



CITY OF PITTSFIELD

REGULAR MEETING PITTSFIELD CITY COUNCIL

April 10, 2018 at 7:00 p.m.

Pittsfield City Hall, City Council Chamber

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -6 A 10:56

AGENDA

1. Open microphone

APPOINTMENTS

2. Re- Appointment of Dr. John Reynolds, Renee Dodds, Earl G. Persip, III and Kevin Morandi to the Animal Control Commission and Appointments of Kimberly Conant and Lindsay Hermanski to the Animal Control Commission
3. Re-Appointment of Edward Kirchner and appointment of Jay Green to the Airport Commission
4. Appointment of Katie Lauzon to the Resource Recovery Committee

COMMUNICATIONS FROM HER HONOR THE MAYOR

5. A communication from Mayor Tyer on the appointments of James Heath and Matthew Risley as Permanent Lieutenants in the Pittsfield Fire Department
6. A communication from Mayor Tyer on three (3) Orders authorizing the City of Pittsfield:
Order 1 – To lease property located on Barker Road to Oak Leaf Energy Partners for use of a Solar Energy Facility.
Order 2 – To approve a Tax Agreement for Personal Property with Oak Leaf Energy Partners.
Order 3 – To contract with Oak Leaf Energy Partners for the purchase of solar power.
7. A communication from Mayor Tyer on an Order accepting a grant of funds in the amount of \$5,625.00 from the Executive Office of Public Safety and Security Highway Division for a FY18 Pedestrian, Bicycle Safety Enforcement and Equipment grant
8. A communication from Mayor Tyer on an Order accepting a donation of one (1) K9 Vest for PPD K9 (Jango) in the amount of \$950.00 from the Vested Interest in K9's, Inc.
9. A communication from Mayor Tyer on an Ordinance amending the City Code, Chapter 16, Attachment 1, Compensation Schedule
10. A communication from Mayor Tyer on an Order amending the borrowing authorizations for reconstruction of the main runway (8/26) and (14/32) at the Pittsfield Municipal Airport
11. A communication from Mayor Tyer pursuant to Massachusetts General Laws, Chapter 44, Section 20, is an Order supplementing the fiscal year 2017 and 2018 capital orders to allow for the use of bond premiums consistent with the Municipal Modernization Act

PUBLIC HEARING

12. Public hearing on a petition from Western Massachusetts Electric Company, d/b/a Eversource to install one (1) solely owned pole on Crane Avenue
13. Public hearing on an Ordinance with a recommendation from the Ordinance and Rules Committee on the adoption and amendment of the City Code, Chapter 23-Zoning Ordinance related to the cultivation, manufacturing, production, testing, and sales of recreational use of medical marijuana

COMMUNICATIONS AND REPORTS FROM CITY OFFICERS AND BOARDS

14. A communication from the office of the City Clerk on an Order approving the use of the Image Cast Precinct Tabulator System for voting in the City of Pittsfield
15. A petition from Councilors Krol, Moon, Persip, Rivers and White to invite representatives of the Berkshire County Mosquito Control Project in for a review of the current program and agreement with the City of Pittsfield

REPORT OF COMMITTEES

Report of the Committee on Ordinance and Rules

16. A report from the committee on Ordinance and Rules on a petition to review City Code, Chapter 8 Solid Waste Collection and Disposal and presentation from the Health Department, recommending to except the presentation

Report of the Committee on Ordinance and Rules

17. A report from the committee on Ordinance and Rules on a communication from the Human Rights Commission to consider changing some of the language in the City Code relating to the Human Rights Commission, recommending to approve the changes

UNFINISHED BUSINESS

18. A communication from Mayor Tyer on two (2) Orders authorizing the City of Pittsfield to take by eminent domain a permanent drainage easement over land of Gloria B. Leavitt
Executive Session to discuss strategy with respect to pending litigation (Tabled from 3/27/18)

NEW BUSINESS

19. A petition from Craig Gaetani asking that political lawn signs be abolished
20. A petition from Craig Gaetani asking that a Citizen Advisory/Oversight Committee to provide checks and balances over the Police Department be instituted
21. A petition from Craig Gaetani asking that all senior citizens 65 years of age and older be able to park for free at any parking space in the downtown area

MATTERS TENTATIVELY REFERRED BY THE PRESIDENT UNDER RULE 27

Referred to the Mayor

22. A petition from Alexander Blumin with a request to remove the Chair of the Human Rights Commission

Refer to the Personnel Director

23. A petition from Craig Gaetani asking that military veterans be given preference for city positions such as Teaching, Police, Fire and DPW

PLACED ON FILE

24. A petition from Craig Gaetani asking that the City Council President refrain from notifying people who speak in the public session as to what they can or can't say
25. A petition from Craig Gaetani asking that they inform all city department heads that tax payers have the right to visit any & all city owned facilities
26. A petition from Craig Gaetani asking that all petitions be read verbatim
27. A petition from Craig Gaetani asking that rule 27 and power given to the City Council President to throw citizen petitions in the garbage be abolished
28. A petition from Craig Gaetani asking that any citizen who submits a petition to the City Council be given the right to read the petition and to enter into a dialog with councilors



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

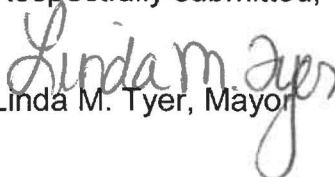
It is my sincere privilege to submit herewith for your consideration, the following reappointments to the Animal Control Commission for terms expiring April 10, 2020:

- Dr. John C. Reynolds, DVM, 1634 West Housatonic Street, Pittsfield, MA 01201
- Renee Dodds, of 225 South Mountain Road, Pittsfield, MA 01201
- Earl G. Persip, III, of 27 Concord Parkway, Pittsfield, MA 01201
- Kevin Morandi, of 19 South Carolina Avenue, Pittsfield, MA 01201

It is my sincere privilege to submit herewith for your consideration, the following appointments to the Animal Control Commission for terms expiring April 10, 2020:

- Kimberly Conant, of 23 Jayne Avenue, Pittsfield, MA 01201
- Lindsay Hermanski, of 246 Benedict Road, Pittsfield, MA 01201

Respectfully submitted,


Linda M. Tyer, Mayor

KIMBERLY CONANT

23 Jayne Ave Pittsfield, MA 01201 · 413-822-3108

Conantk32@gmail.com

I am passionate about assisting young individuals in exploring their interests and developing long-term future goals in regards to education and career options. It is my belief that life-long learning is a key factor to career and personal success.

EXPERIENCE

SEPTEMBER 2015 - CURRENT

SCHOOL COUNSELOR, SOUTHERN BERKSHIRE REGIONAL SCHOOL DISTRICT

Development of Master and individual student schedules.

Design and Delivery of College and Career Readiness curriculum.

Develop individual learning plans for all students to find success.

Group and Individual counseling.

Testing Coordinator; MCAS, PSAT, AP, Accuplacer and ASVAB tests.

Post-Graduation planning: college applications, career awareness, military awareness.

Collaboration with administration and faculty to assist students in finding success in the classroom and community.

SEPTEMBER 2013 – JUNE 2015

MASS GRAD COORDINATOR, PITTSFIELD PUBLIC SCHOOLS

Responsible for identifying At Risk youth and performing student background reviews.

Collaborate with school counseling department to develop interventions for student success.

Case management for students placed in Alternative Education Programs.

SEPTEMBER 2013 – AUGUST 2014

21ST CENTURY COMMUNITY LEARNING CENTER COORDINATOR, PITTSFIELD PUBLIC SCHOOLS

Developed after school programs to meet academic, intellectual as well as social and emotional needs of at risk students.

Oversaw management of program effectiveness and student tracking.

Coordinated after school tutoring hours with faculty to assist students in need.

Experience with grant writing.

EDUCATION

JUNE 2015

MASTERS OF ARTS IN PSYCHOLOGY, WESTFIELD STATE UNIVERSITY

Massachusetts School Counseling License.

JUNE 2011

BACHELORS OF ARTS IN PSYCHOLOGY, WESTFIELD STATE UNIVERSITY

Lindsay Hermanski

246 Benedict Rd.
Pittsfield, MA 01201

M 413-770-4659

lhermanski@berkshirehumane.org

Profile

I have been a life long resident of Pittsfield and have dedicated my life to animals. I'm the proud mother to two beautiful beagle dogs with whom, I am very active in agility competition. I work full-time helping animals and people through the Berkshire Humane Society. It is my life's passion to continue helping people and their animals in anyway that I can.

Experience

Volunteer, Berkshire Humane Society; Pittsfield, MA 2005-2007

During my last two years of high school I volunteered part time as a dog walker.

Animal Specialist & Safe Pet Coordinator – 2007-Present

My career at Berkshire Humane Society began as a member of the staff in the Canine Department. These tasks included walking, feeding, medicating, vaccinating, grooming, euthanasia technician and daily kennel cleaning. After a short period of time the role of Adoption Counselor was added to my title, where I helped match people with their new pet as well as helped people when they needed to surrender their pets to our shelter. In 2008 I took on the role of presenting animals on Steve Caporizzo's Pet Connection tv show to help them find their forever home. As the years progressed I also started working in the feline and small animal department conducting the same tasks for those animals as I did in the canine department. In 2017 I became the Safe Pet Coordinator for our Safe Pet Program that works with local organizations such as Elizabeth Freeman Center, Elder Services, Berkshire Medical Center and the Brein Center to help local citizens with the care for their pets so they can seek the support they may need without the worry of who will care for their beloved animal companions.

Reservation Clerk, Cranwell Resort; Lenox, MA – 2011-2012

Assisted customers with the planning and booking aspect of their vacation or stay, including room reservations, spa appointments, tee times, etc.

Veterinary Technician, Bilmar Veterinary Services: Great Barrington, MA – 2011-2012

Assisted veterinarians by providing medical and surgical care for animals, performing diagnostic testing and administering vaccines and medications

Education

Pittsfield High School – Graduated 2007

References

John Perreault, Executive Director, Berkshire Humane Society - 413-447-7878
Dr. John Reynolds, Pittsfield Veterinary Hospital - 413-499-1580
Stacey Carver, Executive Director, Animal DREAMS - 413-329-2666
Allen P. Harris, Jr., CEO, Berkshire Money Management - 413-997-2006



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

It is my sincere privilege to submit herewith for your consideration, the following appointments to the Airport Commission for terms expiring April 10, 2021:

Edward Kirchner, of 143 Churchill Street, Pittsfield, MA 01201 (Reappointment)

Jay Green, of 117 Somerset Avenue, Pittsfield, MA 01201 (New appointment)

Respectfully submitted,

Linda M. Tyer
Linda M. Tyer, Mayor

Jay R. Green
117 Somerset Ave.
Pittsfield, MA 01201
413-464-0112 (home)
413-464-1561 (mobile)
jrg478@aol.com

BAR ADMISSION

Massachusetts Bar, Admitted 2005

EDUCATION

Western New England University School of Law, Springfield, Massachusetts
Juris Doctor, May 2005

Honors: *Western New England Law Review*
Academic Merit Scholarship Recipient 2002- 2005
Member, Academic Standards Committee

Saint Anselm College, Manchester, New Hampshire

Bachelor of Arts in Criminal Justice, *Cum Laude*, May 2000

Honors: Completed Comprehensive Exams with Distinction
Excellence in Leadership Award

Michigan State University, Broad College of Business, School of Supply Chain Management
Certificate in Railway Management, November 2014

WORK EXPERIENCE

National Railroad Passenger Corporation (Amtrak), Empire Division, Albany, New York

District Manager, Station Operations: Responsible for the general management of station operations and facilities ensuring an efficient, safe, customer focused and well organized operation that achieves financial and service delivery goals. Provide leadership to a staff of 40. Serve as liaison with other departments and external stakeholders to ensure operational continuity and constant improvement. Manage major construction/development projects in close collaboration with Engineering and Finance Departments. (July 2013-present)

Operations Supervisor, Service Quality: Coordinate service improvement initiatives among transportation, station service, mechanical and engineering departments. Manage implementation of policy/procedure changes to achieve improved service levels. Evaluate mechanical condition of equipment; provide mentoring to employees to support service quality objectives and recommend actions to address service deficiencies. Engage external constituents to assess level of satisfaction with service. Investigate and respond to passenger complaints. Analyze statistics and other relevant data.
(January 2011 – July 2013)

City of North Adams, Massachusetts

Chief Administrative Officer: Responsible for operations and coordination of municipal departments, including inspectional services and legal. Coordinated development projects with contractors, engineers and regulatory agencies including Federal Aviation Administration and MassDOT Aeronautics Division. Drafted and managed grants. Advised Mayor on policy initiatives and served as liaison to local, state and federal agencies. Addressed and responded to constituent concerns.
(September 2008 – January 2011)

Berkshire County District Attorney's Office, Pittsfield, Massachusetts

Assistant District Attorney: Prosecuted felonies and misdemeanors in District Court; advised victims and witnesses on the court system and managed own court including scheduling, case management and liaison with local police departments. (January 2006 - September 2008)

OTHER EXPERIENCE

Berkshire Scenic Railway Museum, Lenox, Massachusetts

President & General Superintendent: Responsible for overall management of non-profit organization including multi-million dollar development project with Massachusetts Department of Transportation,

municipalities and consulting firms on establishing new tourist rail service. Perform community outreach, public relations functions, etc.

Trainmaster: Assist in operational management of passenger trains including safety and operational rules compliance instruction, train handling instruction, compliance checks and corrective action. (November 2007 – current)

Board of Health, City of Pittsfield, Massachusetts

Member: General department oversight including budget development, planning, personnel and the licensing and inspecting of businesses. Promulgate regulations; assess community needs to promote quality of life. Collaborate with other departments and agencies on public safety issues. (February 2012 – present)

Berkshire Regional Transit Authority (BRTA), Pittsfield, Massachusetts

Chairman, ADA Appeals Board: Hear and decide appeals as needed on applications for paratransit service eligibility. Apply relevant and consistent tenants of the ADA to ensure proper utilization of BRTA assets. (January 2011 – January 2014)

Holyoke Catholic High School, Chicopee, Massachusetts

Board of Trustees: Oversee strategic planning, capital projects, policy development, financial performance, advancement and administration of school. (June 2012 – June 2014)

Massachusetts Association of Emergency Management Professionals

Chairman, Legislative Committee: Built consensus among stakeholders on needed changes to Massachusetts Civil Defense Laws. Presented findings and drafted comprehensive report on the status of submitted to Massachusetts Emergency Management Agency. (January 2004 - December 2005)

Department of Emergency Management, City of Chicopee, Massachusetts

Commissioner: Developed policy/planning and drafted city ordinance amendments. Participated in multi-agency exercises. Fostered internal and external relationships. (January 2004-December 2005)

Department of Justice, Office of the United States Attorney, District of Massachusetts

Law Clerk: Performed legal research in various areas of federal civil and criminal law. (Spring, 2004)

Board of Water Commissioners, City of Chicopee, Massachusetts

Commissioner: Member of board overseeing department budget, personnel matters, regulatory compliance, rate changes, general contracts and capital projects. (December 2004-December 2005)

TRAINING

Leadership Development Excellence I, Boston, MA (September, 2015)

Lean Enterprise Solutions, Lean/Six Sigma Process, Green Belt Training, Wilmington, DE (May, 2015)

Basic Management Program, Amtrak Leadership Institute, Wilmington, DE (October, 2011)

Operating Rules Qualification Program, Amtrak Operating Rules Department, (2011 - present)

Safety Leadership Training, "Safe2Safer Program," (2011-present)

PROFESSIONAL RECOGNITION/ASSOCIATIONS

Recipient, *Berkshire County Forty Under 40*, Berkshire Community College, sponsor (2017)

Nominee, *Berkshire Trendsetter Awards, Under 40 Change Maker*, 1Berkshire, sponsor (2017)

American Association of Railroad Superintendents (2015 -)

New England Railroad Professional Club (2015 -)



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

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Linda M. Tyer
Mayor

April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

It is my sincere privilege to submit herewith for your consideration, the appointment of Katie Lauzon, of 17 Spring Street, Pittsfield, MA 01201 to the Resource Recovery Committee for a term expiring August 9, 2021.

Respectfully submitted,

Linda M. Tyer
Linda M. Tyer
Mayor

Kate Lauzon
17 Spring St.,
Pittsfield, MA, 01201
1-413-841-5841
Katie.lauzon0@gmail.com

March 30, 2018

To the office of Mayor Tyer,

I am excited to be asked to serve on the Resource Recovery Committee. I am a Pittsfield resident, part time student at Berkshire Community College (BCC), single mom, and engaged community member.

I am in college now but am older than most students at BCC. I have more life experience, and a different perspective. Balancing priorities and projects is my life. I currently work part time and go to school, manage my kids, and multiple community projects. I have had to learn new computer systems, social media, and communication skills while navigating the community and making important connections to get them done.

My work at Senator Adam Hinds' office taught me the value of well-organized spreadsheets and accurate data. In my current role as Chair of the Morningside Neighborhood Initiative, I am responsible for planning engaging events for kids and families, communicating with school officials, elected officials, community partners and residents in a welcoming and inclusive manner. This skill easily transfers to serving on a city commission.

My life is full of challenges as I work to overcome all the obstacles to building a sustainable life while being under resourced. How else can one react except with humor and grace? And I am completely ready to learn more with this appointment.

I am able to follow direction and also take initiative and can be trusted to follow up on tasks without being asked. As a cook in the Navy I provided meals for 1,500 people at a time, that shows my ability to plan, organize and multitask. I enjoy working on multiple projects simultaneously. I am trustworthy and well known in the community and look forward to being a part of your team.

Thank you for your time and consideration for this position.

Sincerely,

Kate Lauzon



THE CITY OF PITTSFIELD

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Linda M. Tyer
Mayor

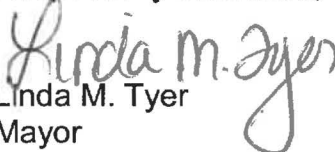
April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors:

I am submitting this communication to notify you that I am appointing James Heath and Matthew Risley as Permanent Lieutenants in the Pittsfield Fire Department in accordance with Civil Service regulations.

Respectfully submitted,


Linda M. Tyer
Mayor

LMT/CVB



City of Pittsfield Fire Department

74 COLUMBUS AVENUE, PITTSFIELD, MA 01201 (413) 448-9764 FAX (413) 448-9766

April 3, 2018

Mayor Linda Tyer
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Mayor Tyer,

I am writing to you to seek permission to have the following appointment made at the next city council meeting on April 10, 2018.

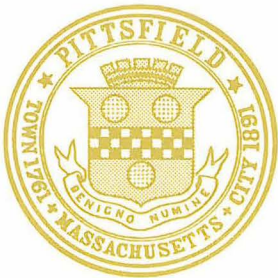
James Heath appointed to the position of Permanent Lieutenant

Matthew Risley appointed to the position of Permanent Lieutenant

Thank you for your attention and consideration in this matter.

Respectfully,


Robert M Czerwinski
Fire Chief



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

April 5, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration are three Orders authorizing the City of Pittsfield :

1. To lease Property located at Barker Road to Oak Leaf Energy Partners for use as a Solar Energy Facility.
2. To approve a Tax Agreement for Personal Property with Oak Leaf Energy Partners.
3. To contract with Oak Leaf Energy Partners for the purchase of solar power.

Respectfully submitted,

Linda M. Tyer
Linda M. Tyer
Mayor

LMT/CVB
Enclosure



Pittsfield Municipal Airport Commission

Gloria Bouillon
Airport Manager

Christopher J. Pedersen
Chairman

Honorable Linda M. Tyer, Mayor
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Re: Lease of Airport Property for the development of Solar Photovoltaic Arrays

Dear Mayor Tyer:

On September 28, 2016, the City of Pittsfield issued a Request for Proposals ("RFP") under M.G.L. c. 30B § 16 to select and engage a qualified firm to construct solar photovoltaic systems at Pittsfield's Municipal Airport ("Airport").

Eight comprehensive proposals were received by the Airport. Each was thoroughly evaluated and vetted. Additional discovery was issued in early 2017 seeking refreshed pricing proposals to reflect the expected compensation from the Commonwealth's anticipated solar incentive program, known as Solar Massachusetts Renewable Target ("SMART") program. Refreshed pricing proposals were received from seven of the eight firms on February 24, 2017. After conducting a comprehensive review, including interviews and reference checks, the Airport selected Colorado-based Oak Leaf Energy Partners to construct two solar photovoltaic arrays on various parcels located at the Airport.

Based on the preliminary designs, the first solar array is projected to be approximately 5,000 kilowatts-AC and is estimated to generate upwards of 7.4 million kilowatt-hours annually. The second solar array is projected to be approximately 1,800 kilowatts-AC and is estimated to generate upwards of 2.8 million kilowatt-hours annually. Both systems would interconnect to the three-phase power currently available adjacent to the Airport on Barker Road.

The Airport, along with its consultant and special counsel have successfully negotiated three long-term agreements, including a lease agreement, a power purchase agreement and a structured tax agreement. The Airport will receive annual revenue benefits from the Lease payments and the City will receive annual benefits from the Structured Tax payments. By retaining the economic benefits from the energy generated, OakLeaf was able to enhance the annual Lease

Tom Sakshaug – Vice Chairman
Airport Commissioners: Gail Molari; Ned Kirchner; Ashley Persip, Patricia Begowicz

Pittsfield Municipal Airport – 832 Tamarack Road – Pittsfield, MA 01201
(413) 448-9790 or (413) 448-8006 fax

payments to the Airport. Moreover, the Lease payments to the Airport will escalate annually at a rate equal to the average CPI for the past five years. The Tax Agreement and the calculated amounts have been vetted and approved by the City's Assessors. The amount was calculated using the Department of Revenue recognized Income and Cost Methods, and include an embedded annual escalator of 2.5%.

As shown in the table below, the City and Airport annual payments are dependent on the block classification by the SMART Program. The SMART program is being implemented in eight 200-megawatt blocks, with each subsequent block receiving a four (4) percent reduction in benefits. Blocks have been established for each investor-owned utility, including Eversource Energy. The SMART Program compensation structure includes a base incentive, determined by the size of the solar array, plus adders based on key regulatory initiatives, including location-based adders, off-taker based adders and policy-based adders.

Qualification for each block is determined based on achieving several critical milestones including a fully executed interconnection services agreement with Eversource Energy, and securing all non-ministerial permits and approvals from the City, the State and the Federal Aviation Administration. It is anticipated that the duration of these activities under the most optimistic and rigorous schedule is upward of six to nine months. Since participation in each block is awarded on a first-come, first-served basis, it is unknown at this time which block the Airport project will qualify.

The Lease and Tax payments to the Airport and City are shown in the table below for each of blocks 2, 3 and 4.

Tom Sakshaug – Vice Chairman
Airport Commissioners: Gail Molari; Ned Kirchner; Ashley Persip, Patricia Begrowicz

Pittsfield Municipal Airport – 832 Tamarack Road – Pittsfield, MA 01201
(413) 448-9790 or (413) 448-8006 fax

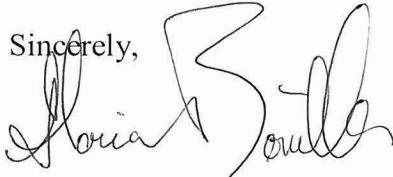
		LEASE PAYMENTS TO AIRPORT			TAX PAYMENTS TO CITY		
TERM	YEAR	BLOCK 2	BLOCK 3	BLOCK 4	BLOCK 2	BLOCK 3	BLOCK 4
INITIAL TERM	Year 1	\$174,490	\$123,283	\$72,076	\$240,986	\$240,586	\$240,186
	Year 2	\$196,503	\$145,412	\$94,322	\$218,973	\$218,457	\$217,940
	Year 3	\$198,704	\$147,041	\$95,378	\$218,973	\$218,457	\$217,940
	Year 4	\$200,929	\$148,688	\$96,447	\$218,973	\$218,457	\$217,940
	Year 5	\$203,180	\$150,353	\$97,527	\$218,973	\$218,457	\$217,940
	Year 6	\$205,455	\$152,037	\$98,619	\$218,973	\$218,457	\$217,940
	Year 7	\$207,756	\$153,740	\$99,724	\$218,973	\$218,457	\$217,940
	Year 8	\$210,083	\$155,462	\$100,840	\$218,973	\$218,457	\$217,940
	Year 9	\$212,436	\$157,203	\$101,970	\$218,973	\$218,457	\$217,940
	Year 10	\$214,815	\$158,964	\$103,112	\$218,973	\$218,457	\$217,940
	Year 11	\$217,221	\$160,744	\$104,267	\$218,973	\$218,457	\$217,940
	Year 12	\$219,654	\$162,544	\$105,435	\$218,973	\$218,457	\$217,940
	Year 13	\$222,114	\$164,365	\$106,615	\$218,973	\$218,457	\$217,940
	Year 14	\$224,602	\$166,206	\$107,810	\$218,973	\$218,457	\$217,940
	Year 15	\$227,118	\$168,067	\$109,017	\$218,973	\$218,457	\$217,940
	Year 16	\$229,661	\$169,950	\$110,238	\$218,973	\$218,457	\$217,940
	Year 17	\$232,234	\$171,853	\$111,473	\$218,973	\$218,457	\$217,940
	Year 18	\$234,835	\$173,778	\$112,721	\$218,973	\$218,457	\$217,940
	Year 19	\$237,465	\$175,724	\$113,984	\$218,973	\$218,457	\$217,940
	Year 20	\$240,124	\$177,692	\$115,260	\$218,973	\$218,457	\$217,940
1ST RENEWAL	Year 21	\$242,814	\$179,682	\$116,551	\$218,973	\$218,457	\$217,940
	Year 22	\$245,533	\$181,695	\$117,857	\$218,973	\$218,457	\$217,940
	Year 23	\$248,283	\$183,730	\$119,177	\$218,973	\$218,457	\$217,940
	Year 24	\$251,064	\$185,788	\$120,511	\$218,973	\$218,457	\$217,940
	Year 25	\$253,876	\$187,868	\$121,861	\$218,973	\$218,457	\$217,940
2ND RENEWAL	Year 26	\$256,719	\$189,973	\$123,226	\$218,973	\$218,457	\$217,940
	Year 27	\$259,595	\$192,100	\$124,606	\$218,973	\$218,457	\$217,940
	Year 28	\$262,502	\$194,252	\$126,002	\$218,973	\$218,457	\$217,940
	Year 29	\$265,442	\$196,427	\$127,413	\$218,973	\$218,457	\$217,940
	Year 30	\$268,415	\$198,627	\$128,840	\$218,973	\$218,457	\$217,940
TOTAL		\$6,863,624	\$5,073,250	\$3,282,876	\$6,591,205	\$6,575,827	\$6,560,450

Tom Sakshaug – Vice Chairman
Airport Commissioners: Gail Molari; Ned Kirchner; Ashley Persip, Patricia Begrowicz
Pittsfield Municipal Airport – 832 Tamarack Road – Pittsfield, MA 01201
(413) 448-9790 or (413) 448-8006 fax

Other commercial terms of note in the Agreements include:

- Term: Initial Term is 20 years. Extended Term includes two 5-year renewals.
- Decommissioning Assurance: OakLeaf is providing decommissioning assurance for the removal and restoration of the parcels.
- Maintenance: OakLeaf is responsible for the maintenance of the leased areas for the term.

