor



# City of Fall River, In City Council

4

## APPROPRIATION ORDER

ORDERED, that the following FY20 supplemental appropriations be provided through the Community Preservation Act (CPA), reserves under the MGL Chapter 44B Sections 4 to 7 in the aggregate, amounting to \$40,155 to be appropriated as follows:

Voted: That \$40,155 be appropriated from the CPA Fund's Undesignated fund balance

For CPA Administrative Expenditures	\$0
For CPA Open Space/Outdoor Recreation PROJECTS	\$0
For CPA Historic Resources Preservation PROJECTS	\$40,155
For CPA Community Housing	<u>\$0</u>
<b><u>TOTAL</u></b>	<b><u>\$40,155</u></b>

**Note:** Please note this is the first supplemental CPA appropriation for FY20. The CPA fund balance is estimated to be at \$72,150 on June 30, 2020 and is more than sufficient to cover this supplemental appropriations.

4

RECEIVED

2020 APR 30 A 9:41

CITY CLERK  
FALL RIVER, MA

April 20, 2020

City of Fall River  
Mayor Paul Coogan  
One Government Center  
Fall River, MA 02722

Dear Mayor Coogan:

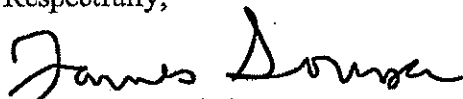
On Monday April 13 2020 the Community Preservation Committee (CPC) voted to approve supplemental funding for the FY20 Little Theatre of Fall River project.

- Little Theatre of Fall River - \$40,155.00 from FY20 funding to complete asbestos abatement and HVAC system upgrades.

The CPC is requesting a letter from the Mayor approving these funds and from the Auditor to prepare an Appropriation Order to complete this project.

We are requesting this letter be written as soon as possible in order to get this appropriation on the City Council's agenda for their next meeting.

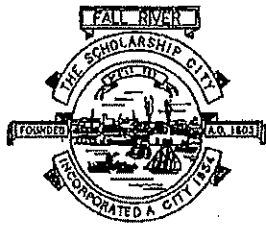
Respectfully,



James Souza, Chair  
Fall River Community Preservation Committee

CC: Jen Argo, City Auditor  
Mary Sahady, Acting City Administrator/Director of Financial Services

4



**City of Fall River  
Massachusetts  
Community Preservation Committee**

**JAMES SOUZA**  
Chairman

**JOHN BRANDT**  
Vice-Chairman

Name: Mr. Kenneth Raposa

Organization: Little Theatre of Fall River  
Address: PO Box 1282 02722  
Fall River, MA 02722

PROJECTS: Little Theatre of Fall River


Dear Mr. Raposa

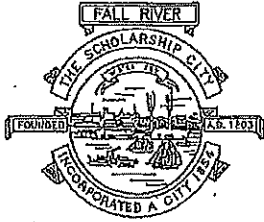
I am writing to inform you that the Community Preservation Committee has voted to recommend supplemental funding for your FY20 project in the amount of \$40,155 to the City Council for approval.

Once the City Council votes to accept the supplemental funding and appropriation amount, a Purchase Order will be requested. Due to the COVID-19 crisis this request won't be processed until the Governor allows businesses to open again.

The next deadline to submit an eligibility application for FY22 projects is September 1, 2020 before Noon.

Sincerely,

  
James Souza  
Chair



City of Fall River  
Massachusetts  
Community Preservation Committee

JASIEL F. CORREIA II  
Mayor

KENNETH C. PACHECO  
Chairman  
James Souza  
Vice-Chairman

May 21, 2018

Mr. Kenneth Raposa  
Little Theatre of Fall River  
PO Box 1282  
Fall River, MA 02720

RE: Application 2018 -- 0002  
Little Theatre of Fall River  
Historic Preservation

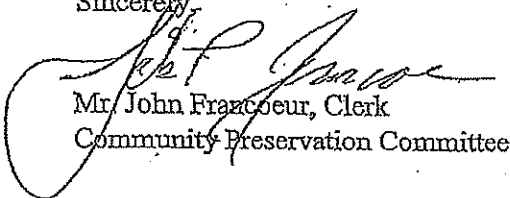
Dear Mr. Raposa:

I am writing to inform you that the Community Preservation Committee has recommended your project for FY19 funding to the Fall River City Council.

As soon as the projects and appropriation order are approved the Agreements will be drafted and forwarded for the appropriate signatures.

Once all signatures are acquired requisition and Purchase Orders will be set up.  
Congratulations.

Sincerely,



Mr. John Francoeur, Clerk  
Community Preservation Committee

4



**City of Fall River  
Massachusetts  
Community Preservation Committee**

**JASIEL F. CORREIA II**  
*Mayor*

**JAMES SOUZA**  
Chairman

**ANTONE DIAS**  
Vice-Chairman

**CITY OF FALL RIVER  
COMMUNITY PRESERVATION ACT  
HISTORICAL PRESERVATION AWARD AGREEMENT**

This award agreement is made between the City of Fall River, through its Community Preservation Committee, One Government Center, Fall River acting by and through the Fall River Historical Commission and the recipient, Little Theatre of Fall River, 340 Prospect Street, Fall River, MA 02720. The purpose of this grant agreement is to implement the following award:

Grantee: **Mr. Kenneth Raposa**  
**Little Theatre of Fall River**

**Project Description:** The applicant, **Little Theatre of Fall River** sought funds for Little Theatre - an existing building conditions study and Preservation Plan. Abatement and environmental monitoring services. Potential need of servicing/repair/replacement of the HVAC system & duct work. Asbestos Abatement & Environmental Science Monitoring Services before, during and after the completed abatement, to be immediately followed by an Existing Building Conditions Study and Preservation Plan including a potential repair/replacement of the HVAC system & duct work, if and only if after the completed abatement and environmental testing, indicates that asbestos contamination remains present in the HVAC system duct work. The HVAC system work would only be performed if, by having the abatement completed and all environmental testing results prove that asbestos contamination remains present in the HVAC system and duct work located at 340 Prospect Street, Fall River, MA 02720

**Refer to Funding Application for details**

**Date of City Council Approval: August 23, 2018**

This award is subject to the following terms and conditions:

**Award:** The City of Fall River, Community Preservation Committee, agrees to award the recipient the amount of **\$95,937.00 (Ninety Five Thousand, Nine Hundred and Thirty Seven Dollars)** for Little Theatre - the above referenced project, an existing building conditions study and Preservation Plan. Abatement and environmental monitoring services. Potential need of servicing/repair/replacement of the HVAC system & duct work. Asbestos Abatement & Environmental Science Monitoring Services before, during and after the completed abatement, to be immediately followed by an Existing Building Conditions Study and Preservation Plan including a potential repair/replacement of the HVAC system & duct work, if and only if after the completed abatement and environmental testing, indicates that asbestos contamination remains present in the HVAC system duct work. The HVAC system work would only be performed if, by having the abatement completed and all environmental testing results prove that asbestos contamination remains present in the HVAC system and duct work. Project

4

Application: The project application which had been submitted to the Fall River Community Preservation Committee (herein after also referred to as Fall River C.P.C.) is incorporated into this document by reference.

**Refer to Funding Agreement for details**

1. **Term:** The term of this award is two years which begins on the date of execution of this agreement. All of the work described in this award agreement must be completed by the completion date, **October 30, 2020**, unless the Fall River Community Preservation Committee grants an extension for good cause.

Funds not utilized on this project must be returned to the Fall River Community Preservation Fund Reserve and will be made available for future appropriation to other recipients.

All receipts, checks and/or invoices must be attached to application and certification of payment form and submitted to CPC for reimbursement.

Funds will be reimbursed after site inspections are made and comply with Secretary of Interiors Standards. An Architect sign-off and stamp is required.

A member of the Community Preservation Committee will be assigned to this project and will be an active participant throughout the processes, as an example; the RFP process, design selection process, open bid process and any process related to the project.

It will be the responsibility of the individual managing the project to notify and update the CPC Committee Member at the varies stages of the project.

2. **Budget:** Prior to starting any work, the recipient must submit a complete project budget that accounts for (1) the expenditure of funds awarded under this award agreement and (2) all other sources of funding, if necessary to complete the project. The recipient will not expend any award funds unless sufficient sources of funding have been secured to complete the work and the project budget has been approved by the Fall River CPC.

3. **Reports:** The recipient will provide a written report on the progress of the project to the Fall River CPC every three months. A final report shall be filed with the Fall River CPC within thirty days of completion of the project. This final report should include digital photo documentation of the project.

All documents, including any photographs or videos, submitted to the Fall River Community Preservation Committee shall become the property of the City of Fall River and shall be available to the public under the Massachusetts Public Records Law.

The recipient shall also provide written documentation from the Fall River Historical Commission determining that the project is in significant historic structure listed in the Fall River Register of Significant Structures and/or Massachusetts Historical Commission. In addition, documentation in the form of plans and photos of the premises and the building showing the condition before and after as of hereof (a schedule); and that work will be in conformance with the Secretary of Interiors.

Certificate of Non-Collusion must be filled out and signed by the recipient which certifies under penalties and perjury that the bid or proposal made and submitted in good faith and without collusion or fraud with any other person.

Certificate of Completion must be filled out and signed by the recipient, CPC Committee, City Department managing the project, Board and/or Commission of which the project will be handed over to upon completion.

#### 4. Deed Restrictions:

Restrictions are legal documents that place limitations on the use of a property. These restrictions apply to all future owners of the property and can't easily be changed or removed by subsequent owners.

**Section 12a of the Community Preservation Act** requires that a permanent restriction be placed on any "real property interest" acquired using CPA funds to ensure that the property continues to be used for the applicable CPA purpose. Given this statutory requirement, a CPA project involving acquisition of any real property interest is technically not complete until the restriction is approved by the appropriate state agency and filed at the Registry of Deeds.

#### For Historic Projects:

Historic Preservation Restrictions

Approved by the Fall River Historical Commission

Every project that involves an award for Historic Preservation shall require a 30 year deed restriction ensuring that the historic nature of the structure be preserved.

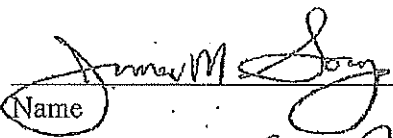
Recipient is required to file a Deed Restriction, provided by the CPC with the Fall River Register of Deeds, within 90 days of this signing. A request for an extension of this time may be requested for unforeseen conditions out of the control of either the grantor or the grantee.

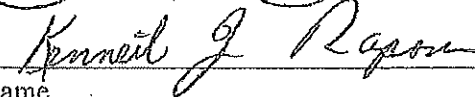
5. **Compliance with Laws and Agreement:** Recipient understands and accepts that this award is made pursuant to the Community Preservation Act MGL Ch 44B and compliance with the provisions of that statute is implicit in this agreement. The recipient also agrees to comply with all requirements of this award agreement.
6. **Permits and Licenses:** It is the obligation of the recipient to obtain all permits and licenses necessary for implementation of the project. No local permit or license is waived by granting of this award.
7. **No Liability of City:** By making this award, the City of Fall River, does not accept any liability for any acts, omissions or errors associated with this project. Recipient agrees to indemnify the City of Fall River from all claims, suits or demands resulting from implementation of this project.  
The issuance of a Building Permit will require those pulling permit to be licensed/insured etc.  
The recipient is responsible for confirming that all contractors are appropriately licensed and insured. Additionally, the recipient is responsible for confirming that appropriate bidding procedures are followed and that terms of employment are in compliance with the law.
8. **Community Preservation Act Awareness:** The recipient agrees to allow a sign to be posted on the property during the period of this agreement until thirty days after its completion. Recipient shall also identify that the project was funded through the City of Fall River Community Preservation Act in its written materials about the project, including all press releases and brochures.
9. **No Assignment:** This agreement may not be assigned without the written approval of the City of Fall River.

10. Entire Agreement: The agreement constitutes the entire agreement between the parties, and may be amended only in writing executed by both parties. The signatory avers that he has authority to execute this agreement on behalf of the recipient.

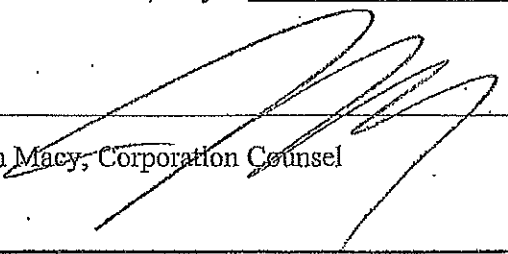
Executed on 1/4 2018

By the City of Fall River, Community Preservation Committee acting by and through the Fall River Historical Commission

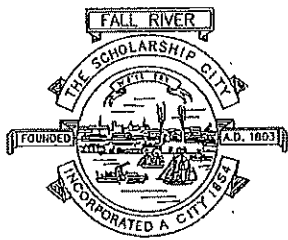
Grantor:  12/17/18  
Name Date

Grantee:  01-04-2019  
Name Date  
Duly Authorized

Jasiel F. Correia II, Mayor: \_\_\_\_\_

 12/10/18  
Joseph Macy, Corporation Counsel Date





City of Fall River  
Massachusetts  
Office of the Mayor

RECEIVED

2020 APR 28 A 11: 58

CITY CLERK  
FALL RIVER, MA

PAUL E. COOGAN  
Mayor

May 5, 2020

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

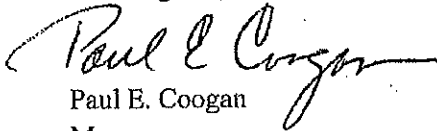
In accordance with the provisions of Chapter 44, Section 32 of the Massachusetts General Laws, I recommend the following appropriations to your Honorable Body.

The following appropriations will be made in Fiscal Year 2020:

1. \$1,200,000 That the sum of \$1,200,000 be, and the same is, hereby appropriated from the STATE AND COUNTY ASSESSMENTS to the SCHOOL APPROPRIATION

If you have any questions or concerns regarding this, please feel free to contact me.

Best Regards,

  
Paul E. Coogan  
Mayor

City of Fall River, *In City Council*

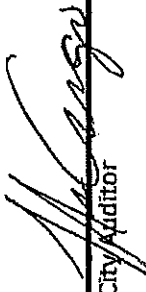
5

ORDERED, that the sum of \$1,200,000 be, and the same is, hereby appropriated from the STATE & COUNTY ASSESSMENTS to the SCHOOL APPROPRIATION.

# FY20 Appropriation/Transfer Number Analysis

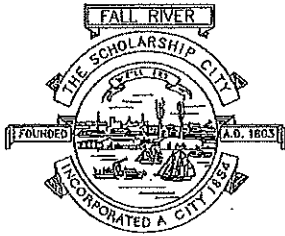
Line	Original/Revised Appropriation	Amount Transferred	Adjusted Balance
School Appropriation	\$ 119,084,275.00	\$ 1,200,000.00	120,284,275.00
State Assessments	\$ 28,397,895.00	(\$ 1,200,000.00)	27,197,895.00

I certify that there are sufficient funds available for these transfers.

  
 Jennifer Argo, City Auditor  
 May 5, 2020

RECEIVED  
 2020 APR 28 P 1:29  
 CITY CLERK  
 FALL RIVER, MA

5



**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

RECEIVED

2020 APR 30 P 4:30

**PAUL E. COOGAN**  
*Mayor*

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

April 30, 2020

Council President and Members  
Of the Honorable Council  
One Government Center  
Fall River, MA 02722

Dear Council President and Members of the Honorable Council:

Please accept this correspondence to initiate Council action to transfer its rights and interest in that certain vehicular bridge being Bridge F-2-19, and being further identified as Railroad No. 35.71, said bridge being a continuation and extension of a public way known as Weaver Street in the City of Fall River providing vehicular passage for the public over the tracks formerly of the Penn Central Transportation Company to the Commonwealth of Massachusetts through the Department of Transportation (MassDOT), whose Post Office Address is 10 Park Plaza, Suite 6160, Boston, MA 02116.

Please advise if additional information is needed.

Sincerely,

*Paul E. Coogan*

Paul E. Coogan  
Mayor

*City of Fall River, In City Council*

6

ORDERED, That the City Council vote to transfer its rights and interest in that certain vehicular bridge being Bridge F-2-19, and being further identified as Railroad No. 35.71, said bridge being a continuation and extension of a public way known as Weaver Street in the City of Fall River providing vehicular passage for the public over the tracks formerly of the Penn Central Transportation Company to the Commonwealth of Massachusetts through the Department of Transportation (MassDOT), whose Post Office Address is 10 Park Plaza, Suite 6160, Boston, MA 02116.

6

The CITY OF FALL RIVER, a municipal corporation existing under the laws of the Commonwealth of Massachusetts, hereinafter referred to as the Grantor, acting under and pursuant to Chapter 634, Acts of 1971 entitled

AN ACT DIRECTING THE DEPARTMENT OF PUBLIC WORKS TO ACCEPT THE  
TRANSFER OF ALL VEHICULAR BRIDGES CARRYING PUBLIC WAYS OVER  
THE TRACKS OR RIGHTS-OF-WAY OF RAILROADS WITHIN THE  
COMMONWEALTH

Does hereby remise and release to the Commonwealth of Massachusetts, through the Department of Transportation (MassDOT), whose Post Office Address is 10 Park Plaza, Suite 6160, Boston, MA 02116 hereinafter referred to as the Department, all right, title, interests, claim and demand whatsoever as said Grantor has, or ought to have in and to a certain vehicular bridge being Bridge F-2-19, and being further identified as Railroad No. 35.71, said bridge being a continuation and extension of a public way known as Weaver Street in the City of Fall River providing vehicular passage for the public over the tracks formerly of the Penn Central Transportation Company.

The Grantor hereby assumes the following obligations:

1. Snow and ice control operation along the traveled way including bridge surface
2. Maintenance and cost operation of existing lighting
3. Maintenance of the roadway approaches to said bridge including, but not limited to, guard rails, fences, and pavement surface
4. Maintenance of any wall retaining the roadway beyond a distance of twenty-five (25) feet from the face of the abutments

The above obligations assumed by the Grantor, the CITY OF FALL RIVER are not in derogation of any responsibility of the Department under Chapter 634, Acts of 1971 for the maintenance, repair, construction, replacement or removal of said bridge.

The execution of this instrument is in compliance with and under direction of Chapter 634, of Acts of 1971, which requires no monetary consideration therefore no Massachusetts Excise Stamps are required.

6

This conveyance is made pursuant to a vote of the Fall River City Council dated February, 2020, an attested copy of which is attached hereto and incorporated herein.

IN WITNESS WHEREOF, the Said CITY OF FALL RIVER has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by the by its MAYOR hereto duly authorized this      day of April, 2020

CITY OF FALL RIVER

\_\_\_\_\_  
PAUL COOGAN, MAYOR

APPROVED AS TO FORM & MANNER OF EXECUTION ONLY

\_\_\_\_\_  
ALAN J. RUMSEY, ESQ.  
CORPORATION COUNSEL

COMMONWEALTH OF MASSACHUSETTS

BRISTOL ss

On this    day of April, 2020, before me the undersigned Notary Public personally appeared the above named PAUL COOGAN, Mayor of Fall River, proved to me through satisfactory evidence of identification which was/were \_\_\_\_\_, and acknowledged that he signed the preceding document voluntarily, in the capacity so stated, and for its stated purpose as the free act and deed as the Mayor of the City of Fall River.

\_\_\_\_\_  
Notary Public  
My commission expires



**PAUL E. COOGAN**  
*Mayor*

**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

RECEIVED

2020 APR 30 P 4: 29

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

April 30, 2020


Council President and Members  
Of the Honorable Council  
One Government Center  
Fall River, MA 02722

Dear Council President and Members of the Honorable Council:

Please accept this correspondence to initiate Council action with this request by JNK Realty LLC, 330 Swansea Mall Drive, Swansea, MA 02777, as owners of the Adams House, to amend the City of Fall River Waterfront [Downtown HD Zone to include the location of the Adams House located on 1168 Highland Avenue (see attached). Once the appropriate action is taken by the Council regarding this request it can be forwarded to the City of Fall River Planning Department for the scheduling of a Public Hearing on this matter.

If you should have any questions or concerns please feel free to contact me:

Sincerely,

  
Paul E. Coogan  
Mayor





7  
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2020 APR 29 P 2:31

CITY CLERK  
FALL RIVER, MA

April 29, 2020

Honorable Cliff Ponte  
President  
Fall River City Council  
One Government Center  
Fall River, MA 02722

RE: Proposed Amendment to the Waterfront /Downtown HD Zone

Dear Council President Ponte:

With regard to the above referenced subject matter and pursuant to 760 CMR 66.00, please accept this correspondence to initiate a request from JNK Realty LLC, 330 Swansea Mall Drive, Swansea, MA 02777, as owners of the Adams House, to amend the City of Fall River Waterfront /Downtown HD Zone to include the location of the Adams House located on 1168 Highland Avenue (see attached) and forward this request to the City of Fall River Planning Department for the scheduling of a Public Hearing on this matter.

Constructed in 1898, the Adams House was the only private charitable institution in the City specifically aimed at providing specialized housing and care for the elderly. The Adams House represents the important shift that social welfare institutions underwent in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, from a prison model to a more specialized form of institutional care. Recognizing the need for improved elderly care, Robert Adams and his wife Lydia Ann Stowe donated a choice parcel of land on Highland Avenue upon which the Fall River Home for Aged People was constructed.

As a means of preserving the aesthetic and historic quality of the building and redeveloping it for a use that is productive and conducive to the surrounding properties, the Adams House will be redeveloped to create 32 market rate and workforce housing units, which will add diversity to the City's housing stock and repurpose a historically significant Fall River landmark. In the past few years, the City of Fall River has seen an increase in the number of market rate and workforce units available in the City. These units have been in high demand and the need for additional market rate and workforce housing units remains high.