Sincerely,



Gloria Bouillon
Airport Manager

Tom Sakshaug – Vice Chairman
Airport Commissioners: Gail Molari; Ned Kirchner; Ashley Persip, Patricia Begrowicz

Pittsfield Municipal Airport – 832 Tamarack Road – Pittsfield, MA 01201
(413) 448-9790 or (413) 448-8006 fax

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. _____

**AUTHORIZING THE CITY OF PITTSFIELD TO LEASE PROPERTY
LOCATED AT BARKER ROAD TO OAK LEAF ENERGY PARTNERS
FOR USE AS A SOLAR ENERGY FACILITY**

Ordered:

That the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the Pittsfield Municipal Airport Commission to lease property located at Barker Road known as Assessor's Parcel ID Number E04-0001-001 and Assessor's Parcel ID Number F05-0002-010 to Oak Leaf Energy Partners, for a period of twenty years for the purpose of constructing and operating a solar energy facility. A copy of the agreement is attached hereto.

That the City of Pittsfield by its Mayor is further authorized to execute any and all documents necessary to implement this order.

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. _____

AUTHORIZING THE CITY OF PITTSFIELD TO APPROVE A TAX AGREEMENT FOR PERSONAL PROPERTY WITH OAK LEAF ENERGY PARTNERS

Ordered:

That the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the City to approve a Tax Agreement for Personal Property with Oak Leaf Energy Partners, a Colorado limited liability company. A copy of the agreement is attached hereto.

That the City of Pittsfield by its Mayor is further authorized to execute any and all documents necessary to implement this order.

LEASE AGREEMENT

This Lease Agreement (this “Lease”) is entered into on this _____ day of _____, 2018 (the “Commencement Date”), by and between the Pittsfield Municipal Airport Commission, a Commission appointed by the City of Pittsfield, Massachusetts, a municipal corporation of the Commonwealth of Massachusetts, with custody and control of the Pittsfield Municipal Airport (“Landlord”), and Oak Leaf Solar XVII LLC, a limited liability company with an address of 2645 East Second Avenue, Suite 206, Denver, CO 80206 (“Tenant”). Tenant and Landlord are each a “Party” and collectively, the “Parties”. Unless otherwise expressly provided herein, capitalized terms used in this Lease shall have the meaning ascribed to them in Exhibit D, attached hereto and incorporated herein.

Recitals

WHEREAS, Landlord is the owner of certain land located at 832 Tamarack Road, Pittsfield, Massachusetts known as Assessor’s Parcel ID Number E040001001 and Assessor’s Parcel ID Number F05-0002010 and more particularly described in Exhibit A hereto (together, the “Property”);

WHEREAS, Landlord issued a Request for Proposals (the “RFP”), soliciting proposals for the lease of the Property for the purpose of installing and operating a solar photovoltaic system;

WHEREAS, Tenant submitted a proposal in response to the RFP and Landlord accepted that proposal;

WHEREAS, the Parties wish to set forth herein the terms and conditions governing Tenant’s use of the Property.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Tenant and Landlord hereby agree as follows:

1. Premises.

1.1 Premises and Access Areas

(a) The Premises. Landlord, for and in consideration of the covenants and agreements on the part of Tenant contained in this Lease, does hereby lease unto Tenant, and Tenant does hereby lease and take from Landlord, upon and subject to the conditions expressed in this Lease, a certain portion of the Property hereinafter referred to as the “Premises” or “Lease Area”, and separately as “Lease Area 1” and “Lease Area 2”, as described more particularly in Exhibit A attached hereto and incorporated herein, for the Permitted Uses. Notwithstanding any other provision of this Lease, the lease of Lease Area 2 shall be contingent upon the continuation of this Lease in full force and effect with respect to Lease Area 1, and in the event that this Lease

with respect to Lease Area 1 is terminated for any reason, this Lease shall automatically terminate with respect to Lease Area 2. This Lease may continue in full force and effect with respect to Lease Area 1, notwithstanding the termination of this Lease with respect to Lease Area 2.

(b) Exhibit A to the Lease as of the Commencement Date includes the initial approximation of the Premises, Access Area, and Utility Area, as shown for Lease Area 1 and Lease Area 2. Tenant shall provide Landlord with updates to the description and drawings of the Premises during development and construction of the System, and the Parties shall confer regarding the need for and necessary extent of any additional space for installation and interconnection of the System. Landlord agrees to amend Exhibit A of this Lease with such updated drawings and descriptions, and in each case such revised Exhibit A shall be incorporated into this Lease. The Property, excluding the Lease Area, is referred to as the “Remaining Property.”

1.2 Appurtenant Rights. Landlord further grants to Tenant, during the period commencing on the Commencement Date of this Lease and ending upon the expiration or earlier termination of this Lease, or such additional time as permitted by Landlord for the removal of the System and restoration of the Premises, the following rights appurtenant to the Lease Area:

(a) A non-exclusive right of access to the Lease Area across or through any adjacent area to the Lease Area owned by Landlord (“Access Area”) which is necessary to gain access to the System and Lease Area. Such Access Area shall include any existing driveways on the Property;

(b) Subject to Exhibit C (Additional Conditions on Use of Premises), the exclusive use of, and right to develop, design, install and operate the System within the Lease Area, and the exclusive right to maintain, repair and replace the System throughout the Term of this Lease, subject to the terms of this Lease;

(c) The right and sufficient space for the installation, operation, and maintenance of electric lines, cables, conduits and related equipment necessary to operate the System and interconnect the System to the local electric utility’s electric distribution system;

(d) The exclusive right to receive sunlight at the Lease Area during every hour of each day that sunlight reasonably could be received by the System. Subject to and unless otherwise required by Applicable Legal Requirements or any Governmental Authority, including but not limited to federal and state aviation law or any Governmental Authority, including but not limited to the Federal Aviation Administration (“FAA”) and the Massachusetts Department of Transportation (“MA DOT”) – Aeronautics Division, Landlord shall not create or install vegetation, structures or other objects on the Property that will obstruct the passage of sunlight on the Lease Area; and

(e) To the extent requested by Tenant and reasonably necessary, and subject to Applicable Legal Requirements and available space, as determined in Landlord’s sole discretion, Landlord shall provide necessary space on the Remaining Property at locations and for such time

as specified by Landlord (such locations, the “Construction Laydown Area”) for temporary (i) storage and staging of tools, materials and equipment, (ii) construction laydown, (iii) parking of construction crew vehicles, (iv) vehicular and pedestrian access and access for rigging and material handling, and other temporary facilities reasonably necessary to construct, erect, install and remove the System. The foregoing notwithstanding, Tenant shall not obstruct access to the Remaining Property, or interfere with or disrupt Landlord’s use thereof or operations therein. Tenant shall immediately restore the Remaining Property to the condition it was in prior to Tenant’s use.

1.3 Condition of Premises. Landlord is not required to furnish any services or facilities to the Lease Area, unless otherwise required by a Governmental Authority or Governmental Approval except as otherwise required in this Lease. The Parties agree that Tenant is not responsible for conditions on the Property (i) arising from or related to acts or omissions that occurred prior to the Commencement Date and were not caused by Tenant or those for whom the Tenant is legally liable; or (ii) occurring after the Commencement Date and are not caused by Tenant or those for whom the Tenant is legally liable.

1.4 Utilities. Tenant shall be solely responsible for providing, and paying for, all electrical and other utilities of sufficient capacity to serve Tenant’s use of the Premises, which shall be installed in accordance with Applicable Legal Requirements and the reasonable requirements of Landlord, and in a manner that avoids interference to or disruption of other activities on the Property. Landlord shall have no duty or liability to Tenant with respect to the maintenance, repair, upgrade, replacement or security of any utilities or electrical transmission or distribution lines owned by a third party. Nor shall Landlord have any liability to Tenant for any damages, including, but not limited to, lost revenue, arising from such third party’s actions or omissions regarding any such maintenance, repair, upgrade, replacement or security. In the event Tenant desires to undertake any maintenance, repair, upgrade, replacement or security of any electrical transmission or distribution lines owned by Landlord, Tenant may do so at its cost and expense, but only with the advance written approval of Landlord.

1.5 Agreements with the United States. This Lease is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the City of Pittsfield (the “City”), the Landlord and the United States, including grant assurances, the execution of which is required to enable or permit transfer of rights or property from the United States to the City or the Pittsfield Municipal Airport Commission for airport purposes or expenditure of federal grant funds for Airport improvement, maintenance or development. Tenant shall reasonably abide by requirements of agreements entered into between the City, the Landlord and the United States, and shall consent to amendments and modifications of this Lease if required by such agreement or if required as a condition of the City’s and the Landlord’s entry into such agreements.

1.6 Agreements with the Commonwealth of Massachusetts. This Lease is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the City, the Landlord and the Commonwealth of Massachusetts, the execution of which is required to enable or permit transfer of rights or property from the Commonwealth to the City or the Pittsfield Municipal Airport Commission for airport purposes or expenditure of state grant funds

for Airport improvement, maintenance or development. Tenant shall reasonably abide by requirements of agreements entered into between the City, the Landlord and the Commonwealth of Massachusetts, and shall consent to amendments and modifications of this Lease if required by such agreement or if required as a condition of the City's and the Landlord's entry into such agreements.

1.7 Legislative/Executive Approval. Notwithstanding anything to the contrary in this the Lease, this Lease is subject to authorization by Landlord's legislative and executive bodies, absent which this Lease shall not be effective. Landlord represents that this Lease was approved by the Pittsfield Municipal Airport Commission on _____, by the Pittsfield City Council on _____; and by the Mayor of Pittsfield on _____. Landlord further represents that no further authorization, approval or vote is necessary to enter into the Lease consistent with all Applicable Legal Requirements.

1.8 Early Termination. This Lease may be terminated (and such termination shall not be considered a termination for default and neither Party shall have any further obligation hereunder after termination, provided, however, that Tenant shall, as applicable, remove the System to the extent installed and restore the Premises to its condition prior to the Construction Commencement Date) by the Landlord in accordance with subsection (a) herein; by the Tenant in accordance with subsection (b) herein; and by either Party in accordance with subsection (d) herein, upon fifteen (15) days' prior written notice by the applicable Party to the other Party in the event that any one of the following conditions set forth in subsection (a), subsection (b), or subsection (d) is neither satisfied nor waived by the applicable Party. Applicable time periods in which Tenant must prepare and/or submit application materials and any required documentation for the System's certification or participation in the SMART Program as a Net Metering Generation Unit or as an Alternative On-bill Credit Generation Unit shall be extended on a day-for-day basis in the event that Tenant is unable to fulfill any such obligation due to (i) regulatory delay, including in promulgating or accepting for review necessary application materials; or (ii) Force Majeure.

(a) Landlord may terminate this Agreement prior to the Construction Commencement Date if:

(1) The FAA does not provide a Finding of No Significant Impact ("FONSI") upon completion of an Environmental Assessment;

(2) The FAA does not approve the 7460 application (Notice of Proposed Construction or Alteration) submitted by the Landlord on behalf of the project;

(3) The FAA declines to release the Lease Areas for non-aeronautical uses.

(4) In the event that Tenant has not submitted to the LDC, within forty-five (45) days of the Commencement Date, a complete interconnection application seeking authorization to interconnect the System to the LDC System;

(5) In the event that Tenant has not prepared, at its cost, an application, as applicable, along with all supporting documentation, for either (i) a Net Metering Cap Allocation; or (ii) the System's enrollment as an Alternative On-bill Credit Generation Unit, as defined in 225 CMR 20.00, within forty-five (45) days of Tenant's receipt of (i) a fully-executed Interconnection Agreement, and (ii) all non-ministerial permits, it being understood by Landlord that Landlord, as Host Customer, must apply to the System of Assurance for a municipal ID, grant Tenant representative status and submit the Net Metering Cap Allocation application to the Administrator of the System of Assurance of Net Metering Eligibility;

(6) In the event that Tenant has not prepared, at its cost, an application of Statement of Qualification with all supporting documentation, within forty-five (45) days of Tenant's receipt of all supporting application documentation as required by the SMART Program, 225 CMR 20.06;

(7) In the event that Tenant has not prepared, at its cost, within forty-five (45) days of Tenant's receipt of notification that the System either does not qualify or no longer qualifies as a Net Metered Generation Unit, an application for enrollment under a tariff establishing an Alternative On-bill Credit for generation from a Solar Tariff Generation Unit that is approved by the Massachusetts Department of Public Utilities and any other appropriate jurisdictional bodies, but is not a tariff approved pursuant to either 220 CMR 8.00 or 220 CMR 18.00;

(8) In the event that the Interconnection Agreement, in form and substance satisfactory to Tenant, in its reasonable discretion, is not finalized and executed by the LDC within two-hundred seventy (270) days of Tenant's submission of the interconnection application, provided, that such two-hundred seventy (270) day period shall be extended for up to ninety (90) days if the LDC has not executed the Interconnection Agreement despite diligent efforts of Tenant to secure same;

(9) In the event that Tenant has not secured, within two-hundred seventy (270) days of the Commencement Date, all required non-ministerial Governmental Approvals to commence construction, provided, that such two hundred seventy (270) day period, shall be extended for up to ninety (90) days if the Tenant provides documentation that any Governmental Approval is delayed due to action or inaction of the Governmental Authority issuing such Governmental Approval despite diligent efforts of Tenant to secure same;

(10) In the event that the Tenant has failed to achieve the Construction Commencement Date within forty-five (45) days after receipt of all applicable Governmental Approvals, including the fully-executed Interconnection Agreement between Tenant and the LDC.

(11) In the event that the Tenant does not receive incentive payments for the System under Block 1, 2, 3, or 4 of the SMART Program, as defined by the Massachusetts Department of Energy Resources (the "DOER"). Notwithstanding, in the

event that Tenant receives incentive payments for the System under Block 5, 6, 7, or 8 of the SMART Program, Landlord shall have no right to terminate pursuant to this subparagraph (11) if Tenant, in its sole discretion, agrees to pay Base Rent in the amount reflecting SMART Program incentive payments under Block 4, as set forth in Exhibit E.

(b) Tenant's obligation to continue this Lease is at all times expressly subject to satisfaction of each of the following conditions, provided, however, that Tenant demonstrates to the Landlord that it has used commercially reasonable efforts to achieve such conditions:

(1) Tenant's obtaining and maintaining all necessary or required approvals from any Governmental Authority with jurisdiction over the project,

(2) Tenant's obtaining and maintaining any agreement that is necessary for the operation of the System and the sale and delivery of the electricity generated by it, including without limitation an interconnection agreement with the applicable utility company,

(3) Tenant's ability to utilize the Premises for the Intended Use,

(4) Prior to the Construction Commencement Date, in the event that the LDC imposes or charges more than the amount shown in Exhibit E for interconnection application costs, utility upgrade costs and utility impact study costs (said amount being the amount Tenant reasonably anticipates as the cost of interconnection and upgrades, if any, as of the Commencement Date); provided that such right of termination may be exercised only if (i) Tenant requests a reasonable adjustment to the Rent for such interconnection costs and Landlord, in its sole discretion, does not agree within a reasonable time thereafter (not to exceed forty-five (45) days) such agreement to be evidenced by an amendment to this Agreement executed by Landlord and Tenant; or (ii) Tenant requests that Landlord pay any such excess interconnection and utility costs over the amount shown in Exhibit E directly to the LDC (or as otherwise agreed) and Landlord does not agree to make such payment within a reasonable time thereafter (not to exceed forty-five (45) days);

(5) Prior to the Commercial Operation Date, Tenant discovers there exist site conditions at the Premises (including environmental site conditions) or construction requirements which, despite Tenant's examination of the Premises before execution of this Lease, were not known as of the Commencement Date, and which will substantially increase the cost of the construction of the System. This right of termination may only be exercised if Tenant first notifies Landlord of such conditions and requests a reasonable adjustment to the Base Rent, and Landlord does not agree, in its sole discretion, to such adjustment;

(6) Tenant is unable, despite its diligent efforts, as reasonably documented to Landlord, to obtain financing for the System at least twenty (20) days prior to the Construction Commencement Date, on terms and conditions reasonably satisfactory to

Tenant, taking into account customary terms and conditions for the solar electricity generation industry; and

(7) The incentive payment secured by Tenant through the SMART Program qualifies under Block 1, 2, 3, or 4 as defined by DOER.

(c) Parties To Confer. By no later than June 30, 2018, that date certain being subject to reasonable extension by mutual agreement of the Parties, the Parties shall confer regarding whether, in the Parties' estimation, the System will be eligible for and qualify as either (i) a Net Metering Facility as defined in 220 CMR 18.00 *et seq.*; or (ii) an Alternative On-bill Credit Generation Unit as defined in 225 CMR 20.02. Also by no later than June 30, 2018, that date certain being subject to reasonable extension by mutual agreement of the Parties, the Parties shall confer regarding any anticipated administrative difficulties and expenses, borne by either Party, associated with structuring the Agreement to reflect the System's qualification as an Alternative On-bill Credit Generation Unit.

(d) Early Termination By Either Party. Prior to the Construction Commencement Date, either Party may terminate this Agreement upon ten (10) days' written notice to the other Party and such termination shall not be considered a termination for default and neither Party shall have any further obligation hereunder after termination, in the event that the System:

(1) is ineligible for qualification, or is disqualified as, a Net Metering Facility as defined in 220 CMR 18.00 *et seq.*, or will otherwise not participate in Net Metering pursuant to 220 CMR 18.00 *et seq.*; and

(2) the System is deemed ineligible for treatment or is disqualified as, an Alternative On-bill Credit Generation Unit, or will otherwise not participate in the SMART Program as an Alternative On-bill Credit Generation Unit for any reason, including due to any administrative difficulty and expense as referenced in Article 2.2(b).

(e) The Parties agree that early termination by either Party of the Lease with respect to Lease Area 2 shall not obligate the Party to terminate the Lease with respect to Lease Area 1 unless the Party expressly notifies the other Party that it seeks to terminate the Lease with respect to both Lease Areas. Termination, however, with respect to Lease Area 1 shall result in the automatic termination of the Lease with respect to Lease Area 2. In the event that a Party terminates the Lease only with respect to Lease Area 2, this Lease shall continue in full force and effect with respect to Lease Area 1, except that the Parties shall amend Exhibits, as necessary to reflect the deletion of Lease Area 2 from the Lease, adjust the Base Rent accordingly and agree to any other amendments necessary to reflect the intent of the Parties to lease only Lease Area 1.

2. Permitted Uses. Tenant shall use the Premises solely for the purpose of constructing, installing, operating, maintaining, repairing, removing and replacing the System in accordance with this Lease, Applicable Legal Requirements and the requirements, orders and permits of any Governmental Authority (including site plan review under the City's Zoning Ordinance), and uses incidental thereto including, but not limited to, installation of electric interconnection facilities (the "Permitted Uses"). Tenant's use of and activities on the Premises

shall at all times conform to Applicable Legal Requirements and Exhibit C. Absent written approval by Landlord which may be withheld in Landlord's sole and absolute discretion, Tenant shall not use the Premises for any use other than the Permitted Uses.

3. Term.

3.1 Initial Term. The term of this Lease shall commence on the Commencement Date hereof and, unless terminated in accordance with the provisions this Lease, shall terminate on the twentieth (20th) anniversary of the Commercial Operation Date (the "Initial Term").

3.2 Extension Term. At the expiration of the Initial Term, this Lease may be extended for two (2) additional terms of five (5) years and, if extended, shall be on the same terms and conditions set forth herein. Any extension shall be referred to as an "Extension Term". Each such Extension Term may be exercised by providing Landlord with written notice thereof no later than sixty (60) days prior to the expiration of the Initial Term or Extension Term, as applicable. The Initial Term and the Extension Term(s), if the latter is permitted and exercised, shall be referred to, collectively as the "Term". The term "Lease Year" means a period of one (1) year commencing on the Commencement Date or any anniversary date thereof.

3.3 RESERVED

3.4 Holdover. If Tenant or any party claiming by, through or under Tenant, retains possession of the Premises or any part thereof for longer than one hundred fifty (150) days after the expiration or earlier termination of this Lease, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes (i) a month-to-month tenancy, upon the terms and conditions set forth in this Lease, or (ii) the creation of a tenancy-at-sufferance, and in either event such possession shall be upon the terms and conditions set forth in this Lease. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of such possession by Tenant. Tenant hereby agrees that the provisions of this Article 3.4 shall not constitute a waiver by Landlord of any right of re-entry as set forth in this Lease or otherwise; and that the receipt of any Rent or any other act in apparent affirmance of the tenancy shall not operate as a waiver of Landlord's right to terminate this Lease for Tenant's breach of the Lease. For greater clarity, the one hundred fifty (150) day period mentioned in this Article 3.4 is the period afforded to Tenant for removal of the System pursuant to Article 16 of this Lease.

4. Rent.

4.1 Base Rent. Beginning on the Commercial Operation Date, Tenant shall pay in advance on a quarterly basis to Landlord, without notice or demand therefor and without any deduction or set-off whatsoever, except as expressly otherwise provided herein, annual rent during the Term of this Lease (the "Base Rent") reflecting the appropriate Base Rent amount as set forth in Exhibit E, including any Base Rent adjustment due to change in System size. If the Commercial Operation Date shall be on any day other than the first day of a calendar month, the Base Rent shall be pro-rated on a per diem basis. Rent will be due and payable until the System is removed in accordance with this Lease.

4.2 Additional Rent and Other Charges. On and from the Construction Commencement Date, Tenant shall pay or cause to be paid as “Additional Rent” before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, any and all property (real or personal) taxes assessed by the City Assessors with respect to the System or Tenant’s leasehold interest in the Premises.

The foregoing notwithstanding, Tenant shall have the right, in its own name, to contest the validity or amount, in whole or in part, of any of the governmental charges by appropriate proceedings timely instituted.

4.3 General Rent Provisions. Rent shall be payable by Tenant to Landlord in equal quarterly installments during the Term of this Lease and for so long as Tenant remains in occupancy of the Premises. Unless otherwise agreed in writing by the Parties, all Rent and other payments required to be made by Tenant to Landlord under this Lease shall be paid by wire transfer or by check payable to the “City of Pittsfield Municipal Airport Commission” and delivered to Landlord at the address set forth below, or at such other place as Landlord may from time to time direct by written notice to Tenant.

4.4 Interest. All payments becoming due under this Lease and not paid when due shall bear interest from the applicable due date until received by Landlord at an annual rate equal to the prime rate of interest charged from time to time by Bank of America or its successor or similar national bank plus two (2) percent (2%).

4.5 Tax Agreement. The City and Tenant have entered into a Payment In Lieu Of Taxes (“PILOT”) Agreement, substantially in the form attached hereto as Exhibit B, for payment in lieu of local ad valorem property taxes. In the event of a change in Applicable Legal Requirements, the PILOT Agreement between the City and Tenant is rendered void or unenforceable, the annual PILOT amount shall be paid by Tenant as additional rent to the Landlord.

5. System Construction, Installation and Operation.

5.1 Installation Work.

(a) Subject to the terms of this Lease, and Applicable Legal Requirements, Landlord hereby consents to the installation and construction of the System by Tenant on the Premises, including, without limitation, the installation of solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections (“Installation Work”). No Installation Work shall occur until Tenant has obtained all Governmental Approvals necessary for that work, including, but not limited to, permits and approvals of any Governmental Authority, and until Landlord has approved the plans and specifications under subsection (c), below. Tenant will be responsible for obtaining and maintaining, at its sole cost and expense, all Governmental Approvals, including but not limited to all permits necessary for the Installation Work and any and all other improvements on

or at the Premises. Notwithstanding anything to the contrary herein, the execution of this Lease does not to any extent provide a waiver of any permit or approval the Tenant may require from the City. Any topsoil at the Premises which is disturbed, excavated or displaced as part of the Installation Work shall remain the property of the Landlord and shall not be removed or relocated from the Premises except in accordance with the permission and direction of the Landlord.

(b) Before commencing the Installation Work, Tenant shall be allowed to access the Premises for the purpose of carefully evaluating the Premises and site of the proposed System, which evaluation may include, but shall not be limited to, soil testing, environmental testing and surveying work, and Tenant shall evaluate all Applicable Legal Requirements, including but not limited to any permits issued by the MA DOT and the FAA, to determine whether, in Tenant's opinion, the Premises is ready and in a condition appropriate to receive the System, and Tenant shall notify Landlord in writing before any installation activities commence if Tenant has determined that the site is not so ready or is not in such condition. Tenant shall provide Landlord with a full site safety plan to govern the Installation Work.

(c) Tenant shall furnish to Landlord for Landlord's approval, which approval shall not be unreasonably withheld, copies of all design plans, drawings, specifications, and detailed schedules for such work (collectively, the "Plans"). Landlord shall have thirty (30) days to approve or object to the Plans. If Landlord objects to the Plans, Landlord shall send written notice with a description of its objection(s). Landlord and Tenant shall attempt to address Landlord's objection(s) and Tenant shall repeat the procedure above to obtain Landlord's approval. If Landlord does not object to the Plans within such thirty (30) day period, Tenant's Plans shall be deemed approved. This review is in addition to, and not a limitation of, any regulatory review or process required by Applicable Legal Requirements or any Governmental Authority. Landlord shall provide reasonable cooperation to coordinate review and approval with all required internal departments. Tenant shall schedule a pre-construction meeting with Landlord at least fourteen (14) days before the Installation Work at the Premises, and shall coordinate all such work with Landlord's activities at the Premises. Notwithstanding any approval by Landlord, Tenant shall not be relieved of its obligations under this Lease concerning the engineering, design, construction, operation, maintenance, monitoring, inspection, permitting, and "interconnection" of the System to the electric grid.

(d) Tenant shall cause the System to be designed, engineered, installed, constructed, operated, maintained, monitored, tested and inspected in accordance with all Applicable Legal Requirements, the terms of this Lease, the Interconnection Agreement, prudent industry practices, and insurer's, manufacturers' and construction contractors' requirements, warranties, written instructions, written specifications and written recommendations, and the Plans approved by Landlord under Subsection 5.1(c), above, and shall pay for all costs and expenses arising therefrom. Tenant shall keep Landlord informed on a weekly basis regarding the progress, scheduling and coordination of the Installation Work. Tenant shall undertake and prosecute the Installation Work using commercially reasonable and diligent efforts, and without unreasonable delay or interruption.

The Tenant shall ensure that on or before the Construction Commencement Date, the general contractor or a subcontractor providing EPC services has received certification as a Prime Contractor in either the Electrical or Energy Management categories consistent with applicable requirements of the Massachusetts Department of Capital Asset Management and Maintenance (“DCAMM”), and shall have provided to Landlord all necessary documentation demonstrating such DCAMM certification and any necessary update statements.

(e) Within ninety (90) days following the Commercial Operation Date, Tenant shall provide Landlord with “as-built” drawings, stamped by a Massachusetts licensed professional architect or engineer, setting forth in detail the location of all components of the System, and shall provide Landlord with reasonable prior written notification regarding any material and substantial repair, modification, alteration, change or replacement required with respect to any part of the System.

(f) Tenant understands that Landlord is responsible for performing certain activities in connection with the Airport located on, about or adjacent to the Premises, including, but not limited to, operation, monitoring and inspection. Tenant understands that Landlord’s performance of such activities is for Landlord’s, and not Tenant’s, benefit.

(g) Tenant shall continuously monitor the System performance to ensure that any System malfunction causing or likely to cause a loss of electricity, or causing or likely to cause damage to the System or LDC System or the Premises, will be promptly discovered, which Tenant shall promptly rectify, subject to Article 7.

(h) Host/Interconnecting Customer Costs. Notwithstanding anything to the contrary in this Lease, Tenant, as applicable, shall be responsible at its cost to (i) perform, on behalf of Landlord, all obligations imposed by the LDC and the Net Metering Rules upon Landlord, as Host Customer, except for the obligation(s) to execute any documents that the LDC requires to be executed by the Host Customer; (ii) perform all obligations imposed by the LDC upon Tenant, as Interconnecting Customer, including, but not limited to, the execution of an Interconnection Agreement with the LDC; (iii) pay for all costs and expenses associated with securing the Net Metering Cap Allocation for Landlord; (iv) subject to Article 1.8(b)(4), pay all costs and expenses associated with the interconnection of the System to the LDC System, including all charges associated with the installation, operation, maintenance and replacement of the Metering Device. Landlord shall reasonably cooperate with Tenant in connection with Tenant’s efforts to fulfill its obligations set forth in this subsection, and shall execute such documents required by the LDC to be executed by the Host Customer. Except as specifically set forth in this subsection, Tenant shall not be responsible for any other payments, charges, fees or costs incurred by Landlord under any retail customer (or similar) agreement with the LDC for the System. Landlord agrees and understands that any such other payments, charges, fees or costs imposed upon Tenant by the LDC shall be offset with an adjustment to the Base Rent.

(i) Notice of Commercial Operation. Subject to the provisions of this Agreement, Tenant shall promptly notify and represent to Landlord when the System has achieved Commercial Operation (“Notice of Commercial Operation”), and shall in such written notice certify to Landlord the Commercial Operation Date.

(j) Net Metering Limit. Landlord and Tenant acknowledge that, pursuant to the Net Metering Rules, the maximum amount of generating capacity currently eligible for net metering by a municipality or other governmental entity as Host Customer is the Public Entity Net Metering Limit (as defined in the Net Metering Rules). Accordingly, Landlord covenants that, unless the Net Metering Rules are changed to increase such limit, it shall not serve as the Host Customer of Net Metering Facilities (inclusive of the System) with an aggregate capacity more than the Public Net Metering Limit.

5.2 Additional Rights and Obligations. Subject to Applicable Legal Requirements and the terms of this Lease, including Article 5.1 and Exhibit C, Tenant shall also have the right from time to time during the Term hereof in connection with this Lease, to (i) maintain, clean, repair, replace and dispose of part or all of the System; (ii) to add to or remove the System or any part thereof; and (iii) perform, or cause to be performed, all tasks necessary to carry out the Permitted Uses or carry out the activities set forth in this Article 5. Subject to Applicable Legal Requirements, as between the Parties during the Term of this Lease, (i) all ownership of and title to the System shall be with the Tenant and (ii) Tenant shall be the legal and beneficial owner of the System. Tenant and Landlord state their intent that the System will at all times retain the legal status of personal property of Tenant as defined under Article 9 of the Uniform Commercial Code; and the System will not attach to or be deemed a part of, or a fixture to, the Premises notwithstanding the manner in which the System is or may be affixed to real property of Landlord. For the avoidance of doubt and without limiting the foregoing, Landlord hereby waives all rights to levy, distraint, possession or landlord's lien, if any, against the System or its constituent parts and shall not cause the creation of, or attachment to, the System or its constituent parts of any liens (including mechanics' and judgment liens) or other encumbrances. If there is any mortgage or fixture filing against the Property which could reasonably be construed as prospectively attaching to the System as a fixture, Landlord shall, upon request of Tenant, provide a disclaimer of ownership from such lienholder. Landlord authorizes Tenant to file a precautionary UCC financing statement which shall disclaim the fixture status of the System.

5.3 Access to and Use of Leased Premises. Subject to the terms of this Lease, including Exhibit C, and Applicable Legal Requirements, Tenant shall have access to the Premises for the purpose of performing the Installation Work and Permitted Uses.

5.4 Mechanics' Liens. Tenant shall not permit any mechanics' liens, or similar liens, to remain upon the Premises for labor and material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed at the direction of Tenant, and shall cause any such lien to be released of record or bonded over without cost to the Landlord within thirty (30) days after Tenant receives notice of filing of same. In addition to any other rights and remedies available to Landlord, Tenant agrees to indemnify, save, defend, and hold harmless the Landlord against, of and from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting from the imposition of any such mechanics' lien on the Premises.

5.5 Changes; Alterations. Tenant shall obtain the approval of Landlord and applicable Governmental Authorities in accordance with and to the extent required by this Agreement and any Applicable Legal Requirements for the System, prior to making any material or structural alterations, changes, or additions to the System.

5.6 Insurance for Tenant's Work. During the performance of the Installation Work and any other improvements approved by Landlord, Tenant shall have and maintain in force liability and property insurance, builder's risk insurance covering Landlord (with no exclusion for design or construction defects, errors or omissions), and worker's compensation insurance affording applicable statutory coverage and containing statutory limits, all in compliance with the provisions of Article 12.

5.7 Landlord Access/Inspection Rights/Notice of Damage.

(a) Landlord may, upon reasonable prior notice to Tenant and in the presence of a Tenant representative, except in the case of an emergency, in which event Landlord will give notice as soon as practicable, enter upon any and all portions of the Premises for the purpose of ascertaining their condition or whether Tenant is observing and performing the obligations assumed by it under this Lease, and for the purpose of protecting the Property or persons on the Property and carrying out its obligations with respect to maintenance, or as otherwise may be required by Applicable Legal Requirements, subject to Tenant's safety and security protocols. The foregoing notwithstanding, the Landlord and MA DOT, their assigns and/or representatives, shall have full access to the Premises at all times upon reasonable prior notice to Tenant, except in the case of an emergency where prior notice is not required, and subject to Tenant's safety and security protocols, and Tenant shall provide such persons employed and designated by the Landlord from time to time with keys to any locked gates or other security measures limiting access to the Premises. If, at any time during the Installation Work, any city inspector or code enforcement official determines that the work poses a safety risk to the City or its property or persons, he or she may issue a stop work order in accordance with Applicable Legal Requirements and the Tenant shall cease the Installation Work until such time as the risk has been remediated or abated to the reasonable satisfaction of the official in accordance with Applicable Legal Requirements.

(b) During the course of construction and any substantial alteration or modification of the System, Tenant shall maintain all plans, shop drawings, and specifications relating to such construction so that Landlord, its agents or contractors may examine at reasonable times upon reasonable prior notice.

(c) Landlord shall have the right, but not the obligation, upon reasonable prior notice to Tenant and in the presence of a Tenant representative, to observe and inspect the System for any reasonable purpose, subject to Tenant's safety and security protocols.

(d) Tenant shall promptly notify Landlord of any damage to or loss of use of the Premises or System, and of any events or circumstances of which Tenant is aware that may result in damage or loss of use of the Premises or System.

(e) Tenant shall cause its officers, contractors, agents and employees to comply with any and all existing and future security regulations adopted by the City and the Landlord pursuant to regulations of the Transportation Security Administration and FAA, as they may be amended from time to time, including all conditions included in Exhibit C.

5.8 Performance and Removal Surety.

(a) Tenant shall, prior to the commencement of construction, require its labor contractors and subcontractors performing the Installation Work to provide payment and performance bonds for their respective scopes of work, and Tenant shall provide copies of such bonds to Landlord. The bonds shall remain in effect until ninety (90) days after the Commercial Operation Date.

(b) No later than thirty (30) days prior to the Construction Commencement Date, Tenant shall submit for Landlord's approval, not to be unreasonably withheld, a decommissioning and removal plan and a decommissioning assurance in the amount as set forth in Exhibit E in a removal bond, letter of credit, or such other similar form as Landlord approves, such approval not to be unreasonably withheld, conditioned or delayed ("Decommissioning Assurance"). Within thirty (30) days of receiving the decommissioning and removal plan, Landlord shall provide written notice to Tenant whether it approves or disapproves the plan. In the event of disapproval, Tenant shall revise the plan to address the reasons for disapproval and resubmit the plan to the Landlord. An approved plan and funding of the Decommissioning Assurance is a material condition of this Lease.

5.9 Safety. During the Installation Work and any other Landlord-approved improvements to the Premises, Tenant shall install such safety devices as may be necessary and appropriate, and as Landlord may reasonably require, to ensure the safety of Landlord's personnel, persons on the Premises, the Premises, the Remaining Property, adjacent property owners and their property. Notwithstanding anything to the contrary in the permit(s) and this Lease, Landlord is not responsible for the security of the Premises or any improvements made thereto, which shall be at all times the sole responsibility of Tenant.

5.10 Operations Manual; Training. Prior to the Commercial Operation Date, Tenant shall deliver to Landlord an operations, maintenance and parts manual, or its reasonable equivalent, covering the System. In addition, prior to the Commercial Operation Date, Tenant shall, to the extent feasible, train Landlord's representative(s) and the City's emergency personnel on monitoring issues and such operational matters as are necessary for Landlord's emergency preparedness and response. Notwithstanding the foregoing, Landlord shall have no right, and no obligation to, and shall not perform any maintenance or repair on the System, except in the case of an emergency where immediate action on the part of Landlord is reasonably necessary for safety reasons, in which event Landlord shall have the right, but not the obligation,

to perform such maintenance or repair as may reasonably be perceived to be necessary to abate any such emergency, the reasonable costs of which shall be promptly reimbursed to Landlord by Tenant. Landlord shall in good faith endeavor to provide Tenant with verbal notice prior to performing any such emergency maintenance or repair, if practicable, or if prior notice is not practicable, Landlord shall provide such notice promptly after performing any such emergency maintenance or repair.

5.11 SMART Program.

(a) The Parties acknowledge and agree that as between Landlord and Tenant, Tenant is responsible for timely submitting any and all information and applications and other forms required for the System to be qualified under the SMART Program as a “Solar Tariff Generation Unit”, as defined in 225 CMR 20.00, *et seq.*, or successor regulation, as they may be amended, and for obtaining a Statement of Qualification from the DOER to that effect.

(b) During the Term of this Agreement, Tenant shall at all times comply with any obligations or requirements that are imposed on or in connection with the SMART Program, including, but not limited to, any obligations or requirements imposed upon an “installer” or “owner” of the System, and any reporting requirements.

5.12 Further Assurances. At Tenant’s request and expense, Landlord shall execute such additional documents and instruments reasonably necessary to effect or evidence Tenant’s right, title and interest in and to the Environmental Attributes relating to the Electricity. If the standards used to qualify the Environmental Attributes to which Tenant is entitled are changed or modified, Landlord shall, at Tenant’s request and expense, reasonably cooperate with Tenant in Tenant’s efforts to cause the Environmental Attributes to comply with the standards as changed or modified.

6. Representations and Warranties, Covenants of Landlord.

6.1 Authorization. Landlord represents and warrants that (i) Landlord has care, custody and control of the Property under Massachusetts law, (ii) Landlord is a department of a municipality of the Commonwealth of Massachusetts, duly formed, validly existing under the laws of the Commonwealth of Massachusetts, (iii) the execution, delivery and performance by Landlord of this Lease have been duly authorized by all necessary action on the part of the Landlord and does not require any approval or consent of any person or entity; (iv) has all requisite power and authority to perform its obligations under this Lease and to carry out the terms hereof and the transactions contemplated hereby, (v) the execution, delivery by Landlord of this Lease and the performance of the Landlord’s obligations and consummation of the transactions contemplated hereby will not cause a default under or result in a violation of any agreement to which it is a party with respect to the Premises, or any permit, judgment, approval or order (including any lease in respect of the Premises as to which Landlord is the tenant), (vi) this Lease constitutes the legal, valid and binding obligation of Landlord, enforceable against the Landlord in accordance with its terms, except as the enforceability thereof may be limited by (i)

the bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally, and (ii) Applicable Legal Requirements.

6.2 Landlord's Title to Leased Premises. Landlord represents and warrants that the City is the fee owner of the Property, which is under the care, custody and control of the Landlord. Landlord shall not sell, assign or otherwise alienate the Premises unless Landlord shall have given Tenant at least thirty (30) days' prior written notice thereof, which notice shall identify the transferee, the Premises to be so transferred and the proposed date of transfer. Landlord agrees that this Lease and the Solar Easement shall run with the Premises and survive any transfer of any portion of the Premises. In furtherance of the foregoing, Landlord agrees that it shall cause any purchaser, tenant, assignee, mortgagee, pledge or party to whom a lien has been granted by Landlord to execute and deliver to Tenant a document pursuant to which such party acknowledges and consents to Tenant's rights in the Premises as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the System and shall not gain any interest in the System by virtue of Landlord's transfer.

6.3 No Interference With System. Excluding ongoing activities on, in or about the Property and Premises as of the date of execution of this Lease, Landlord will not knowingly conduct activities on, in or about the Premises that will cause material damage to or otherwise materially and adversely affect the System or its operation for the Permitted Uses, including, but not limited to, Tenant's access to sunlight. In the event Landlord is required to take any action required by Applicable Legal Requirements which may adversely affect the System, Landlord shall give written notice of same to Tenant and Tenant shall be entitled to participate in the communications with the Governmental Authority or other party requiring such action, and Landlord shall carry out such action using commercially reasonable efforts to avoid adversely affecting the System. Tenant, upon Landlord's prior review and approval and at Tenant's sole expense, shall implement and maintain reasonable and appropriate security measures to prevent unauthorized parties from accessing the Premises or the System, and to prevent any theft, vandalism or other actions that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. Landlord will not construct buildings or structures, initiate or conduct activities, plant trees or vegetation of any type or allow any trees or other vegetation on the Property or any adjacent property owned by Landlord that would block access of sunlight to the System.

7. Representations and Warranties, Covenants of Tenant.

7.1 Authorization; Enforceability. Tenant represents as of the Commencement Date that (i) Tenant is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Colorado and is and during the Term shall be qualified to do business in the Commonwealth of Massachusetts, (ii) the execution, delivery and performance by Tenant of this Lease have been duly authorized by all necessary action on the part of the Tenant and do not require any approval or consent of any person or entity; (iii) Tenant has all requisite limited liability company power and authority to perform its obligations under this Lease and to carry out the terms hereof and the transactions contemplated hereby; (iv) the execution, delivery by Tenant of this Lease and the performance of the Tenant's obligations and consummation of

the transactions contemplated hereby will not cause a default under or result in a violation of Tenant's organizational documents, or any judgment, decree, law, rule, regulation, permit, approval or order applicable to Tenant; (v) this Lease constitutes the legal, valid and binding obligation of Tenant, enforceable against the Tenant in accordance with its terms, except as the enforceability thereof may be limited by (i) the bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally, and (ii) Applicable Legal Requirements.

7.2 Tenant agrees to perform the maintenance obligations set forth in Exhibit C hereto.

8. Maintenance.

8.1 Maintenance of Premises. Tenant shall all at its sole cost and expense keep the Lease Area in good and safe order and condition, and shall not commit, or permit its agents, employees, representatives or invitees to commit, waste to the Premises. If Tenant or its agents, employees, representatives or invitees (including sublessees) damage the Property or any property of Landlord or any other tenant on the Property, Tenant shall, at its sole cost and expense, promptly and in accordance with Applicable Legal Requirements repair and restore the Property, Premises and any other property of Landlord and any property of other tenants. Tenant shall be responsible for the removal of all of its trash and waste from the Premises. Tenant acknowledges that Landlord shall have no duty, obligation or liability to Tenant for the maintenance, repair and security of the Premises, except that Landlord shall be responsible for its own activities at the Airport and for complying with its obligations under any Federal, State and Local Permits, with which activities Tenant shall not interfere.

8.2 Maintenance of System. Tenant shall maintain and repair the System and related equipment so as to keep it safe, sanitary, and in good working order and condition, at its sole cost and expense. Landlord shall have no duty or liability to Tenant with respect to the maintenance, repair or security of the System.

8.3 Temporary Removal of System.

(a) In the event that the Premises require repairs during the Term of this Agreement, whether for compliance with requirements of a Governmental Authority or to remedy damage caused by Tenant, the Tenant agrees that it shall remove the System or any part thereof to allow such repairs to be undertaken. In the event Landlord undertakes repairs not related to damage caused by Tenant or by those for whom the Tenant is legally liable, the Landlord shall be responsible for all costs of removal, storage, and reinstallation of the System, along with any additional fees or costs charged by the LDC for reconnecting the System to the LDC System. In addition, Landlord shall pay Tenant for any documented lost revenue for sales of Electricity and documented lost revenue for Environmental Attributes that would have been generated and received by Tenant, in each case based upon the estimated energy production capacity of the System during the period of time the System was not operating on account of such repairs. In the event of repairs related to damage caused by Tenant or by those for whom the Tenant is

legally liable, all cost and expense of such repairs shall be paid by Tenant, with no liability or penalty to Landlord.

(b) Landlord and Tenant shall cooperate and, subject to Applicable Legal Requirements, use commercially reasonable efforts to ensure that any repair does not materially increase the cost of operating and maintaining the System. In the event of repairs related to compliance with requirements of a Governmental Authority, Tenant shall be entitled to participate in the communications between Landlord and the Governmental Authority relating to the determination of need to remove any portion of the System to effect the repairs, and the means and methods of implementing the repairs and the duration thereof.

8.4 Landlord's Cure Rights. If repairs to the Premises are required to be made by Tenant pursuant to the terms hereof, Landlord may demand that Tenant make the same forthwith, and, if Tenant refuses or neglects to commence and diligently pursue the completion of such repairs forthwith in the case of emergency repairs, Landlord may (but shall under no circumstances be required or obligated to) make or cause such repairs to be made. Except in the case of emergency as provided in Article 5.10, Landlord shall not be permitted to make any repairs to the System. If Landlord makes or causes such repairs to the Premises to be made, Tenant agrees that Tenant shall forthwith, on demand, pay to Landlord the costs thereof, failing which, Landlord shall have the same remedies provided herein as it does for the failure to pay Rent.

9. RESERVED

10. Hazardous Materials.

10.1. Hazardous Materials. "Hazardous Materials" are any hazardous, toxic or radioactive materials, substances or waste, as defined in federal or state law regulating or addressing the generation, storage, use, or transportation of such materials, including but not limited to Massachusetts General Laws, Chapter 21E; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §1801, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Clean Water Act, 33 U.S.C. §1251, et seq.; the Clean Air Act, 42 U.S.C. §7401, et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Emergency Planning and Community Right to Know Act (SARA Title III), 42 U.S.C. §11001, et seq.; and any rules, regulations or orders promulgated pursuant thereto (collectively, the "Environmental Laws").

10.2. Tenant Hazardous Activities. Tenant agrees that it shall not, nor allow others under its control to, use, generate, store or dispose of any Hazardous Materials on, under, about or within the Property in violation of Environmental Laws. Tenant shall not be responsible for or have any liability for any pre-existing Hazardous Materials encountered at the Property ("Landlord Hazardous Materials"). Upon encountering any materials that Tenant suspects may constitute Landlord Hazardous Materials, Tenant shall immediately notify Landlord and may suspend work in the affected area as reasonably necessary until such materials are properly remediated by Landlord.

10.3. No Tenant Operation of the Airport. The Parties agree and understand that solely by reason of the demise of the Premises to Tenant, Tenant's acceptance of the Premises as stated herein, Tenant's entry upon the Premises and Tenant's use of the Premises in accordance with the terms of this Lease, neither Tenant nor any of its members, partners, agents, contractors, employees, officers, directors, lenders, successors or assigns shall be deemed by Landlord to have, in any way, become an Operator of the Airport, or shall be deemed by Landlord to have assumed any liability or obligation for the operation, maintenance, closure, monitoring or repair of the Airport, or with respect to any materials deposited at the Airport by any person other than Tenant and its contractors from and after the Construction Commencement Date.

10.4. Tenant Environmental Indemnity. In addition to any other rights and remedies available to Landlord, Tenant agrees to defend, hold harmless and indemnify Landlord from and to assume any and all claims, suits, penalties, obligations, damages, losses, liabilities, payments, costs and expenses (including without limitation reasonable attorneys' fees) (collectively, "Claims") arising from (i) the failure by Tenant or its agents, employees, contractors, subcontractors, licensees or invitees (collectively, with Tenant, referred to as the "Tenant Parties") to comply with any applicable Environmental Laws, and (ii) the presence or release of any Hazardous Materials in excess of quantities permitted under Environmental Laws on or about the Premises caused by or related to the acts or omission of any of the Tenant Parties.

10.5. Landlord Environmental Responsibility. Unless otherwise prohibited by applicable law, Landlord agrees to hold Tenant harmless from and against any damages, costs, liability (including without limitation reasonable attorney's fees) incurred by Tenant arising from (i) the failure of Landlord to comply with Environmental Laws, and (ii) the presence of Landlord Hazardous Materials on the Property in excess of quantities allowed under Environmental Laws caused by or related to the acts or omission of the Landlord.

10.6. Costs. The indemnifications and covenants of Article 10.4 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any Governmental Authority.

10.7. Survival. The provisions of this Article 10 will survive the expiration or termination of this Lease.

11. Indemnification; Release.

11.1 Tenant Indemnity. Tenant shall indemnify, hold harmless, and defend Landlord from and against all Claims: (a) arising directly or indirectly from the failure of any of the Tenant Parties to comply with Applicable Legal Requirements, or (b) asserted by third parties for property damage or bodily injury to the extent caused by the negligent act, negligent omission, or negligence on the part of any of the Tenant Parties relating to any work done or action taken during the Term of this Lease in, on or about the Premises or any part thereof Tenant's

indemnification obligations hereunder shall be reduced in proportion to the percentage by which the Landlord's negligence or willful misconduct caused any such Claims.

11.2 Release. To the maximum extent permissible by law, Tenant agrees to use and occupy the Premises with the System at Tenant's own risk.

11.3 Limitation on Liability. Notwithstanding anything to the contrary in this Lease, neither Party shall be liable to the other for any indirect, consequential, punitive or special damages, whether or not such damages are deemed foreseeable.

11.4 No Personal Liability. To the fullest extent permitted by law, no official, employee, agent or representative of Landlord or Tenant shall be individually or personally liable for any obligation or liability of Landlord under this Lease.

11.5 Survival. The provisions of this Article 11 shall survive the expiration or termination of this Lease.

12. Insurance.

12.1 Required Insurance. Tenant shall maintain, during the Term of this Lease and for so long as Tenant continues to own and operate the System on the Premises, the following insurance:

(a) General comprehensive liability insurance, written on an occurrence basis, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against liability of Tenant, including, coverage for contractual liability and broad form property damage, with respect to the Premises, the System, or arising out of the maintenance, use, or occupancy of the Premises and/or the System, and Two Million Dollars (\$2,000,000.00) in the aggregate; and (ii) excess liability (so-called umbrella) coverage having a limit of Five Million Dollars (\$5,000,000.00) written on an occurrence basis;

(b) All-risk property damage insurance for replacement of the System and Tenant's other personal property. Said insurance shall include coverage for all natural disasters, including earthquakes, hurricanes, tornadoes, and damages to or loss of construction materials while in transit;

(c) During the performance of the Installation Work, Tenant shall also require the construction manager and/or general contractor (if any) hired by Tenant for the construction of the System to maintain (i) for the benefit of Tenant and Landlord, substantially similar commercial general liability insurance required of Tenant in this Article 12; (ii) worker's compensation in amounts required by statute; (iii) employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000.00), and (iv) automobile liability insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired

or non-owned, in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit.