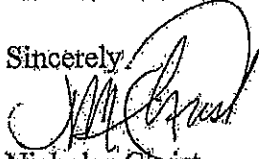
As some of you may recall, the Waterfront /Downtown HD Zone, was ordained by the Fall River City Council on July 9, 2013, approved by then Mayor Will Flanagan on July 11, 2013 as part of the City of Fall River Revised Ordinances and subsequently approved by the Massachusetts Department of Communities and Development in December 2013.

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Tonight's requested action by the Fall River City Council is a state mandated first step in the HD Zone amendment process. After the convening of a Public Hearing by the City of Fall River Planning Department on this matter, the request will be forwarded back to the Fall River City Council for further action.

As such, I respectfully request that the Fall River City Council look favorably upon this application and vote to send it to the Fall River Planning Department for further action. Thank you for your time and attention in this matter. If you have any questions or need any additional information, please do not hesitate to call Kenneth Fiola, Jr. Esq, Executive Vice President, BC EDC at 508-965-4942.

Sincerely



Nicholas Christ  
JNK Realty LLC

7

760 CMR 66.08 (1) Application for Department Approval  
Amendment to the City of Fall River's Waterfront HDIP Zone and Plan

1. The purpose of each change

The purpose of the change is to include a contiguous parcel to the City of Fall River's existing HD Zone to accommodate a parcel that is prime for redevelopment in accordance with the purpose of the Commonwealth's Housing Development Incentive Program and the Fall River Waterfront Housing Plan. The parcel to be included in the Waterfront HD Zone is S-03-0002 as identified in the attached map.

The subject property, formerly known as the Adams House, will be redeveloped to create 39 market rate housing units, which will add diversity to the City's housing stock and repurpose a historically significant Fall River landmark. In the past few years, the City of Fall River has seen an increase in the number of market rate units available in the City. These units have been in high demand and the need for additional market rate units remains high.

Constructed in 1898, the Adams House was the only private charitable institution in the City specifically aimed at providing specialized housing and care for the elderly. The Adams House represents the important shift that social welfare institutions underwent in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, from a prison model to a more specialized form of institutional care. Recognizing the need for improved elderly care, Robert Adams and his wife Lydia Ann Stowe donated a choice parcel of land on Highland Avenue upon which the Fall River Home for Aged People was constructed.

2. The effect of each change on the objectives of the HD Zone Plan and the proposed development and redevelopment activities, public and private, as set forth in the application for the Department's approval of the HD Plan.

The objectives of the original Housing Development Zone Plan were to increase residential growth, expand the diversity of housing stock, support economic development, and promote neighborhood stabilization.

The proposed change will further the objectives of the HD Zone Plan by creating additional market rate and workforce housing units that will diversify the housing stock and meet the needs of Fall River residents and those individuals looking to relocate to the City thus increasing residential growth. It will support economic development by increasing the number of households with disposable income to support economic engines throughout the City. In addition it promotes neighborhood stabilization by repurposing a currently vacant building with great historical significance into a premier housing facility.

3. The effect of each change on HD Projects

The proposed change will allow for a housing project that has synergy with other HD projects happening within the HD zone. At current, the City has two operational market rate housing developments within the City, both of which have no vacancy and waiting lists. In addition to

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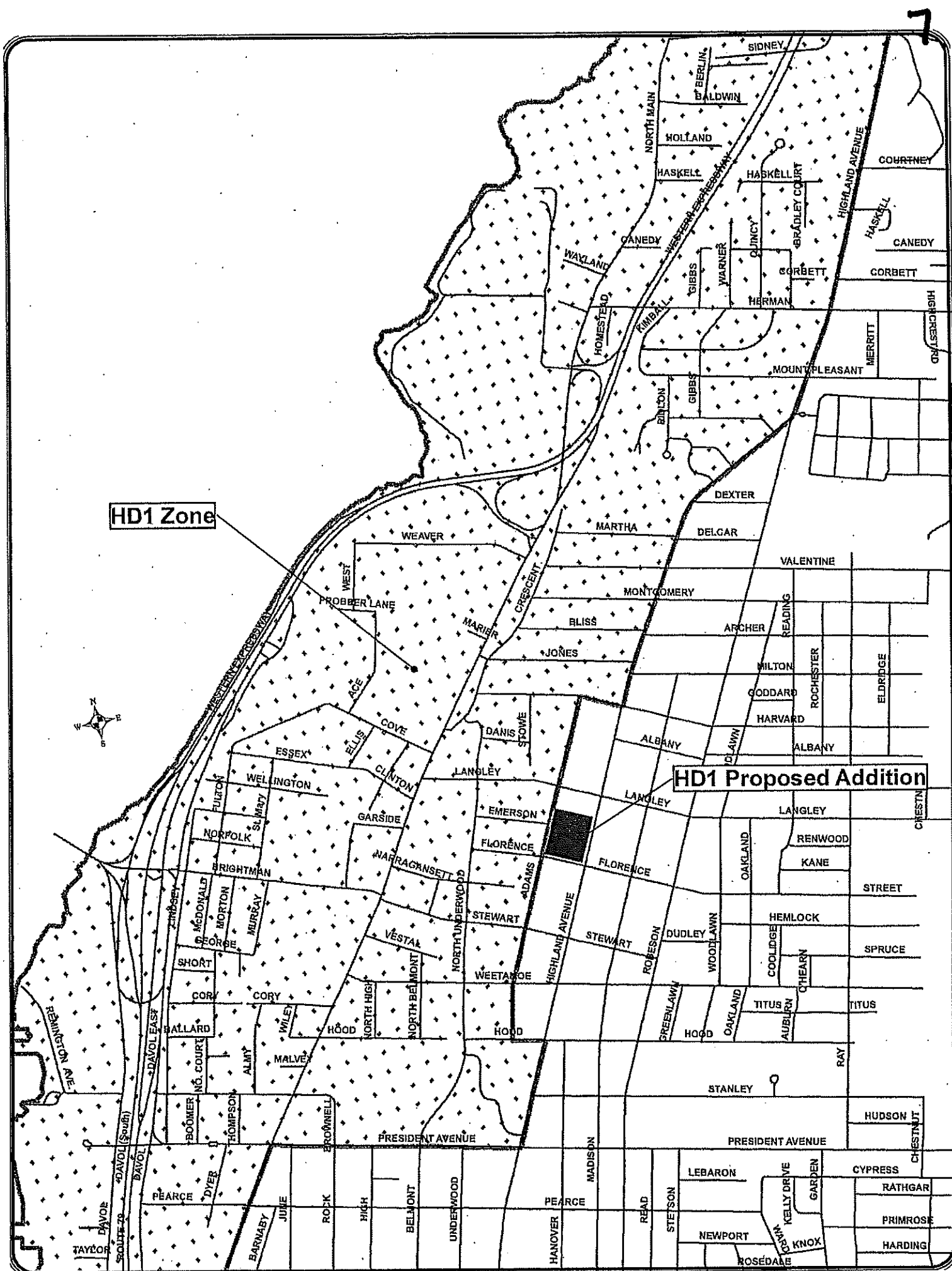
these developments, 38 market and workforce housing units have just been completed and are in the process of being leased up with full occupancy anticipated within six months. The demand for market rate housing opportunities within the City of Fall River is noted within multiple market rate housing studies performed within the City, but more importantly the great success of the market rate developments prove the ongoing and additional demand for such units.

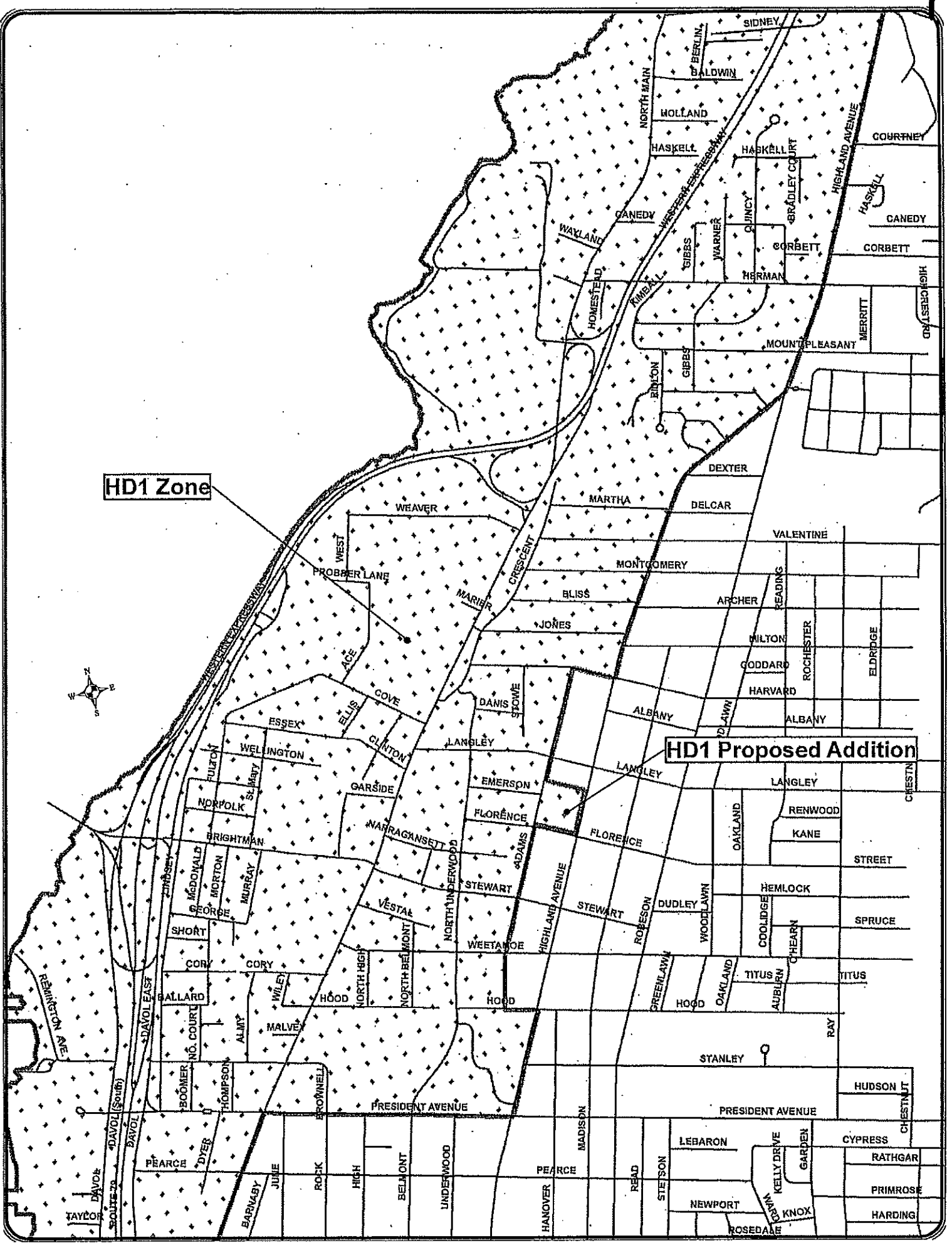
The proposed HD Zone change is the goals of the approved HD Zone Plan. Together with other projects previously certified and located in the same HD Zone, the zone change and subsequent development shall not overburden the City's supporting resources. If accepted the zone change and related project will have a reasonable chance of increasing residential growth, increasing diversity of housing supply, supporting economic development, and promoting stabilization in the HD Zone, as advanced in the HD Zone Plan.

4. Pertinent revisions of the original application for approval of the HD Zone or HD Zone, or to the HD Tax Increment Exemption Agreement, to reflect the changes

The pertinent revision to the original application for the HD Zone includes the addition of a contiguous parcel as identified in the attached map. The parcel to be included in the Waterfront HD Zone is S-03-0002.

5. Certification by the Town or City Clerk of the grant of Local Approval pursuant to 760 CMR 66.08(3).





HD1 Zone

HD1 Proposed Addition

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A+B



City of Fall River  
Massachusetts  
Office of the Mayor

RECEIVED

2020 APR 30 P 4:30

PAUL E. COOGAN  
Mayor

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

April 30, 2020

City Council President  
One Government Center  
Fall River, MA 02720

Dear Council President:

I am requesting that the City Council approve a Power Purchase Agreement, a PILOT for the use of the roof at the Durfee Field House and a lease for the use of the roof at the Durfee Field House. The approval of the two would allow for a twenty year discounted rate at Durfee High School. Mr. Pacheco will be in attendance to answer any questions the Council may have.

If you should have any questions or concerns please feel free to contact me.

Sincerely,

Paul E. Coogan  
Mayor



**FALL RIVER PUBLIC SCHOOLS**  
*Facilities & Operations*

Matthew H. Malone, Ph.D.  
Superintendent of Schools

Kenneth C. Pacheco  
Chief Operations Officer

April 30, 2020

The Honorable Paul E. Coogan  
City of Fall River  
1 Government Center  
Fall River, MA 02722

Dear Mayor Coogan:

I am attaching herewith, for your consideration and approval, a request through the Mayor; to the City Council to approve a Power Purchase Agreement, a PILOT for the use of the roof at the Durfee Field House and a lease for the use of the roof at the Durfee Field House. The purpose of these approvals mentioned will allow a twenty year discounted electricity rate at Durfee High School. Thank you in advance for your consideration to this matter.

Sincerely,

Kenneth C. Pacheco,  
Chief Operations Officer



*City of Fall River, In City Council*

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ORDERED, that the City of Fall River hereby authorizes the attached Power Purchase Agreement to be entered into between the City of Fall River Public Schools and Solect Energy Development, LLC.

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**POWER PURCHASE AGREEMENT**

For

City of Fall River Public Schools

Durfee High School 360 Ellsebee Street Fall River, Massachusetts 02720

Dated as of

---

between

Fall River Public Schools  
417 Rock Street  
Fall River, Massachusetts 02720

And

Solect Energy Development, LLC  
89 Hayden Rowe Street  
Hopkinton, Massachusetts 01748

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<u>EXHIBIT D</u>	-	DESCRIPTION OF PREMISES
<u>EXHIBIT E</u>	-	DESCRIPTION OF PROJECT
<u>EXHIBIT F</u>	-	ESTIMATED ANNUAL PRODUCTION
<u>EXHIBIT G</u>	-	INSURANCE REQUIREMENTS
<u>EXHIBIT H</u>	-	FORM OF LEASE

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## POWER PURCHASE AGREEMENT

This Power Purchase Agreement ("**Agreement**") is entered into as of \_\_\_\_\_, \_\_\_\_\_, by and between Fall River Public Schools ("**Host**"), and Solect Energy Development, LLC, ("**Solect**" or "**Provider**") a Limited Liability Company located in Hopkinton, Massachusetts (together, the "**Parties**").

WHEREAS, Host is a member of the PowerOptions Program, organized by PowerOptions, Inc. ("**PowerOptions**"), a nonprofit corporation organized under the laws of the Commonwealth of Massachusetts and the Internal Revenue Code that assists its members with procuring energy products and energy-related services for facilities they own and/or operate;

WHEREAS, Provider and PowerOptions have entered into an agreement dated September 1, 2015 governing the terms and conditions of Provider's participation in the PowerOptions Small Solar Program;

WHEREAS, Host is the owner of the properties located and described in Exhibit C and desires to make a portion of such properties available to Provider for the construction, operation and maintenance of a solar powered electric generating Project, and to purchase from Provider the electric energy produced by the Project; and

WHEREAS, Provider desires to develop, design, construct, own and operate the Project located at and described in Exhibit D, and sell to Host the electric energy produced by the Project.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**1. DEFINITIONS.** Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS.

**2. TERM.**

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, "Term" shall mean all of the Initial Period and the Operations Period, unless the Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement, but any such termination shall not terminate any provisions hereof that expressly survive such termination

(b) Initial Period. The Initial Period will begin on the date set forth above (date of signed Agreement) and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 4(b) or 4(d).

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(c) Operations Period. The Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date occurs.

(d) Extensions. Twenty-four months prior to the end of the Operations Period, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

(e) Early Termination by Host. If Host terminates the Agreement prior to the Expiration Date, Host shall pay, as liquidated damages, the Early Termination Amount set forth on Exhibit B, and Provider shall cause the Project to be disconnected and removed from the Premises. Upon Host's payment to Provider of the Early Termination Amount, the Agreement shall terminate automatically. Notwithstanding the foregoing, Host may (i) terminate this Agreement with no liability whatsoever if Provider fails to commence construction of the Project by the Construction Start Date or (ii) if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed \$15/kW, plus (if Installation Work had commenced at the Premises as of the date of termination) any costs reasonably incurred by Host to return its Premises to its condition prior to commencement of the Installation Work if Provider fails to do so within a reasonable time. Further, Host may terminate this Agreement with no liability whatsoever if Provider fails to commence Commercial Operations by the date that is 60 days after the Guaranteed Commercial Operation Date. The Construction Start Date and Guaranteed Commercial Operation Date shall be extended on a day-for-day basis if, notwithstanding Provider's commercially reasonable efforts, interconnection approval is not obtained within 60 days after the Effective Date.

### 3. ACCESS RIGHTS.

(a) Access Specifications. Host hereby grants Provider and its designees (including Installer) access to the Premises, for the Term and for so long as needed after termination to remove the Project pursuant to the applicable provisions herein, at reasonable times and upon reasonable notice (except in situations where there is imminent risk of damage to persons or property), for the purposes of designing, installing, inspecting, operating, maintaining, repairing, and removing the Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement. Access Rights with respect to the Site include without limitation:

(i) Vehicular & Pedestrian Access. Reasonable vehicular and pedestrian access across the Site to the Premises as designated on Exhibit D for purposes of designing, installing, operating, maintaining, repairing, and removing the Project. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

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(ii) Utilities & Communication Cables. The right to locate distribution utility and/or electrical lines and communications cables across the Site as designated on Exhibit D. The location of any such electrical lines and communications cables outside the areas designated on Exhibit D shall be subject to Host's approval and shall be at locations that minimize any disruption to Host's activities occurring on the Site. Access will also be provided for Telephone and internet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(b) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet so that it is possible for Provider and Host to remotely monitor the Project.

(c) Access to Premises. For the Term of this Agreement, Host hereby grants to Provider all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation, maintenance, repair, and removal of the Project pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the Project with the Premises' electrical wiring. Host hereby covenants that (i) Provider shall have access to the Premises and Project during the Term of this Agreement and for so long as needed after termination to remove the Project pursuant to the applicable provisions herein, and (ii) Host shall not interfere or handle any Provider equipment or the Project without written authorization from Provider; provided, however, that Host shall at all times have access to and the right to observe the Installation Work or Project removal.

(d) No Interference. Host agrees not to conduct activities on, in or about the Premises that have a reasonable likelihood of causing damage or impairment to, or otherwise adversely affecting, the Project. Host shall take all reasonable steps to limit access to the Project to Provider, Installer, its employees, contractors or subcontractors. Host shall implement and maintain reasonable and appropriate security measures at the Premises to prevent Host's employees, invitees, agents, contractors, subcontractors and other third parties from having access to the Project and to prevent theft, vandalism or other actions from occurring that have a reasonable likelihood of causing damage, impairment, or other adverse effect on the Project.

(e) Temporary storage space during installation or removal. Host shall provide sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, Operations Period or Project removal, and access for rigging and material handling. Provider shall be responsible for providing shelter and security for stored items during construction and installation.

(f) Recording Provider's Easement. Provider may record an Easement in substantially the same form attached hereto as Exhibit H in the land records regarding its Access Rights under this Agreement.

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#### 4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project. The Provider, at its own cost shall perform and determine a structural analysis of the Host's site to determine feasibility, safety, and to ensure the proper install, maintenance, and operation of the solar system. Provider shall provide a copy of structural engineering analysis to Host at Host's request.

(b) Termination of Development Activities by Provider. At any time during the Initial Period, Provider shall have the right to cease development of the Project on the Premises if: (i) Provider determines that the Premises, as is, is insufficient to accommodate the Project; (ii) there exist site conditions or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the Project as designed; or (iii) there has been a material adverse change in the rights of Host to occupy the Premises or Provider to construct the Project on the Premises. If Provider gives Host notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to its pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. At a time coordinated with the Host during the Initial Period, upon at least ten (10) Business Days notice to Host, Provider shall have the right to commence installing the Project on the Premises.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes



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shall not result in the Project exceeding the nameplate capacity, building footprint, location and height set forth in Exhibits D and E, without Host's approval.

(d) Construction Commencement Deadline. If Provider has not commenced the installation of the Project on the Premises before the Construction Start Date (not including any days in which a Force Majeure Event existed), Host may terminate this Agreement by delivering notice to Provider of its intention to terminate this Agreement, and the Agreement shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if Provider commences installation of the Project within such twenty-one (21) day period, this Agreement shall not terminate. Upon any termination in accordance with this Section 4(d) neither Party shall have any further liability to the other with respect to the Facility, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of construction; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

(e) Contractors. Provider shall use licensed and insured contractors to perform the work of installing, operating, and maintaining the Project. Provider intends to use Installer to perform such work, but may use other contractors, for all or a portion of such work, in Provider's sole discretion. Provider shall advise Host of the Installer prior to commencement of the work on the Site. Provider shall be responsible for the conduct of Installer and its subcontractors, and Host shall have no contractual relationship with Installer or its subcontractors in connection with the work on the Project. Provider shall ensure that Installer maintains insurance applicable to the Installer's activities that satisfy the requirements in Exhibit G.

(f) Status Reports, Project Testing, Commercial Operation. Provider shall give Host regular updates, on a reasonable schedule requested by Host, on the progress of installation of the Project and shall notify Host of when Provider will commence testing of the Project. Testing shall be conducted in accordance with guidelines, standards and criteria reasonably accepted or followed by photovoltaic solar system integrators in the United States. Host shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of and has been approved for interconnection by the Local Electric Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis for at least four (4) continuous hours, Provider shall notify Host that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host.