12.2 General Requirements. The following conditions shall apply to the insurance policies required of Tenant herein:

(a) Tenant shall submit certificates of insurance for all coverage required hereunder on the Commencement Date and on each anniversary thereof, or at Landlord's reasonable request, together with such other relevant insurance documentation as Landlord may reasonably request. All the insurance required under this Article 12 with the exception of professional liability shall be written on an occurrence basis unless the Landlord approves otherwise in writing, and shall (other than with respect to professional liability insurance and workers' compensation) name Landlord and the City as additional insured, and all insurance policies and certificates shall include a provision requiring thirty (30) days' written notice to Landlord by certified mail of any cancellation, material change or reduction in coverage; if such written notice is not available Tenant shall provide same. The Landlord will accept a ten (10) day notice for cancellation for non-payment of premium as required by the insurer. In the event that any insurance policy providing coverage required hereunder will expire during the term of the Agreement, the Tenant will deliver to the Landlord, at the time thereof, certificates of insurance evidencing renewal or replacement insurance at least fifteen (15) days prior to the expiring policy's expiration date.

(b) All insurance of Tenant shall be primary with respect to any insurance maintained by Landlord and shall not call on Landlord's insurance for contributions with the exception of claims caused by Landlord's negligence or willful misconduct.

(c) All insurance shall be issued through valid and enforceable policies issued by insurers authorized to transact insurance business in the Commonwealth of Massachusetts and having an A- or better financial rating from a recognized insurance accreditation institution (such as A.M. Best Company).

(d) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as the limits in combination equal or exceed those required herein.

(e) Tenant's failure to obtain, procure or maintain the required insurance shall constitute a material breach of this Lease.

(f) RESERVED

(g) Landlord shall have the right to require Tenant to increase such limits when, during the Term of this Lease, minimum limits of liability insurance commonly and customarily carried on properties comparable to the Premises by responsible owners or tenants are more or less generally increased, it being the intention of this sentence to require Tenant to take account

of inflation in establishing minimum limits of liability insurance maintained from time to time on the Premises.

12.3 Landlord's Cure Rights. In the event of Tenant's failure, in whole or in part, at any time during the Term of this Lease or thereafter, to obtain insurance required to be carried by Tenant under the provisions hereof or to provide such evidence thereof in timely fashion, Landlord shall have the right (but shall not be obligated) to procure such insurance and Tenant shall pay to Landlord the costs and expenses thereof as Additional Rent.

12.4 Insurance Proceeds for Damage to Property. In the event any damage to the Property, including the Premises (but excluding the System), is covered by insurance, all insurance proceeds payable on account of such damage that are received by, or within the control of, Tenant, shall be forthwith paid to Landlord.

12.5 Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) Business Days after the Claiming Party becomes aware of the Force Majeure event or circumstance), then the Claiming Party will be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party will use commercially reasonable and diligent efforts to eliminate or avoid the Force Majeure and, thereafter, promptly and diligently resume performing its obligations under this Agreement. Only until the Force Majeure is eliminated or avoided by the Claiming Party and the non-Claiming Party's receipt of notice thereof from the Claiming Party, the non-Claiming Party will not be required to perform or resume performance of any obligations corresponding to the obligations of the Claiming Party excused by Force Majeure.

12.6 Termination Due to Force Majeure. If a Claiming Party claims Force Majeure which continues for one hundred-eighty (180) consecutive days or one hundred-fifty (150) non-consecutive days in a twelve (12) month period, the non-Claiming Party may terminate this Agreement without any liability to the Claiming Party as a result of such termination, and Tenant shall, at its sole cost, promptly remove the System from the Premises and return the Premises to its original condition, normal wear and tear excepted.

13. Default.

13.1 Default by Tenant.

It shall be an "Event of Default" by Tenant under this Lease if:

(a) Tenant fails to pay Rent or comply with any provision curable by the payment of money, including, without limitation, Tenant's obligation to maintain the insurance required under this Lease, when due hereunder, and in each case such failure continues for fifteen (15) days after written notice from Landlord that the same is due;

(b) Tenant fails to perform or observe any other material term or material condition contained in this Lease and such failure is not cured within thirty (30) days after written notice from Landlord, provided, however, that if such failure is of such a nature that Tenant cannot reasonably remedy the same within such thirty (30) day period, no such failure will be deemed to exist if Tenant promptly commences to cure the default within such thirty (30) day period and prosecutes the same to completion with reasonable diligence within ninety (90) days;

(c) Tenant shall be declared bankrupt or a receiver or trustee is appointed to take over and conduct the business of Tenant, whether in receivership or other action or proceeding;

(d) any representation or warranty made by Tenant in this Lease was false or misleading in any material respect as of the Commencement Date, and the false or misleading nature of the representation or warranty has resulted in, or will result in, material and adverse consequences to the Landlord and the prompt correction of the representation or warranty by the Tenant will neither avoid nor substantially mitigate such consequences;

(e) Tenant fails to provide or maintain in full force and effect any required insurance, and such failure is not remedied within three (3) Business Days after receipt of written notice from the Landlord; or

(f) Tenant consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity, and the resulting, surviving or transferee entity fails to assume, effective immediately upon the effectiveness of such consolidation, amalgamation, merger or transfer, each and all of the obligations of such Party under this Lease, or the Tenant makes an assignment of some or all of its rights and obligations under this Lease in a manner contrary to Article 14 or 17 of this Agreement.

Upon an Event of Default, Landlord at any time thereafter may give written notice to Tenant specifying such Event or Events of Default and stating that this Lease shall expire and terminate on the date specified in such notice, which shall be at least twenty (20) Business Days after the giving of such notice, subject to the rights for cure if and only if such rights apply to the Event of Default in question.

Subject to Tenant's removal rights set forth in Article 16, and the rights of Designated Third Parties set forth in Article 14, at any time or from time to time after any such expiration or termination of a cure period provided above, and notwithstanding anything to the contrary in this Lease, Landlord shall have the right, but not the obligation, to re-enter and take complete possession of the Premises, to declare the Term of this Lease ended, and/or subject to Article 14 and Article 16, remove the System and Tenant's other effects on the Premises at Tenant's cost, without prejudice to any remedies which might otherwise be available to Landlord.

Upon an Event of Default, Landlord shall be entitled to exercise any and all rights and remedies available under this Lease, at law and equity; provided, that Landlord shall not perform

any maintenance or repair of the System except in the case of imminent threat of bodily harm or damage to property. If Landlord terminates this Lease due to a Tenant Event of Default, then Tenant shall remove the System and restore the Premises to its original condition, normal wear and tear excepted pursuant to the requirements of Article 16

In the event Landlord terminates this Lease due to a Tenant Event of Default, Tenant shall, within ninety (90) calendar days after the date of such termination by Landlord, pay to Landlord the appropriate termination payment reflecting the methodology set forth in Exhibit G.

Notwithstanding the foregoing, and except as provided in Article 11.1, Landlord shall be entitled to recover from Tenant all reasonable attorneys' fees, incurred by Landlord in enforcing this Lease from and after Tenant's default, but only if a court determines that Tenant did commit an Event of Default.

The provisions of this Article 13.1 shall survive the expiration or earlier termination of this Lease.

13.2 Default by Landlord.

It shall be an Event of Default by Landlord if:

(a) Landlord fails to perform or observe any material term or material condition contained in this Lease and such failure is not cured within thirty (30) days after written notice from Tenant, provided, however, that if such failure is of such a nature that Landlord cannot reasonably remedy the same within such thirty (30) day period, no such failure will be deemed to exist if Landlord promptly commences to cure the default within such thirty (30) day period and prosecutes the same to completion with reasonable diligence within ninety (90) days; or

(b) any representation or warranty made by such Landlord in this Agreement was false or misleading in any material respect as of the Commencement Date, and the false or misleading nature of the representation or warranty has resulted in, or will result in, material and adverse consequences to the Tenant and the prompt correction of the representation or warranty by the Landlord will neither avoid nor substantially mitigate such consequences.

13.3 Remedies of Tenant. Upon an Event of Default, Tenant shall be entitled to exercise any and all rights and remedies available under this Lease, as well as at law and in equity.

Tenant shall be entitled to recover from Landlord all reasonable attorneys' fees, incurred by Tenant in enforcing this Lease from and after Landlord's default, but only if a court determines that Landlord did commit an Event of Default.

In the event Tenant terminates this Lease due to a Landlord Event of Default, Landlord shall, within ninety (90) calendar days after the date of such termination by Tenant, pay to Tenant the appropriate termination payment reflecting the methodology set forth in Exhibit G.

Tenant shall remove the System at Landlord's sole cost, but only to the extent that such costs incurred are reasonable and documented, in accordance with Article 16 of this Lease.

13.4 Closeout Setoffs. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to set off, against any amounts due and owing the Defaulting Party under this Agreement, any liquidated or undisputed amounts due and owing to the Non-Defaulting Party under this Lease.

13.5 Remedies Cumulative. If the Event of Default is other than a failure to pay, the Non-Defaulting Party shall mitigate its damages, and shall be entitled to exercise such rights and remedies available to it under this Lease and at law or in equity. The rights and remedies contained in this Article are cumulative with the other rights and remedies available under this Lease or at law or in equity.

13.6 Unpaid Obligations. The Non-Defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this Lease. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any monthly invoices or other amounts for services rendered which are due and outstanding at the time of termination of this Lease.

13.7 The provisions of this Article 13 shall survive the expiration or earlier termination of this Lease.

13.8. Notwithstanding any other provision of this Lease, the Non-defaulting Party may elect to terminate this Lease with respect to Lease Area 2 only, in which case the Parties shall amend this Lease and its Exhibits to reflect the continuation of the Lease in full force and effect with respect to Lease Area 1. If the Non-Defaulting Party elects to terminate the Lease with respect to Lease Area 1, this Lease shall terminate automatically with respect to Lease Area 2. In no case shall this Lease continue with respect to Lease Area 2 only.

14. Financing of System.

14.1 Financing Provisions.

(a) Notwithstanding any contrary provisions contained in this Lease including without limitation Article 17, Landlord specifically agrees, without any further request for prior consent but with twenty (20) days advance written notice to Landlord that Tenant may assign, transfer or pledge its rights under this Lease and its rights to the System as collateral for the purpose of obtaining financing or refinancing in connection with the development, installation, operation or maintenance of the System (including, without limitation, pursuant to a sale-leaseback where Tenant may transfer the System, or partnership flip transaction), and Landlord agrees to sign such documents as are reasonably requested by Tenant or its lenders to acknowledge and evidence such assignment, transfer or pledge. The Landlord agrees to cooperate with Tenant in the execution of any reasonable amendment or addition to this Lease

required by Tenant's lenders so long as such amendment or addition does not in any way materially alter or amend the rights and obligations of Landlord herein. In the event of any assignment pursuant to this Article 14.1, Tenant shall not be released from its obligations under this Lease unless the Landlord agrees to the assignment of such obligations to the financing entity pursuant to Article 17, and the financing entity provides sufficient evidence of its technical and financial capacity to perform the obligations of this Lease and expressly agrees in writing to be bound thereby.

(b) Third Party Rights.

(1) Notice to Designated Third Party. Landlord agrees to give copies of any notice provided to Tenant by Landlord under Article 13 to the assignee(s) or transferee(s) permitted pursuant to Article 14.1(a) of which the Landlord has notice ("Designated Third Party").

(2) Exercise of Tenant's Rights. A Designated Third Party, as collateral assignee and if allowed pursuant to its contractual arrangements with Tenant, shall have the right in the place of Tenant, to any and all rights and remedies of Tenant under this Lease. Such Designated Third Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Lease, but subject to Applicable Legal Requirements and the terms of this Lease.

(3) Performance of Tenant's Obligations. A Designated Third Party shall have the right, but not the obligation, to pay all sums due under this Lease and to perform any other act, duty or obligation required of Tenant hereunder or cause to be cured any default of Tenant hereunder in the time and manner provided by and subject to the terms of this Lease. Nothing herein requires the Designated Third Party to cure any default of Tenant under this Lease or (unless such Party has succeeded to the Tenant's interests under this Lease) to perform any act, duty or obligation of Tenant under this Lease, but Landlord hereby gives such Party the option to do so, provided any such cure, act, duty or obligation is performed in accordance with the terms of this Lease.

(4) Subject to prior written notice to Landlord, a Designated Third Party shall have the right, subject to the terms and conditions of this Lease: (i) to assign its security interest; (ii) to enforce its lien and acquire title to the leasehold estate by any lawful means but strictly in accordance with Applicable Legal Requirements; (iii) to take possession of and operate the System, the leasehold estate or any portion thereof and to perform all obligations to be performed by Tenant hereunder, or to cause a receiver to be appointed to do so; and (iv) to acquire the leasehold estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the leasehold estate to a third party. Landlord's consent shall not be required for the acquisition of the encumbered leasehold estate or subleasehold estate by a third party who acquires the same by or subsequent to foreclosure or assignment in lieu of foreclosure. During any period of possession of the Premises by a Designated Third Party (or a receiver requested by such Designated Third Party) and/or during the pendency of any foreclosure proceedings instituted by a Designated Third Party, the Designated Third Party shall pay or cause to be paid all other monetary charges payable by Tenant hereunder which have accrued and are unpaid at the commencement of said period and those which accrue

thereafter during said period and shall perform all other Tenant obligations and comply with all terms and conditions hereunder. Following acquisition of Tenant's leasehold estate by the Designated Third Party or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale and subject to the provisions of this subsection (4), this Lease shall continue in full force and effect and the Designated Third Party or party acquiring title to Tenant's leasehold estate shall, within thirty (30) days, commence the cure of all defaults hereunder and thereafter diligently process such cure to completion. Landlord shall fully retain all its rights as provided in this Lease with respect to the Designated Third Party as it would have with respect to Tenant.

(5) Landlord agrees that a Designated Third Party is a third party beneficiary of the provisions of this Article.

(6) Landlord shall not exercise any rights to terminate or suspend this Lease unless it shall have given the Designated Third Party a copy of prior written notice of its intent to terminate or suspend this Lease specifying the condition giving rise to such right, and the Designated Third Party shall not have commenced to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after Tenant's cure period expires with respect to payment defaults and sixty (60) days after Tenant's cure period expires with respect to all other defaults. The Parties' respective obligations will otherwise remain in effect during any cure period.

(7) If pursuant to an exercise of remedies by a Designated Third Party, such party or its assignee shall acquire control of the System and this Lease, and shall within the time periods described in the preceding subsection 14.1(b)(6) cure all defaults under this Lease existing as of the date of such change in control in the manner required by this Lease, then such person or entity shall no longer be in default under this Lease and this Lease shall continue in full force and effect.

(c) Cooperation with Financing. Landlord agrees to reasonably cooperate with Tenant and its lenders in connection with any financing or refinancing of all or a portion of the System. In furtherance of the foregoing, as Tenant or its lenders request from time to time, Landlord agrees, subject to the other provisions of this Lease, to (i) execute any acknowledgments of assignment, (ii) negotiate and deliver such reasonable estoppel certificate as an existing or prospective Designated Third Party may reasonably require, and (iii) furnish such reasonable information as Tenant and its lenders may reasonably request. Tenant agrees to reimburse Landlord for any costs that Landlord incurs on account of Landlord's cooperation and undertakings under this Article.

(d) Compliance of Assignee with State Law. Notwithstanding anything to the contrary hereunder, any assignment or acquisition of the leasehold estate hereunder shall not be effective until and unless the Designated Third Party complies with Applicable Legal Requirements, including by executing and submitting the following:

(i) Certification of compliance with State tax laws, reporting of employees and contractors and withholding and remitting of child support, as required by Massachusetts General Laws, Chapter 62C, Section 49A.

(ii) Disclosure of Beneficial Interests in Real Property in accordance with Massachusetts General Laws, Chapter 7C, Section 38.

14.2 Bankruptcy. Subject to Applicable Legal Requirements, neither Tenant being bankrupt nor the insolvency of Tenant shall be grounds for terminating this Lease as long as all Rent and all other monetary charges payable by Tenant under this Lease are promptly paid by a Designated Third Party in accordance with the terms of this Lease and all material obligations of Tenant under this Lease are being fulfilled.

14.3 Consent to Surrender. The Parties agree that so long as there exists a Designated Third Party of which Landlord has notice, Landlord shall not accept a surrender of all or any part of the Premises or a cancellation or release of this Lease from Tenant, prior to the expiration of the Term without the prior written consent of the Designated Third Party.

14.4 New Lease. If this Lease is terminated pursuant to an Event of Default, Landlord shall upon written request enter into a new lease with the Designated Third Party or its nominee on the same terms as set forth herein, and for a term equal to the then-unelapsed portion of this Lease, provided, however, that Third Party Designee has cured any outstanding monetary Event of Default, commences the cure of any non-monetary Event of Default within thirty (30) days after execution of the new lease, and is otherwise in compliance with the provisions of this Lease. Such new lease shall be effective as of the date of termination of this Lease.

14.5 Subordination of Claims. Subject to the terms and conditions hereof, Landlord hereby waives any lien, security interest, or claim of any nature that Landlord now has or may hereafter have by statute, rule, regulation, common law, agreement or otherwise, in and to the System and other of Tenant's tangible property that is or may be from time to time hereafter located at the Premises and/or the Landlord's adjacent property, if any, and to which Tenant at any time has granted or will grant a security interest to a Designated Third Party (all such property and the records relating thereto shall be hereafter called the "Collateral"). Landlord recognizes and acknowledges that any claim or claims that an Additional Notice Party has or may have against such Collateral by virtue of any lien or security interest are superior to any lien, security interest, or claim of any nature that Landlord now has or may hereafter have to such Collateral by statute, rule, regulation, common law, agreement or otherwise. The waiver provided for herein shall be effective until the discharge of any such claims. Landlord further agrees to notify any purchaser of the Premises and/or the Landlord's adjacent property and any subsequent mortgagee or other encumbrance holder of the existence of the foregoing waiver of Landlord's lien rights, which shall be binding upon the executors, administrators, successors and transferees of Landlord, and shall inure to the benefit of the successors and assigns of any Designated Party. A Designated Third Party may have reasonable access upon written request of the Landlord to the Premises for the purpose of inspecting the Collateral, subject to Landlord's security and safety procedures. Notwithstanding anything to the contrary hereunder, the

Landlord shall have the right and obligation to enforce upon the Designated Third Party any requirement that arises under Applicable Legal Requirements of the FAA and federal aviation law, nor shall any claims arising thereunder be subordinated pursuant to this Article.

14.6 Landlord understands that Tenant's lenders may request an amendment to this Lease to conform this Lease to such lenders' underwriting requirements. Landlord agrees to reasonably cooperate with Tenant for the purpose of amending the terms of this Lease to include such provisions which are commercially reasonable, and to which Landlord has no reasonable objection, provided, however, Landlord has no obligation to amend any term of this Lease if such amendment would have a material adverse impact upon Landlord.

15. Fire or Other Casualty; Condemnation

15.1 Casualty. Tenant shall bear the risk of any System Loss, except to the extent such System Loss results from the negligence of Landlord or Landlord's agents, representatives, customers, vendors, employees, or contractors ("Landlord Misconduct"). In all instances of Landlord Misconduct, Landlord shall be responsible for all reasonable costs of System repair and removal, as reasonably documented by Tenant.

(a) In the event of any System Loss that results in less than total damage, destruction or loss of the System and is not caused by Landlord Misconduct, this Lease will remain in full force and effect, and Tenant may, at Tenant's sole cost and expense, repair or replace the System subject to receipt of any insurance proceeds to the extent available; provided that if such System Loss occurs during the last three (3) years of the Term, it shall be at Tenant's sole discretion whether or not to repair or replace the System.

(b) To the extent that any System Loss results in less than total damage, destruction or loss of the System, and is caused by Landlord Misconduct, Tenant shall mitigate its damages in accordance with prudent industry practices and requirements of Applicable Legal Requirements. Tenant may either terminate this Lease and promptly remove the System, or repair the System as quickly as practicable, and in either event pursue such remedies as may be available to it under this Lease, and at law or in equity.

(c) In the event of any System Loss which, in the reasonable judgment of Tenant and documented to Landlord, results in total damage, destruction or loss of the System and is not caused by Landlord Misconduct, Tenant shall, within sixty (60) days following the occurrence of such System Loss and in accordance with the following subsections (i) and (ii), notify Landlord whether Tenant is willing, notwithstanding such System Loss, to repair or replace the System. "Total" System Loss shall mean restoration or repair cost exceeding the insurable value as determined by Tenant's insurer at the time of the event of System Loss. To the extent such System Loss has been caused by Landlord Misconduct, Tenant may pursue all remedies as may be available to it under this Lease, and at law or in equity including for repair and removal costs, as well as lost revenue.

(i) In the event that Tenant notifies Landlord that Tenant is not willing to repair or replace the System, this Lease will terminate automatically effective upon the date set forth in such notice, not later than one hundred twenty (120) days after the System Loss, and Tenant shall promptly remove the System from the Premises in accordance with Article 16 and restore the Premises to their condition prior to the Commencement Date of this Lease, normal wear and tear excepted.

(ii) In the event that Tenant notifies Landlord that Tenant is willing to repair or replace the System, the following shall occur: (a) this Lease will remain in full force and effect, and (b) Tenant will repair or replace the System as quickly as practicable and (c) if such System Loss was caused partially or totally by Landlord Misconduct, Landlord shall promptly pay Tenant for all proportionate costs and expenses directly attributable to such Landlord Misconduct of (x) such repair or replacement, (y) documented lost revenue for sales of Electricity and (z) documented lost revenue for Environmental Attributes that would have been sold based upon the estimated energy production capacity of the System in the relevant year. Tenant shall commence repair or replacement of the System promptly after the date of the damage, destruction or other casualty and after receipt of all permits or approvals required for repair and/or replacement, and after receipt of insurance proceeds, and shall proceed with applications for such permits and approvals and such work with all diligence. For any period(s) in which Tenant repairs or replaces the System due to System Loss, Landlord shall abate the Base Rent.

(iii) Tenant, or its successor in interest, shall be entitled to 100% of any proceeds from casualty insurance policies maintained by Tenant, provided that Tenant shall repair and restore the Premises to their original condition, wear and tear excepted.

15.2. Condemnation. In the event Landlord receives notification of any condemnation proceedings affecting the Premises, Landlord will provide reasonably prompt notice of the proceeding to Tenant. If a condemning authority takes all of the Premises, or a portion sufficient to render the Premises demonstrably unsuitable for Tenant's operation of the System as contemplated hereunder, this Lease shall terminate as of the date the title vests in the condemning authority. Landlord and Tenant will be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Premises. In the case of Tenant, such interest may include, to the extent legally available, the loss of use of the Premises, including any improvements constructed or placed by Tenant thereon, and the loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking, including consequential losses. In the case of Landlord, such interest may include lost Rent.

16. Surrender.

Within one hundred fifty (150) days from the expiration or termination of this Lease, Tenant shall remove the System and all other improvements installed by Tenant on the Premises in compliance with Applicable Legal Requirements and restore the Premises to its original

condition as of the Commencement Date, normal wear and tear excluded. In connection with such removal, Landlord shall continue to provide Tenant with access to the Premises without payment of further Rent or consideration during said one hundred fifty (150) day period. Any improvements not removed from the Premises within the foregoing one hundred fifty (150) day period shall be moved to a storage facility if Tenant has identified such a location and entered into an agreement with said storage facility to pay all moving and storage costs. If Tenant fails to identify such a facility, the System shall be deemed abandoned and Landlord may deal with them as such, including by sale of the System. If Tenant fails to remove the System in accordance with this Article 16, Landlord shall have the right to use the Decommissioning Assurance to pay for the removal of the System, any costs associated with repairing any damage caused to the Premises on account of the removal of the System and/or to make such repairs or improvements to the Premises to restore the Premises to the condition in which they were required to be maintained under this Lease. The provisions of this Article shall survive expiration or earlier termination of this Lease.

17. Assignment.

Tenant shall not, without the prior written consent of Landlord, assign all or any part of, or any right or obligation under this Lease, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void; provided, however, that Tenant may, without the Landlord's prior written consent but with prior written notice to Landlord, assign all or any part of, or any right or obligation under, this Lease (i) in connection with any merger, consolidation or sale of all or substantially all of the assets or equity interests of Tenant; or (ii) to a parent company, subsidiary or affiliate; or (iii) an assignment for financing pursuant to Article 14 (for greater clarity, a mortgage, transfer or encumbrance of the System or the leasehold estate by Tenant to obtain financing, as permitted by Article 14, shall not be subject to the terms of this Article 17 and instead such actions are governed by the provisions of Article 14). Landlord's consent to an assignment under this Article shall be conditioned on assignee or Tenant (on assignee's behalf) submitting to Landlord satisfactory proof of assignees' financial and technical capacity including submission of:

(a) Financial Statements for most recent three (3) years, prepared in accordance with generally accepted accounting principles ("GAAP") reflecting the financial condition of the assignee, including a balance sheet, income statement and statement of cash flows and such other information as may be reasonably requested by Landlord.

(b) List of solar projects constructed or operated in New England, including size, location and reference contact.

(c) Plan for transition of construction and/or operations, repair and maintenance activities, including transfer of all warranties, insurance policies, removal bonds, subcontracts and other related contracts.

(d) Executed Certification of compliance with State tax laws, reporting of employees and contractors and withholding and remitting of child support, as required by Massachusetts General Laws, Chapter 62C, Section 49A.

(e) Executed Disclosure of Beneficial Interests in Real Property in accordance with Massachusetts General Laws, Chapter 7C, Section 38.