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Provider's sole

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expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

(h) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced by Provider. Upon encountering any Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Agreement. Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has complied with all Applicable Laws, and a qualified independent expert provides written certification that (i) remediation has been accomplished as required by Applicable Law and (ii) all necessary approvals have been obtained from any Governmental Authority having jurisdiction over the Project or the Site. Host shall reimburse Provider for all additional costs incurred by Provider or Installer in the installation of the Project resulting from the presence of and/or the remediation of Hazardous Materials, including demobilization and remobilization expenses. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials introduced to the Site by Provider or Installer, nor is Host required to remediate an affected area if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(i) Site Security. Host will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Host Premises, including the Project. Host will advise Provider immediately upon observing any damage to the Project. Upon request by Provider, such as Provider receiving data indicating irregularities or interruptions in the operation of the Project, Host shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Provider on such observations. Notwithstanding anything to the contrary, except in the case of gross negligence or willful action/inaction on the part of Host's security, Provider shall bring no claim against Host based upon performance of Host's security personnel.

(j) Provider System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Host notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown unless the performance guarantee in Section 5(c) is not met. Provider and Host will agree upon a reasonable shut down duration. Provider shall not

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schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

(k) Metering. Provider shall install and maintain a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the Project and may, at its election, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed by Host at the Premises.

(i) Installation. Provider shall maintain and test the meter in accordance with but not limited to Applicable Law and as provided herein. Provider shall ensure that the meter is installed and calibrated correctly to manufacturer and/or utility specifications during commissioning of the Project.

(ii) Measurements. Readings of the meter shall be conclusive as to the amount of electric energy delivered to Host; provided that if the meter is out of service, is discovered to be inaccurate pursuant to Section 4(l)(iii) below, or registers inaccurately, measurement of energy shall be determined by estimating by reference to quantities measured during periods of similar conditions when meter was registering accurately.

(iii) Testing and Correction.

A. Host's Right to Conduct Tests. Each Party shall have the right to witness each test conducted by or under the supervision of Provider to verify the accuracy of the measurements and recordings of the meter. Provider shall provide at least twenty (20) days prior written notice to Host of the date upon which any such test is to occur. Provider shall prepare a written report setting forth the results of each such test, and shall provide Host with copies of such written report and the underlying supporting documentation not later than thirty (30) days after completion of such test. Provider shall bear the cost of the annual testing of the meter and the preparation of the meter test reports.

B. Standard of Meter Accuracy; Resolution of Disputes as to Accuracy. The following steps shall be taken to resolve any disputes regarding the accuracy of the meter:

(1) If either Party disputes the accuracy or condition of the meter, such Party shall so advise the other Party in writing.

(2) Provider shall, within thirty (30) days after receiving such notice from Host, or Host shall, within such time after having received such notice from Provider, advise the other Party in writing as to its position concerning the accuracy of such meter and state reasons for taking such position.

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(3) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause the meter to be tested by an agreed upon and disinterested third party.

(4) If the meter is found to be inaccurate by not more than two percent (2%), any previous recordings of the meter shall be deemed accurate, and the Party disputing the accuracy or condition of the meter shall bear the cost of inspection and testing of the meter.

(5) If the meter is found to be inaccurate by more than 2% or if such meter is for any reason out of service or fails to register, then (1) Provider shall promptly cause any meter found to be inaccurate to be replaced or adjusted to correct, to the extent practicable, such inaccuracy, (2) the Parties shall estimate the correct amounts of energy delivered during the periods affected by such inaccuracy, service outage or failure to register as provided in Section 4(l)(ii) or (iii), and (3) Provider shall bear the cost of inspection and testing of the meter and reimburse or credit Host if Host was the disputing Party. If as a result of such adjustment the quantity of energy for any period is decreased (such quantity, the "Electricity Deficiency Quantity"), Provider shall reimburse or credit Host for the amount paid by Host in consideration for the Electricity Deficiency Quantity, and shall bear the cost of inspection and testing of the meter. If as a result of such adjustment the quantity of energy for any period is increased (such quantity, the "Electricity Surplus Quantity"), Host shall pay for the Electricity Surplus Quantity at the price applicable during the applicable period.

(iv) No Duty on Host. Notwithstanding the foregoing, the Parties acknowledge and agree that the Host is under no responsibility or duty to ascertain, to inspect or to otherwise determine whether the meter or any other part of the Project is out of service, is discovered to be inaccurate or registers inaccurate readings; is malfunctioning or is otherwise defective, it being agreed that at all times such responsibility or duty shall remain with the Provider.

## **5. SALE OF ELECTRIC ENERGY.**

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Host and Host shall buy from Provider all electric energy produced by the Project, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery. Provider shall own the Capacity Value of the Project. The Provider shall sell the capacity of the Project into the Forward Capacity Market (FCM) by the later of twelve (12) months from the Commercial Operation Date or the first date available to participate in the Forward Capacity Auction (FCA); if not, the Provider relinquishes ownership of the Capacity Value of the Project to the Host. The interconnection point of Project with the Local Electric Utility shall be indicated in Exhibit E.

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(b) Performance Guarantee. Beginning on the Commercial Operation Date and as of each anniversary thereof, if the Project produces less than eighty-five percent (85%) of the applicable Estimated Annual Production specified in Exhibit F, unless, and then only to the extent that, the failure to meet the Estimated Annual Production is due to (a) failure, damage or downtime attributable to third parties or Host, (b) equipment failure or delayed repair of equipment due to the claims process with the equipment manufacturer which are beyond the reasonable control of Provider, (c) a Force Majeure Event, (d) variability due to weather, (e) acts or omissions of Host of any of its obligations hereunder, or (f) any Host Requested Shutdown, Provider Safety Shutdown or Project Relocation under Section 10(a), (b), or (c); in its next invoice Provider shall credit Host an amount equal to the product of (i) the positive difference, if any, of the average applicable tariff rate per kWh that Host would have paid for full requirements, delivered electric service from its Local Electric Utility during such period minus the applicable kWh Rate specified in Exhibit A, multiplied by (ii) the difference between the actual Project Output during such 12-month period and eighty-five percent (85%) of the Estimated Annual Production for such period.

## 6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a Business Day or in any other case as of the next Business Day following the day of transmittal); or (v) transmitted by email, addressed as follows:

To Host:	Fall River Public Schools 417 Rock Street Fall River, Massachusetts 02720 Attention: Email:
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(d) Payment. Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest

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on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but Host may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

## 7. SUPPLEMENTAL POWER

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.

(b) Interconnection and Interconnection Fees. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering". Provider shall be responsible for all costs, fees, charges and obligations required to connect the Project to the Local Electric Utility distribution system, including but not limited to fees associated with system upgrades and operation and maintenance carrying charges ("Interconnection Obligations"). In no event shall Host be responsible for any Interconnection Obligations.

(i) Net Metering. The Parties will work cooperatively and in good faith to meet all Net Metering requirements under Applicable Law, the Applicable Solar Program and Local Electric Utility tariffs, including applicable interconnection and metering requirements (e.g., Massachusetts tariff Schedule Z). In the event that the Project produces a production excess, then the Parties agree that (a) Host shall be entitled to the associated Net Metering Credits, (b) Provider shall transmit such Production Excess into the Local Electric Utility system on behalf of and for the account of Host, and (c) Host (or its designee) shall be entitled to any and all Net Metering Credits issued by the Local Electric Utility resulting from such transmission.

(c) Applicable Solar Program Incentives. Provider shall receive all payments available under any Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it

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shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this Section 7(c) is limited to any payments actually received by Host.

(d) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the ownership and operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(e) Environmental Attributes. Except as otherwise provided for under Applicable Law, or Applicable Solar Program rules, or the applicable tariff of the Local Electric Utility, Provider (and/or Financing Party) shall be the owner of any Environmental Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Environmental Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Environmental Attributes, and if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Environmental Attributes, it shall promptly pay them over to Provider.

(f) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

(g) Neither Party is a Utility. Neither Party shall assert that the other Party is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's and Host's obligations or performance under this Agreement.

## **8. PERMITS, OWNERSHIP OF PROJECT, LIENS, MORTGAGES**

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) Project Ownership. Except as provided in Section 9, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon

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the real property comprising the Premises, on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens") and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the Project, Host shall promptly upon request of Provider, provide an acknowledgement and consent from such lienholder, in form and substance reasonably acceptable to Provider (and/or Financing Party), stating that the ownership of the Project remains in Provider and further acknowledging that the Project is personal property of Provider and agreeing not to disturb the rights of Provider in the Project and under this Agreement. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Host's expense, in the appropriate Land Registry. Host may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the Project, the Access Rights granted hereunder, and the priority of Provider's (and/or Financing Party's) rights in the Project and the Access Rights.

## **9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.**



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(a) Early Purchase Option. Host shall have the option to purchase the Project at intervals listed in Exhibit B, consistent with the greater of either (i) the applicable value identified in Exhibit B or (ii) the Fair Market Value of the System as determined by mutual agreement of Host and Provider; provided, however, if Host and Provider cannot agree to a Fair Market Value within twenty (20) days after Host has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and on or before such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, the Parties will engage and share the costs equally of a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project consistent with the terms of the transaction. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Section 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host. Such bill of sale shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of

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the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

(e) No Survival of Purchase Option. The options for Host to purchase the Project under Sections 9(a) and 9(b) shall not survive the termination of this Agreement.

(f) Removal of Project at Expiration. Subject to Host's exercise of its purchase option under Section 9(a) or 9(b), upon the expiration or earlier termination of the Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the Project from the Premises on a mutually convenient date but in no case later than sixty (60) days after the Expiration Date. The Premises shall be returned to its original condition except for ordinary wear and tear. If the Project is to be located on a roof, then in no case shall Provider's removal of the Project affect the integrity of Host's roof, which shall be as leak proof as it was prior to installation of Project (other than ordinary wear and tear). For purposes of Provider's removal of the Project, Host's covenants pursuant to Section 16 shall remain in effect until the date of actual removal of the Project. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the Project by such agreed upon date, Host shall have the right, at its option, to remove the Project to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Provider's reasonable cost.

#### **10. SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.**

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days or a predetermined date mutually agreed upon by both the Host and Provider, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown. Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology. For the purpose of this clause, the Parties agree that during years 4 through 20 (but not years 1 through 3) of the Term of the Agreement, Host shall be afforded a total of fifteen (15) days which may be used consecutively or in periods of at least twenty-four hours each ("Allowed Disruption Time") during which the Project shall be rendered non-operational by Provider. Host shall not be obligated to make payments to Provider for electricity not received during the Allowed Disruption Time, nor shall Host be required to reimburse Provider for any other lost

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revenue during the Allowed Disruption Time, including any lost revenue associated with any reduced sales of Environmental Attributes and Tax Attributes.

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on a Site, which are not under the control of Provider, whether or not under the control of Host, may interfere with the safe operation of the Project. Provider shall give Host notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Host shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. If a shutdown pursuant to this Section 10(b) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion. In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases required by Provider in connection with the new location. Host shall pay all costs associated with the removal and relocation of the Project, including installation and testing costs and interconnection costs. In addition, during the Relocation Event, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following the Relocation Event. Determination of the amount of energy that would have been produced following the Relocation Event shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(d) Premises Shutdown; Interconnection Deactivated. In the event Premises are closed as a result of an event that is (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider, Host shall be excused for the period of deactivation from paying Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery. If an interconnection with the Local Electric Utility becomes deactivated for reasons that are (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Provider such that the Project is no longer able to produce electricity or transfer electricity to its respective Premises or to the Local Electric Utility, Host will be excused for the period of Interconnect deactivation from paying Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery

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(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host may be released from further obligations under this Agreement.

## 11. TAXES.

(a) Income Taxes. Provider shall be responsible for any and all income taxes associated with payments from Host to Provider for electric energy from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Host shall be responsible for all applicable taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it by any Governmental Authority. Provider shall notify Host in writing with a detailed statement of such amounts, which shall be invoiced by Provider and Host shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. Provider shall be responsible for ad valorem personal property or real property taxes levied against the Project. If Host is assessed any taxes related to the existence of the Project on the Premises, Host shall immediately notify Provider. Host and Provider shall cooperate in contesting any such assessment; provided, however, that Host shall pay such taxes to avoid any penalties or interest on such Taxes, subject to reimbursement by Provider. If after resolution of the matter, such tax is imposed upon Host related to the improvement of real property by the existence of the Project on the Site, Provider shall reimburse Host for such tax. Provider may enter a Payment In Lieu Of Taxes agreement with local authority.

(d) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been bonded or otherwise secured in accordance with Applicable Law.

(e) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice from the Party who paid the taxes.

## 12. INSURANCE.

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit G in full force and effect throughout the Term. Host and Provider shall also provide any additional insurance which may be required from time to time by any legal or regulatory authority affecting the Premises or operation of the Project.

(b) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party written notice before the insurance is cancelled or materially altered.

(c) Certain Insurance Provisions. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear. Each Party's insurer shall waive all rights of subrogation against the other Party except in the case of such Party's negligence or willful misconduct.

(d) Insurance Providers. All insurance maintained hereunder shall be maintained with companies approved to do business in Massachusetts, and rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated).

## 13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS.

(a) Cooperation. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project.

(c) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall work together to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) ten years or (ii) the remaining term of this Agreement without regard to Host's option to purchase the Project.

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#### 14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of the Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, the Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Host agrees that Provider may, at its sole discretion, take photographs of the installation process of the Project and/or the completed Project, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Host permission and the installation site shall not be disclosed beyond the type of establishment (such as "Retail Store," "Distribution Center," or such other general terms), the city and state. Only Provider has the exclusive right to claim that (i) electric energy provided to Host was generated by the Project, (ii) Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 14.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 14(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person and (ii) it shall use any Confidential Information received from the other Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the Applicable Solar Program or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing.

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange, to disclose any Confidential Information provided by the disclosing Party, the receiving Party may make disclosure as required by law, but the receiving Party shall prior to

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making any disclosure, if lawfully permitted to do so, notify the disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party, in any efforts by the disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed.

(d) Enforcement of Confidentiality Provisions. Each Party acknowledges that it may be impossible to measure the damages which may result from a breach of this Section 14 and agrees that the provisions of this Section 14 may be required to be specifically performed and each Party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance of the terms of this Section 14. The provisions of this Section 14 shall survive until three years after the effective date of any termination of this Agreement.

## 15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend and hold Host and its directors, officers, employees, agents, volunteers, and invitees ("Host's Indemnified Parties"), harmless from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any claim for or arising out of any injury to or death of any Person or loss or damage to property to the extent arising out of Provider's, Installer's, or Provider's Indemnified Parties (defined below) negligence or willful misconduct; (ii) Provider's, Installer's or Provider's Indemnified Parties violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility or Applicable Law; or (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider's employees, agents, volunteers, and invitees. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host's side of the Point of Delivery except to the extent caused by incidents on Provider's side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. To the extent permitted by law, Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party ("Provider's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Host's Indemnified Parties; (ii) Host's violation of Applicable Law; or (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties). Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

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(c) Notice of Claims. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the "Notice of Claim"). Such Notice of Claim shall specify all facts known to the Indemnified Person giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

(d) Defense of Claims. The Indemnifying Party has the right, but not the obligation to assume the defense of the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of counsel and case expenses incurred by the Indemnified Person in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Person has the right to hire its own counsel to defend it, but the Indemnified Person shall be responsible for the reasonable costs of such counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Person (which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim.

(e) Payments. At the time that the Indemnifying Party makes any indemnity payments under this Agreement, the indemnification payment shall be adjusted such that the payment will result in the Indemnified Person receiving an indemnity payment equal to the Loss after taking into account (i) all federal, state, and local income taxes that are actually payable to the Indemnified Person with respect to the receipt of such payment and (ii) all national, state, and local tax deductions allowable to the Indemnified Person for any items of loss and deduction for which the Indemnified Party is being indemnified.

(f) Survival of Indemnification. The obligations of indemnification hereunder shall survive termination of this Agreement.

## 16. REPRESENTATIONS AND WARRANTIES.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of date hereof, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of incorporation and of the state in which the Premises are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict



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with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; (3) any law or regulation.

(iii) Enforceability. (1) All actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (2) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (3) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Host Representations. In addition to the representations and warranties in Section 16(a), Host hereby represents and warrants to Provider, as of date hereof, that:

(i) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project are to be installed, are materially different from the information presented by Host, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

## 17. **FORCE MAJEURE.**

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Excepting a Force Majeure Event which impacts business or banking transactions nationally or globally, in which case such

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obligations shall be suspended but not excused, obligations to make payments for services provided prior to the Force Majeure Event shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 17, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred and sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, Provider shall be required to decommission and remove the Project from the applicable Site in accordance with the provisions of Section 9(f) (unless there has been a casualty event, in which case the provisions of clause (c) above shall apply to the removal of the Project). In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

## 18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will submit to Host and PowerOptions within 60 days a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future prices such that the new prices compensate Provider for the total cost increase arising from the Change in Law and said

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adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the prices set forth in Exhibit A for the Term of this Agreement.

## 19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("Provider Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 16, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Host identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of the Project, Provider abandons installation of the Project for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project, provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Host identifying the failure.

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F)

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acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Financing Party Opportunity to Cure; Host Remedies. Upon a Provider Event of Default, provided that Provider or Financing Party does not cure such Event of Default by Provider, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue any and all other remedies available at law or equity.

## 20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following ("Host Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Host under Section 16, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Host obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project, or fails to take electric energy produced by the Project, and fails to correct such action within fifteen (15) days after receiving written notice from Provider with respect to such act or omission.

(iii) Payment Failure. Host fails to make any payment due under the terms of this Agreement, and fails to make such payment within ten (10) days after receipt of notice thereof from Provider.

(iv) Obligation Failure. Host fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Host (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Host in an

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involuntary case under bankruptcy law or seeking to dissolve Host under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon a Host Event of Default, Provider may require Host to pay to Provider the Early Termination Amount; sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales; and/or pursue other remedies available at law or in equity. If necessary to sell electricity to persons other than Host, Host shall allow Provider to add a new meter dedicated to the solar Project, change the point of interconnection, and/or will support Provider with necessary approvals to change the Schedule Z. After Provider's receipt of such Early Termination Amount pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

(c) Survival of Access Rights and Easement. Upon a Host Event of Default, unless Host pays the Early Termination Amount to Provider in full thus terminating this PPA, Provider may, in its exercise of remedies pursuant to Section 20(b), make continued use of, and Host may not terminate: (i) the access rights granted in Section 3 for access to and use of the Site in connection with Provider's use of the Premises; and (ii) the easement referenced in Section 3(f), and Provider's use of such rights and interests shall continue until the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date as shall the duties of Provider to decommission the facility in accordance with Section 9(f). Provider shall not be obligated to pay any rent or other consideration for the use of such rights or interests.

## 21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

(a) Financing Arrangements. Provider shall not sell, transfer or assign (collectively, an "Assignment") this Agreement or any interest therein, without the prior written consent of Host, which shall not be unreasonably withheld, conditioned or delayed, provided, however that Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the Project. Further, Host acknowledges that Provider may obtain construction financing for the Project from a third party and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Host acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Project. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

(i) Consent to Collateral Assignment. Host hereby consents to both the sale of the Project to a Financing Party and the collateral assignment to the Financing Party of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

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(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider hereunder or cause to be cured any default of Provider hereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional sixty

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(60) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third Party Beneficiary. Host agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 21.

(c) Entry to Consent to Assignment. Host agrees to (i) reasonably execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project.

## 22. LIMITATIONS ON DAMAGES.

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT (including, without limitation, in Sections 10, 19(b) and 20(b)), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

## 23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Jurisdiction, Venue, and Jury Trials. If despite the efforts, if any, to negotiate, the Parties do not resolve the Dispute within the negotiation period described above, then each Party irrevocably consents to the exclusive jurisdiction of the state and federal courts sitting in Massachusetts, in connection with any action related to the Dispute. Each Party agrees that process may be served upon it in any manner authorized by such courts and that it waives all objections which it might otherwise have to such jurisdiction and process. Further, each Party irrevocably waives all of its rights to a trial by jury with respect to any such action.

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(c) Survival of Dispute Provisions. The provisions of this Section 23 and Section 25 shall survive any termination of this Agreement and shall apply (except as provided herein) to any disputes arising out of this Agreement.

## 24. NOTICES.

Delivery of Notices. All notices or other communications which may be or are required to be given by any Party to any other Party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Host:

Fall River Public Schools  
417 Rock Street  
Fall River, Massachusetts 02720  
Attention:  
Email:

If to Provider:

Solsect Energy Development, LLC  
89 Hayden Rowe Street  
Hopkinton, Massachusetts 01748  
Attention: Legal Notices

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

## 25. MISCELLANEOUS.



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(a) Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words "hereto", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "person" shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word "including" shall be deemed to be followed by the words "without limitation". In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Party's benefits, the matter shall be resolved under Section 23, and the court will modify the unenforceable provision in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Except as provided in Section 21(a), neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement.

(f) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

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(g) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(h) Relation of the Parties. The relationship between Provider and Host shall not be that of partners, agents, or joint ventures for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Provider and Host, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

(i) CORI. With respect to Projects to be installed at Massachusetts public schools, the Host shall have the right to conduct a check of the Criminal Offender Record Information (CORI) maintained by the Massachusetts Criminal History Board, and the Massachusetts Sex Offender Record Information (SORI) maintained by the Massachusetts Sex Offender Registry Board, for any officer or employee of the Provider or of a subcontractor of the Provider who will work at the Premises. Notwithstanding any other provision of the Agreement, the Host may refuse to allow any such employee to work on the project if the Host, in its sole discretion, determines that such employee is not suitable for work on the project based on the results of such CORI or SORI. The Host shall keep such information in a confidential file. With respect to Projects to be installed at public schools in other states, similar criminal offender and sex offender information maintained by the state shall apply, and Host shall have discretion regarding employment of such registered offenders.