(f) If Tenant assigns its entire interest in this Lease to a party that expressly assumes in writing all obligations of Tenant under this Lease arising after the Commencement Date of the assignment, and if Landlord has consented to such assignment of Tenant's entire interest, Tenant shall be released or discharged from all of its covenants and obligations under this Lease, except such obligations as shall have accrued prior to the Commencement Date of any such assignment or transfer, and Landlord agrees to look solely to Tenant's assignee for performance of such obligations.

As of the Commencement Date of this Lease, Tenant has submitted information required under subsections (a) through (e) on behalf of Cypress Creek Renewables. Landlord has reviewed such materials and, pursuant to this Article, consents to the assignment of this Lease to Cypress Creek Renewables.

18. Miscellaneous.

18.1 RESERVED

18.2 Quiet Enjoyment.

(a) Landlord covenants that so long as no Event of Default has occurred and is continuing, but subject at all times to Applicable Legal Requirements and the activities of Landlord on and about the Premises as of the Commencement Date, Tenant shall quietly have and enjoy the Premises during the Term. Landlord's exercise of self-help remedies provided under this Lease and rights of entry and inspection and right to continue to perform its activities in relation to the Airport shall not be considered a breach of the covenant of quiet enjoyment notwithstanding anything to the contrary herein. Landlord's exercise of the rights of access in accordance with the terms of this Lease or Applicable Legal Requirements shall not be deemed a breach of the covenant of quiet enjoyment.

(b) Tenant shall operate, maintain and repair the System in a manner that will not obstruct or interfere with Landlord's use of the Property or the Remaining Property or the rights of any other occupants in and to such areas. In the event interference occurs, Tenant agrees to take all reasonable steps necessary and appropriate to eliminate such interference promptly, but no later than thirty (30) days from notification by Landlord. Tenant will use its best efforts, which shall at a minimum be commercially reasonable and diligent, to operate, maintain and repair the System in a manner that does not interfere with the Remaining Property. Landlord may construct, reconstruct, modify or make alterations to the Property and the Remaining Property so long as such activities do not interfere with the operation of the System, provided,

however, that Landlord may do all such things as may be required by Applicable Legal Requirements notwithstanding anything to the contrary in this Lease. Landlord shall not construct or install any structure which would interfere with the operation of the System or interfere with insolation to the System. Landlord shall not permit any of its employees, contractors, licensees or invitees to cause damage to the System or to interfere with insolation to the System or to conduct activities on or near the Premises which have a reasonable likelihood of causing damage or impairment to the System or interfering with the operation of the System.

18.3 No Limitation of Regulatory Authority. The Parties acknowledge that nothing in this Lease shall be deemed to be an agreement by Landlord to issue or cause the issuance of any Governmental Approval, or to limit or otherwise affect the ability of the City to fulfill its regulatory mandate or execute its regulatory powers consistent with Applicable Legal Requirements.

18.4 Subordination to Existing Leases, Easements and Rights of Way. Tenant acknowledges and understands that this Lease and all rights of Tenant hereunder are subject and subordinate to all existing easements, rights of way, declarations, restrictions or other matters of record existing as of the date this is signed by both Parties. Landlord reserves the right to grant additional leases, easements, leases or rights of way, whether recorded or unrecorded, as may be necessary, which do not interfere with Tenant's use of the Premises and the operation of the System and insolation to the System, provided, however, that Landlord may do all such things as may be required by Applicable Legal Requirements notwithstanding anything to the contrary in this Lease, and in such event Landlord shall use commercially reasonable efforts to avoid taking any action which may cause interference with the System, and allow Tenant to participate in communications with the party or Governmental Authority requiring compliance.

18.5 Amendments. This Lease may be amended only in writing signed by Tenant and Landlord or their respective successors in interest.

18.6 Notices. Any notice required or permitted to be given in writing under this Lease shall be (a) mailed by U.S. Postal Service certified mail, postage prepaid, return receipt requested, (b) sent by overnight courier service, or (c) personally delivered to a representative of the receiving Party, and shall be deemed delivered upon receipt or when delivery is refused. All such communications shall be mailed, sent or delivered, addressed to the Party for whom they are intended and to the Party's attorney as a courtesy, at the address set forth below. A Party may change its address and contact information by providing notice of the same in accordance with the provisions of this Article:

If to Landlord:

Airport Manager,
Pittsfield Municipal Airport
832 Tamarack Rd.
Pittsfield, MA 01201

With a courtesy copy to:

City of Pittsfield
City Hall, 70 Allen Street
Pittsfield, MA 01201
Attention: City Solicitor

If to Tenant:

Oak Leaf Solar XVII LLC
2645 East Second Avenue,
Suite 206,
Denver, CO 80206
Attention: Michael McCabe

And,

c/o Cypress Creek Renewables, LLC
3250 Ocean Park Boulevard, Suite 355
Santa Monica, CA 90405
Email: legal@ccrenew.com and realestate@ccrenew.com

18.7 Waiver. Failure of either Party to complain of any act or omission on the part of the other Party, no matter how long the same may continue, shall not be deemed to be a waiver by said Party of any of its rights hereunder. No waiver by either Party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either Party shall require the consent or approval of the other Party, the other Party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on any subsequent occasion.

18.8 Remedies Cumulative. Except as provided in Article 13.1 and Article 13.2, no remedy herein conferred upon or reserved to Tenant or Landlord shall exclude any other remedy herein or by law or in equity provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

18.9 No Third Party Beneficiaries. This Lease is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third Party not a Party hereto; provided, however, that a Designated Third Party shall have the rights set forth for it in Article 14, and where Tenant assigns rights and obligations under this Lease consistent with Article 17, all rights and causes of action relevant to such transferred rights and obligations shall accrue to the assignee.

18.10 Landlord's Costs. Tenant shall reimburse Landlord for its reasonable attorneys' fees and out-of-pocket expenses incurred in connection with any request by Tenant for Landlord's consent hereunder.

18.11 Captions. The captions and headings throughout this Lease are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Lease, nor in any way affect this Lease, and shall have no legal effect.

18.12 Severability. If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

18.13 Choice of Law. This Lease shall be construed in accordance with the laws of the Commonwealth of Massachusetts notwithstanding any laws regarding conflicts of laws, and any claims or dispute relating to this Lease shall be brought in courts within the Commonwealth of Massachusetts, and the Parties hereby assent to the jurisdiction of such courts. Each Party hereby consents to service of process in the Commonwealth of Massachusetts in respect of actions, suits or proceedings arising out of or in connection with this Lease or the transactions contemplated by this Lease.

18.14 Binding Effect. This Lease and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the Parties hereto, together with their respective successors and permitted assigns.

18.15 Counterparts. This Lease may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile signatures shall have the same effect as original signatures and each Party consents to the admission in evidence of a facsimile or photocopy of this Lease in any court proceedings between the Parties.

18.16 Entire Agreement. This Lease, issued for or in connection with the System represent the full and complete agreement between the Parties with respect to the subject matter contained therein and supersedes all prior written or oral agreements between said Parties with respect to said subject matter.

18.17 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither Party shall unreasonably withhold its compliance with any reasonable request made pursuant to this Article, provided, however, that Landlord shall not be required to execute any additional

document, instrument or assurance that it reasonably believes will increase its risk or obligations under the Lease.

18.18 Notice of Lease. Landlord and Tenant mutually agree to execute herewith, in triplicate, a Notice of Lease in recordable form with respect to this Lease, and agree to execute, upon termination of this Lease for whatever cause, a Notice of Termination of Lease in recordable form for recording with the Registry of Deeds in which the Property is located.

18.19 Subordination of Lien and Right. Landlord agrees that to the extent that Landlord has any right of lien, levy, or distraint on the System conferred by Applicable Legal Requirements for Tenant's failure to pay Rent or other amount due hereunder, Landlord subordinates such lien and right to the lien of any Designated Third Party. This provision is operative without execution of any further documentation.

18.20 Notice of Dispute/Negotiated Resolution. In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, either Party may, by written notice to the other, request a settlement meeting to discuss possible resolution of the controversy, claim or dispute. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy, claim or dispute. During the twenty (20) Business Day period following said written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute. In the event such dispute is not resolved through informal discussions during such twenty (20) Business Day period, then either Party may resort to judicial proceedings in a court of competent jurisdiction. The foregoing Article notwithstanding, neither Party is prevented from exercising all rights and remedies under this Lease, at law or in equity before, during, or after any dispute resolution procedures initiated in accordance with Article 18.20.

18.21 Nondiscrimination. Tenant agrees that it shall not, because of race, color, national origin, ancestry, age, sex, religion, physical mental disability, sexual orientation, gender identity, genetic information or status as a veteran, discriminate against any qualified employee, applicant for employment, subcontractor, or person or firm seeking to provide goods or services to Tenant, or deny any person access to the Premises or to any activities or programs carried out upon the Premises. Tenant shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in employment or public accommodation. Tenant agrees that it shall not engage in conduct declared to be unlawful under Section 2 of Chapter 151E of the Massachusetts General Laws.

18.22 Survival. The following Articles survive termination of this Lease: 3.4 (Holdover), 10 (Hazardous Materials), 11 (Indemnification, Release), 13 (Default), 16 (Surrender), 18.3 (Choice of Law), 18.8 (Remedies Cumulative), 18.24 (Protection of Landlord by Massachusetts Tort Claims Act). Any provision of this Lease shall survive termination in the event that any such provision includes express terms requiring such survival, or where such survival is otherwise the clear intention of the Parties as set forth in this Lease.

18.23 Certifications by Tenant. By signing this Agreement, the Tenant certifies under penalties of perjury, as follows:

(a) It has complied with all laws of the Commonwealth relating to taxes, the reporting of employees and contractors, and the withholding and remitting of child support.

(b) Its proposal, submitted in response to Landlord's Request for Proposals, was made and submitted in good faith and without collusion or fraud with any person. As used in this provision, the word "person" means any natural person, business, partnership, corporation, limited liability company, union, committee, club, or other organization, entity, or group of individuals.

(c) It has not given, offered, promised or agreed to give any gift, contribution, offer of employment, or thing of value as an inducement for, or in connection with, Landlord's award of this Lease or the Lease to Tenant in violation of the Massachusetts Conflict of Interest Law, M.G.L. c. 268A. Tenant shall familiarize its employees involved with this Lease with the provisions of M.G.L. c. 268A, as may be amended. Tenant represents it and its employees do not now have an interest which would violate M.G.L. c. 268A. Tenant shall comply with M.G.L. c. 268A during the term of this Lease.

18.24 Nothing in this Lease is intended, and nothing shall operate, to waive any of the rights, remedies, defenses and immunities afforded Landlord, as a municipal entity, under M.G.L. c. 258, all of which rights, remedies, defenses and immunities Landlord hereby reserves.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year first above written.

LANDLORD:

PITTSFIELD MUNICIPAL AIRPORT COMMISSION

By: _____

Name:

Title: Chair, as duly authorized

By: _____

Name: Colleen Hunter-Mullett, MCPPO

Title: Chief Procurement Officer

By: _____

Name: Linda M. Tyer

Title: Mayor

TENANT:

OAK LEAF SOLAR XVII LLC

By: _____

Name: Michael McCabe

Title: President

EXHIBIT A
LEGAL DESCRIPTION

Lease Area 1

Landlord's Property is described in an Order of Taking dated October 25, 2005 and recorded at the Berkshire Middle District Registry of Deeds at Book 03368, Page 139 (attached).

The Property is shown on the city tax assessor maps as Parcel ID No. EO40001001.

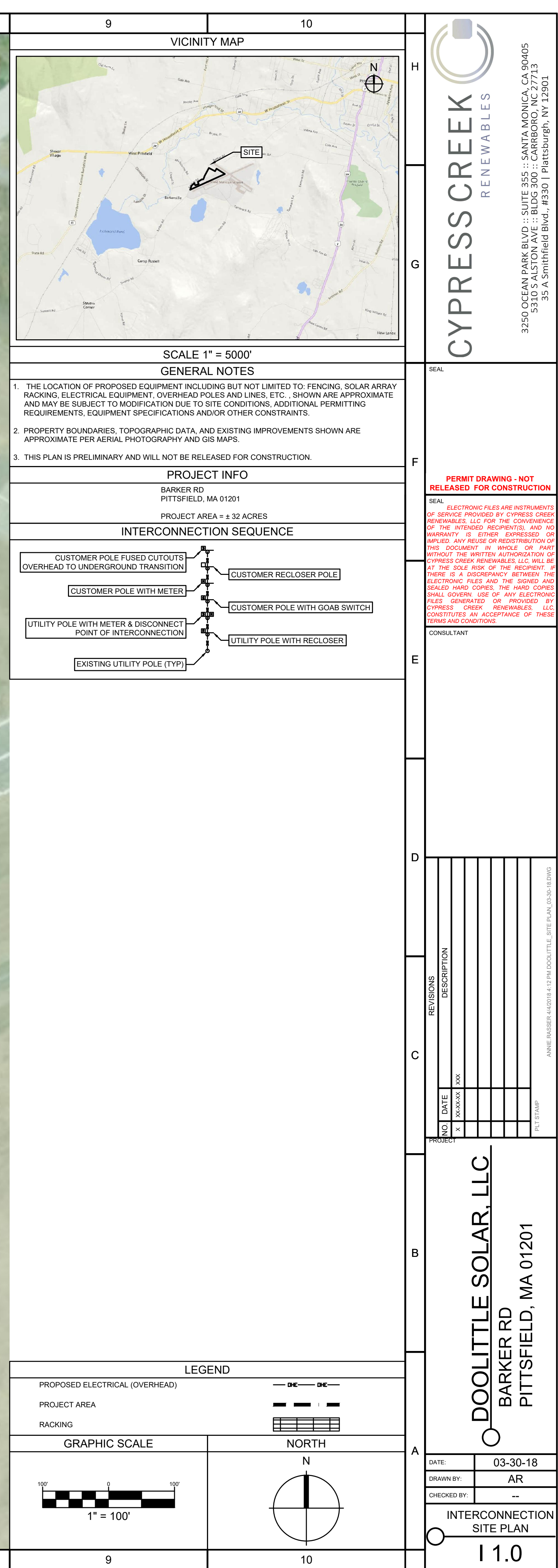
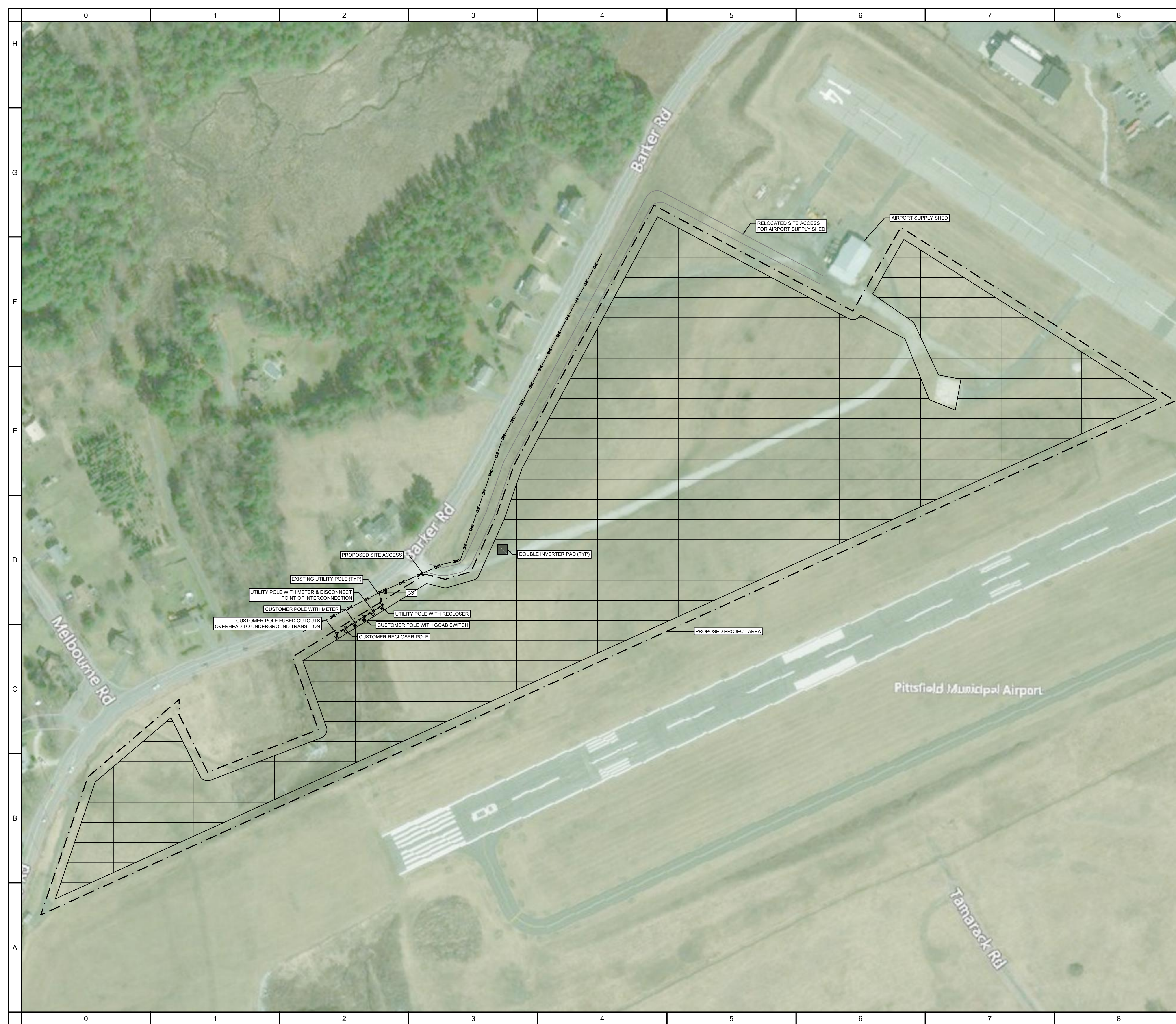
Note: The Parties agree to collaborate on the final System design to optimize the facility size and layout. The Parties further agree that the Access Gate on Barker Road will be retained, and any Access Road located on the Parcel will either be retained or relocated by Tenant at its own expense. Such construction and relocation shall be subject to the written approval of Landlord.

Lease Area 2

Landlord's Property is described in a Deed dated April 24, 2007 and recorded at the Berkshire Middle Registry of Deeds at Book 3818, Page 72 (attached).

The Property is shown on the city tax assessor maps as Parcel: ID No. FO50002010

Preliminary depictions of Lease Areas 1 and 2, with Access Areas, and Utility Areas are shown on the drawings attached to this Exhibit A.



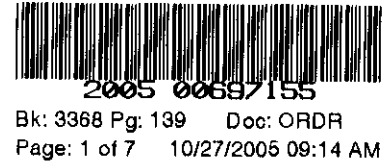
Middle Berkshire - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 7/13/2017 3:53:58 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
697155	ORDER		03368/139	10/27/2005	
Property-Street Address and/or Description					
BARKER RD TAKING BY EMINENT DOMAIN					
Grantors					
MORSE CARMINA F					
Grantees					
PITTSFIELD CITY					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					

No. 82

City of Pittsfield
 MASSACHUSETTS
 IN CITY COUNCIL
 AN ORDER



Ordered: **TAKING BY EMINENT DOMAIN A VACANT PARCEL OF LAND OWNED BY ESTATE OF CARMINA F. MORSE AND LOCATED AT BARKER ROAD, PITTSFIELD, MASSACHUSETTS, TO PROVIDE ADEQUATE LAND USE CONTROLS FOR EXISTING RUNWAY PROTECTION ZONES LOCATED AT OR NEAR THE PITTSFIELD MUNICIPAL AIRPORT**

WHEREAS, an Order for the authorization and appropriation for the purpose of an eminent domain taking had previously been made by the City Council by Order 81 of the Series of 2005, in accordance with M.G.L.A. Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, for a parcel of land owned by the Estate of Carmina F. Morse and located at Barker Road, Pittsfield, Massachusetts, for a municipal purpose, namely (1) to use a portion of the land to provide adequate land use controls for existing Runway Protection Zones located at or near the Pittsfield Municipal Airport, which is being accomplished in accordance with Federal Aviation Administration criteria; (2) to excavate portions of the land and use the earth as fill for the extension of the runway safety areas as well as the runway, which is being accomplished in accordance with Federal Aviation Administration criteria; (3) for re-routing portions of South Mountain Road in Pittsfield, MA; and (4) for other airport purposes; and

NOW THEREFORE, the City Council, acting for and in behalf of the City of Pittsfield by virtue of and in accordance with the authority and provisions of M.G.L.A. Chapter 79 and Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, does hereby vote, declare, specify and ORDER:

1. That the City Council of the City of Pittsfield does hereby take by eminent domain, for and in behalf of said City under the provisions of M.G.L.A. Chapter 79, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, a vacant parcel of land in fee simple, absolutely free and clear of all liens and encumbrances, which is owned by the Estate of Carmina F. Morse at Barker Road, Pittsfield, Massachusetts, for a municipal purpose, namely (1) to use a portion of the land to provide adequate land use controls for existing Runway Protection Zones located at or near the Pittsfield Municipal Airport, which is being accomplished in accordance with Federal Aviation Administration criteria; (2) to excavate portions of the land and use the earth as fill for the extension of the runway safety areas as well as the runway, which is being accomplished in accordance with Federal Aviation Administration criteria; (3) for re-routing portions of South Mountain Road in Pittsfield, MA; and (4) for other airport purposes, as more fully described in Appendix "A", which is attached hereto and made a part hereof, and shown on a plan titled "Plan of Land Prepared For Pittsfield Municipal Airport, Barker Road, Pittsfield, MA, Date: July 19, 2005, Prepared by Foresight Land Services", which

697155

CITY OF PITTSFIELD
 KATHLEEN - ASSISTANT CITY SOLICITOR
 ALLEN ST - CITY HALL
 PITTSFIELD, MA 01201 P

plan is on file in the office of the Pittsfield Municipal Airport Commission, 832 Tamarak Road, Pittsfield, Massachusetts.

2. In addition to the foregoing, this taking of eminent domain shall include all trees on said lands.

3. Damages are awarded in the sum of ONE HUNDRED AND FIFTY THREE THOUSAND (\$153,000.00) DOLLARS to the Estate of Carmina F. Morse for said property and to any person or corporation having an interest therein to be apportioned as their respective interests may appear as damages sustained by them to the property of each by reason of the taking.

4. That the City Clerk as Clerk of the City Council is hereby authorized and directed to record a certified copy of this Order with the Berkshire Middle District Registry of Deeds within thirty (30) days from the effective date hereof.

IN CITY COUNCIL
October 25, 2005

Read and adopted 11 Yeas 0 Nays

/s/ Gerald M. Lee, City Council President
/s/Jody L. Phillips, City Clerk

MAYOR'S OFFICE
Approved: October 26, 2005
/s/ James M. Ruberto, Mayor
A true copy Attest:

City Clerk

APPENDIX "A"

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts, and is more particularly described and bounded as follows:

Beginning at a point in the easterly sideline of a public way known as Barker Road. Said point also marks the northwest corner of land now or formerly of Robert W. Shade;

Thence running S 28° 23' 30" E along the westerly line of said Shade a distance of 251.63 feet to a point. Said point also marks the southwest corner of land of said Shade;

Thence running the following two (2) courses along the southerly line of said Shade:

Generally northeasterly along a curve to the right having a radius of 717.00 feet, an arc distance of 94.62 feet to an iron pipe to be set;

N 61° 34' 39" E a distance of 55.45 feet to an iron pipe to be set. Said iron pipe also marks the southwesterly corner of land now or formerly of Francis A. Marchand and Claire J. Marchand;

Thence running N 61° 34' 39" E along the southerly line of said Marchand a distance of 150.00 feet to an iron pipe to be set. Said iron pipe also marks a point in the westerly line of land now or formerly of Western Massachusetts Electric Company;

Thence running S 28° 25' 21" E along the westerly line of said Western Massachusetts Electric Company a distance of 245.45 feet to an iron pipe to be set. Said iron pipe also marks a point in the westerly line of land now or formerly of Edwin Watroba;

Thence running the following ten (10) courses along the westerly line of said Edwin Watroba:

S 12° 56' 34" W a distance of 132.02 feet to a point;

S 08° 03' 55" E a distance of 31.90 feet to a point;

S 15° 04' 24" W a distance of 293.48 feet to a point;

S 12° 05' 10" W a distance of 68.64 feet to a point;

S 14° 03' 02" W a distance of 126.49 feet to a point;

S 09° 31' 51" W a distance of 82.79 feet to a point;

S 18° 44' 53" W a distance of 23.14 feet to a point;

S 09° 51' 08" W a distance of 90.57 feet to a point;

S 14° 48' 04" W a distance 95.38 feet to a point;

S 13° 14' 18" W a distance of 139.24 feet to an iron pipe to be set. Said iron pipe also marks a point in the northerly line of other lands now or formerly of Edwin Watroba;

Thence running the following two (2) courses along the northerly line of said Watroba:

N 76° 32' 56" W a distance of 183.54 feet to an iron pipe;

N 79° 19' 00" W a distance of 364.71 feet to an iron pipe. Said iron pipe also marks the northeast corner of land now or formerly of The City of Pittsfield;

Thence running N 79° 37' 50" W along the northerly line of said City of Pittsfield a distance of 336.14 feet to an iron pipe. Said iron pipe also marks the northeast corner of land now or formerly of Heather Chapman;

Thence running N 78° 44' 09" W along the northerly line of said Chapman a distance of 81.52 feet to an iron pipe to be set. Said iron pipe also marks the southeast corner of land now or formerly of David A. Ockerhausen;

Thence running N 34° 32' 02" W a distance of 161.11 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John H. Crane, II and Denise M. Crane;

Thence running N 56° 41' 36" E along the southerly line of said Crane a distance of 149.91 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of Edward J. Bushey and Anne G. Bushey;

Thence running N 49° 50' 03" E along the southerly line of said Bushey a distance of 150.00 feet to an iron pipe to be set. Said iron pipe also marks the southwest corner of land now or formerly of Franklin J. Casino and Gina Casino;

Thence running N 45° 59' 54" E along the southerly line of said Casino a distance of 148.96 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John E. McDonough, Jr. and Emily F. McDonough;

Thence running N 46° 04' 13" E along the southerly line of said McDonough a distance of 150.10 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of E & G Nominee Trust;

Thence running N 46° 12' 49" E along the southerly line of said E & G Nominee Trust a distance of 150.24 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John R. Weatherwax and Jacquelyn Weatherwax;

Thence running the following two (2) courses along the southerly and easterly lines of said Weatherwax:

N 45° 51' 30" E a distance of 149.82 feet to an iron pipe;

N 34° 37' 51" W a distance of 250.02 feet to a point in the easterly sideline of said Barker Road;

Thence running N 46° 00' 55" E along the easterly sideline of said Barker Road a distance of 120.06 feet to a point. Said point also marks the northwest corner of land now or formerly of Joseph P. Amerio and Mabel Amerio;

Thence running the following three (3) courses along the westerly, southerly and easterly lines of said Amerio:

S 34° 22' 03" E a distance of 250.41 feet to an iron pipe;

N 45° 40' 07" E a distance of 124.76 feet to an iron pipe;

N 28° 28' 15" W a distance of 249.93 feet to a point in the easterly sideline of said Barker Road;

Thence running generally northeasterly in a curve to the right having a radius of 967.00 feet, an arc distance of 66.93 feet to the point of beginning.