(j) Notwithstanding anything in this Agreement to the contrary, Host shall have no obligation to assign to Provider any right or interest which gives the Provider greater rights or interests in the Premises or any other property owned or controlled by the Host than the rights and interests contemplated in this Agreement.

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IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Power Purchase Agreement as of the date first set forth above.

**Solect Energy Development, LLC a Massachusetts Limited Liability Company**

By: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

**HOST, Fall River Public Schools**

By: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

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## GLOSSARY OF TERMS

"Access Rights" means the rights provided in this Agreement for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

"Affiliate" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Agreement" means this Power Purchase Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

"Applicable Law" means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes an approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

"Applicable Solar Program" means the state laws, rules, and regulations that govern the solar incentives, rights and obligations (e.g., SRECs), as may be amended from time to time, by the authorities having legal jurisdiction where the Project will be installed and where the benefits will be realized.

"Business Day" means a day other than Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by law to be closed.

"Capacity Value" means such capacity value as determined by market rules established by ISO-NE. Provider is the owner of the capacity value of the Project and shall have the right to participate in ISO-NE's Forward Capacity market at their discretion through an aggregator or as an ISO-NE Market Participant. The Provider shall sell the capacity of the Project into the Forward Capacity Market (FCM) by the later of twelve (12) months from the Commercial Operation Date or the first date available to participate in the Forward Capacity Auction (FCA); if not, the Provider relinquishes ownership of the Capacity Value of the Project to the Host.

"Change in Law" means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

"Commercial Operation Date" means the date, which shall be specified by Provider to Host pursuant to Section 4(d), when the Project is physically complete and has successfully

completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

"Confidential Information" means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, Project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party.

"Construction Start Date" means day within 180 days from the date of this Agreement.

"Delay Liquidated Damages" means the daily payment of (i) \$0.250/day/kW if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date.

"Dispute" means a controversy or claim arising out of or relating to this Agreement.

"Early Termination Amount" means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes.

"Electric Service Provider" means any person, including the Local Electric Utility, authorized by the State of Massachusetts to provide electric energy and related services to retail users of electricity in the area in which the Site is located.

"Environmental Attributes" means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes and the Applicable Solar Program.

"Estimated Annual Production" means the annual estimate of electricity generated by the Project for any given year. The Estimated Annual Production for each year of the Term is set forth in Exhibit F.

"Expiration Date" means the date on which the Agreement terminates by reason of expiration of the Term.

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"Fair Market Value" means the price that would be paid in an arm's length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

"Financing Party" means a Project Lessor or Lender.

"Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

"Governmental Authority" means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

"Guaranteed Commercial Operation Date" means 180 days from the Construction Start Date, which shall be extended day-by-day for Force Majeure Events and for other events outside of Provider's reasonable control.

"Hazardous Materials" means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import, under any Applicable Law.

"Host" means and all successors and assigns.

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"Indemnified Person" means the person who asserts a right to indemnification under Section 15.

"Indemnifying Party" means the Party who has the indemnification obligation under Section 15 to the Indemnified Person.

"Initial Period" has the meaning provided in Section 2.

"Installation Work" means the construction and installation of the Project and the start-up, testing and acceptance (but not the operations and maintenance) thereof, all performed by or for Provider at the Premises.

"Installer" means Solect Energy Development, LLC, the person designated by Provider to install the Project on the Premises.

"Land Registry" means the office where real estate records for the Site are customarily filed.

"Lender" means persons providing construction or permanent financing to Provider in connection with installation of the Project.

"Liens" has the meaning provided in Section 8(c).

"Local Electric Utility" means the entity authorized and required under Applicable Law to provide electric distribution service to Host at the Site.

"Losses" means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney's fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

"Net Metering" means the process of measuring the difference between electricity delivered by a Local Electric Utility to a customer and electricity generated by a solar system and fed back to the Local Electric Utility, as set forth in Applicable Law.

"Net Metering Credit" shall mean the monetary value of the excess electricity generated by a Project, and credited to the Host by the Local Electric Utility, as set forth in Applicable Law.

"Operations Period" has the meaning provided in Section 2.

"Operations Year" means a twelve month period beginning at 12:00 am on an anniversary of the Commercial Operations Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operations Date, provided that the first Operations Year shall begin on the Commercial Operations Date.

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"Party" means either Host or Provider, as the context shall indicate, and "Parties" means both Host and Provider.

"Point of Delivery" has the meaning set forth in Section 5(a) and Exhibit E.

"Premises" means the portions of the Site described on Exhibit D.

"Project" means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement.

"Project Lessor" means, if applicable, any Person to whom Provider transferred the ownership interest in the Project, subject to a leaseback of the Project from such Person.

"Provider" means Solect Energy Development, LLC.

"Relocation Event" means the relocation of the Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy Project.

"Site" means the real property described on Exhibit C attached hereto.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

"Term" shall have the meaning provided in Section 2 hereof.



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EXHIBIT A

ENERGY PURCHASE PRICES

The PPA \$/kWh rate will be established upon receipt of the SMART Statement of Qualification from the SMART Solar Program Administrator, on behalf of the Massachusetts Department of Energy Resources. The Statement will illustrate values for Tariff, Value of Energy (VOE), and Incentive. The PPA Rate shall correspond to the Tariff as set forth below. Upon receipt of the Statement, Provider shall forward a copy to Host, confirming the applicable PPA Rate.

Tariff Value	0.2304	0.2269
VOE	0.12722	0.12722
Incentive	0.10313	0.09969
PPA Rate	0.108	0.112

NOTES

1 The price/kWh reflects an annual Payment In Lieu of Taxes (PILOT) amount in the amounts shown on Exhibit A-1. In the event that the contracted annual PILOT amount differs from the amount in Exhibit A-1, the Parties agree to adjust the price/kWh in Exhibit A, "Energy Purchase Prices", to reflect the difference in tax payments from the amount assumed in Exhibit A-1.

2 The PPA \$/kWh rate reflects 2020 project installation and the corresponding Federal Investment Tax Credit value.

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EXHIBIT B  
PILOT AMOUNTS

YEAR	AMOUNT
1	\$ 4,124
2	\$ 4,000
3	\$ 3,880
4	\$ 3,764
5	\$ 3,651
6	\$ 3,541
7	\$ 3,435
8	\$ 3,332
9	\$ 3,232
10	\$ 3,135
11	\$ 3,041
12	\$ 2,950
13	\$ 2,861
14	\$ 2,775
15	\$ 2,692
16	\$ 2,611
17	\$ 2,533
18	\$ 2,457
19	\$ 2,383
20	\$ 2,312

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EXHIBIT B

## EARLY TERMINATION AMOUNTS

Year of System Term	Early Termination	Early Purchase
1	\$1,423,078	N/A
2	\$1,363,196	N/A
3	\$1,062,979	N/A
4	\$1,033,168	N/A
5	\$955,398	N/A
6	\$876,065	N/A
7	\$795,074	\$696,594
8	\$758,808	N/A
9	\$720,675	N/A
10	\$680,558	\$572,945
11	\$638,334	N/A
12	\$593,874	N/A
13	\$549,167	N/A
14	\$502,062	N/A
15	\$452,409	\$327,657
16	\$400,048	N/A
17	\$344,806	N/A
18	\$292,606	N/A
19	\$246,621	N/A
20	\$198,764	N/A

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EXHIBIT C

DESCRIPTION OF SITE

HOST PLEASE INSERT LEGAL DESCRIPTION AND ENCUMBRANCES

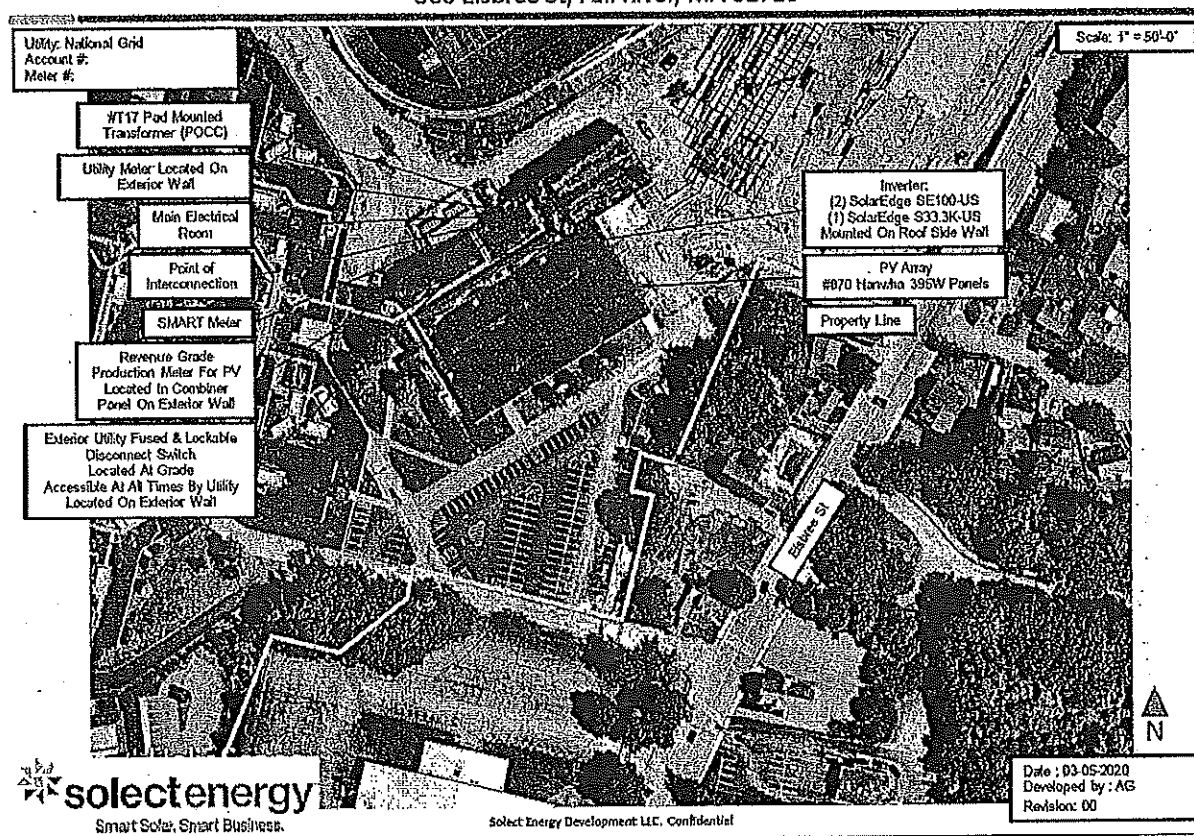
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## EXHIBIT D

### DESCRIPTION OF PREMISES

The Premises and the Access Areas shall mean the Site. Locations where solar equipment will be installed and accessed including the roofs, exterior and interior walls, through to the main electric room, and exterior areas of the Site depicted in Site Plan below. The Project will be combined and connected to Host's existing main electric equipment, interconnected to the utility network behind the existing utility meter.

Site Plan – SED – Fall River Durfee Urban Fieldhouse – 4402 – 343.65 kW DC – 233.3 kW AC  
360 Elsbree St, Fall River, MA 02720



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EXHIBIT E

DESCRIPTION OF PROJECT

The Project will be comprised of a series of solar photovoltaic equipment and parts integrated to the main electric service at the building, behind the utility meter, and interconnected to the local utilities distribution system. Main equipment components of the Project include:

Roughly 870 x 395W Tier 1 Solar modules or equivalent  
Roughly 3 x SolarEdge solar inverters or equivalent  
Ecolibrium EcoFoot2 or equivalent solar racking equipment  
Rapid shutdown system  
Solar kWh meter and monitoring system  
Combiners, Disconnects, Switches, Pipe and Wire and Balance of System materials integrated to  
Host provided conduit chases from roof to main electric service equipment for PV system tie-in.

Equipment quantities, brands, specifications and ratings may change during course of the project

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EXHIBIT F

## ESTIMATED ANNUAL PRODUCTION

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year of System Term	Estimated Production (kWh)	Year of System Term	Estimated Production (kWh)
1	388,325	11	367,488
2	386,189	12	365,466
3	384,065	13	363,456
4	381,952	14	361,457
5	379,852	15	359,469
6	377,762	16	357,492
7	375,685	17	355,526
8	373,618	18	353,571
9	371,564	19	351,626
10	369,520	20	349,692

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

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## EXHIBIT G

### INSURANCE REQUIREMENTS

#### 1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of one million dollars (\$1,000,000) for each occurrence, and two million dollars (\$2,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

(b) Both the Host and Provider general liability insurance coverage shall:

(i) Be endorsed to specify that the Provider's and Host's insurance is primary and that any insurance or self-insurance maintained by the Local Electric Utility shall not contribute with it.

#### 2. Workers' Compensation

Host will have Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, at the Site where the work is performed. Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

#### 3. Property Loss

Provider shall carry adequate property loss insurance on the Project which need not be covered by the Host's property coverage. The amount and terms of insurance coverage will be determined at Provider's sole discretion.

#### 4. Additional Insurance Provisions

Host shall furnish Provider with certificates of insurance and endorsements of all required insurance, as may be reasonably requested, including for purposes of compliance with any legal or regulatory authority or Local Electric Utility affecting the Premises or operation of the Project. Insurance required by the Local Electric Utility shall not be canceled except after (30) days prior written notice has been given to the Local Electric Utility.

#### 5. Additional Installation Contractor Requirements



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Installation contractors will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the following amounts: \$1,000,000 for each occurrence and \$2,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.
- Auto coverage not less than 1 million dollars (\$1,000,000) each accident for bodily injury and property damage, and x million dollars (\$1,000,000) in the aggregate.
- Excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance for Commercial General Liability, Auto Liability and Employers' Liability with a minimum limit per occurrence of one million dollars (\$1,000,000) and two million dollars (\$2,000,000) in the aggregate. The amounts of insurance required for Commercial General Liability, Auto Liability, Employers' Liability and Excess Liability may be satisfied by Installer purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above.

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EXHIBIT H  
FORM OF LEASE

This Lease (the "Lease" or the "Agreement") is made and entered into as of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ ("Host"), and Solect Energy Development, LLC, ("Solect" or "Provider") a Limited Liability Company located in Hopkinton, Massachusetts (together, the "Parties").

WHEREAS, Host and Provider have entered into a Power Purchase Agreement dated as of \_\_\_\_\_ 20\_\_\_\_, (the "PPA") and pursuant to such agreement Host has agreed to provide Provider with rights to access and use certain portions of Host's property located at ADDRESS. All terms used herein which are not otherwise defined shall have the meanings set forth in the PPA.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

SECTION 1: LEASE.

- a) Host hereby grants to Provider and its designees a Lease to enter upon and use the Site as described in Attachment A attached hereto, for the Term, for the Permitted Uses, and any other purpose set forth in this Contract, and otherwise according to the Contract provisions (the "Access Rights"). Access Rights with respect to the Site include without limitation:

(i) A non-exclusive right of pedestrian, vehicular and equipment access to the Site across or through Host's property at all times, which is necessary or convenient for ingress and egress to the Site. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site;

(ii) The right to locate transmission lines and communications cables across the Site, the location of which shall be designated by Provider, but which shall be subject to Host's approval and shall be at locations that minimally disrupt Host's activities on the Site;

(iii) A solar easement, including, but not limited to the right to receive without interference from natural or man-made obstructions all solar energy received by the Site. This solar easement may be defined by Provider as follows:

- Easement dimensions expressed in vertical or horizontal angles, or the hours of the day on specified dates during which direct sunlight to the System may not be obstructed, or a combination of these descriptions;
- Restrictions upon vegetation, structures, and other objects which would impair or obstruct sunlight passage through the easement; and
- Vegetation trimming that would obstruct sunlight passage through the

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easement, including any compensation for trimming expenses;

(iv) Adequate storage space on the Site convenient to the Site for materials and tools used during construction, installation, and maintenance of the System. Provider shall be responsible for providing shelter and security for stored items during construction and installation;

(v) Water, drainage, electrical, and ethernet connections on the Site for use by Provider in installing, operating and maintaining the System; and

(vi) If required by the LDC, Host shall grant to the LDC an exclusive right to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the System to the LDC System, the location of which will be determined by the LDC prior to the Commercial Operation Date. Host's grant under this Section 1(a) (vi) shall commence on its effective date and continue through the Term and any extensions of the Term, unless otherwise required by the LDC.

- b) Upon Provider's request, the Parties shall execute and record with the appropriate land Registry a Notice of Lease documenting the Access Rights granted by Host to Provider in this Contract, and which shall be in form and substance agreed to by the Parties. The cost of preparing and recording shall be borne by Provider.

## SECTION 2: USE OF THE SITE

Provider's use of the Site is subject to the following:

- a) Present and future zoning laws, ordinances, resolutions, and regulations of the municipality in which the Site lies, and all present and future ordinances, laws, regulations, and orders of all boards, bureaus, commissions, and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction, so long as they permit or otherwise regulate the use of the Site; the condition and state of repair of the Site as the same may be on the Effective Date; and full compliance by the Provider in all respects with Applicable Law; provided that Provider does not need to comply with any future requirements to the extent the use of the Site is grandfathered or otherwise protected from the effect of such future requirements.
- b) Subject to Section 2(c), Provider accepts the Site in the current condition or state without any representation or warranty, express or implied in fact or by law, by Host and without recourse to Host, as to the nature, condition, usability, the use or uses to which the Site or any part thereof may be put. Host will not be required to furnish any services or facilities or to make any repairs or alterations in or to the Site.
- c) Notwithstanding Section 2(b), the Parties agree that Provider shall not be liable for any conditions on the Site arising from or related to acts or omissions occurring prior to the

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Effective Date, except to the extent arising from or related to Provider's negligence or willful misconduct.

- d) Except with the prior express written consent of Host, Provider shall not use the Site for any use other than the Permitted Uses.

### SECTION 3: CONSTRUCTION; OPERATION OF PERMITTED USES; ROOF.

- a) Provider and its sub-Providers, agents, consultants, and representatives shall have reasonable access at all reasonable times to the Site for the Permitted Uses, and to any documents, materials and records of Host relating to the Premises that Provider reasonably requests in conjunction with these activities. Provider shall provide Host reasonable notice of all activities conducted by or on behalf of Provider on the Premises relating to the System. During any such activities, Provider, and its sub-Providers, agents, consultants and representatives shall comply with Host's reasonable safety and security procedures (as may be promulgated from time to time), and Provider and its sub-Providers,
- b) agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to cause minimum interference with Host's activities.
- c) Provider shall install and maintain security measures at the Site according to local Applicable Law.
- d) Provider shall operate, maintain, and repair the System in a manner that will not obstruct or interfere with Host's use of the Premises or the rights of any other occupants of the Premises and Provider will not injure any occupants of the Premises. In the event interference occurs, Provider agrees to take all reasonable steps necessary to eliminate such interference promptly, but no later than thirty (30) days from notification by the Host.
- e) Provider will use its best efforts to maintain the System in a manner that does not interfere with the Premises or improvements to the Premises, and shall coordinate its maintenance activities with Host. Host shall maintain the Premises other than the Site, including removing vegetation from any shading buffer.
- f) Host may construct, reconstruct, modify, or alter the Premises so long as such activities do not materially interfere (including shading) with the operation of the System.
- g) Site Roof:
  - 1. If Host must perform necessary and unanticipated Site roof repairs,
    - A. Provider shall remove and re-install the System (or portion thereof) to allow Host to make such repairs, and if the cost of such work is reasonably estimated to exceed [\$35,000] shall obtain at least three (3) bids for removal/storage/replacement, and shall use reasonable

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- efforts to award the roof removal and re-installation work to the lowest responsible bidder;
- B. The Guaranteed Annual Output for the affected System shall be reduced by the System's Expected Annual Output, pro-rated for the duration of the time the System is incapable of Commercial Operations due to the removal and pro-rated also for the portion of the System that is removed;
  - C. The Contract Term as to the System shall be extended by the amount of time the System is incapable of Commercial Operations due to the removal;
  - D. Host shall conduct the repair work so as to minimize System downtime; and
  - E. Host shall pay to Provider
    - (i) the full System removal and re-installation costs as documented by Provider, and
    - (ii) if the System is removed for greater than 7 days during the first ten (10) years of that System's Commercial Operations, the amount stated in Attachment 5 for each day beyond day 7 that the System is incapable of Commercial Operations due to the removal. The Parties agree the amount due under this Subsection 3(g)(1)(E)(ii) is the Parties' best estimate of Provider's loss of Environmental Attribute value during the roof removal time, and not a penalty.
2. Provider shall install (or re-install, as appropriate) the System in a manner that will not void the roof warranty, provided Host has provided such warranty, in writing, to Provider no less than 60 days prior to the commencement of construction.

#### SECTION 4: RIGHT TO INSPECT AND ENTER

- a) Host and its agents, consultants, and representatives shall have reasonable access to the Site at all reasonable times (including under emergency conditions) to inspect the Site for the purpose of ascertaining its condition, without hindrance or molestation from Provider; provided, however, that such access shall not interfere with Provider's performance of its obligations hereunder.
- b) During the course of construction and completion of the System and any substantial alteration thereto, Provider shall maintain all plans, shop drawings, and specifications relating to such construction which Host, its agents or Providers may examine at reasonable times upon reasonable prior notice for the purpose of determining whether the Work conforms to the Contract.