The above described parcel contains 20.46 acres of land and is shown on a plan entitled: "Plan of Land Prepared For Pittsfield Municipal Airport, Barker Road, Pittsfield, MA, Date: July 19, 2005, Prepared by Foresight Land Services", which plan is recorded in the Berkshire Middle District Registry of Deeds in Plat H # 53.

The above described parcel is subject to an easement to lay water pipes given by Francis Morse to Joseph P. Amerio and Mable Amerio which instrument was recorded in the Berkshire Middle District Registry of Deeds on December 4, 1959 in Book 699, Page 538.

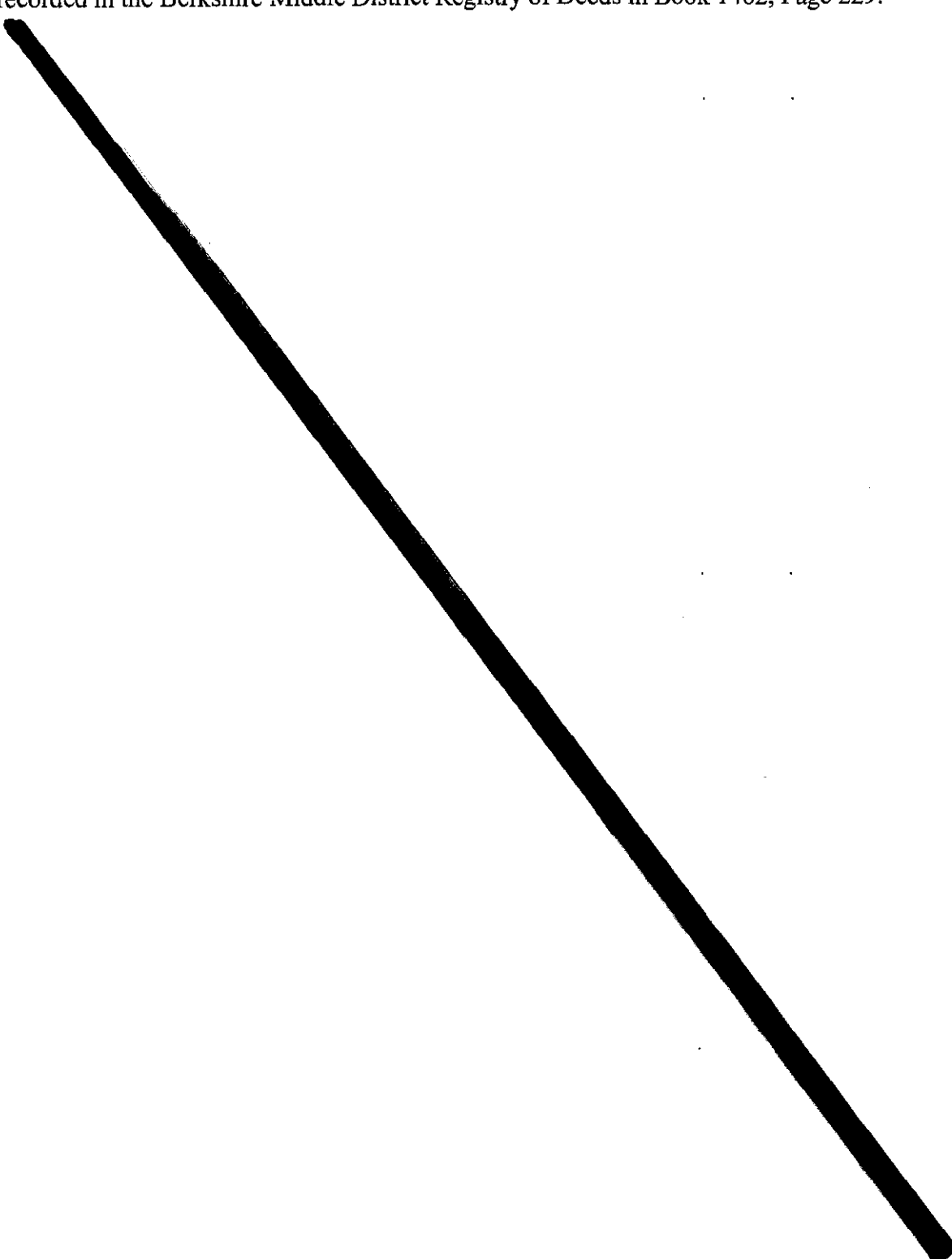
Excepted from this taking are the following deeds:

1. Francis Morse to Ruth C. Bailey dated and recorded on September 2, 1954 in the Berkshire Middle District Registry of Deeds in Book 615, Page 419.
2. Francis Morse to Edward S. Bandurski and Evelyn Bandurski dated June 18, 1956 and recorded on June 21, 1956 in the Berkshire Middle District Registry of Deeds in Book 642, Page 342.

3. Francis Morse to William S. Shade and Regina M. Shade dated September 17, 1956 and recorded on September 27, 1956 in the Berkshire Middle District Registry of Deeds in Book 647, Page 185.
4. Francis Morse to John E. McDonough, Jr. and Emily F. McDonough dated and recorded on October 16, 1956 in the Berkshire Middle District Registry of Deeds in Book 648, Page 57.
5. Francis Morse to Peter L. Soldato and Elaine D. Soldato dated and recorded on October 25, 1956 in the Berkshire Middle District Registry of Deeds in Book 648, Page 316.
6. Francis Morse to the Quinnehtuk Company dated and recorded on April 15, 1957 in the Berkshire Middle District Registry of Deeds in Book 654, Page 320.
7. Francis Morse to William S. Shade and Regina M. Shade dated October 8, 1958 and recorded on October 16, 1958 in the Berkshire Middle District Registry of Deeds in Book 680, Page 93.
8. Francis Morse to Joseph P. Amerio and Mabel Amerio dated November 7, 1958 and recorded on November 17, 1958 in the Berkshire Middle District Registry of Deeds in Book 681, Page 394.
9. Francis Morse to Eugene F. Coty and Beverly A. Coty dated May 19, 1959 and recorded on May 26, 1959 in the Berkshire Middle District Registry of Deeds in Book 689, Page 383.
10. Francis Morse to Salvatore E. Faillace and Patsy Lou Faillace dated June 13, 1960 and recorded on June 21, 1960 in the Berkshire Middle District Registry of Deeds in Book 707, Page 227.
11. Francis Morse to Howard G. Kraay and Francis Kraay dated August 26, 1960 and recorded on August 30, 1960 in the Berkshire Middle District Registry of Deeds in Book 711, Page 55.
12. Francis Morse to John R. Sutton and Edith May Sutton dated September 1, 1978 and recorded on September 26, 1978 in the Berkshire Middle District Registry of Deeds in Book 1010, Page 471.

The parcel herein being taken is the remainder of a certain parcel of land (after the above-mentioned exceptions) conveyed by a certain deed from Emma R. Robbins, Frances D. Robbins, Josephine Robbins, Joseph C. Robbins (all of whom were unmarried), Mary D. Kelley, and Cornelia R. Bradley to Francis Morse dated and recorded on August 21, 1951 in the Berkshire Middle District Registry of Deeds in Book 575, Page 330. For additional information on title, refer to (1) the deed in Book 575, Page 330 with regard to the release by the spouses of Mary D. Kelley and Cornelia R. Bradley; (2) Berkshire Probate Docket No.: 96-P0606-FI (foreign inventory)

as well as Middlesex Probate Docket No.: 92-P539-TE in connection with the Estate of Francis Morse; (3) Berkshire Probate Docket No.: 05-P0105-EP in connection with the Estate of Carmina F. Morse; (4) Certificate Releasing Estate Tax Lien (M792) on the Estate of Francis Morse recorded in the Berkshire Middle District Registry of Deeds in Book 1462, Page 229.



Berkshire Middle District Registry of Deeds - END OF DOCUMENT



VICINITY MAP

SCALE 1" = 5000'

GENERAL NOTES

1. THE LOCATION OF PROPOSED EQUIPMENT INCLUDING BUT NOT LIMITED TO: FENCING, SOLAR ARRAY RACKING, ELECTRICAL EQUIPMENT, OVERHEAD POLES AND LINES, ETC., SHOWN ARE APPROXIMATE AND MAY BE SUBJECT TO MODIFICATION DUE TO SITE CONDITIONS, ADDITIONAL PERMITTING REQUIREMENTS, EQUIPMENT SPECIFICATIONS AND/OR OTHER CONSTRAINTS.

2. PROPERTY BOUNDARIES, TOPOGRAPHIC DATA, AND EXISTING IMPROVEMENTS SHOWN ARE APPROXIMATE PER AERIAL PHOTOGRAPHY AND GIS MAPS.

3. THIS PLAN IS PRELIMINARY AND WILL NOT BE RELEASED FOR CONSTRUCTION.

PROJECT INFO

S. MOUNTAIN ROAD,
BERKSHIRE, MA, 01201

PROJECT AREA = ± 7.78 ACRES

INTERCONNECTION SEQUENCE

LEGEND

PROPOSED ELECTRICAL (OVERHEAD)

PROJECT AREA

RACKING

GRAPHIC SCALE

1" = 100'

NORTH

SEAL

PERMIT DRAWING - NOT RELEASED FOR CONSTRUCTION

SEAL

ELECTRONIC FILES ARE INSTRUMENTS OF SERVICE PROVIDED BY CYPRESS CREEK RENEWABLES, LLC. FOR THE CONVENIENCE OF THE INTENDED RECIPIENTS, AND NO WARRANTY, IS EITHER EXPRESSED OR IMPLIED. ANY REUSE OR REDISTRIBUTION OF THIS DOCUMENT IN WHOLE OR PART WITHOUT THE WRITTEN AUTHORIZATION OF CYPRESS CREEK RENEWABLES, LLC WILL BE AT THE SOLE RISK OF THE RECIPIENT. IF THERE IS A DISCREPANCY BETWEEN THE ELECTRONIC FILES AND THE SIGNED AND SEALED HARD COPIES, THE HARD COPIES SHALL GOVERN. USE OF ANY ELECTRONIC FILES GENERATED OR PROVIDED BY CYPRESS CREEK RENEWABLES, LLC CONSTITUTES AN ACCEPTANCE OF THESE TERMS AND CONDITIONS.

CONSULTANT

NO.	DATE	REVISIONS	DESCRIPTION
1	04-03-18	XXX	

PROJECT

EARHART SOLAR, LLC

S. MOUNTAIN ROAD,
BERKSHIRE, MA, 01201

DATE: 04-03-18

DRAWN BY: MNM

CHECKED BY: --

INTERCONNECTION
SITE PLAN

11.0

CYPRESS CREEK RENEWABLES

3250 OCEAN PARK BLVD. :: SUITE 355 :: SANTA MONICA, CA 90405
5310 S ALSTON AVE. :: BLDG 300 :: CARBORO, NY 12501
35 A Smithfield Blvd., #330 | Pittsfield, NY 12901

Middle Berkshire - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 7/13/2017 3:53:58 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
733058	DEED		03818/72	06/14/2007	1685000.00
Property-Street Address and/or Description					
SOUTH MOUNTAIN RD					
Grantors					
WATROBA EDWIN F					
Grantees					
PITTSFIELD CITY					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					



2007 06/33058
 Bk: 3818 Pg: 72 Doc: DEED
 Page: 1 of 6 06/14/2007 09:37 AM

QUITCLAIM DEED

EDWIN F. WATROBA of 48 Cumberland Circle, Dalton, Massachusetts ("Grantor"), for consideration of One Million Six Hundred and Eighty-Five Thousand Dollars (\$1,685,000) including costs associated with relocation, grants to the CITY OF PITTSFIELD, a municipal corporation with a principal place of business located at 70 Allen Street, Pittsfield, Massachusetts ("Grantee") with Quitclaim Covenants, the following described land:

Parcel I

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts more particularly bounded and described as follows:

Beginning at an iron pipe in the southerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the northeasterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the southerly sideline of said South Mountain Road:

S69-34-05E a distance of 148.33 feet to a point;

N88-19-37E a distance of 82.98 feet to an iron pipe. Said iron pipe also marks the northwesterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the westerly and southerly lines of said City of Pittsfield:

S12-42-42W a distance of 724.71 feet to an iron pipe;

S85-45-37E a distance of 209.71 feet to an iron pipe in the westerly line of land now or formerly of Edwin F. Watroba;

Thence running S13-22-56W along the westerly line of said Watroba a distance of 1954.52 feet to an iron pipe in the northerly line of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the northerly line of said City of Pittsfield:

733058

Grantee Address: South Mountain Road, Pittsfield, MA
 Property Address:

N56-00-36W a distance of 274.37 feet to a concrete bound;
 N49-10-23W a distance of 341.85 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of other land now or formerly of City of Pittsfield.

Thence running N13-03-17E along the easterly line of said City of Pittsfield a distance of 2065.76 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the southerly and easterly lines of said City of Pittsfield:

S77-07-36E a distance of 132.00 feet to an iron pipe;
 N12-52-24E a distance of 321.50 feet to the point of beginning.

The above described parcel of land containing 28.42 acres is shown as "Parcel 1" on a plan entitled "Plan of Land Prepared for Pittsfield Municipal Airport, Watroba Life Estate on Parcel 1, South Mountain Road, Pittsfield, MA" sheet 6 of 9, dated April 13, 2007 prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File H, No. 282.

Reserving to Grantor, and his assigns, the exclusive right to use and occupy for agricultural purposes, for and during the life of Grantor, that portion of Parcel 1 containing approximately 8.83 acres and described, as follows:

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts and is more particularly bounded and described as follows:

Beginning at an iron pipe in the westerly line of land now or formerly of Edwin F. Watroba. Said iron pipe also marks the southeasterly corner of Parcel J as shown on the above mentioned plan;

Thence running S13-22-56W along the westerly line of said Watroba a distance of 1071.90 feet to an iron pipe;

Thence running the following five (5) courses through Parcel 1 shown on the above mentioned plan:

N74-55-05W a distance of 443.20 feet to an iron pipe;
 N13-58-08E a distance of 425.13 feet to an iron pipe;
 N61-55-29E a distance of 120.24 feet to an iron pipe;
 N13-36-52E a distance of 216.78 feet to an iron pipe; and
 N38-12-37E a distance of 334.89 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of said Parcel J;

Thence running S85-45-37E along the southerly line of said Parcel J a distance of 209.71 feet to the point of beginning.

The above described portion of parcel 1 containing approximately 8.83 acres is shown as the "Life Estate Parcel" on the above mentioned plan.

Parcel II

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts and is more particularly bounded and described as follows:

Beginning at an iron pipe in the northerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the southwesterly corner of land now or formerly of Edwin F. Watroba;

Thence running S88-19-37W along said northerly sideline a distance of 251.35 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of the City of Pittsfield;

Thence running the following four (4) courses along land of said City of Pittsfield:

N04-57-07E a distance of 205.49 feet to an iron pipe;

N69-34-05W a distance of 100.00 feet to an iron pipe;

N69-34-05W a distance of 100.00 feet to an iron pipe; and

S04-57-07W a distance of 225.65 feet to an iron pipe in the northerly sideline of said South Mountain Road;

Thence running N69-34-05W along said northerly sideline a distance of 180.23 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of the City of Pittsfield;

Thence running N12-11-45E along the easterly line of land of said City of Pittsfield a distance of 337.17 feet to an iron pipe. Said iron pipe also marks a southeasterly corner of land shown as "Parcel 2" on a plan entitled "Plan of Land prepared for Pittsfield Municipal Airport, South Mountain Road, Pittsfield, MA" Sheet 6 of 9, dated April 13, 2007, prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File

H, No. 282.

Thence running N12-09-40E along the easterly line of said "Parcel H" a distance of 143.21 feet to an iron pipe in the southerly line of land now or formerly of Francis Morse;

Thence running the following two (2) courses along the southerly line of said Morse:

S79-19-00E a distance of 364.71 feet to an iron pipe; and

S76-32-56E a distance of 183.54 feet to a point. Said point also marks the southwesterly corner of land of land now or formerly of Edwin F. Watroba;

Thence running S76-32-56E along the southerly line of said Watroba a distance of 62.36 feet to an iron pipe. Said iron pipe also marks the northwesterly corner of land now or formerly of Edwin F. Watroba;

Thence running the following two (2) courses along the westerly line of said Watroba:

S10-21-40W a distance of 172.42 feet to an iron pipe; and
S11-48-31W a distance of 286.52 feet to the point of beginning.

The above described parcel of land containing 6.13 acres is shown as "Parcel 2" on the above mentioned plan.

Parcel III

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts more particularly bounded and described as follows:

Beginning at an iron pipe in the northerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the southeasterly corner of land now or formerly of Edwin F. Watroba;

Thence running the following three (3) courses along the easterly and northerly lines of said Watroba:

N11-48-31E a distance of 286.52 feet to an iron pipe;
N10-21-40E a distance of 172.42 feet to an iron pipe;
N76-32-56W a distance of 62.36 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of City of Pittsfield;

Thence running the following ten (10) courses along the easterly line of said City of Pittsfield:

N13-14-18E a distance of 139.24 feet to a point;
N14-48-04E a distance of 95.38 feet to a point;
N09-51-08E a distance of 90.57 feet to a point;
N18-44-53E a distance of 23.14 feet to a point;
N09-31-51E a distance of 82.79 feet to a point;
N14-03-02E a distance of 126.49 feet to a point;
N12-05-10E a distance of 68.64 feet to a point;
N15-04-24E a distance of 293.48 feet to a point;
N08-03-55W a distance of 31.90 feet to a point;
N12-56-34E a distance of 132.02 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of an easement held by Western Massachusetts Electric Company;

Thence running N12-38-59E along the easterly line of said Western Massachusetts Electric Company Easement a distance of 324.95 feet to an iron pipe. Said iron pipe also marks the

southeasterly corner of land now or formerly of Peter L. Soldato, Nancy A. Soldato and Lisa A. Soldato;

Thence running N12-46-52E along the easterly line of said Soldato a distance of 219.12 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of land now or formerly of Amy L. Crowley and Timothy S. Batho:

Thence running the following two (2) courses along the southerly and easterly lines of said Crowley and Batho:

S79-45-24E a distance of 171.50 feet to an iron pipe;
N10-14-36E a distance of 145.00 to an iron pipe in the southerly line of land now or formerly of Thomas P. Greenleaf;

Thence running the following three (3) courses along the southerly and westerly lines of said Greenleaf:

S79-45-24E a distance of 579.29 feet to an iron pipe;
S10-38-09W a distance of 700.00 feet to an iron pipe;
S79-45-24E a distance of 300.00 feet to an iron pipe in the westerly line of land now or formerly of Jimmie L. Giacoletto and Pauline M. Giacoletto;

Thence running the following two (2) courses along the westerly line of said Giacoletto:

S12-09-32W a distance of 557.51 feet to a point;
S09-54-39W a distance of 571.87 feet to an iron pipe in the northerly sideline of said South Mountain Road;

Thence running the following six (6) courses along the northerly sideline of said South Mountain Road:

N75-43-33W a distance of 348.91 feet to a point;
Generally southwesterly along a curve to the left having a radius of 277.29 feet and an arc distance of 258.40 feet to a point;
S50-52-55W a distance of 33.65 feet to a point;
S46-41-31W a distance of 70.46 feet to a point;
Generally southwesterly along a curve to the right having a radius of 488.03 feet and an arc distance of 256.54 feet to a point;
S76-48-35W a distance of 226.56 feet to the point of beginning.

The above described parcel of land containing 42.37 acres is shown as Parcel 10 on a plan entitled "Plan of Land Prepared for Pittsfield Municipal Airport, South Mountain Road, Pittsfield, MA" sheet 7 of 9, dated June 12, 2006 prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File H, No. 283.

Parcels I, II and III being a portion of the Grantor's premises conveyed by deed to Nache W. Kaminiski and Josephine J. Watroba and recorded with the Berkshire Middle District Registry of Deeds on January 17, 1972 in Book 920, Page 454. See Probate Doc. 89103, Probate Doc 90P0130-E1.

Executed as a sealed instrument this 24th day of April, 2007.

Edwin F. Watroba
Edwin F. Watroba

COMMONWEALTH OF MASSACHUSETTS

Berkshire, SS.

On this 24th day of April, 2007, before me, the undersigned notary public, personally appeared Edwin F. Watroba and proved to me through satisfactory evidence, which was (personal knowledge of identity)(~~a current driver's license~~)(~~a current U.S. passport~~), to be the person whose name is signed on the foregoing document, and acknowledge to me that he signed it voluntarily for its stated purpose,

Ira J. Kaplan

Notary Public

My Commission Expires: 8-27-2010



IRA J. KAPLAN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 27, 2010

EXHIBIT B

FORM OF TAX PAYMENT AGREEMENT

TAX AGREEMENT

FOR PROPERTY

Between

CITY OF PITTSFIELD, MASSACHUSETTS

And

OAK LEAF SOLAR XVII LLC

Dated _____, 2018

TAX AGREEMENT FOR PROPERTY

THIS AGREEMENT FOR PAYMENT FOR AD VALORUM PROPERTY TAXES (this “Agreement”) is made and entered into as of date above by and between Oak Leaf Solar XVII LLC and/or its assigns, a limited liability company (the “Developer”), and the City of Pittsfield, a Massachusetts municipal corporation (the “City”). The Developer and the City are referred to collectively as “Parties” and individually as “Party.”

WHEREAS, the Developer plans to build and operate a ground-mounted solar photovoltaic facility with an expected capacity of approximately 8.52 megawatts (“MW”) (in direct current, or “DC”) and 6.66 MW (in alternating current, or “AC”) (referred to hereinafter as the “Capacity”) (the “Project”) on approximately +/-36.25 acres of land, located at the Pittsfield Municipal Airport, 832 Tamarack Road, Pittsfield, Massachusetts on two parcels, a portion of Assessors Parcel ID Number E040001001 (“Parcel 1 or “Solar Area 1”) and Assessors Parcel ID Number F05-0002010 (“Parcel 2” or “Solar Area 2”) (together, the “Property”), pursuant to a lease (the “Lease”) with the Pittsfield Municipal Airport Commission (“PMAC”) as shown more particularly in **Exhibit A**, attached hereto and incorporated herein;

WHEREAS, pursuant to the Lease, the PMAC will receive rent from the Developer;

WHEREAS, the Developer and the City have entered into a Power Purchase Agreement (“PPA”) subject to which the City shall purchase electricity;

WHEREAS, the Developer anticipates having situated the personal property necessary to build the Project on the Property on or before, or the date on which it anticipates receiving from Eversource Energy (formerly known as Western Massachusetts Electric Company) (“Eversource”) the authority to interconnect the Project to Eversource’s local distribution system (the “Interconnection Agreement”);

WHEREAS, the Developer represents that it is a “generation company” or “wholesale generation company”, as those terms are used and defined in G.L. c. 59 §38H (b), and the City relies on this representation in entering into this Agreement;

WHEREAS, the Parties acknowledge that pursuant to G. L. c. 59, §2B, real estate owned by the City or any instrumentality thereof, if used in connection with a business conducted for profit or leased for other than public purposes, shall be valued, assessed and taxed in the same manner as if such lessee were the owner thereof in fee;

WHEREAS, it is the intention of the Parties that the Developer make four quarterly payments annually to the City for the term of this Agreement for ad valorem property taxes for the Project, in accordance with G.L. c.59, §38H and the applicable Massachusetts Department of Revenue guidance adopted in connection therewith;

WHEREAS, because both the Developer and the City desire an accurate projection of their respective expenses and revenues with respect to the Project 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 property incorporated within the Project for the full term of this Agreement;

WHEREAS, the Parties intend that, during the term of the Agreement and while the Developer is making payments hereunder, the Developer will not be assessed for any statutory property taxes to which the Project would otherwise have been subject under G.L. c. 59, and that this Agreement will provide the exclusive means for payments for such property taxes that the Developer will be obligated to make to the City with respect to the Project during the term hereof, provided, however, that the Parties do not intend for this Agreement to govern the payment of taxes for property other than the Project, or to affect any payments due for services provided by the City to the Project or the Property, if any, including but not limited to, water and sewer services, and similar payment obligations not in the nature of property taxes or substitutes for such taxes that Developer is otherwise obligated to pay the City;

WHEREAS, the City is authorized to enter into this Agreement with Developer as the culmination of good faith negotiations that anticipate that the tax payments over the life of the Agreement will amount to the equivalent, taking into account other benefits under the PPA and the Lease to be received by the City and the PMAC, 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; and

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 for Property Taxes. The Developer agrees to make payments to the City for property taxes attributable to the Project for a period of twenty (20) consecutive years, commencing on the later to occur of (a) the Completion Date (as defined below) and (b) the date on which the Developer receives the Interconnection Agreement, and terminating twenty (20) years thereafter, in the annual amounts for Parcel 1 and for Parcel 2, and total annual amounts for the Property, as shown in **Exhibit C** (subject to adjustments as set forth herein, including without limitation, in Paragraph 4, the “Annual Payments”). Annual Payments for any partial quarter shall be prorated. In the event that

the Lease is extended by up to two (2) additional terms of five (5) years each, the term of this Agreement will be extended to the same extent as the Lease is extended. In the event that the Lease is terminated on Parcel 2, but continues on Parcel 1, the Annual Payments shall be made in the amounts shown for Parcel 1 only.