#### SECTION 5: SUBORDINATION; LIENS

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- a) Provider acknowledges and understands that the Contract is subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the Host with respect to the Site (the "Existing Encumbrances"), as disclosed by Host on Attachment B: Existing Encumbrances.
- b) Host represents and warrants as of the Effective Date that it has good and marketable title to the Site, subject to no liens, easements, options or other encumbrances other than the Existing Encumbrances. Host shall not sell, lease, assign, mortgage, pledge or otherwise alienate or encumber the Site unless Host shall have given Provider at least thirty (30) days prior notice thereof, which Notice shall identify the transferee, the area of the Site to be so transferred and the proposed date of transfer. Host agrees that the easements granted in this Lease shall run with the Premises and survive any transfer of all or any portion of the Premises. In furtherance of the foregoing, Host shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Site has been granted to execute and deliver to the Provider a commercially reasonable document pursuant to which such party acknowledges and consents to Provider's rights in the Access Rights, and in the System.
- c) Neither Party shall create, or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's or materialman's lien upon the Site. Subject to a Financing Party's rights (including an assignment of Provider's interests under this Contract), neither Party shall suffer any other matter or thing arising out of its use and occupancy of the Site whereby the estate, rights and interests of the other Party in the Site or any part thereof might be impaired.

#### SECTION 6: HAZARDOUS MATERIALS; INDEMNIFICATION

- a) Each Party shall comply with all Applicable Law pertaining to the use, storage, and disposal of Hazardous Materials at the Site ("*Environmental Laws*").
- b) Provider shall indemnify, defend and hold harmless Host and its agents, representatives and employees from any and all liabilities and costs (including any and all sums paid for settlement of claims, litigation, expenses, attorneys' fees, consultant and expert fees) of whatever kind or nature, known, or unknown, resulting from any violation of Environmental Laws caused by Provider or Provider's representatives at the Site. In addition, Provider shall reimburse Host for any and all costs related to investigation, clean up and/or fines incurred by Host for non-compliance with Environmental Laws that are caused by Provider or Provider's representatives at the Site.
- c) To the extent permitted by law, Host shall indemnify, defend and hold harmless Provider and its agents, representatives and employees from any and all liabilities and costs (including any and all sums paid for settlement of claims, litigation, expenses, attorneys' fees, consultant and expert fees) of whatever kind or nature, known, or unknown, resulting from or out of any environmental condition on the Premises that

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existed on or before the Effective Date or that is caused by Host or any of its employees, Providers, agents, or invitees following the Effective Date. Host shall reimburse Provider for any and all costs related to investigation, clean up and/or fines incurred by Provider for non-compliance with Environmental Laws that are caused by Host or Host's representatives.

#### SECTION 7: DECOMMISSIONING.

- a) Subject to Section 9 of the PPA (regarding Host's purchase option), promptly following termination of the final Guaranteed Performance Year, or an earlier termination of this Contract following a Provider Default, Provider shall cease commercial operation of the System, and shall remove all structures, equipment, security barriers and transmission lines and other facilities from the Site and dispose of all materials contained in the System according to Applicable Law. This Section 7 shall survive any termination of the Contract.

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ATTACHMENT A  
SITE and PREMISES DESCRIPTION

ATTACHMENT B  
EXISTING ENCUMBRANCES



*City of Fall River, In City Council*

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ORDERED, that the City of Fall River hereby authorizes the attached Solar Rooftop Lease Agreement and the Agreement for Payment in Lieu of Taxes for Personal Property to be entered into between the City of Fall River Public Schools and Solect Energy Development, LLC.

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## SOLAR ROOFTOP LEASE AGREEMENT

This Lease (the "Lease" or the "Agreement") is made and entered into as of \_\_\_\_\_, \_\_\_\_\_, by and between City of Fall River Public Schools ("Host"), and Solect Energy Development, LLC, ("Solect" or "Provider") a Limited Liability Company located in Hopkinton, Massachusetts (together, the "Parties").

WHEREAS, Host and Provider have entered into a Power Purchase Agreement dated as of \_\_\_\_\_ 20\_\_\_\_, (the "PPA") and pursuant to such agreement Host has agreed to provide Provider with rights to access and use certain portions of Host's property located at ADDRESS. All terms used herein which are not otherwise defined shall have the meanings set forth in the PPA.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

### SECTION 1: LEASE.

- a) Host hereby grants to Provider and its designees a Lease to enter upon and use the Site as described in Attachment A attached hereto, for the Term, for the Permitted Uses, and any other purpose set forth in this Contract, and otherwise according to the Contract provisions (the "Access Rights"). Access Rights with respect to the Site include without limitation:

(i) A non-exclusive right of pedestrian, vehicular and equipment access to the Site across or through Host's property at all times, which is necessary or convenient for ingress and egress to the Site. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site;

(ii) The right to locate transmission lines and communications cables across the Site, the location of which shall be designated by Provider, but which shall be subject to Host's approval and shall be at locations that minimally disrupt Host's activities on the Site;

(iii) A solar easement, including, but not limited to the right to receive without interference from natural or man-made obstructions all solar energy received by the Site. This solar easement may be defined by Provider as follows:

- Easement dimensions expressed in vertical or horizontal angles, or the hours of the day on specified dates during which direct sunlight to the System may not be obstructed, or a combination of these descriptions;
- Restrictions upon vegetation, structures, and other objects which would

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- impair or obstruct sunlight passage through the easement; and
- Vegetation trimming that would obstruct sunlight passage through the easement, including any compensation for trimming expenses;

(iv) Adequate storage space on the Site convenient to the Site for materials and tools used during construction, installation, and maintenance of the System. Provider shall be responsible for providing shelter and security for stored items during construction and installation;

(v) Water, drainage, electrical, and ethernet connections on the Site for use by Provider in installing, operating and maintaining the System; and

(vi) If required by the LDC, Host shall grant to the LDC an exclusive right to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the System to the LDC System, the location of which will be determined by the LDC prior to the Commercial Operation Date. Host's grant under this Section 1(a) (vi) shall commence on its effective date and continue through the Term and any extensions of the Term, unless otherwise required by the LDC.

- b) Upon Provider's request, the Parties shall execute and record with the appropriate land Registry a Notice of Lease documenting the Access Rights granted by Host to Provider in this Contract, and which shall be in form and substance agreed to by the Parties. The cost of preparing and recording shall be borne by Provider.

## SECTION 2: USE OF THE SITE

Provider's use of the Site is subject to the following:

- a) Present and future zoning laws, ordinances, resolutions, and regulations of the municipality in which the Site lies, and all present and future ordinances, laws, regulations, and orders of all boards, bureaus, commissions, and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction, so long as they permit or otherwise regulate the use of the Site; the condition and state of repair of the Site as the same may be on the Effective Date; and full compliance by the Provider in all respects with Applicable Law; provided that Provider does not need to comply with any future requirements to the extent the use of the Site is grandfathered or otherwise protected from the effect of such future requirements.
- b) Subject to Section 2(c), Provider accepts the Site in the current condition or state without any representation or warranty, express or implied in fact or by law, by Host and without recourse to Host, as to the nature, condition, usability, the use or uses to which the Site or any part thereof may be put. Host will not be required to furnish any services or facilities or to make any repairs or alterations in or to the Site.

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- c) Notwithstanding Section 2(b), the Parties agree that Provider shall not be liable for any conditions on the Site arising from or related to acts or omissions occurring prior to the Effective Date, except to the extent arising from or related to Provider's negligence or willful misconduct.
- d) Except with the prior express written consent of Host, Provider shall not use the Site for any use other than the Permitted Uses.

### SECTION 3: CONSTRUCTION; OPERATION OF PERMITTED USES; ROOF.

- a) Provider and its sub-Providers, agents, consultants, and representatives shall have reasonable access at all reasonable times to the Site for the Permitted Uses, and to any documents, materials and records of Host relating to the Premises that Provider reasonably requests in conjunction with these activities. Provider shall provide Host reasonable notice of all activities conducted by or on behalf of Provider on the Premises relating to the System. During any such activities, Provider, and its sub-Providers, agents, consultants and representatives shall comply with Host's reasonable safety and security procedures (as may be promulgated from time to time), and Provider and its sub-Providers,
- b) agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to cause minimum interference with Host's activities:
- c) Provider shall install and maintain security measures at the Site according to local Applicable Law.
- d) Provider shall operate, maintain, and repair the System in a manner that will not obstruct or interfere with Host's use of the Premises or the rights of any other occupants of the Premises and Provider will not injure any occupants of the Premises. In the event interference occurs, Provider agrees to take all reasonable steps necessary to eliminate such interference promptly, but no later than thirty (30) days from notification by the Host.
- e) Provider will use its best efforts to maintain the System in a manner that does not interfere with the Premises or improvements to the Premises, and shall coordinate its maintenance activities with Host. Host shall maintain the Premises other than the Site, including removing vegetation from any shading buffer.
- f) Host may construct, reconstruct, modify, or alter the Premises so long as such activities do not materially interfere (including shading) with the operation of the System.
- g) Site Roof:
  - 1. If Host must perform necessary and unanticipated Site roof repairs,
    - A. Provider shall remove and re-install the System (or portion thereof) to allow Host to make such repairs, and if the cost of such work is

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reasonably estimated to exceed [\$35,000] shall obtain at least three (3) bids for removal/storage/replacement, and shall use reasonable efforts to award the roof removal and re-installation work to the lowest responsible bidder;

- B. The Guaranteed Annual Output for the affected System shall be reduced by the System's Expected Annual Output, pro-rated for the duration of the time the System is incapable of Commercial Operations due to the removal and pro-rated also for the portion of the System that is removed;
- C. The Contract Term as to the System shall be extended by the amount of time the System is incapable of Commercial Operations due to the removal;
- D. Host shall conduct the repair work so as to minimize System downtime; and
- E. Host shall pay to Provider
  - (i) the full System removal and re-installation costs as documented by Provider, and
  - (ii) if the System is removed for greater than 7 days during the first ten (10) years of that System's Commercial Operations, the amount stated in Attachment 5 for each day beyond day 7 that the System is incapable of Commercial Operations due to the removal. The Parties agree the amount due under this Subsection 3(g)(1)(E)(ii) is the Parties' best estimate of Provider's loss of Environmental Attribute value during the roof removal time, and not a penalty.

- 2. Provider shall install (or re-install, as appropriate) the System in a manner that will not void the roof warranty, provided Host has provided such warranty, in writing, to Provider no less than 60 days prior to the commencement of construction.

#### SECTION 4: RIGHT TO INSPECT AND ENTER

- a) Host and its agents, consultants, and representatives shall have reasonable access to the Site at all reasonable times (including under emergency conditions) to inspect the Site for the purpose of ascertaining its condition, without hindrance or molestation from Provider; provided, however, that such access shall not interfere with Provider's performance of its obligations hereunder.
- b) During the course of construction and completion of the System and any substantial alteration thereto, Provider shall maintain all plans, shop drawings, and specifications relating to such construction which Host, its agents or Providers may examine at reasonable times upon reasonable prior notice for the purpose of determining whether the Work conforms to the Contract.

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## SECTION 5: SUBORDINATION; LIENS

- a) Provider acknowledges and understands that the Contract is subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the Host with respect to the Site (the "Existing Encumbrances"), as disclosed by Host on Attachment B: Existing Encumbrances.
- b) Host represents and warrants as of the Effective Date that it has good and marketable title to the Site, subject to no liens, easements, options or other encumbrances other than the Existing Encumbrances. Host shall not sell, lease, assign, mortgage, pledge or otherwise alienate or encumber the Site unless Host shall have given Provider at least thirty (30) days prior notice thereof, which Notice shall identify the transferee, the area of the Site to be so transferred and the proposed date of transfer. Host agrees that the easements granted in this Lease shall run with the Premises and survive any transfer of all or any portion of the Premises. In furtherance of the foregoing, Host shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Site has been granted to execute and deliver to the Provider a commercially reasonable document pursuant to which such party acknowledges and consents to Provider's rights in the Access Rights, and in the System.
- c) Neither Party shall create, or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's or materialman's lien upon the Site. Subject to a Financing Party's rights (including an assignment of Provider's interests under this Contract), neither Party shall suffer any other matter or thing arising out of its use and occupancy of the Site whereby the estate, rights and interests of the other Party in the Site or any part thereof might be impaired.

## SECTION 6: HAZARDOUS MATERIALS; INDEMNIFICATION

- a) Each Party shall comply with all Applicable Law pertaining to the use, storage, and disposal of Hazardous Materials at the Site ("*Environmental Laws*").
- b) Provider shall indemnify, defend and hold harmless Host and its agents, representatives and employees from any and all liabilities and costs (including any and all sums paid for settlement of claims, litigation, expenses, attorneys' fees, consultant and expert fees) of whatever kind or nature, known, or unknown, resulting from any violation of Environmental Laws caused by Provider or Provider's representatives at the Site. In addition, Provider shall reimburse Host for any and all costs related to investigation, clean up and/or fines incurred by Host for non-compliance with Environmental Laws that are caused by Provider or Provider's representatives at the Site.
- c) To the extent permitted by law, Host shall indemnify, defend and hold harmless Provider and its agents, representatives and employees from any and all liabilities and costs (including any and all sums paid for settlement of claims, litigation, expenses,

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attorneys' fees, consultant and expert fees) of whatever kind or nature, known, or unknown, resulting from or out of any environmental condition on the Premises that existed on or before the Effective Date or that is caused by Host or any of its employees, Providers, agents, or invitees following the Effective Date. Host shall reimburse Provider for any and all costs related to investigation, clean up and/or fines incurred by Provider for non-compliance with Environmental Laws that are caused by Host or Host's representatives.

#### SECTION 7: DECOMMISSIONING.

- a) Subject to Section 9 of the PPA (regarding Host's purchase option), promptly following termination of the final Guaranteed Performance Year, or an earlier termination of this Contract following a Provider Default, Provider shall cease commercial operation of the System, and shall remove all structures, equipment, security barriers and transmission lines and other facilities from the Site and dispose of all materials contained in the System according to Applicable Law. This Section 7 shall survive any termination of the Contract.

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## ATTACHMENT A

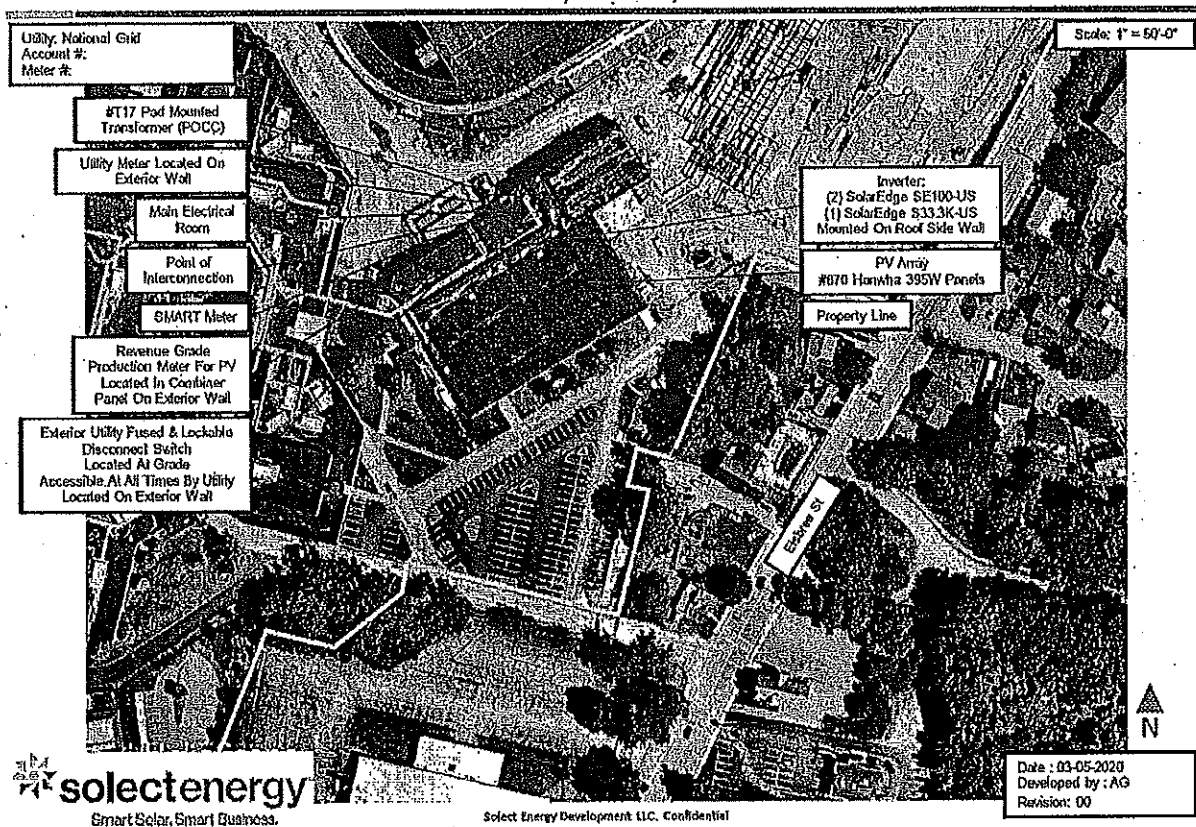
### SITE DESCRIPTION, ENCUMBRANCES, and PREMISES DESCRIPTION

**HOST PLEASE INSERT LEGAL DESCRIPTION OF THE SITE**

#### EXISTING ENCUMBRANCES

The Premises and the Access Areas shall mean the Site. Locations where solar equipment will be installed and accessed including the roofs, exterior and interior walls, through to the main electric room, and exterior areas of the Site depicted in Site Plan below. The Project will be combined and connected to Host's existing main electric equipment, interconnected to the utility network behind the existing utility meter.

#### Site Plan – SED – Fall River Durfee Urban Fieldhouse – 4402 – 343.65 kW DC – 233.3 kW AC 360 Elsbree St, Fall River, MA 02720





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ATTACHMENT B  
FORM OF NOTICE OF LEASE

Record and return to:  
Solect Energy Development LLC  
89 Hayden Rowe Street  
Hopkinton, MA 01748

**NOTICE OF LEASE**

In accordance with the provisions of Massachusetts General Laws, Chapter 183, section 4, as amended; notice is hereby given of the following described lease and rights of way:

**Parties to the Rooftop Solar Site Lease Agreement (the "Lease"):**

**Lessor/Landlord:**

**Lessee/Tenant:** Solect Energy Development LLC  
89 Hayden Rowe Street

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Hopkinton, MA 01748

**Property Description:** The real property located at \_\_\_\_\_ as described on the attached Exhibit A.

**Lease Area Description:** A portion of the Property, as described on the attached Exhibit B.

**Date of Lease Execution:** \_\_\_\_\_ (the "Effective Date").

**Term of Lease:** The term of this Lease shall commence on the Effective Date and shall terminate at midnight on the date twenty (20) years from the commercial operations date of the System.

Upon one hundred twenty (120) days following termination of this Lease, Lessee shall remove the System from the Property, at Lessee's expense, and shall repair any damage caused by the System or its removal.

**Rights of Way:** Lessor also grants to Lessee, for a period co-terminus with the Lease, a non-exclusive right-of-way to access the Leased Premises across or through any adjacent or nearby premises owned or leased by Lessor, passage through which is necessary or convenient to install or gain access to the System or the Leased Premises.

Lessee shall also have the right from time to time during the term of the Lease:

- (i) to install, operate and maintain the System on the Leased Premises;
- (ii) to clean, repair, and dispose of part or all of the System;
- (iii) to remove and replace all or any part of the System;
- (iv) to access the Leased Area with guests for promotional purposes during normal business hours and at other times as are acceptable to the Lessor in its reasonable discretion; and
- (v) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Lessee, to carry out the activities set forth in Section 4 of the Lease and the Solar Lease and Power Purchase Agreement between Lessor and Lessee dated as of \_\_\_\_\_ (the "PPA") including, but not limited to, Landlord's agreement not to restrict the solar access to the System.

#### Miscellaneous

1. This Notice of Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.
2. In the event of any conflict or inconsistency between the terms of the Lease and this Notice of Lease, the terms of the Lease shall govern and control.

ADDRESS

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3. In the event of any conflict or inconsistency between the terms of the PPA and this Notice of Lease, the terms of the PPA shall govern and control.
4. Any capitalized term not defined herein shall have the definition ascribed to it in the Lease.

**[This Page Ends Here – Signature Page Follows]**

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EXECUTED as a sealed instrument on as of the Effective Date.

TENANT:  
SOLECT ENERGY DEVELOPMENT LLC

By: \_\_\_\_\_  
James R. Dumas  
Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared James R. Dumas, Manager of Solect Energy Development LLC, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Manager of Solect Energy Development LLC, a Massachusetts limited liability company.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Seal

[signatures continue on following page]

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[Signature Page to Notice of Lease]

LANDLORD:

\_\_\_\_\_

By: \_\_\_\_\_

Printed Name:

Title:

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, SS

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared \_\_\_\_\_, with a title of \_\_\_\_\_ of \_\_\_\_\_ <<ENTITY NAME>> proved to me through satisfactory evidence of identification, which was \_\_\_\_\_ to be the person(s) whose name(s) are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as \_\_\_\_\_ of \_\_\_\_\_, a Massachusetts \_\_\_\_\_ <<ENTITY TYPE>> \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

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**EXHIBIT A**

**PROPERTY DESCRIPTION**

**LEGAL DESCRIPTION**

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## **EXHIBIT B**

### **RIGHT OF WAY AREAS DESCRIPTION**

The Right of Way Areas shall mean the Property.

The locations on the Property where solar equipment will be installed and accessed including the roofs, exterior and interior walls, through to the main electric room, and exterior areas of the Property depicted below. The Facility will be combined and connected to Landlord's existing main electric equipment and interconnected to the utility network behind the existing utility meter.