Each Annual Payment will be paid to the City in four (4) equal quarterly installments on or before August 1, November 1, February 1 and May 1 of each fiscal year during the term of this Agreement, with each fiscal year running from July 1 to June 30, and the annual payment amount and payment date will be stated on a quarterly bill issued by the City to the Developer, provided that any failure of the City to issue such bill shall not relieve Developer of its obligation to make timely payments by the dates set forth above.

Developer shall provide the City with a copy of the Interconnection Agreement from Eversource. Notwithstanding the foregoing, the Parties hereby acknowledge and agree that the Annual Payments set forth in **Exhibit C** are based on an estimate of the value of the Project as of this the date of this Agreement, and that the parties shall adjust the Annual Payments as set forth in Paragraphs 3 and 4.

Except as set forth herein, the Parties agree that the payments to be made under this Agreement will not be reduced on account of a depreciation factor or reduction in the City's tax rate, nor increased on account of an appreciation or inflation factor or increase in the City's tax rate or assessment percentage, nor changed on account of legislative action fixing, exempting or otherwise setting taxes or payments in lieu thereof for photovoltaic solar facilities, other than that anticipated by the Parties as set forth in Paragraphs 3 and 4.

The Parties may, by mutual agreement executed no later than thirty (30) days prior to the expiration of the term of this Agreement, extend the term of this Agreement for up to two (2) periods of five (5) years each (any extension to be approved by the body signing this Agreement on behalf of the City, and made pursuant to authorization of the Pittsfield City Council as may be applicable). The Annual Payments to be made during the extensions shall be as agreed upon by the Parties.

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 amounts owed and due the City, as shown in Exhibit C, shall be adjusted by the percentage of increase or decrease of the capacity of the Project from the capacity proposed herein. The Parties shall amend Exhibit C to this Agreement accordingly.

2. Improvements or Additions, Retirements. To the extent that Developer, at its sole option, makes any capital improvements to the Project, adds additional personal property, or replaces any existing improvements, equipment or personal property on or after the date on which the installation of the Project has been completed (the "Completion Date"), and such improvement, addition, and/or replacement adds value to the Project (any of the foregoing, a "Value Added Property"), the remaining Annual Payments shall be increased in accordance with Paragraphs 3 and 4. Furthermore, to the extent that the Developer retires or removes any capital improvements from the Project on or after the Completion Date, then the remaining Annual Payments shall be decreased as described in Paragraph 3.

Notwithstanding the foregoing, consistent with applicable Massachusetts Department of Revenue regulations and guidance, only the addition of equipment or more efficient equipment that allows for more electrical production on or after the Completion Date or that adds value to the Project (not including any equipment that is exempted from local property taxes by law) will lead to an increase in the Annual Payments due under this Agreement. No additional payment for property taxes will be due or required for (i) replacement of personal property or equipment or machinery that is non-functional, obsolete or is replaced solely due to wear and tear or casualty or as part of scheduled or unscheduled maintenance, provided that such replacement does not add to the value of the Project or (i) Pollution control or other equipment that is exempted from taxation by the provisions of G. L. c. 59, § 5 (44) or other applicable laws or regulations in effect from time to time. The Developer shall provide the City written notice of any addition of such personal property or equipment or more efficient equipment that allows for more electrical production or that adds value to the Project within thirty (30) calendar days of such personal property being situated at the Property.

3. Calculation of Adjustment. Except as otherwise provided in Paragraph 2, to the extent that on or after the Completion Date, Value Added Property is added, under applicable Massachusetts Department of Revenue regulations and guidance, the remaining Annual Payments under this agreement will be increased by the additional estimated annual electricity production of the Project caused by the improvement at a rate of \$32,912 per MW AC of electric generating capacity produced per year.

Similarly, if the Developer retires or removes property from the Project, the remaining Annual Payments will be decreased by the reduction in the estimated annual electricity production of the Project caused by the retirement or removal at a rate of \$32,912 per MW AC of reduction in electric generating capacity produced per year. Subject to Paragraph 2, if new property or equipment added to the Facility replaces existing property or equipment, then the depreciated original cost (net book value) of the existing property or equipment will be deducted from the actual value of the new property or equipment for purposes of the PILOT adjustment.

4. Reports, Inspections, Review of Documents. Attached to this Agreement as **Exhibit B** is a preliminary, itemized inventory prepared by the Developer of the equipment and personal property (“personal property”) that is anticipated to be incorporated into, and thus to constitute, the Project, together with fair market values for each item of personal property, along with the estimated annual amount of electricity, in kilowatt-hours, to be generated by the Project. The Parties understand and agree that the Annual Payments were determined using and relying upon the preliminary inventory. The Developer shall promptly inform the City in writing of the Completion Date within thirty (30) days from the Completion Date, the Developer shall certify the capacity of the Project (expressed in MWs AC) and provide the City with a comprehensive inventory of all personal property incorporated into the Project, such inventory to include, but not be limited to, the categories of items in **Exhibit B**. Failure to provide such updated inventory shall constitute a material breach of this Agreement. Subject to the City’s confirmation of the inventory’s contents, the Parties shall, within forty-five (45) days of the City’s receipt of the inventory, agree on a mutually acceptable inventory of personal property incorporated into the Project as of the Completion Date (the “Inventory”). The Inventory will itemize and indicate all personal property subject to statutory taxation and all personal property attributable to the Project and for which the Developer will make payments for taxes pursuant to this Agreement. The general categories for the Inventory are listed in **Exhibit B**. The Developer represents and warrants that the categories include all personal property to be included in the Project

and all costs for taxable items that will be incurred by the Developer in completing the Project. In the event that: (a) the Parties fail to agree on a mutually acceptable Inventory, or (b) the Developer fails to provide timely notice to the City of the Completion Date, the City may, at its sole election, terminate this Agreement, determine the Inventory, or use the preliminary inventory attached hereto as **Exhibit B** and assess taxes for such portions of the Project that are not included in such preliminary inventory, as determined in the City's sole discretion.

On or before March 1 of each year, Developer shall provide an updated current Inventory, conspicuously and separately identifying any Value Added Property installed during the prior year as "new", and a report of the Project's monthly actual operating output for the prior year (the "Annual Inventory Update"). If the Developer fails to timely supply the Annual Inventory Update, and such default is not cured within thirty (30) days from written notice from the City therefor, the City shall have the right to terminate this Agreement.

If the Parties are unable to agree to adjustments to Annual Payments in the manner set forth in Paragraph 3 within sixty (60) days of the City's receipt of an Annual Inventory Update, then the City shall, at its sole election, either assess taxes on the Value Added Property as if this Agreement did not exist, or terminate this Agreement without penalty upon ten (10) days written notice to the Developer.

The Developer shall promptly provide such information as may be reasonably requested in writing by the City from time to time to determine and verify the existence, condition, cost and valuation of any and all personal property associated with the Project, along with any addition, replacement, improvements and upgrades thereto, and any increases in nameplate capacity of the Project.

The City, its officers, employees, consultants and attorneys will have the right to periodically inspect the Project in connection with the preparation and confirmation of the Inventory and any Value Added Property, and the Developer will grant such access to the Project and Property as is required therefore, provided that the City provides the Developer with at least at least ten (10) days written notice from the City Assessors' Office and complies with all of the Developer's safety requirements. The City shall also have the right to review and audit those documents that relate to the inventoried property for the purpose of verifying that Developer has accurately updated the Inventory.

In addition, the Developer shall, upon signing this Agreement or, if it has not yet been filed with Eversource, promptly after it is so filed, provide to the City a copy of Developer's interconnection approval application filed with Eversource, and a copy of Developer's Interconnection Agreement promptly after it has been signed, including any future amendments to such application or agreement.

5. Payment Collection. All rights and remedies available to the City for the collection of taxes shall apply to the Annual Payments hereunder, including, but not limited to, the rights and remedies provided in G.L. c. 59 and G.L. c. 60, and all such rights and remedies are hereby reserved, notwithstanding anything to the contrary herein. Moreover, the provisions of the General Laws, including, but not limited to, G.L. c. 60 and G.L. c. 59, will govern the establishment of liens and the collection of payments under this Agreement as though they were property taxes due and payable to the City. Developer shall pay interest on late payments at the rate of fourteen percent (14%) per annum as set forth in G.L. c. 59, § 57, for late payments of taxes or assessments. In addition to, and not in limitation and not as a waiver of, any other rights and remedies available to the City, in the event the Developer fails to make any payments required under this Agreement, and/or to the extent

the City and the Developer are unable to agree to any increases to Annual Payments for Value Added Property set forth in Paragraphs 3 and 4, the City may, at its sole election, terminate this Agreement or assess taxes for that portion of the Project to which such payments or increases are deemed to relate, as determined by the City's Board of Assessors. If and to the extent necessary for assessment of such taxes, such portions of the Project shall be deemed to be property unintentionally omitted from annual assessment under G.L. c. 59, § 75.

6. Tax Status. Except as otherwise provided in this Agreement, the City will not assess Developer for any statutory property taxes with respect to the Project to which Developer might otherwise be subject under Massachusetts law, and the City agrees that this Agreement will exclusively govern the payments of all property taxes that the Developer will be obligated to make to the City during the term of this Agreement with respect to the Project under Massachusetts law, provided, however, that this Agreement is not intended to affect and will not preclude other assessments of general applicability by the City, including excise taxes on vehicles due pursuant to G.L. c. 60A and charges for services provided by the City to the Project, including but not limited to, water and sewer services. Notwithstanding anything to the contrary in this Agreement, this Agreement does not affect or limit in any way the assessment and collection of taxes for personal property not included in the Inventory, as the same may be updated in accordance with this Agreement.

7. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party shall be deemed given one day after deposit with a nationally recognized overnight delivery service or two days after sent by certified mail, return receipt requested, to the addresses given below.

To: Oak Leaf Solar XVII LLC
 Attn: Michael McCabe
 To: City of Pittsfield
 City Hall, 70 Allen Street
 Pittsfield, MA 01201
 Attention: Board of Assessors

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

8. Successors and Assigns. This Agreement shall not be assigned without the express written consent of the City, which shall not be unreasonably withheld, except that Developer may (i) collaterally assign the Agreement to an entity providing financing for construction, operation or maintenance of the Project with advance written notice to the City, provided that Developer shall not be relieved of its obligations hereunder; or (ii) with advance written notice to the City, assign the Agreement to an entity no less creditworthy than Developer to whom Developer has sold or transferred all its interests in the Project, provided that, upon an assignment under clause (ii), Developer shall be deemed as having represented and warranted to the City that the assignee has the financial ability to comply with all obligations of Developer hereunder. This Agreement will be binding upon the successors and assigns of Developer, and the obligations created hereunder will run

with the Project. In the event that Developer sells, transfers, leases or assigns the Property or all or substantially all of its interest in the Project, this Agreement will thereafter be binding on the purchaser, transferee or assignee. A Notice of this Agreement will be recorded in the applicable Registry of Deeds forthwith upon execution.

9. Applicable Law. This Agreement is made and interpreted in accordance with the laws and regulations of Massachusetts. The Developer and the City each consent to the jurisdiction of the Massachusetts courts and applicable agencies of the Commonwealth of Massachusetts regarding any and all matters, including the interpretation or enforcement of this Agreement, without regard to any rules concerning conflicts of laws or venue. Any and all actions related to this Agreement shall be brought in the courts of the Commonwealth of Massachusetts. Developer agrees to accept service of legal process by certified mail at the address listed in the Notices section above.

10. Change of Law. The parties recognize that at the time of signing of this 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 Developer and the Project, or exempts the Project of taxation in the absence of this Agreement, then the new law shall not supersede this 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 Agreement, the payments in lieu of taxes due under this Agreement shall be decreased on an annual basis by the amount of the property taxes actually paid to the City for each year.

11. 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 personal property of the Project, to the extent that such value is determinable as of the date of this Agreement, in accordance with G.L. c. 59, sec. 38H as in effect on the date of the Agreement. The Parties further acknowledge that this Agreement is fair and mutually beneficial to them because it reduces the likelihood of future disputes over personal property taxes, establishes tax and economic stability at a time of continuing transition and economic uncertainty in the electric utility industry in Massachusetts and the region, and fixes and maintains mutually acceptable, reasonable and accurate payments for personal property taxes for the Project that are appropriate and serve the Parties' 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 for property taxes to the City, and the Parties further agree that the amount of rent payments from the Lease and the amount of the electricity price in the PPA, which constitute additional benefits to the City from the Project, have been established by the Parties taking into account the amount of taxes to be paid by the Developer under this Agreement.

Developer acknowledges that this Agreement is beneficial to it because it ensures that there will be mutually acceptable, steady, predictable, accurate and reasonable payments for personal property taxes for the Project.

12. Good Faith. The City and the Developer shall act in good faith to carry out and implement this Agreement and to resolve any disputes between them arising under this Agreement.

13. Force Majeure. The Developer 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. These events are referred to as “*Force Majeure*.” As used herein, *Force Majeure* includes, without limitation: (i) acts of God including floods, winds, storms, earthquake, fire or other natural calamity, (ii) acts of War or other civil insurrection or terrorism, or (iii) a taking by eminent domain by any governmental entity of all or a portion of the Property or the Project.

If a *Force Majeure* event occurs during the term of this Agreement with respect to any portion of the Property or Project that renders the Property or Project unusable for the customary purpose of the production of electricity for a period of more than sixty (60) days, then the Developer may, at its election, and within ten (10) days after the 60th day that the Property or Project is so unusable, notify the City of the existence of this condition as well as of its decision whether or not to rebuild that portion of the Property or Project so damaged, destroyed or taken.

If the Developer elects not to rebuild, then it may notify the City of its termination of this Agreement and the Property and Project will thereafter be assessed and taxed as though this Agreement did not exist.

14. Covenants/Warranties of the Developer.

14.1 During the term of the Agreement, the Developer will not do any of the following:

- (a) Seek to invalidate this Agreement except as expressly provided for herein;
- (b) Fail to pay the City all amounts due hereunder when due and in accordance with the terms of this Agreement;
- (c) Seek, for any reason, an abatement or reduction of any of the amounts assessed in accordance with the terms of this Agreement, except as may be expressly provided for herein;
- (d) Seek to amend or terminate this Agreement on account of the enactment of any law or regulation or a change in any existing law or regulation the intent or effect of which is to fix or limit in any way the method for calculating tax payments for renewable energy facilities, unless such change in existing law or regulation expressly requires the amendment or termination of this Agreement;
- (e) Convey by sale, lease or otherwise any interest in the Property or Project to any tax-exempt entity or organization, including without limitation a charitable organization within the meaning of G.L. c.59, § 5 (Clause Third); or
- (f) Assign or otherwise transfer any interest in the Project or this Agreement to any person or entity that is not a “generation” company” or “wholesale generation company” under G.L. c. 59, §38H(b), or in a manner where such assignment would otherwise disqualify this Agreement as an agreement for tax payments under G.L. c. 59, § 38H (b).

14.2 The Developer represents and warrants:

- (a) It is a corporation or other business entity duly organized, validly existing and in good standing under the laws of the state in which it was formed, and if a foreign corporation, is registered with the Massachusetts Secretary of State, 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 the Developer, enforceable in accordance with its terms.
- (c) It has taken all necessary action to authorize and approve the execution and delivery of this Agreement.
- (d) None of the documents or information furnished by or on behalf of the Developer to the City in connection with negotiation and execution of this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein, or any material fact necessary to ensure that the statements contained in this Agreement or such documents or information are not misleading.
- (e) The person executing this Agreement on behalf of the Developer has the full power and authority to bind it to each and every provision of this Agreement.
- (f) The Developer is a “generation company” or “wholesale generation company” as those terms are defined in G.L. c. 59, § 38H (b) and G.L. c. 164 § 1.
- (g) Developer is not a (i) “manufacturing corporation,” (ii) “research and development corporation,” or (iii) “limited liability company engaged in manufacturing” subject to exemption from certain taxes under G.L. c.59, §5(16) (3); and the Project does not include or constitute machinery or equipment exempt from taxation under G.L. c.59, § 5(16) (2) or § 5(44).
- (h) The performance of Developer’s obligations under this Agreement will not violate or result in a breach or default of any agreement or instrument to which Developer is a party or by which Developer is otherwise bound.

15. Certification of Tax Compliance. Pursuant to G.L. c. 62C, §49A the undersigned Developer by its duly authorized representative certifies that it is in tax compliance with the laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

16. Termination. The Developer and the City understand and agree that this Agreement may be terminated by the City upon thirty (30) days written notice if (a) this Agreement, or any material portion of this Agreement, is determined or declared to be illegal, void, or unenforceable; (b) the Developer is determined not to be a “generation company” or “wholesale generation company” under G.L. c. 59, § 38H (b); (c) if the Pittsfield Municipal Airport Commission or the City exercises a purchase option to acquire the Project, or any portion thereof (in the event of a City acquisition of a portion of the Project, this Agreement will terminate with respect to that portion and will continue with respect to the portion of the Project that the Developer continues to own and the PILOT amount

payable shall be pro-rated according to the capacity of the portion of the Project in continued ownership of the Developer; or (d) if the Lease, including any extension thereto, terminates.

17. Complete Agreement. This Agreement is a full, final and complete expression of the Parties' agreement for payments for personal property taxes with respect to the Developer's Project at the Property in the City of Pittsfield.

18. Termination by City. In addition to any other rights of termination contained herein, the City shall have the right to terminate this Agreement upon thirty (30) days written notice to Developer if Developer: (i) fails to make timely payments required under this Agreement, unless all payments due under the Agreement, including interest, are made within said thirty (30)-day notice period; (ii) files, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent; (iii) abandons the Project; (iv) fails to provide the Annual Inventory Update in compliance with Paragraph 4 of this Agreement; or (v) otherwise materially breaches this Agreement. No such termination notice shall be effective if the Developer has cured the failure or breach relating to taxes, reporting of employees and contractors, and withholding and remitting child support during such thirty (30)-day notice period.

19. Authorization of the Mayor to act on behalf of the City. Except as set forth otherwise in this Agreement, the Mayor is authorized to act on behalf of the City.

20. City Council Approval. Notwithstanding anything to the contrary herein, this Agreement is subject to the approval of the City Council. This Agreement may be terminated by either party, without recourse, in the event that this Agreement is not approved by the City Council by **[Insert date]**, 2018.

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

DEVELOPER:

By: _____

Name: Michael McCabe

Title: President, Oak Leaf Solar XVII LLC

CITY OF PITTSFIELD

By: _____

Linda M. Tyer, Mayor

Exhibit A – Site Layout

Solar Area 1

Note: The Parties agree to collaborate on the final System design to optimize the facility size and layout. The Parties further agree that the Access Gate on Barker Road will be retained, and any Access Road located on the Parcel will either be retained or relocated by Developer at its own expense. Such construction and relocation shall be subject to the written approval of City.

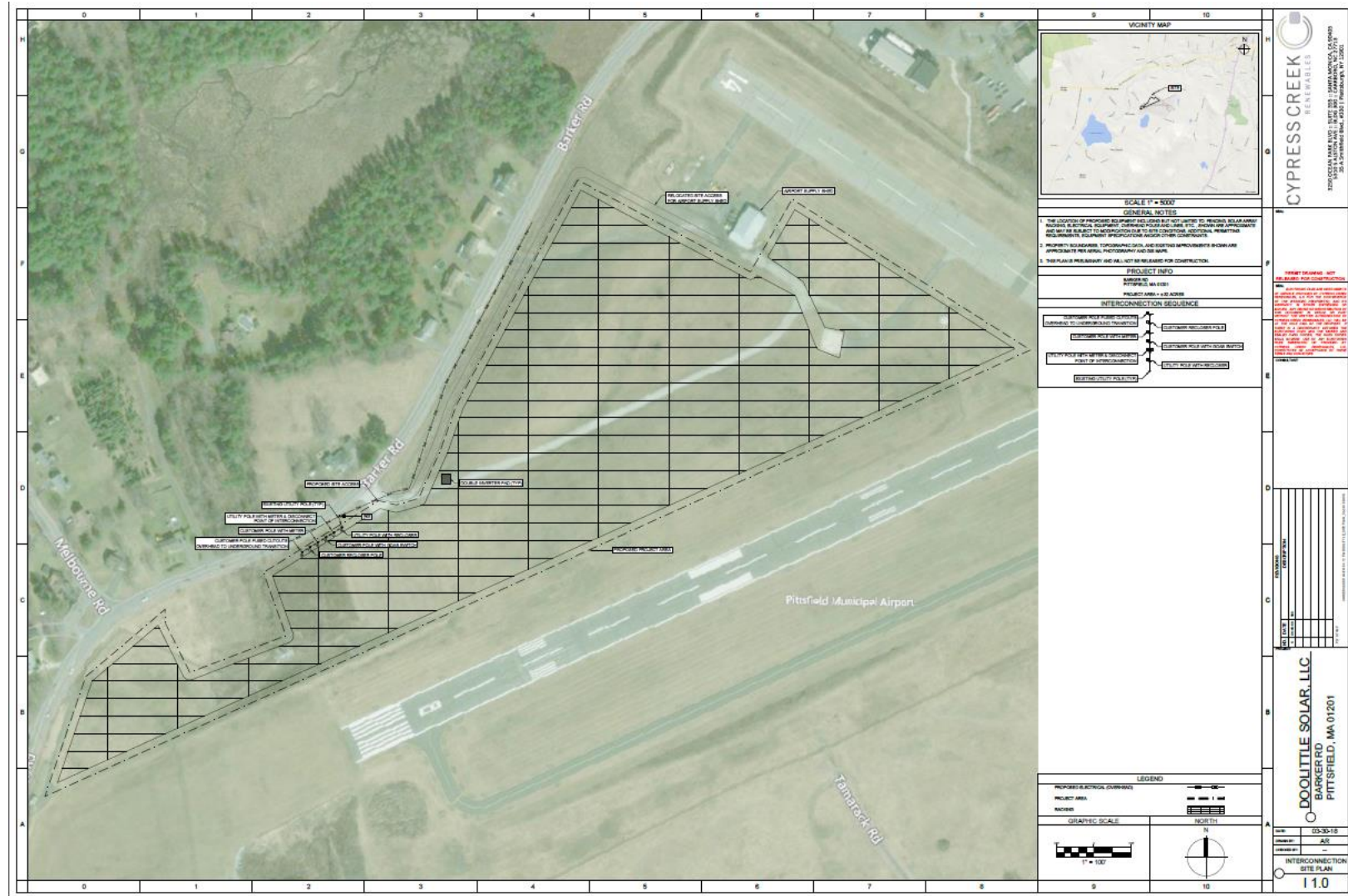


Exhibit A – Site Layout

Solar Area 2

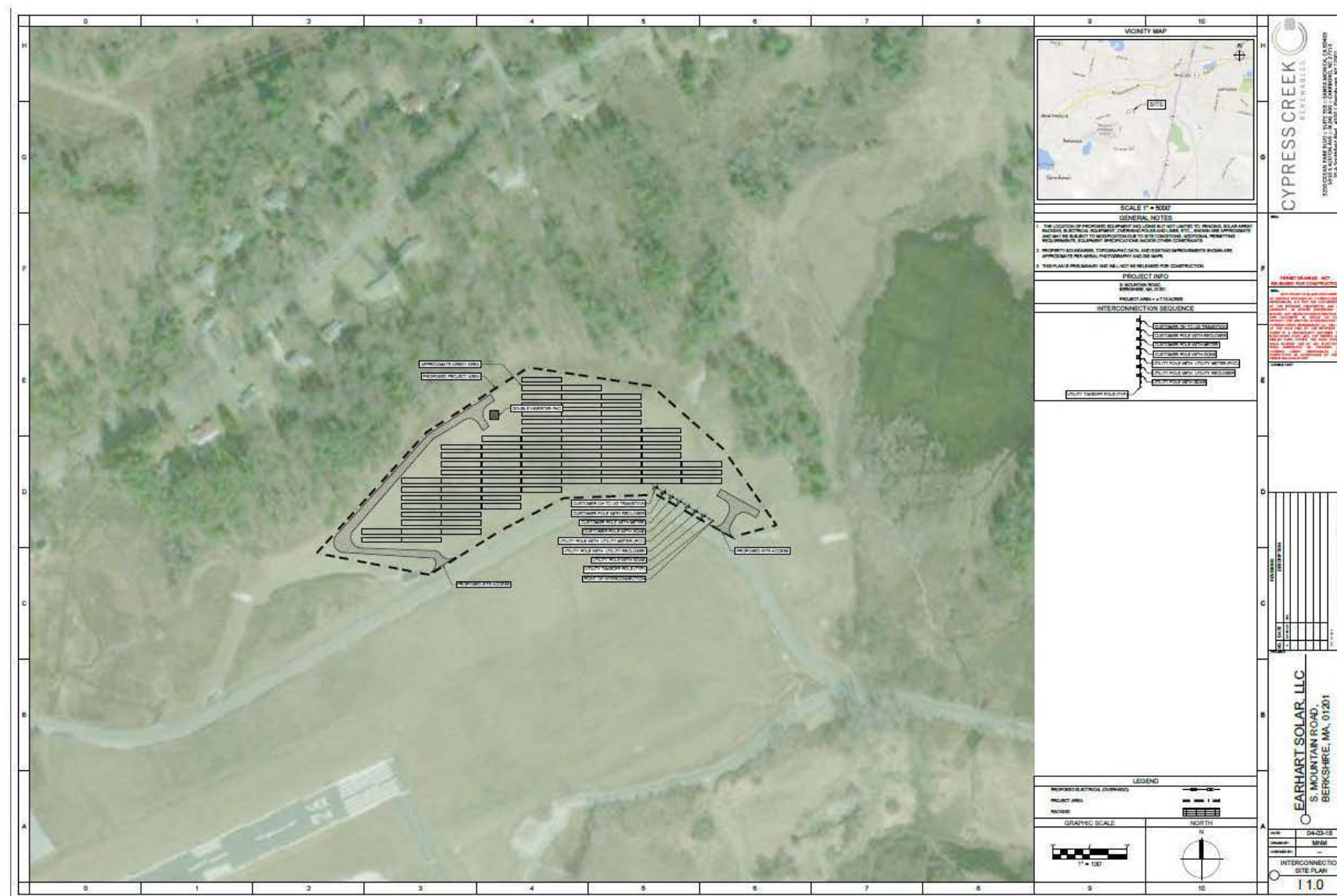


Exhibit B – Equipment List

The final System Description shall be the final As-Built drawings to be provided after Commercial Operation Date. The parties shall amend the Agreement to substitute a revised Exhibit F with the final System Description.			
		Solar Area 1	Solar Area 2
General System Description:			
1	DC System Size: kW-DC at STC capacity	6020	2500
2	AC System Size: kW-AC	5000	1666
Solar PV Panels:			
1	Manufacturer:	JA Solar	JA Solar
2	Model Number:	18,242	7,576
3	Module Wattage:	330	330
4	Panel Count:	25	25
5	Type: Polycrystalline	Polycrystalline	Polycrystalline
6	Array tilt:	Single-axis tracker	Single-axis tracker
7	Warranty Information:	25	25
(a)	Free from defects in materials/workmanship (yrs)	12	12
(b)	Percent min production in Year 1	97.5%	97.5%
(c)	25 year linear power output with XX% min production at year 25.	80%	80%
Inverters:			
1	Manufacturer:	SMA	SMA
2	Model Number:	SCS 2500-EV-US	SCS 1850-EV-US
3	Number and size to be installed:	2500 Kwac (2)	1666 kWac (1)
4	String size and Quantity:	652; 9.24 kW each	270; 9.24 kW each
5	Warranty Information:	10 yrs	10 yrs
Mounting System:			
1	Manufacturer:	TerraSmart	TerraSmart
2	Model:	Single-Axis Tracker Foundation	Single-Axis Tracker Foundation
3	Type:	Driven pile	Driven pile
4	Warranty Information:	5 yrs	5 yrs
Data Acquisition System (DAS):			
1	Manufacturer:	Nor-Cal Controls (hardware); Power Factors Drive (software)	
2	Warranty Information:	Ongoing service	Ongoing service
Battery Energy Storage System (BESS):			
1	Manufacturer:	IHI Energy Storage	IHW Energy Storage
2	Model Name:	ESWare	ESWare
3	Unit Size:	700 kW / 1,750 kWh	700 kW / 1,750 kWh
4	Unit Number:	5	2
5	Warranty Information:	10 yrs	10 yrs