**INSERT SITE PLAN**

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AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL PROPERTY

**360 Ellsbree Street Fall River, Massachusetts 02720**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL PROPERTY (this "PILOT Agreement") is made and entered into as of \_\_\_\_\_, \_\_\_\_\_ by and between Solect Energy Development, LLC, a limited liability company located in Hopkinton, Massachusetts, ("Lessee"), and the City of Fall River, a municipal corporation duly established and located in the Commonwealth of Massachusetts (the "City"). Lessee and the City are collectively referred to in this PILOT Agreement as the "Parties" and are individually referred to as a "Party".

WHEREAS, Lessee proposes to build and operate a solar electric generating facility (the "Project") with a nameplate capacity of (343 kW DC, 233 kW AC), as determined by the final design and engineering plans, on City-owned Property located at the Durfee High School, Fall River, Massachusetts as more particularly described in Exhibit A (the "Property");

WHEREAS, the Parties have entered into a Solar Power Purchase Agreement ("PPA") and lease, which serves one or more municipal purposes;

WHEREAS, the municipal purposes of the PPA and Project include the establishment of renewable energy facilities and the realization of savings in electricity costs;

WHEREAS, notwithstanding the above, the Parties acknowledge that under Massachusetts General Laws Chapter 59, §2B, the use of City property in connection with a business conducted for profit or leased or occupied for other than public purposes, shall be valued, classified, assessed and taxed to the lessee in the same manner and to the same extent as if the lessee were the owner thereof in fee, and that therefore the Project and/or the Property may be deemed subject to personal and/or real property taxes;

WHEREAS, the Parties wish to avoid uncertainty as to the future personal property tax liability attributable to the Project that may be incurred by the Lessee;

WHEREAS, it is the intention of the Parties that Lessee make payments to the City for the term of this PILOT Agreement in lieu of personal property taxes on the Project, in accordance with General Laws Chapter 59, §38H (Acts of 1997 Chapter 164, Section 71(b)), as amended) and the Massachusetts Department of Revenue (DOR) Guidelines published in connection therewith;

WHEREAS, because both Lessee and the City 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;



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WHEREAS, the Parties intend that, during the term of the Agreement, Lessee will not be assessed for any statutory personal property taxes to which it might otherwise be subjected under Massachusetts law, and this Agreement will provide for the exclusive payments in lieu of such personal property taxes that Lessee (or any successor owner of the Project) will be obligated to make to the City with respect to the Project during the term hereof; and

WHEREAS, the City is authorized to enter into this Agreement with Lessee, as the culmination of good faith negotiations that anticipate that the payments in lieu of personal property taxes over the life of the Agreement will amount to the equivalent, taking into account other benefits to be received by the City in the PPA, of the property tax payments that would otherwise be determined under G.L. c.59 based upon the full and fair cash valuation of the Project.

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. Lessee agrees to make payments to the City in lieu of personal property taxes on and after the Commercial Operation Date, as defined in the PPA between the Parties, in an annual fixed amount as shown in Exhibit B until the expiration or early termination of the PPA, as it may be extended in accordance therewith. This Agreement shall expire upon the date that is last quarterly payment due on the twentieth (20th) anniversary of the Commercial Operation Date as set forth in Exhibit B. Within thirty (30) days following the Commercial Operation Date, a bill will be issued by the City to the Lessee, with the amount due and the payment due date noted on the bill (the due date of the payment shall be at least thirty (30) days after the date of the bill). Lessee 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 City's tax rate or assessment percentage and the City agrees that the payments in lieu of taxes will not be increased on account of an inflation factor, revaluation or increase in the City's tax rate or assessment percentage. The Parties further agree that the annual PILOT Payment shall not be changed on account of legislative action fixing, exempting or otherwise setting taxes or payments in lieu thereof for photovoltaic solar facilities. To the extent that the as-built capacity of the Project varies from the proposed capacity herein, as demonstrated by as-built drawings and equipment specifications the annual payment amount owed and due the City shall be adjusted by the percentage of increase or decrease of the capacity of the Project from the capacity proposed herein.
2. Payment Collection. The provisions of General Laws Chapters 59 and 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 City. The City agrees that during the term of this PILOT Agreement, they will not assess Lessee for any personal property taxes with respect to the Project or the Property to which Lessee might otherwise be subject under Massachusetts law, and the City agrees that this Agreement will exclusively govern the payments of all ad valorem personal property taxes and payments in lieu of such taxes that Lessee will be obligated to make to the City with respect to the Project and the Property for the term. The City agrees that no personal property taxes will be due from or assessed to Lessee with regard to the Property or the associated real property other than the payments in lieu of taxes described in this PILOT Agreement.
3. Successors and Assigns. This Agreement will be binding upon the successors and assigns of Lessee, and the obligations created hereunder will run with the Property and the Project. In the event the Lessee 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 or assignee. A Notice of this Agreement will be recorded in the applicable Registry of Deeds forthwith upon execution.

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4. 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, and the other benefits to be received by the City in the PPA in accordance with General Laws Chapter 59, §38H. Each Party was represented by counsel in the negotiation and preparation of this PILOT Agreement and has entered into this PILOT Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this PILOT 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 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 City 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 City. Lessee 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.

5. 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. Lessee shall provide the City with any reasonable documentation requested by the City in order for the City to determine compliance with this Agreement.

6. Personal Property Inventory. Attached to this Agreement as Exhibit C is an itemized inventory prepared by the Lessee of the equipment and personal property ("personal property") that is incorporated into, and thus to constitute, the Project,

7. Invalidity. If, for any reason, including a change in applicable law, it is ever determined that this Agreement is invalid, then this Agreement shall terminate as of the date of such determination, and the Property and Project will thereafter be assessed and taxed as though this Agreement does not exist. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

8. 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 Lessee:

Solect Energy Development, LLC  
89 Hayden Rowe Street  
Hopkinton, Massachusetts 01748  
Attention: Legal Notices  
legal@solect.com

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To City:  
City of Fall River  
One Government Center  
Room 313  
Fall River, Massachusetts 02722  
Attention: Assessor  
assessor@fallriverma.org

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.

9. Applicable Law. This Agreement will be made and interpreted in accordance with the laws of the Commonwealth of Massachusetts. Lessee and the City 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.

10. Change of Law. The Parties recognize that at the time of signing of this PILOT Agreement, there is uncertainty in the law regarding the level and applicability of property taxes with respect to renewable energy generating facilities. The Parties agree that if the Massachusetts Legislature subsequently enacts a law establishing a fixed level of payments to be made in lieu of property taxes that would apply to the Lessee and the Project, or exempts the Project of taxation in the absence of this PILOT Agreement, then the new law shall not supersede this PILOT Agreement unless required by law. If, for any reason, including a change in applicable law not referenced herein, a property tax is imposed on the Project or the Property as a result of the Project, in addition to the payments in lieu of taxes due under this PILOT Agreement, the payments in lieu of taxes due under this PILOT Agreement shall be decreased on an annual basis by the amount of the property taxes actually paid to the City.

11. Good Faith. The City and Lessee shall act in good faith to carry out and implement this Agreement.

12. Force Majeure/ Casualty. The Lessee and City both 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 on account of "Force Majeure" or "Facility Loss" (as those terms are defined in the PPA). In the event of an event of Force Majeure or a Facility Loss 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, and the Lessee requests a reduction in its payment in lieu of taxes under this PILOT Agreement, a pro rata adjustment for the number of days of such Force Majeure or Facility Loss period shall be made in the PILOT bill in the next ensuing tax bill period.

13. Covenants of Lessee. During the term of the Agreement, Lessee 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; or
- b. convey, without the express consent of the City, by sale, lease or otherwise any interest in the leased area to any entity or organization that qualifies as a charitable organization pursuant

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to General Laws Chapter 59, §5 (Third).

14. Covenants of the City. So long as Lessee is not in breach of this Agreement during its term, the City 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 Lessee any property tax upon the leased area or the improvements thereon (including the Project) in addition to the amounts herein;
- c. impose any lien or other encumbrance upon the leased area or the improvements thereon (including the Project) except as is expressly provided herein.

The City or Authorized Legislative Body represents to Lessee that it has secured all approvals of appropriate officers, boards and bodies necessary to duly authorize the execution, delivery and performance of this Agreement and its obligations hereunder,

15. Lessee 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 other legal entity, is 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 Lessee enforceable in accordance with its terms, except to the extent that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting other 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. The person executing this Agreement on behalf of Lessee has the full power and authority to bind it to each and every provision of this Agreement.
- e. Lessee is a "generation company" or "wholesale generation company" as those terms are used and defined in G.L. c. 59, § 38H(b) and G.L. c. 164§ 1.
- f. The performance of its obligations under this Agreement will not violate or result in a breach or default of any agreement or instrument to which Lessee is a party or to which Lessee is otherwise bound.

16. Certification of Tax Compliance. Pursuant to G.L. c. 62C, s49A the undersigned Lessee by its duly authorized representative certifies that as of the Effective date it is in tax compliance with the tax laws of the Commonwealth of Massachusetts.

8b

17. Termination by City. Notwithstanding anything to the contrary herein, the City may terminate this Agreement on thirty (30) days written notice to Lessee if: (a) Lessee fails to make timely payment required under this Agreement, unless such payment is received by City within the 30-day notice period with interest, provided, however, that the City may terminate this Agreement if such failure occurs more than three times in any fiscal year even if the failure is cured; (b) Lessee materially breaches this Agreement and fails to cure same within thirty (30) days of receiving written notice from the City; and/or (c) Lessee's representations in par. 15 were untrue, inaccurate, or incomplete in material respects at time of execution of this Agreement.

IN WITNESS HEREOF the parties hereto have executed this PILOT Agreement the day and year first above written

**CITY OF FALL RIVER**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**LESSEE**

**Solsect Energy Development, LLC**

Federal Tax ID#: 27-277-1883

By: \_\_\_\_\_

Title: Manager

Printed Name: James Dumas

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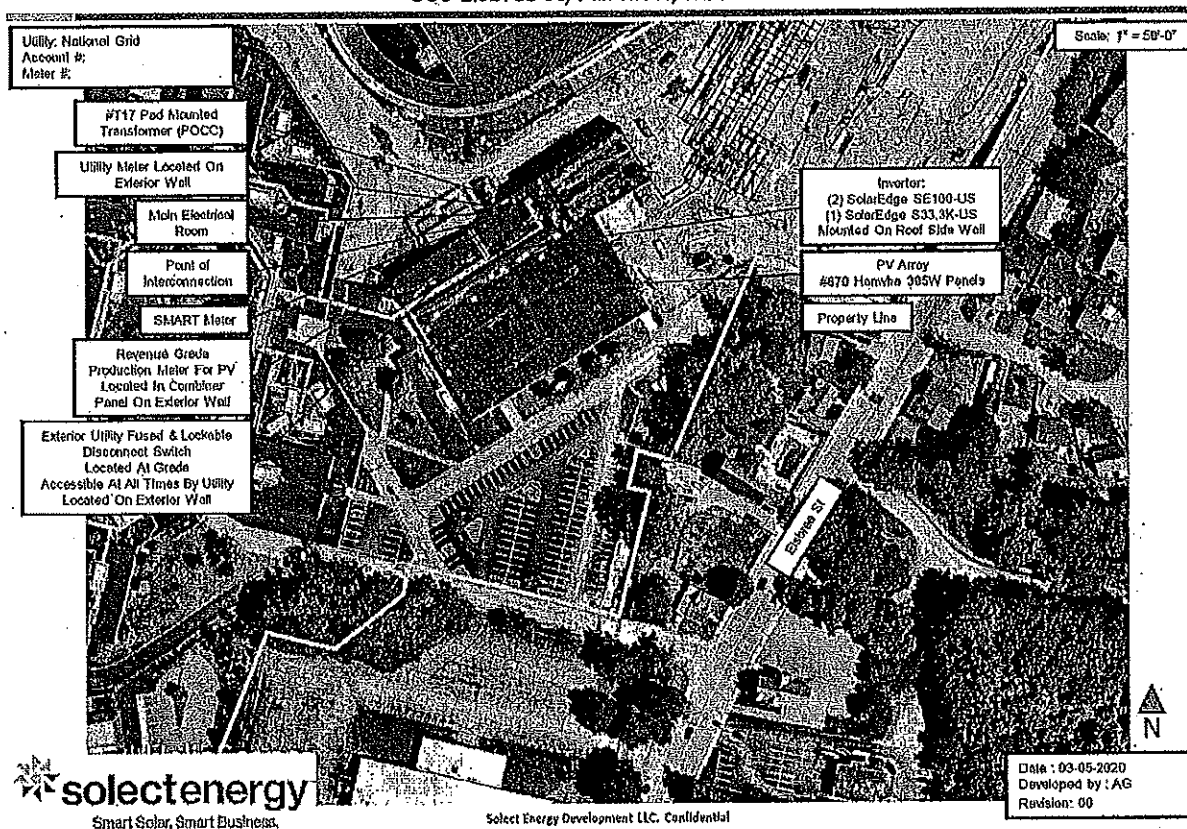
# **EXHIBIT A** **DESCRIPTION OF THE SITE and PREMISES**

City of Fall River, Durfee High School  
 360 Ellsbree Street Fall River, Massachusetts 02720

## **INSERT LEGAL DESCRIPTION**

The Premises and the Access Areas shall mean the Site. Locations where solar equipment will be installed and accessed including the roofs, exterior and interior walls, through to the main electric room, and exterior areas of the Site depicted in Site Plan below. The Project will be combined and connected to Host's existing main electric equipment, interconnected to the utility network behind the existing utility meter.

**Site Plan – SED – Fall River Durfee Urban Fieldhouse – 4402 – 343.65 kW DC – 233.3 kW AC**  
 360 Ellsbree St, Fall River, MA 02720



8b

**EXHIBIT B****Payment Schedule and Amounts**

YEAR	AMOUNT
1	\$ 4,124
2	\$ 4,000
3	\$ 3,880
4	\$ 3,764
5	\$ 3,651
6	\$ 3,541
7	\$ 3,435
8	\$ 3,332
9	\$ 3,232
10	\$ 3,135
11	\$ 3,041
12	\$ 2,950
13	\$ 2,861
14	\$ 2,775
15	\$ 2,692
16	\$ 2,611
17	\$ 2,533
18	\$ 2,457
19	\$ 2,383
20	\$ 2,312

8b

## EXHIBIT C

### Inventory of Personal Property at the Project

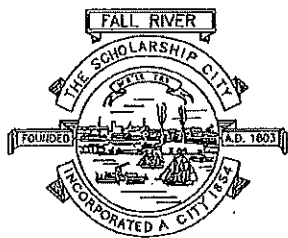
#870 x 395W\_solar PV modules or equivalent

#3 SolarEdge inverters or equivalent

Ecolibrium Ecofoot 2 solar racking system or equivalent

Combiner, disconnect, breaker, production meter, conduit, wire and remaining balance of system materials





**PAUL E. COOGAN**  
*Mayor*

**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

RECEIVED

2020 APR 30 P 4:30

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

April 30, 2020

City Council President  
One Government Center  
Fall River, MA 02720

Dear Council President:

I am requesting that the City Council approve the submission of the Statement of Interest for the Core Program of the Massachusetts School Building Authority on the former Stone School on Globe Street. The School department's intent of this building will be to house a majority of the District's Kindergarten classrooms for the purpose of delivering a concentrated array of services equally to students.

The project request to MSBA would consist of a renovation of the current structure and a 2 story U-shaped new construction component consisting of 20-30 classrooms, cafetorium/gym, courtyard playground area and additional parking for staff.

The request to the MSBA is solely for the Statement of Interest with no funding needed at this time. If the invitation would be approved the next round would be the Feasibility Study which would take place sometime in the fall. Mr. Pacheco will be in attendance to answer any further questions the Council may have.

If you should have any questions or concerns please feel free to contact me.

Sincerely,

Paul E. Coogan  
Mayor



**FALL RIVER PUBLIC SCHOOLS**  
*Facilities & Operations*

Matthew H. Malone, Ph.D.  
Superintendent of Schools

Kenneth C. Pacheco  
Chief Operations Officer

April 30, 2020

The Honorable Paul E. Coogan  
1 Government Center  
Fall River, MA 02722

Dear Mayor Coogan:

I am attaching herewith, for your consideration, a request through you to the City Council to submit a Statement of Interest on May 6, 2020 into the Core Program of the Massachusetts School Building Authority. The school which I am requesting approval for submission of the SOI is the former Stone School on Globe Street. The intent of this building and site will be to house a majority of the District's Kindergarten classrooms for the purpose of delivering a concentrated array of services equally to approximately 450-500 students. The formation of a "Kindergarten Center" at the Globe Street location will also allow the Superintendent's Initiative of class size reduction throughout the District to capture additional 20 - 30 classrooms. The project request to MSBA consists of a renovation of the current 110 year old structure and a 2 story u-shaped new construction component consisting of 20-30 classrooms, cafeteria / gym, courtyard playground area, and parking for staff. The request is solely for the Statement of Interest with no funding needed at this point, the invitation to the next round which is Feasibility Study will happen in the fall if we are approved. Thank you in advance for your consideration to this matter.

Sincerely,

Kenneth C. Pacheco,  
Chief Operations Officer

# City of Fall River, *In City Council*

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BE IT RESOLVED, that having convened in an open meeting on May 5, 2020, prior to the closing date, the City Council of Fall River, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated May 6, 2020 for the former Stone School (Stone PK-12) located at 1207 Globe Street, which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future, replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements, and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Fall River School District to filing an application for funding with the Massachusetts School Building Authority.

## Massachusetts School Building Authority

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### Next Steps to Finalize Submission of your FY 2020 Statement of Interest

Thank you for submitting your FY 2020 Statement of Interest (SOI) to the MSBA electronically. **Please note, the District's submission is not yet complete.** The District is required to mail all required supporting documentation, which is described below.

**VOTES: Each SOI must be submitted with the proper vote documentation.** This means that (1) the required governing bodies have voted to submit each SOI, (2) the specific vote language required by the MSBA has been used, and (3) the District has submitted a record of the vote in the format required by the MSBA.

- **School Committee Vote:** Submittal of all SOIs must be approved by a vote of the School Committee.
  - For documentation of the vote of the School Committee, Minutes of the School Committee meeting at which the vote was taken must be submitted with the original signature of the Committee Chairperson. The Minutes must contain the actual text of the vote taken which should be substantially the same as the MSBA's SOI vote language.
- **Municipal Body Vote:** SOIs that are submitted by cities and towns must be approved by a vote of the appropriate municipal body (e.g., City Council/ Aldermen/Board of Selectmen) in addition to a vote of the School Committee.
  - Regional School Districts do not need to submit a vote of the municipal body.
  - For the vote of the municipal governing body, a copy of the text of the vote, which shall be substantially the same as the MSBA's SOI vote language, must be submitted with a certification of the City/Town Clerk that the vote was taken and duly recorded, and the date of the vote must be provided.

**ADDITIONAL DOCUMENTATION FOR SOI PRIORITIES #1 AND #3:** If a District selects Priority #1 and/or Priority #3, the District is required to submit additional documentation with its SOI.

- If a District selects Priority #1, Replacement or renovation of a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of the school children, where no alternative exists, the MSBA requires a hard copy of the engineering or other report detailing the nature and severity of the problem and a written professional opinion of how imminent the system failure is likely to manifest itself. The District also must submit photographs of the problematic building area or system to the MSBA.
- If a District selects Priority #3, Prevention of a loss of accreditation, the SOI will not be considered complete unless and until a summary of the accreditation report focused on the deficiency as stated in this SOI is provided.

**ADDITIONAL INFORMATION:** In addition to the information required above, the District may also provide any reports, pictures, or other information they feel will give the MSBA a better understanding of the issues identified at a facility.

If you have any questions about the SOI process please contact the MSBA at 617-720-4466 or [SOI@massschoolbuildings.org](mailto:SOI@massschoolbuildings.org).

## Massachusetts School Building Authority

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School District Fall RiverDistrict Contact Kenneth C Pacheco TEL: (508) 675-8420Name of School Stone PK-12Submission Date 4/30/2020

### SOI CERTIFICATION

To be eligible to submit a Statement of Interest (SOI), a district must certify the following:

- ☒ The district hereby acknowledges and agrees that this SOI is NOT an application for funding and that submission of this SOI in no way commits the MSBA to accept an application, approve an application, provide a grant or any other type of funding, or places any other obligation on the MSBA.
- ☒ The district hereby acknowledges that no district shall have any entitlement to funds from the MSBA, pursuant to M.G.L. c. 70B or the provisions of 963 CMR 2.00.
- ☒ The district hereby acknowledges that the provisions of 963 CMR 2.00 shall apply to the district and all projects for which the district is seeking and/or receiving funds for any portion of a municipally-owned or regionally-owned school facility from the MSBA pursuant to M.G.L. c. 70B.
- ☒ The district hereby acknowledges that this SOI is for one existing municipally-owned or regionally-owned public school facility in the district that is currently used or will be used to educate public PreK-12 students and that the facility for which the SOI is being submitted does not serve a solely early childhood or Pre-K student population.
- ☒ After the district completes and submits this SOI electronically, the district must mail hard copies of the required documentation described under the "Vote" tab, on or before the deadline.
- ☒ The district will schedule and hold a meeting at which the School Committee will vote, using the specific language contained in the "Vote" tab, to authorize the submission of this SOI. This is required for cities, towns, and regional school districts.
- ☒ Prior to the submission of the SOI, the district will schedule and hold a meeting at which the City Council/Board of Aldermen or Board of Selectmen/equivalent governing body will vote, using the specific language contained in the "Vote" tab, to authorize the submission of this SOI. This is not required for regional school districts.
- ☒ On or before the SOI deadline, the district will submit the minutes of the meeting at which the School Committee votes to authorize the Superintendent to submit this SOI. The District will use the MSBA's vote template and the vote will specifically reference the school and the priorities for which the SOI is being submitted. The minutes will be signed by the School Committee Chair. This is required for cities, towns, and regional school districts.
- ☒ The district has arranged with the City/Town Clerk to certify the vote of the City Council/Board of Aldermen or Board of Selectmen/equivalent governing body to authorize the Superintendent to submit this SOI. The district will use the MSBA's vote template and submit the full text of this vote, which will specifically reference the school and the priorities for which the SOI is being submitted, to the MSBA on or before the SOI deadline. This is not required for regional school districts.
- ☒ The district hereby acknowledges that this SOI submission will not be complete until the MSBA has received all of the required vote documentation in a format acceptable to the MSBA. If Priority 1 is selected, your SOI will not be considered complete unless and until you provide the required engineering (or other) report, a professional opinion regarding the problem, and photographs of the problematic area or system. If Priority 3 is selected, your SOI will not be considered complete unless and until you provide a summary of the accreditation report focused on the deficiency as stated in this SOI.

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**LOCAL CHIEF EXECUTIVE OFFICER/DISTRICT SUPERINTENDENT/SCHOOL COMMITTEE CHAIR  
(E.g., Mayor, Town Manager, Board of Selectmen)**

**Chief Executive Officer \*      School Committee Chair      Superintendent of Schools**

(signature)	(signature)	(signature)
Date	Date	Date

\* Local chief executive officer: In a city or town with a manager form of government, the manager of the municipality; in other cities, the mayor; and in other towns, the board of selectmen unless, in a city or town, some other municipal office is designated to the chief executive office under the provisions of a local charter. Please note, in districts where the Superintendent is also the Local Chief Executive Officer, it is required for the same person to sign the Statement of Interest Certifications twice.

# Massachusetts School Building Authority

9

School District Fall RiverDistrict Contact Kenneth C Pacheco TEL: (508) 675-8420Name of School Stone PK-12Submission Date 4/30/2020

## Note

The following Priorities have been included in the Statement of Interest:

1. ☒ Replacement or renovation of a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of school children, where no alternative exists.
2. ☒ Elimination of existing severe overcrowding.
3. ☒ Prevention of the loss of accreditation.
4. ☒ Prevention of severe overcrowding expected to result from increased enrollments.
5. ☒ Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility.
6. ☒ Short term enrollment growth.
7. ☒ Replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements.
8. ☒ Transition from court-ordered and approved racial balance school districts to walk-to, so-called, or other school districts.

## SOI Vote Requirement

☒ I acknowledge that I have reviewed the MSBA's vote requirements for submitting an SOI which are set forth in the Vote Tab of this SOI. I understand that the MSBA requires votes from specific parties/governing bodies, in a specific format using the language provided by the MSBA. Further, I understand that the MSBA requires certified and signed vote documentation to be submitted with the SOI. I acknowledge that my SOI will not be considered complete and, therefore, will not be reviewed by the MSBA unless the required accompanying vote documentation is submitted to the satisfaction of the MSBA.

SOI Program: CorePotential Project Scope: Renovation\ AdditionIs this a Potential Consolidation? NoIs this SOI the District Priority SOI? YesSchool name of the District Priority SOI: Stone PK-12Is this part of a larger facilities plan? Yes

If "YES", please provide the following:

Facilities Plan Date: 8/9/2017Planning Firm: Collins Center for Public Management

Please provide a brief summary of the plan including its goals and how the school facility that is the subject of this SOI fits into that plan:

The report outlines repairs and renovations to all 16 buildings currently in operation while planning the use of the former Wiley Alt Middle and the Former Stone school of which this SOI is being requested.

Please provide the current student to teacher ratios at the school facility that is the subject of this SOI: 27 students per teacher

Please provide the originally planned student to teacher ratios at the school facility that is the subject of this SOI: 27 students per teacher

Does the District have a Master Educational Plan that includes facility goals for this building and all school buildings in District? No

Does the District have related report(s)/document(s) that detail its facilities, student configurations at each facility, and District operational budget information, both current and proposed? No

If "NO", please note that:

If, based on the SOI review process, a facility rises to the level of need and urgency and is invited into the Eligibility Period, the District will need to provide to the MSBA a detailed Educational Plan for not only that facility, but all facilities in the District in order to move forward in the MSBA's school building construction process.

Is there overcrowding at the school facility? No

If "YES", please describe in detail, including specific examples of the overcrowding.

Has the district had any recent teacher layoffs or reductions? No

If "YES", how many teaching positions were affected? 0

At which schools in the district?

Please describe the types of teacher positions that were eliminated (e.g., art, math, science, physical education, etc.).

Has the district had any recent staff layoffs or reductions? No

If "YES", how many staff positions were affected? 0

At which schools in the district?

Please describe the types of staff positions that were eliminated (e.g., guidance, administrative, maintenance, etc.).

Please provide a description of the program modifications as a consequence of these teacher and/or staff reductions, including the impact on district class sizes and curriculum.

Does Not Apply

Please provide a description of the local budget approval process for a potential capital project with the MSBA. Include schedule information (i.e. Town Meeting dates, city council/town council meetings dates, regional school committee meeting dates). Provide, if applicable, the District's most recent budget approval process that resulted in a budget reduction and the impact of the reduction to the school district (staff reductions, discontinued programs, consolidation of facilities).

The District has presented the concept of this project before the School Committee's Sub-Committee of Facilities and Operations at a meeting held on February 5, 2020. The Sub-Committee moved the item to the full School Committee for discussion and vote at a meeting to be held on March 9, 2020. The SOI would be sent to the City Council with an approval vote from the School Committee. The City council Meeting will be held on May 5, 2020. This meeting was original scheduled for April 21, 2020.



## General Description

**BRIEF BUILDING HISTORY:** Please provide a detailed description of when the original building was built, and the date(s) and project scopes(s) of any additions and renovations (maximum of 5000 characters).

The George B. Stone School

**TOTAL BUILDING SQUARE FOOTAGE:** Please provide the original building square footage PLUS the square footage of any additions.

28800

**SITE DESCRIPTION:** Please provide a detailed description of the current site and any known existing conditions that would impact a potential project at the site. Please note whether there are any other buildings, public or private, that share this current site with the school facility. What is the use(s) of this building(s)? (maximum of 5000 characters).

The building sits on 1.46 acres of land, surrounded by multi-family and single family dwellings. This site is located in the south eastern section of the City. This building is currently closed and was formerly used for a therapeutic day school owned and operated by the district.

**ADDRESS OF FACILITY:** Please type address, including number, street name and city/town, if available, or describe the location of the site. (Maximum of 300 characters)

The Former Stone Therapeutic Day School, 1207 Globe Street, Fall River, MA 02724

**BUILDING ENVELOPE:** Please provide a detailed description of the building envelope, types of construction materials used, and any known problems or existing conditions (maximum of 5000 characters).

The main structure of the building is masonry/brick with concrete and steel framing. exterior doors are metal store front design or steel no window door assemblies. Windows are in poor condition throughout the building, some have been boarded up and some permanently removed.

Has there been a Major Repair or Replacement of the EXTERIOR WALLS? NO

Year of Last Major Repair or Replacement:(YYYY) 2015

Description of Last Major Repair or Replacement:

repairs to fascia, rake boards and drip edges in various locations on the building.

**Roof Section A**

Is the District seeking replacement of the Roof Section? YES

Area of Section (square feet) 14200

Type of ROOF (e.g., PVC, EPDM, Shingle, Slate, Tar & Gravel, Other (please describe))

The building has a slate roof which is in very good condition. We have not had it survey but we have not experienced many leaks from the slate.

Age of Section (number of years since the Roof was installed or replaced) 110

Description of repairs, if applicable, in the last three years. Include year of repair:

none

**Window Section A**

Is the District seeking replacement of the Windows Section? YES

Windows in Section (count) 109

Type of WINDOWS (e.g., Single Pane, Double Pane, Other (please describe))

single pane double hung windows, original to building

Age of Section (number of years since the Windows were installed or replaced) 110

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**Description of repairs, if applicable, in the last three years. Include year of repair:**

The repairs to the windows have been minimal, consisting of replacing broken glass panes, replacing operating hardware and screens where needed.

**Window Section B**

Is the District seeking replacement of the Windows Section? YES

Windows in Section (count) 23

Type of WINDOWS (e.g., Single Pane, Double Pane, Other (please describe))

Single pane, double hung

Age of Section (number of years since the Windows were installed or replaced) 110

Description of repairs, if applicable, in the last three years. Include year of repair:

replacement of broken glass, internal mechanisms and repairs to screens

**MECHANICAL and ELECTRICAL SYSTEMS:** Please provide a detailed description of the current mechanical and electrical systems and any known problems or existing conditions (maximum of 5000 characters).

Electrical, plumbing and heating systems are antiquated. The building requires a complete upgrade in all areas. The building will become part of an overall building renovation/new project which will create a kindergarten center for most of the district.

**Boiler Section 1**

Is the District seeking replacement of the Boiler? YES

Is there more than one boiler room in the School? YES

What percentage of the School is heated by the Boiler? 50

Type of heating fuel (e.g., Heating Oil, Natural Gas, Propane, Other)

Natural Gas

Age of Boiler (number of years since the Boiler was installed or replaced) 46

Description of repairs, if applicable, in the last three years. Include year of repair:

minor upgrades

**Boiler Section 2**

Is the District seeking replacement of the Boiler? YES

Is there more than one boiler room in the School? YES

What percentage of the School is heated by the Boiler? 50

Type of heating fuel (e.g., Heating Oil, Natural Gas, Propane, Other)

Natural Gas

Age of Boiler (number of years since the Boiler was installed or replaced) 90

Description of repairs, if applicable, in the last three years. Include year of repair:

basic PM only, this boiler is not functioning

Has there been a Major Repair or Replacement of the HVAC SYSTEM? NO

Year of Last Major Repair or Replacement:(YYYY) 1984

Description of Last Major Repair or Replacement:

repairs to radiators and piping configurations, fresh air gravity system is original, minor louver alterations over the last 40 years.

Has there been a Major Repair or Replacement of the ELECTRICAL SERVICES AND DISTRIBUTION SYSTEM? NO

Year of Last Major Repair or Replacement:(YYYY) 2001

Description of Last Major Repair or Replacement:

No major upgrades however addition circuits, receptacles, low voltage work has been added over the past 25 years.

**BUILDING INTERIOR:** Please provide a detailed description of the current building interior including a description of the flooring systems, finishes, ceilings, lighting, etc. (maximum of 5000 characters).

The interior of the building is comprised of approximately 80% plaster walls and 20% sheet rock walls. The interior finishes are painted walls, painted trim and stained woodwork. The ceilings are a combination of metal, drop and plastered. The was a handicapped rail chair added in 2002.

**PROGRAMS and OPERATIONS:** Please provide a detailed description of the current grade structure and programs offered and indicate whether there are program components that cannot be offered due to facility constraints, operational constraints, etc. (maximum of 5000 characters).

This building has been closed for 4 years. The Stone school operations have been moved to the Westall Building on Maple Street.

**EDUCATIONAL SPACES:** Please provide a detailed description of the Educational Spaces within the facility, a description of the number and sizes (in square feet) of classrooms, a description of science rooms/labs including ages and most recent updates, a description of the cafeteria, gym and/or auditorium and a description of the media center/library (maximum of 5000 characters).

6 regular classrooms, two smaller rooms for pull out instruction, principal and nurses offices.

**CAPACITY and UTILIZATION:** Please provide the original design capacity and a detailed description of the current capacity and utilization of the school facility. If the school is overcrowded, please describe steps taken by the administration to address capacity issues. Please also describe in detail any spaces that have been converted from their intended use to be used as classroom space (maximum of 5000 characters).

This building is your typical K-5 one unit school. The basement is the Cafeteria, auditorium, indoor gym and enrichment classes.

**MAINTENANCE and CAPITAL REPAIR:** Please provide a detailed description of the district's current maintenance practices, its capital repair program, and the maintenance program in place at the facility that is the subject of this SOI. Please include specific examples of capital repair projects undertaken in the past, including any override or debt exclusion votes that were necessary (maximum of 5000 characters).

See Attached Documents

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**Priority 7**

***Question 1: Please provide a detailed description of the programs not currently available due to facility constraints, the state or local requirement for such programs, and the facility limitations precluding the programs from being offered.***

The building located at 1207 Globe Street was designed and built as a traditional elementary school. This building was also used for a therapeutic day school, grades k-8. The new concept and District plan for this building is to provide a District -wide Kindergarten, approximately 25-30 classrooms with a gym, cafetorium, and an outdoor play ground, in a courtyard configuration for safety purposes.

Priority 7

*Question 2: Please describe the measures the district has taken or is planning to take in the immediate future to mitigate the problem(s) described above.*

see attached documents

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**Priority 7**

***Question 3: Please provide a detailed explanation of the impact of the problem described in this priority on your district's educational program. Please include specific examples of how the problem prevents the district from delivering the educational program it is required to deliver and how students and/or teachers are directly affected by the problem identified.***

see attached documents

## Vote

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## REQUIRED FORM OF VOTE TO SUBMIT AN SOI

## REQUIRED VOTES

If the SOI is being submitted by a City or Town, a vote in the following form is required from both the City Council/Board of Aldermen **OR** the Board of Selectmen/equivalent governing body **AND** the School Committee.

If the SOI is being submitted by a regional school district, a vote in the following form is required from the Regional School Committee only. FORM OF VOTE Please use the text below to prepare your City's, Town's or District's required vote(s).

## FORM OF VOTE

Please use the text below to prepare your City's, Town's or District's required vote(s).

Resolved: Having convened in an open meeting on \_\_\_\_\_, prior to the closing date, the

\_\_\_\_\_  
[City Council/Board of Aldermen,

Board of Selectmen/Equivalent Governing Body/School Committee] of \_\_\_\_\_ [City/Town], in accordance

with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest dated \_\_\_\_\_ for the

\_\_\_\_\_  
[Name of School] located at

\_\_\_\_\_  
[Address] which

describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future

\_\_\_\_\_  
; [Insert a description of the priority(s) checked off on

the Statement of Interest Form and a brief description of the deficiency described therein for each priority]; and hereby further specifically

acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the City/Town/Regional School District to filing an application for funding with the Massachusetts School Building Authority.

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**CERTIFICATIONS**

The undersigned hereby certifies that, to the best of his/her knowledge, information and belief, the statements and information contained in this statement of Interest and attached hereto are true and accurate and that this Statement of Interest has been prepared under the direction of the district school committee and the undersigned is duly authorized to submit this Statement of Interest to the Massachusetts School Building Authority. The undersigned also hereby acknowledges and agrees to provide the Massachusetts School Building Authority, upon request by the Authority, any additional information relating to this Statement of Interest that may be required by the Authority.

**Chief Executive Officer \*****School Committee Chair****Superintendent of Schools**

(signature)

(signature)

(signature)

Date

Date

Date

\* Local chief executive officer: In a city or town with a manager form of government, the manager of the municipality; in other cities, the mayor; and in other towns, the board of selectmen unless, in a city or town, some other municipal office is designated to the chief executive office under the provisions of a local charter. Please note, in districts where the Superintendent is also the Local Chief Executive Officer, it is required for the same person to sign the Statement of Interest Certifications twice.



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## **REQUIRED FORM OF VOTE TO SUBMIT A STATEMENT OF INTEREST**

### **REQUIRED VOTES**

If a City or Town, a vote in the following form is required from both the City Council/Board of Aldermen **OR** the Board of Selectmen/equivalent governing body **AND** the School Committee.

If a regional school district, a vote in the following form is required from the Regional School Committee only.

### **FORM OF VOTE**

Please use the text below to prepare your City's, Town's or District's required vote(s).

Resolved: Having convened in an open meeting on \_\_\_\_\_, prior to the closing date, the \_\_\_\_ [City Council/Board of Aldermen, Board of Selectmen/Equivalent Governing Body / School Committee] \_\_\_\_ of \_\_\_\_ [City/Town] \_\_\_\_, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated \_\_\_\_\_ for the \_\_\_\_ [Name of School] \_\_\_\_ located at \_\_\_\_ [Address] \_\_\_\_\_ which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future \_\_\_\_ [Insert a description of the priority(s) checked off on the Statement of Interest Form and a brief description of the deficiency described therein for each priority] \_\_\_\_\_

\_\_\_\_\_; and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the City/Town/Regional School District to filing an application for funding with the Massachusetts School Building Authority.

### **DOCUMENTATION OF VOTE**

Documentation of each vote must be submitted as follows:

For the vote of the City Council/Board of Aldermen or Board of Selectmen/equivalent governing body, a copy of the text of the vote must be submitted with a certification of the City/Town Clerk that the vote was duly recorded and the date of the vote must be provided.

For the vote of the School Committee, Minutes of the School Committee meeting at which the vote was taken must be submitted with the original signature of the Committee Chairperson.



The Commonwealth of Massachusetts

MASSACHUSETTS SENATE

COMMITTEE ON WAYS AND MEANS

RECEIVED

SENATOR MICHAEL J. RODRIGUES  
First Bristol and Plymouth District

CHAIR

Committee on Ways and Means

MICHAEL.RODRIGUES@MASENATE.GOV  
WWW.MASENATE.GOV

March 30, 2020

City Council  
One Government Center, Rm #221  
Fall River, MA 02722

Dear Council Members,

I am writing to you because, today, the Massachusetts State Senate passed H.4598, *An Act to address challenges faced by municipalities and state authorities resulting from COVID-19*. This legislation includes many provisions that I believe will affect your City, and so I wanted to provide you a summary of the bill.

The bill includes the following provisions:

- Allows an annual town meeting to be delayed beyond June 30<sup>th</sup> in the event of an emergency that poses an immediate threat to health or safety that prevents the completion of the business of the delayed town meeting on or before June 30 if the Governor has declared a state of emergency with respect to the emergency.
- Allows a town moderator or person designated to perform the duties of town moderator during a weather-related, public safety or public health emergency, in consultation with local public safety or public health officials and the board of selectmen, to recess and continue a town meeting previously called to a time, place and date certain not exceed 30 days.
- Allows a town moderator or person designated to perform the duties of town moderator to renew the declaration of recess of town meeting and continuance period for up to 30 days at a time but not more than 30 days following the date of rescission of a state of emergency declared by the Governor.
- Requires a local public safety or public health official designated by the board of selectmen of a town to submit a report to the Attorney General providing the justification for the initial declaration of recess and continuance of a town meeting.

STATE HOUSE, ROOM 212  
BOSTON, MA 02133-1053

TEL: (617) 722-1114

FAX: (617) 722-1498

WAYS & MEANS: (617) 722-1481

ONE GOVERNMENT CENTER  
ROOM 235

FALL RIVER, MA 02722

TEL. (508) 646-0650

FAX. (508) 646-0656

SOMERSET TOWN HALL

140 WOOD STREET

SOMERSET, MA 02726

TEL. (508) 673-8408

2020 APR 13 P 1:13

CITY CLERK  
FALL RIVER, MA

- Allows the Director of Accounts of the Department of Revenue, if a declared emergency prevents the adoption of an annual budget by a town or district by the June 30 preceding the start of the fiscal year, to approve expenditures of an amount sufficient for the operations of a town or district during the month of July not less than 1/12 of the total budget approved by the town or district in the most recent fiscal and allows the authority to continue for each successive month while the emergency continues to prevent the adoption of a budget.
- Allows the Director of Accounts of the Department of Revenue to authorize the appropriation from the available balance of a town's or district's undesignated fund balance or "free cash" as a funding source for the town's or district's fiscal year 2021 expenditures if the adoption of an annual budget in a town or district is delayed beyond June 30, 2020, as a result of the Governor's March 10, 2020 declaration of a state of emergency.
- Allows a city, town or district to amortize over fiscal years 2021 to 2023, the amount of its fiscal year 2020 deficit resulting from the outbreak of the 2019 novel coronavirus, as described in the Governor's March 10, 2020 declaration of a state of emergency.
- Allows a city or town, for fiscal year 2021, to expend from each revolving fund an amount not to exceed the amount authorized to be expended in fiscal year 2020 until the city or town adopts an annual budget for fiscal year 2021 and at which time, requires the legislative body of the city or town to vote on the total amount that may be expended from each revolving fund in fiscal year 2021.
- Suspends all time periods within which any municipality is required to act, respond, effectuate or exercise an option to purchase during and for a period of 90 days after the termination of the Governor's March 10, 2020 declaration of a state of emergency.
- Allows the Chief Executive Officer of a city or town, as a result of the outbreak of the 2019 novel coronavirus, to extend certain local tax payment deadlines in accordance with this act.
- Allows the chief executive officer of a city or the prudential committee or commissioners of a district, as a result of the outbreak of the 2019 novel coronavirus and the declaration of a state of emergency issued by the Governor on March 10, 2020, to waive the payment of interest and other penalty in the event of late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 and made after its respective due date but before June 30, 2020.
- Extends the filing deadline for all tax returns and payments for the 2019 calendar year otherwise due on April 15, 2020 to July 15, 2020.
- Allows an establishment licensed to sell alcoholic beverages or only wines and malt beverages on-premises, during the state of emergency declared by the Governor on

March 10, 2020, to sell wine or malt beverages only for off-premises consumption subject to the following conditions: (i) the wine or malt beverage must not be sold to a person under 21 years of age and any delivery must obtain verification that the person receiving the order has attained 21 years of age; (ii) the wine is be sold in its original, sealed container and the malt beverage shall be sold in a sealed container; (iii) the wine or malt beverage is sold as part of the same transaction as the purchase of food with the order placed on or before 12:00 midnight; and (iv) a customer is limited to 192 ounces of malt beverage and 1.5 liters of wine per transaction.

- Exempts from the caps on hours worked and earnings received during the state of emergency issued by the Governor on March 10, 2020 (i) any person who has been retired and who is receiving a pension or retirement allowance from the commonwealth, a county, city, town, district or authority; and (ii) any person whose employment in the service of the commonwealth, county, city, town, district or authority has been terminated by reason of having attained a specified age without being entitled to any pension or retirement allowance.
- Allows, for the period of the state of emergency, participation by remote communication at any non-profit corporate meeting of the members to constitute presence at such meeting, provided that: (i) reasonable measures are implemented to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a member or proxyholder; (ii) reasonable measures are implemented to provide members and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members; and (iii) a record of votes or other action are maintained by the corporation.
- Allows, for the period of the state of emergency, a public corporation to conduct an annual or special meeting of the shareholders solely by means of remote communication in the event of unforeseen or emergency circumstances, including state or federal declarations of emergencies, public health emergencies, weather events or natural disasters, acts of terrorism or disruptions in travel.
- Permits, for the period of the state of emergency, a licensed attorney, or a paralegal under the direct supervision of a Massachusetts licensed attorney, who is a notary public to perform an acknowledgement, affirmation, or other notarial act with respect to one or more documents upon the request of a person utilizing electronic video conferencing in real time.
- States that, for the duration of the state of emergency declared by the Governor on March 10, 2020 as a result of the outbreak of the 2019 novel coronavirus:
  - An application for a permit shall be deemed duly filed and accepted as of the date of the filing by the applicant, if filed with and certified as received the receiving entity;

- A requirement of a statute, ordinance, bylaw, rule or regulation that a hearing commence within a specific period of time after the filing of an application or request for approval of a permit is suspended as of March 10, 2020 but shall resume 45 days after the termination of the state of emergency;
- A permit in effect or existence as of March 10, 2020, shall not lapse or expire and the expiration date of the permit, or time period for meeting a deadline or for performance of a condition of the permit, shall toll during the state of emergency;
- No permit shall be considered granted, approved or denied due to a failure of the permit granting authority to act within the time required by law provided that the permit granting authority acts within 45 days of the termination of the state of emergency;
- A permit granting authority may schedule or reschedule on 1 or more occasions the hearing or decision deadlines on a permit application provided no such date or deadline is rescheduled for more than 45 days after the termination of the state of emergency;
- Suspends the requirement that a permit be recorded with the registry of deeds or filed with registry district of the land court within a certain period of time after its issuance in order to remain in force and effect or as a condition to exercising the permit;
- A permit granting authority, during the state of emergency, may conduct meetings and public hearings remotely, consistent with the Governor's order entitled "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20" issued March 12, 2020; and
- A permit granting authority may issue decisions on permit applications for which duly held public hearings or meetings have been held.

Thank you for your attention to these matters, and do not hesitate to reach out to my office if I can be of any assistance.

Sincerely,



Michael J. Rodrigues

State Senator

Chair, Senate Committee on Ways and Means

11

# City of Fall River, *In City Council*

(Councilor Linda M. Pereira)

WHEREAS, numerous accidents have occurred at the intersection of North Main Street and Weaver Street, and

WHEREAS, traffic is steadily increasing in this area due to new businesses locating in the area, now therefore

BE IT RESOLVED, that the Committee on Public Safety convene to discuss this important public safety concern.

Filed: 4-30-20

*City of Fall River, In City Council*

(Councilor Linda M. Pereira)

WHEREAS, Hyacinth Street has had flooding problems for years, and

WHEREAS, the City of Fall River purchased two lots on Hyacinth Street for drainage improvements in the area, and

WHEREAS, these drainage improvements are now complete, now therefore

BE IT RESOLVED, that the Committee on Real Estate convene to discuss the possibility of the City of Fall River selling these lots now that improvements are complete.

Auto Subrogation Demand

April 7, 2020

CITY CLERK FALL RIVER  
1 GOVERNMENT CENTER, 2<sup>ND</sup> FLR.  
FALL RIVER, MA 02722  
Attention: SUBRO CLAIMS DEPT.

**RE:**

**OUR CLIENT: EMBARK GENERAL INSURANCE**  
**CLIENT INSURED: NILTON DEPINA**  
**OUR FILE #: 1549735**  
**YOUR INSURED: HIT POT HOLE**  
**YOUR CLAIM #: SEE ATTACHED CLAIM FORM**  
**DATE OF LOSS: 2/15/20**  
**AMOUNT OF CLAIM: \$9290.94**

To Whom it May Concern:

We have been retained by the above referenced client to handle subrogation on their behalf. They have advised us that your insured was involved in an auto accident with their insured on the above listed date of loss. Attached is a copy of our client's file. Our investigation places liability on your insured. Please review this claim and send payment for the amount listed above to our office payable to our client.

Thank you for your cooperation. If you require additional information, please contact the undersigned representative.

Sincerely,

MARIA COLLINS

Direct Dial: 631 585 8883  
E-Mail: [MCOLLINS@2NDLOOK.NET](mailto:MCOLLINS@2NDLOOK.NET)

**Claim  
#20-14**

CITY CLERK  
FALL RIVER, MA

2020 APR 13 P 1:39

RECEIVED







RECEIVED

23

2020 APR 13 P 1:55

City of Fall River  
Notice of ClaimCITY CLERK Claim #20-15  
FALL RIVER, MA

1. Claimant's name: João Araujo
2. Claimant's complete address: 28 Bush Street Fall River, MA 02724
3. Telephone number: Home: 508 6788 236 Work: \_\_\_\_\_
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
While walking with cane on sidewalk cane got caught on broken sidewalk causing me to fall. Hit my head on telephone pole and
5. Date and time of accident: 3-26-2020 Amount of damages claimed: \$ Fractured my left wrist.
6. Exact location of the incident: (include as much detail as possible):  
28 Bush Street location, sidewalk on Francis Street
7. Circumstances of the incident: (attach additional pages if necessary):  
Notified City Hall of my fall. Gentleman came and filled hole with tar and placed a cone. I also broke my glasses. My wife called the ambulance and I was transported to St. Anne's hospital for my injuries which were contusions on head, face, body and wrist fracture. I now need to have shoulder surgery.
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No → at the age of 86 years old

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge:

Date: 4-10-2020Claimant's signature: João Araujo

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☐ City Clerk ☐ Law ☐ City Council ☐ City Administrator ☐ \_\_\_\_\_ Date: \_\_\_\_\_

**Allstate**

You're in good hands.

Roanoke Subrogation MCO  
P.O. BOX 660636  
DALLAS TX 75266

23

RECEIVED

CITY OF FALL RIVER  
CITY CLERK 2ND FL ONE GOVERNMENT CTR  
FALL RIVER MA 027222020 APR 15 P 12:21  
CITY CLERK *Claim # 20-16*  
FALL RIVER, MA

April 06, 2020

CLAIM NUMBER: 0563536556 F7I  
DATE OF LOSS: October 07, 2019  
OUR INSURED: JOYCE COTE  
YOUR FILE NUMBER:  
YOUR INSURED:  
ADDRESS:PHONE NUMBER: 800-776-2615  
FAX NUMBER: 866-361-9742  
OFFICE HOURS: Mon - Fri 7:30 am - 6:00 pmCITY STATE ZIP: , ,  
LOSS LOCATION: Almond St, Fall River, , MA  
AMOUNT OF LOSS: \$589.02**Re: Subrogation Claim Notice**

Dear CITY OF FALL RIVER,

Our investigation indicates your insured was responsible for the loss referenced above.

Please accept this letter as notice of our subrogation claim. Enclosed, you will find copies of the supporting documents for which we are seeking reimbursement. To assist you in your review, the following is a breakdown of our subrogation demand:

Auto Damage (Company Paid):	\$589.02
Rental:	\$
Towing:	\$
Other:	\$
Deductible (Customer Paid):	\$
Salvage Recovery:	\$
Insured Out of Pocket (please send directly to our Insured):	\$

Please forward your payment with our claim number to:

**Allstate Payment Processing Center**  
**P.O. BOX 650271**  
**Dallas, TX 75265 0271**

Be advised that any amounts received from you for less than the amount demanded will be considered an undisputed partial payment amount only, and we retain the right to pursue full payment.

We ask that you direct any future correspondence to the address listed at the top of this letter.

If corresponding by e-mail, please send to [claims@claims.allstate.com](mailto:claims@claims.allstate.com) and refer to the Allstate claim number on the subject line. Thank you.

0563536556 F7I





**City of Fall River  
Notice of Claim**

RECEIVED

2020 APR 22 A 8:55

CITY CLERK #20-17  
FALL RIVER, MA

23

1. Claimant's name: LILLIAN T CHAVES
2. Claimant's complete address: 718 BRISTOL FERRY RD PORTSMOUTH RI 02871
3. Telephone number: Home: 401 683 4718 CELL 508 981 7672 Work:
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
POT HOLE DAMAGE
5. Date and time of accident: 4-7-20 6:30AM Amount of damages claimed: \$ 412.33
6. Exact location of the incident: (include as much detail as possible):  
R.I. AVE. AT LIGHT NEAR SOUTH COAST MARKETPLACE FR MA
7. Circumstances of the incident: (attach additional pages if necessary):  
Stopped at red light, when light turned green I continued then intersection, when I heard a bang. The lights in my car began flashing, with message "shut off engine - AC in car overheating". I could not drive and called AAA →
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 4-14-20

Claimant's signature: Lillian Chaves

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☒ City Administrator ☒ DCM

Date: 4-22-20



RECEIVED

City of Fall River  
Notice of Claim

2020 APR 27 P 4: 59

CITY CLERK #20-18  
FALL RIVER, MA

1. Claimant's name: Sobon Butth
2. Claimant's complete address: 195 Mt Pleasant St
3. Telephone number: Home: (781) 732-7171 Work: \_\_\_\_\_
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Tree fell on top of my car because of strong wind.
5. Date and time of accident: 4/13/2020 @ 3:50pm Amount of damages claimed: \$
6. Exact location of the incident: (include as much detail as possible):  
Gibbs St. off from Mt. Pleasant St.
7. Circumstances of the incident: (attach additional pages if necessary):  
A strong wind made the tree branch broke and it landed on my Honda Odyssey 2006
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 4/24/2020

Claimant's signature: Sobon Butth

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 90 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to: City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☐ City Administrator ☒ Com-Treas Date: 4-28-20

**JOINT MEETING OF THE CITY COUNCIL AND BOARD OF ASSESSORS**

MEETING: Tuesday, March 10, 2020 at 6:00 p.m.  
Council Chamber, One Government Center

PRESENT: President Cliff Ponte, presiding;  
Councilors Shawn E. Cadime, Michelle M. Dionne, Bradford L. Kilby,  
Pam Laliberte-Lebeau, Trott Lee, Christopher M. Peckham,  
Leo O. Pelletier and Linda M. Pereira

Board of Assessors members: Richard Gonsalves, Nancy L. Hinote,  
Richard Wolfson

ABSENT: None

IN ATTENDANCE: Mary Sahady, Temporary City Administrator/Director of Financial Services  
Nelvia M. Raposo, Administrator of Assessing  
Attorney Matthew J. Thomas, 4 Park Place, Suite 101  
New Bedford, MA 02740

President Cliff Ponte called the meeting to order at 6:03 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium. The Board of Assessors Chair stated that the Board of Assessors meeting was reconvened.

*The Temporary City Administrator/Director of Financial Services provided a brief overview and stated that Attorney Matthew J. Thomas will present the PowerPoint Presentation regarding the Assessment of Real Property in the City of Fall River.*

*Councilor Michelle M. Dionne stated that a resident provided her with copies of their real estate tax bills because they have increased 21% over three years. The resident requested that she have these bills reviewed, as they felt that this increase was excessive. She then stated that the re-evaluation increased 3-family residences by 17%. Attorney Matthew J. Thomas stated that, as a class the 3-family residences increased by 17%. He then stated that this percentage would not be actual to every 3-family residence. The Chair of the Board of Assessors stated that there may have been improvements to the property in question. Councilor Michelle M. Dionne stated that no improvements or updates have been made to this property. Attorney Matthew J. Thomas stated that an Assessor will go to inspect the location in question. Richard Gonsalves stated that if a building permit is obtained then an Assessor will perform an inspection of the property. He also stated that an inspection will be performed if there is an abatement for a property. Attorney Matthew J. Thomas then stated that any resident who feels that their tax bill is too high, may file for an abatement.*

Councilor Linda M. Pereira stated that she has had residents complain that their neighbor's house is in disrepair and they keep their house in good condition and they are penalized by having to pay higher real estate taxes. Attorney Matthew J. Thomas stated that residents are not penalized by paying higher real estate taxes even though it may seem that way. He then stated that if any property is to be sold, the better maintained property would be sold for a higher price than the property that is not well maintained. Councilor Linda M. Pereira then stated that there are exemptions that some residents are eligible for and requested that a member of the Board of Assessors provide this information. Nancy L. Hinote stated that there are statutory exemptions that are available. She gave a brief overview of the available exemptions for senior citizens, surviving spouses, veterans, legally blind individuals and spouses of police officers and firefighters that were killed in the line of duty.

Councilor Linda M. Pereira then asked, "if a resident is approved for an abatement and has already paid their real estate taxes will they receive a refund?" Attorney Matthew J. Thomas stated that they would receive a refund if all four quarters of their real estate taxes were paid. Councilor Linda M. Pereira then asked if sheds and pools were taxed. Attorney Matthew J. Thomas stated they are and it is based on size. He then stated that if it is just a barrel shed, it would not be taxed. The Chair for the Board of Assessors stated that every year Fall River residents like to compare real estate taxes in Fall River and surrounding communities. He then stated the average tax bills for the surrounding communities are:

- Fall River \$3,365.55
- New Bedford \$3,855.36
- Taunton \$4,191.01

On a motion made by Board of Assessors member Nancy L. Hinote and seconded by Board of Assessors member Richard Gonsalves, the Board of Assessors voted unanimously to adjourn. On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adjourn at 6:50 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

DVD of meeting

PowerPoint Presentation – Assessment of Real Property in the City of Fall River, an overview

Division of Local Services – Municipal Glossary

Division of Local Services – Certification Standards

Board of Assessors – Exemption eligibility requirements

A true copy. Attest:



City Clerk

**REGULAR MEETING OF THE CITY COUNCIL**

MEETING: Tuesday, March 10, 2020 at 7:00 p.m.  
Council Chamber, One Government Center

PRESENT: President Cliff Ponte, presiding;  
Councilors Shawn E. Cadime, Michelle M. Dionne, Bradford L. Kilby,  
Pam Laliberte-Lebeau, Trott Lee, Christopher M. Peckham,  
Leo O. Pelletier and Linda M. Pereira

ABSENT: None

IN ATTENDANCE: None

President Cliff Ponte called the meeting to order at 8:21 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

**PRIORITY MATTERS**

1. Mayor requesting confirmation of the appointment of John Ferreira to the Community Preservation Committee

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Linda M. Pereira, it was unanimously voted to confirm the appointment.*

2. Mayor and order appropriating \$1,870,294 from the General Fund Stabilization Fund to the following:

Employer Trust Fund	\$1,000,000
School Appropriation	\$ 870,294

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Trott Lee, it was unanimously voted to adopt the order.*

3. Mayor and order authorizing the School Committee to enter into a five year contract for transportation services with Tremblay's Bus Company, LLC

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Linda M. Pereira, it was unanimously voted to adopt the order.*

*Approved, March 11, 2020, Mayor Paul E. Coogan*

#### **PRIORITY COMMUNICATIONS**

4. Traffic Commission recommending amendments to the traffic ordinances  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

5. Planning Board recommendation for the acceptance of streets as follows:  
 a. Lynwood Street extending from Mariano Bishop Boulevard to a dead end along with Way Street, as amended

*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Christopher M. Peckham, it was unanimously voted to request a legal opinion regarding the developer's responsibility to accept and pave the street and that the matter be tabled.*

b. Granite Street extending from Purchase Street to Rock Street

*A motion was made by Councilor Bradford L. Kilby and seconded by Councilor Leo O. Pelletier that the recommendation be accepted and placed on file and the order be adopted. Councilor Pam Laliberte-Lebeau stated that this street was paved as part of the Streetscape Project on Purchase Street and the street was not accepted. Councilor Linda M. Pereira stated that this matter should be reviewed by the Director of Traffic regarding traffic and parking issues due to the width of the street. On a further motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to request information from the Director of Traffic and that the matter be tabled.*

c. Small Street extending from President Avenue to a dead end

*The City Clerk stated that the City Planner requested that the order be amended by adding: and also 280 feet of Stanley Street extending from Small Street to Damon Street. On a motion made by Councilor Linda M. Pereira and seconded by Councilor Bradford L. Kilby, it was unanimously voted that the recommendation be accepted and placed on file and the order be adopted, as amended.*

d. Tone Street extending from Freedom Street to a dead end

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher, it was unanimously voted that the recommendation be accepted and placed on file and the order be granted leave to withdraw.*

#### **COMMITTEE REPORTS** – None

#### **ORDINANCES** – None

#### **RESOLUTIONS**

6. Committee on Finance convene with a representative from Comcast to discuss various services and programs

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Michelle M. Dionne, it was unanimously voted to adopt the resolution. Councilor Linda M. Pereira stated that she would like to find out what discounts are available from Comcast for residents.*

#### **CITATIONS**

7. Shawny Smith – In recognition of his strength and bravery

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Christopher M. Peckham, it was unanimously voted to adopt the citation.*



**ORDERS – HEARINGS – None**

**ORDERS – MISCELLANEOUS**

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Linda M. Pereira, it was unanimously voted to take items #8 through #10 together. On a further motion made by Councilor Shawn E. Cadime and seconded by Councilor Bradford L. Kilby, it was unanimously voted to adopt items #8 through #10.*

8. Police Chief's report on licenses:

2020 Taxicab Drivers:

David Marshall                      Joseph F. Paiva

2020 Private Livery Driver:

David Marshall

Second Hand License Renewals:

Pacheco's Furniture located at 255 South Main Street

Curt Barreira d/b/a Jimmy Jr's Tire Service located at 729 Davol Street

Aaron Tetrault, Spindle City Pawnbrokers, Inc. d/b/a Fall River Pawnbrokers located at 1435 Pleasant Street

Wayne Confoey d/b/a Cash for Gold located at 1503 Pleasant Street

eco ATM, LLC located at 638 Quequechan Street

Howard Sperberg and Andrew Jaynes d/b/a Pawtucket Pawnbrokers Too located at 302 South Main Street

Aaron Tetrault, Spindle City Pawnbrokers, Inc. d/b/a Fall River Pawnbrokers located at 364 South Main Street

Joseph Bilan, BP Auto Service Repair, Inc. located at 1091 South Main Street

Aaron Tetrault d/b/a Fall River Pawnbrokers, Inc. located at 1475 South Main Street

Alan Confoey d/b/a Alan's Jewelry located at 1661 South Main Street

eco ATM, LLC located at 4171 North Main Street

Pawnbroker Renewals:

Aaron Tetrault, Spindle City Pawnbrokers, Inc. d/b/a Fall River Pawnbrokers located at 1435 Pleasant Street

Howard Sperberg and Andrew Jaynes d/b/a Pawtucket Pawnbrokers Too located at 302 South Main Street

Aaron Tetrault, Spindle City Pawnbrokers, Inc. d/b/a Fall River Pawnbrokers located at 364 South Main Street

Aaron Tetrault d/b/a Fall River Pawnbrokers, Inc. located at 1475 South Main Street

9. Auto Repair Shop License Renewals:

Joseph Silva d/b/a Joe's Collision Center, Inc. located at 170 Jefferson Street

Jacinto Silva, Tech Service Center, Inc. located at 70 William Street

Joseph Silva, Supreme Auto located at 421 Third Street

Haissam Elazar, Inc. d/b/a Joe's Gas Auto Sales located at 2608 South Main Street

*Approved, March 11, 2020, Mayor Paul E. Coogan*

10. Auto Body Shop License Renewals:

Joseph Silva d/b/a Joe's Collision Center, Inc. located at 170 Jefferson Street

Robert Eleuterio d/b/a Eddie and Sons Auto Body and Marine Repair located at 115 Maple Street

*Approved, March 11, 2020, Mayor Paul E. Coogan*

**COMMUNICATIONS – INVITATIONS – PETITIONS**

## 11. Claims

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Linda M. Pereira, it was unanimously voted to refer the claims to Corporation Counsel.*

## 12. Communication from AFSCME Local #1202 President regarding professional paramedics of Fall River

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Linda M. Pereira, it was unanimously voted that the communication be accepted and placed on file.*

## 13. Planning Board Minutes – January 13, 2020

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Linda M. Pereira, it was unanimously voted that the minutes be accepted and placed on file.*

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Linda M. Pereira, it was unanimously voted to take items #14 through #19 together. On a further motion made by Councilor Shawn E. Cadime and seconded by Councilor Bradford L. Kilby, it was unanimously voted to approve items #14 through #19.*

City Council Meeting Minutes:

- 14. City Council Committee on Finance – January 28, 2020
- 15. City Council Committee on Finance – February 11, 2020
- 16. City Council Public Hearings – January 28, 2020
- 17. City Council Public Hearing – February 25, 2020
- 18. Regular City Council Meeting – January 28, 2020
- 19. Regular City Council Meeting – February 25, 2020

20. Attorney General response to Open Meeting Law Complaint from Collin Dias  
re: January 10, 2020 alleged violation by the City Council Committee on Health and Environment Affairs

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Michelle M. Dionne, it was unanimously voted that the communication be accepted and placed on file.*

**BULLETINS – NEWSLETTERS – NOTICES** – None

*On a motion made by Councilor Michelle M. Dionne and seconded by Councilor Shawn E. Cadime, it was unanimously voted to adjourn at 8:38 p.m.*

List of documents and other exhibits used during the meeting:

Agenda packet (attached)  
DVD of meeting

A true copy. Attest:



City Clerk