Exhibit C – Total Annual Payment Schedule

SOLAR AREAS 1 AND 2 COMBINED TOTAL					SOLAR AREA 1 ONLY				SOLAR AREA 2 ONLY			
TERM	YEAR	BLOCK 2	BLOCK 3	BLOCK 4	YEAR	BLOCK 2	BLOCK 3	BLOCK 4	YEAR	BLOCK 2	BLOCK 3	BLOCK 4
INITIAL TERM	Year 1	\$240,986	\$240,586	\$240,186	Year 1	\$194,638	\$193,671	\$192,491	Year 1	\$46,348	\$46,915	\$47,695
	Year 2	\$218,973	\$218,457	\$217,940	Year 2	\$176,859	\$175,857	\$174,662	Year 2	\$42,114	\$42,600	\$43,278
	Year 3	\$218,973	\$218,457	\$217,940	Year 3	\$176,859	\$175,857	\$174,662	Year 3	\$42,114	\$42,600	\$43,278
	Year 4	\$218,973	\$218,457	\$217,940	Year 4	\$176,859	\$175,857	\$174,662	Year 4	\$42,114	\$42,600	\$43,278
	Year 5	\$218,973	\$218,457	\$217,940	Year 5	\$176,859	\$175,857	\$174,662	Year 5	\$42,114	\$42,600	\$43,278
	Year 6	\$218,973	\$218,457	\$217,940	Year 6	\$176,859	\$175,857	\$174,662	Year 6	\$42,114	\$42,600	\$43,278
	Year 7	\$218,973	\$218,457	\$217,940	Year 7	\$176,859	\$175,857	\$174,662	Year 7	\$42,114	\$42,600	\$43,278
	Year 8	\$218,973	\$218,457	\$217,940	Year 8	\$176,859	\$175,857	\$174,662	Year 8	\$42,114	\$42,600	\$43,278
	Year 9	\$218,973	\$218,457	\$217,940	Year 9	\$176,859	\$175,857	\$174,662	Year 9	\$42,114	\$42,600	\$43,278
	Year 10	\$218,973	\$218,457	\$217,940	Year 10	\$176,859	\$175,857	\$174,662	Year 10	\$42,114	\$42,600	\$43,278
	Year 11	\$218,973	\$218,457	\$217,940	Year 11	\$176,859	\$175,857	\$174,662	Year 11	\$42,114	\$42,600	\$43,278
	Year 12	\$218,973	\$218,457	\$217,940	Year 12	\$176,859	\$175,857	\$174,662	Year 12	\$42,114	\$42,600	\$43,278
	Year 13	\$218,973	\$218,457	\$217,940	Year 13	\$176,859	\$175,857	\$174,662	Year 13	\$42,114	\$42,600	\$43,278
	Year 14	\$218,973	\$218,457	\$217,940	Year 14	\$176,859	\$175,857	\$174,662	Year 14	\$42,114	\$42,600	\$43,278
	Year 15	\$218,973	\$218,457	\$217,940	Year 15	\$176,859	\$175,857	\$174,662	Year 15	\$42,114	\$42,600	\$43,278
	Year 16	\$218,973	\$218,457	\$217,940	Year 16	\$176,859	\$175,857	\$174,662	Year 16	\$42,114	\$42,600	\$43,278
	Year 17	\$218,973	\$218,457	\$217,940	Year 17	\$176,859	\$175,857	\$174,662	Year 17	\$42,114	\$42,600	\$43,278
	Year 18	\$218,973	\$218,457	\$217,940	Year 18	\$176,859	\$175,857	\$174,662	Year 18	\$42,114	\$42,600	\$43,278
	Year 19	\$218,973	\$218,457	\$217,940	Year 19	\$176,859	\$175,857	\$174,662	Year 19	\$42,114	\$42,600	\$43,278
	Year 20	\$218,973	\$218,457	\$217,940	Year 20	\$176,859	\$175,857	\$174,662	Year 20	\$42,114	\$42,600	\$43,278
1ST RENEWAL	Year 21	\$218,973	\$218,457	\$217,940	Year 21	\$176,859	\$175,857	\$174,662	Year 21	\$42,114	\$42,600	\$43,278
	Year 22	\$218,973	\$218,457	\$217,940	Year 22	\$176,859	\$175,857	\$174,662	Year 22	\$42,114	\$42,600	\$43,278
	Year 23	\$218,973	\$218,457	\$217,940	Year 23	\$176,859	\$175,857	\$174,662	Year 23	\$42,114	\$42,600	\$43,278
	Year 24	\$218,973	\$218,457	\$217,940	Year 24	\$176,859	\$175,857	\$174,662	Year 24	\$42,114	\$42,600	\$43,278
	Year 25	\$218,973	\$218,457	\$217,940	Year 25	\$176,859	\$175,857	\$174,662	Year 25	\$42,114	\$42,600	\$43,278
2ND RENEWAL	Year 26	\$218,973	\$218,457	\$217,940	Year 26	\$176,859	\$175,857	\$174,662	Year 26	\$42,114	\$42,600	\$43,278
	Year 27	\$218,973	\$218,457	\$217,940	Year 27	\$176,859	\$175,857	\$174,662	Year 27	\$42,114	\$42,600	\$43,278
	Year 28	\$218,973	\$218,457	\$217,940	Year 28	\$176,859	\$175,857	\$174,662	Year 28	\$42,114	\$42,600	\$43,278
	Year 29	\$218,973	\$218,457	\$217,940	Year 29	\$176,859	\$175,857	\$174,662	Year 29	\$42,114	\$42,600	\$43,278
	Year 30	\$218,973	\$218,457	\$217,940	Year 30	\$176,859	\$175,857	\$174,662	Year 30	\$42,114	\$42,600	\$43,278
	TOTAL	\$6,591,205	\$6,575,827	\$6,560,450	TOTAL	\$5,323,545	\$5,293,509	\$5,257,696	TOTAL	\$1,267,660	\$1,282,318	\$1,302,753

End Exhibit B

**FORM OF TAX PAYMENT
AGREEMENT**

EXHIBIT C

ADDITIONAL CONDITIONS ON USE OF THE PREMISES

Tenant's Use of the Premises including such use by Tenant's employees, contractors and agents, shall be subject to the following:

1. Parcel 1:
 - a. An existing easement recorded in the Berkshire Middle District Registry of Deeds, on parcel numbers: 2 (501 Book/379 Page), 17 (541Book/146 page), 6 (512 Book/292 Page), 7 (512 Book/292 Page), 32 (882 Book/133 page), 93 (N/A), 4 (520 Book/ 120 Page). The Parcel Identification is defined as F050001002 with the City of Pittsfield Assessor's ID.
2. Parcel 2:
 - a. An existing easement recorded in the Berkshire Middle District Registry of Deeds, on parcel numbers: 92 (3368 Book/139 Page) and 99 (3818Book/72 page). The Parcels Identification is defined as, F050002011 and 5050002010 with the City of Pittsfield Assessors ID.
3. Full compliance with the Permitted Uses and all requirements applicable to the Developer's activities of federal aviation law, the regulations, policies, and grant assurances, as amended from time to time, of the FAA and guidelines and standards promulgated by the Pittsfield Municipal Airport Commission. Such applicable requirements fall within the definition of "Applicable Legal Requirements" in this Agreement. Such requirements include, but are not limited to:
 - a. 14 CFR Part 77 (Safe, Efficient Use and Preservation of Navigable Air Space);
 - b. FAA Form 7460 (Notice and Supplemental Notice of Proposed Construction or Alteration);
 - c. Pittsfield Municipal Airport Security Plan and applicable provisions, as directed by the Airport Manager or his designee, of the Pittsfield Municipal Airport Security Program;
 - d. Minimum Standards and Rules and Regulations of the Pittsfield Municipal Airport;
 - e. Federal Aviation Administration Advisory Circular, 150/5370-2F and all revisions, Guidelines for Construction, Alteration and Improvements of the Pittsfield Municipal Airport;

- f. Construction Area Rules;
- g. Airport Security Procedures of the Pittsfield Municipal Airport.

Copies of the documents listed above will be provided by Landlord to Tenant.

- 4. The Tenant shall arrange and attend a mandatory pre-construction meeting with the Airport Manager or his/her designee. The contractor shall receive Airport approved AOA access badges. The Contractor's designated employees and drivers, the Contractor shall satisfactorily complete the AOA security training program.
- 5. All approved badge holders shall complete a mandatory training program for access to the AOA, including driver training in the non-movement areas.
- 6. Construction vehicles entering Airport restricted areas must be identified with an appropriate company logo and have a light beacon on the roof. No private vehicles owned by individual Contractor employees shall be permitted to enter Airport restricted areas.
- 7. Mowing and vegetation management within the fenced area of the Premises surrounding the System shall be conducted April through October or as Airport Administration determines otherwise at least once monthly, or so the grass height does not exceed four (4) inches or as determined otherwise by the Airport Administration or other Governmental Authority with jurisdiction over the Airport.
- 8. Hours of construction shall be limited to 06:00 a.m. to 8:00 p.m., unless alternative hours of work are requested from and approved by the Airport Manager or his/her designee.

EXHIBIT D

Definitions

“Applicable Legal Requirements” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, including the City, but not Landlord, ordinary or extraordinary, foreseen or unforeseen, which may at any time be applicable to the Lease, the Premises or the System, or any part thereof, or to any condition or use thereof, or to the design, construction, installation, permitting, operation, maintenance, repair and removal of the System, including the Massachusetts Prevailing Wage Law (if and as applicable) and all Governmental Approvals which are or may be required for the use and occupancy of the Premises, and for the design, installation, permitting, operation, maintenance, repair and removal of the System, and any required site plan approval or special permit required for the installation or operation of the System under the City’s Zoning Ordinance.

“Business Day” means any day except a Saturday, Sunday, or a Massachusetts legal holiday.

“Commercial Operation” means that the System is ready for regular, continuous daily operation, has been connected to the LDC System, has approval to interconnect from the LDC, has been installed in accordance, and is in compliance with, Applicable Legal Requirements in all respects, and is producing and delivering to the Delivery Point, or is immediately capable of producing and delivering to the Delivery Point, Electricity.

“Commercial Operation Date” means the first day on which the System achieves Commercial Operation, as certified in writing by Tenant to Landlord.

“Construction Commencement Date” means the date of commencement of actual construction activities, which at a minimum shall include mobilization of labor and equipment to prepare the site for installation of the System, on the Premises in connection with the installation of the System.

“Delivery Point” means the point at which the System interconnects to the LDC System.

“Electricity” means the actual and verifiable amount of electricity generated by the System, as measured in whole kilowatt-hours (kWh). Electricity shall not include any electricity consumed by the System.

“Environmental Attributes” means any credit, benefit, reduction, offset, financial incentive, rebate, emissions reductions, tax credit and other beneficial allowance that is in effect as of the Commencement Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) financial based incentives under any federal or state or initiatives, (ii) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (iii) Solar Renewable Energy Credits, Renewable Energy Credits, SMART Program incentives , or any similar credits

or payments under the laws of the Commonwealth of Massachusetts or any other jurisdiction, (iv) tax credits, incentives or depreciation allowances established under any federal or State law, and (v) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Electricity generated by the System during the Term. Notwithstanding the preceding, “Environmental Attributes” do not include Net Metering Credits or any credit associated with an Alternative On-bill Credit Generation Unit, which shall be allocated and assigned to Landlord and other governmental entities in accordance with the provisions of this Agreement, nor any credit, benefit, reduction, offset, financial incentive, rebate, emissions reductions, tax credit and other beneficial allowance that inures solely to Landlord only because Landlord is a governmental body or a Municipality or Other Governmental Entity as described under the Net Metering Rules.

“*Force Majeure*” means any event or circumstance that prevents a Party from performing its obligations under this Agreement, which event or circumstance (i) is not within the reasonable control, and is not the result of the fault or negligence, of the Party claiming Force Majeure (the “*Claiming Party*”), and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) Tenant’s ability to sell Electricity or (ii) naturally occurring fluctuations in sunlight or in the availability or unavailability thereof. In addition, a delay or inability to perform substantially attributable to a Party’s failure to timely take the actions necessary to obtain and maintain all necessary permits, a failure to satisfy contractual conditions or commitments (unless otherwise caused by an event of Force Majeure), or lack of or deficiency in funding or other resources, shall each not constitute a Force Majeure.

“*Governmental Approval*” means any approval, consent, franchise, authorization, permit, agreement, confirmation, certificate, resolution, concession, license, privilege or assent issued by or on behalf of any applicable Governmental Authority.

“*Governmental Authority*” means the United States of America, the Commonwealth of Massachusetts, and any political or municipal subdivision thereof, and any agency, department, commission, board, bureau, committee, official, authority, or instrumentality of any of them, and any independent electric system operator, but shall not include the Landlord.

“*LDC*” means the regulated electric local distribution company that provides electric distribution service to the municipality in which Landlord is located.

“*LDC System*” means the electric distribution system operated and maintained by the LDC.

“*Metering Device*” means any and all utility revenue-grade quality meters, meter mounting equipment, and/or data acquisition equipment installed by Tenant at Tenant’s expense, in accordance with requirements of NEPOOL GIS and the Massachusetts Clean Energy Center for the registration, recording, and transmission of information regarding the amount of Electricity generated by the System.

“*System*” means the solar photovoltaic electric generating facility or facilities, including, but not limited to, Tenant’s solar energy panels, mounting systems, inverters, and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the System. The System may include two separate facilities on two separate Lease Areas, both of which may be referred to as the System, or, where applicable may be referenced separately as the System in Lease Area 1 and the System in Lease Area 2.

“*System Loss*” means loss, theft, damage or destruction of the System or any portion thereof, that prevents or materially limits the System from operating in whole or in significant part, but shall not include outage on account of ordinary maintenance, repair or component replacement nor damage or destruction caused by Tenant negligence.

EXHIBIT E**Base Rent – Solar Area 1**

SOLAR AREA 1				
TERM	YEAR	BLOCK 2	BLOCK 3	BLOCK 4
INITIAL TERM	Year 1	\$140,931	\$99,242	\$57,763
	Year 2	\$158,710	\$117,056	\$75,592
	Year 3	\$160,488	\$118,367	\$76,438
	Year 4	\$162,285	\$119,693	\$77,294
	Year 5	\$164,103	\$121,034	\$78,160
	Year 6	\$165,941	\$122,389	\$79,036
	Year 7	\$167,799	\$123,760	\$79,921
	Year 8	\$169,679	\$125,146	\$80,816
	Year 9	\$171,579	\$126,548	\$81,721
	Year 10	\$173,501	\$127,965	\$82,636
	Year 11	\$175,444	\$129,398	\$83,562
	Year 12	\$177,409	\$130,847	\$84,498
	Year 13	\$179,396	\$132,313	\$85,444
	Year 14	\$181,405	\$133,795	\$86,401
	Year 15	\$183,437	\$135,293	\$87,369
	Year 16	\$185,492	\$136,809	\$88,347
	Year 17	\$187,569	\$138,341	\$89,337
	Year 18	\$189,670	\$139,890	\$90,337
	Year 19	\$191,794	\$141,457	\$91,349
	Year 20	\$193,942	\$143,041	\$92,372
1ST RENEWAL	Year 21	\$196,114	\$144,644	\$93,407
	Year 22	\$198,311	\$146,264	\$94,453
	Year 23	\$200,532	\$147,902	\$95,511
	Year 24	\$202,778	\$149,558	\$96,581
	Year 25	\$205,049	\$151,233	\$97,662
2ND RENEWAL	Year 26	\$207,346	\$152,927	\$98,756
	Year 27	\$209,668	\$154,640	\$99,862
	Year 28	\$212,016	\$156,372	\$100,981
	Year 29	\$214,391	\$158,123	\$102,112
	Year 30	\$216,792	\$159,894	\$103,255
TOTAL		\$5,543,571	\$4,083,942	\$2,630,973

Interconnection Cost Allowance: \$902,286

Decommissioning Assurance Amount: \$601,524

Base Rent Adjustment for Change in System Size: The Base Rent rates presented in the table above are based on a total system size of 5.00 MW(AC). Any increase or decrease in this system size prior to installation will result in a commensurate change in the Base Rent Rate, to be formalized in an amendment to the Lease prior to the Construction Commencement Date.

Base Rent – Solar Area 2

SOLAR AREA 2				
TERM	YEAR	BLOCK 2	BLOCK 3	BLOCK 4
INITIAL TERM	Year 1	\$33,559	\$24,041	\$14,313
	Year 2	\$37,793	\$28,357	\$18,730
	Year 3	\$38,216	\$28,674	\$18,940
	Year 4	\$38,644	\$28,995	\$19,152
	Year 5	\$39,077	\$29,320	\$19,367
	Year 6	\$39,514	\$29,648	\$19,583
	Year 7	\$39,957	\$29,980	\$19,803
	Year 8	\$40,404	\$30,316	\$20,025
	Year 9	\$40,857	\$30,656	\$20,249
	Year 10	\$41,315	\$30,999	\$20,476
	Year 11	\$41,777	\$31,346	\$20,705
	Year 12	\$42,245	\$31,697	\$20,937
	Year 13	\$42,718	\$32,052	\$21,171
	Year 14	\$43,197	\$32,411	\$21,408
	Year 15	\$43,681	\$32,774	\$21,648
	Year 16	\$44,170	\$33,141	\$21,891
	Year 17	\$44,665	\$33,513	\$22,136
	Year 18	\$45,165	\$33,888	\$22,384
	Year 19	\$45,671	\$34,268	\$22,635
	Year 20	\$46,182	\$34,651	\$22,888
1ST RENEWAL	Year 21	\$46,699	\$35,039	\$23,144
	Year 22	\$47,222	\$35,432	\$23,404
	Year 23	\$47,751	\$35,829	\$23,666
	Year 24	\$48,286	\$36,230	\$23,931
	Year 25	\$48,827	\$36,636	\$24,199
2ND RENEWAL	Year 26	\$49,374	\$37,046	\$24,470
	Year 27	\$49,927	\$37,461	\$24,744
	Year 28	\$50,486	\$37,881	\$25,021
	Year 29	\$51,051	\$38,305	\$25,301
	Year 30	\$51,623	\$38,734	\$25,585
TOTAL		\$1,320,053	\$989,322	\$651,903

Interconnection Cost Allowance: \$343,728

Decommissioning Assurance Amount: \$229,152

Base Rent Adjustment for Change in System Size: The Base Rent rates presented in the table above are based on a total system size of 1.67 MW(AC). Any increase or decrease in this system size prior to installation will result in a commensurate change in the Base Rent rate, to be formalized in an amendment to the Lease prior to the Construction Commencement Date.

EXHIBIT F**DESCRIPTION OF SYSTEM**

The final System Description shall be the final As-Built drawings to be provided after Commercial Operation Date. The parties shall amend the Agreement to substitute a revised Exhibit F with the final System Description.

		Solar Area 1	Solar Area 2
General System Description:			
1	DC System Size: kW-DC at STC capacity	6020	2500
2	AC System Size: kW-AC	5000	1666
Solar PV Panels:			
1	Manufacturer:	JA Solar	JA Solar
2	Model Number:	18,242	7,576
3	Module Wattage:	330	330
4	Panel Count:	25	25
5	Type: Polycrystalline	Polycrystalline	Polycrystalline
6	Array tilt:	Single-axis tracker	Single-axis tracker
7	Warranty Information:	25	25
(a)	Free from defects in materials/workmanship (yrs)	12	12
(b)	Percent min production in Year 1	97.5%	97.5%
(c)	25 year linear power output with XX% min production at year 25.	80%	80%
Inverters:			
1	Manufacturer:	SMA	SMA
2	Model Number:	SCS 2500-EV-US	SCS 1850-EV-US
3	Number and size to be installed:	2500 Kwac (2)	1666 kWac (1)
4	String size and Quantity:	652; 9.24 kW each	270; 9.24 kW each
5	Warranty Information:	10 yrs	10 yrs
Mounting System:			
1	Manufacturer:	TerraSmart	TerraSmart
2	Model:	Single-Axis Tracker Foundation	Single-Axis Tracker Foundation
3	Type:	Driven pile	Driven pile
4	Warranty Information:	5 yrs	5 yrs
Data Acquisition System (DAS):			
1	Manufacturer:	Nor-Cal Controls (hardware); Power Factors Drive (software)	
2	Warranty Information:	Ongoing service	Ongoing service
Battery Energy Storage System (BESS):			
1	Manufacturer:	IHI Energy Storage	IHW Energy Storage
2	Model Name:	ESWare	ESWare
3	Unit Size:	700 kW / 1,750 kWh	700 kW / 1,750 kWh
4	Unit Number:	5	2
5	Warranty Information:	10 yrs	10 yrs

EXHIBIT G

LANDLORD AND TENANT DEFAULT TERMINATION PAYMENTS

[PARTIES TO INSERT]

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. _____

**AUTHORIZING THE CITY OF PITTSFIELD
TO CONTRACT WITH OAK LEAF ENERGY PARTNERS
FOR THE PURCHASE OF SOLAR POWER**

Ordered:

That the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the City to enter into an agreement with Oak Leaf Energy Partners for the purchase of solar power. A copy of the agreement is attached hereto.

That the City of Pittsfield by its Mayor is further authorized to execute any and all documents necessary to implement this order.

I
SOLAR POWER PURCHASE AGREEMENT

THIS SOLAR POWER PURCHASE AGREEMENT (“Agreement”) is made and entered into as of the ____ day of _____, 2018 (the “Effective Date”), by and between the City of Pittsfield, Massachusetts, a municipal corporation of the Commonwealth of Massachusetts, (“User”) and Oak Leaf Solar XVII LLC, a limited liability company (“Owner”). User and Owner are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.” Where the City of Pittsfield is referred to in its regulatory, and not proprietary capacity, the City of Pittsfield shall be referred to as the “City” and not the “User.”

RECITALS

WHEREAS, Owner proposes to finance, design, install, own, operate and maintain solar energy facilities (the “System”) on certain premises owned by User, such premises shown on Exhibit A hereto;

WHEREAS, a preliminary description of the System is set forth on Exhibit B attached hereto;

WHEREAS, Owner desires to sell to User, and User desires to purchase from Owner, all of the Electricity generated by the System during the Term, and all Net Metering Credits, or Alternative On-bill Credits associated with such Electricity, resultant from the System’s classification as a Net Metered Generation Unit or an Alternative On-bill Credit Generation Unit, pursuant to the Solar Massachusetts Renewable Target (SMART) Program established pursuant to 225 CMR 20.00, *et seq.*;

WHEREAS, the Pittsfield Municipal Airport Commission, and Owner, as Tenant, are entering into a separate lease agreement of even date herewith (the “Lease”) to allow Owner to install, operate, maintain and remove the System on the premises described therein, as further specified in the Lease; and

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises, representations, warranties, covenants, conditions herein contained, and the Exhibits attached hereto, User and Owner agree as follows.

ARTICLE 1: DEFINED TERMS; RULES OF INTERPRETATION

Defined Terms. Capitalized terms used in this Agreement shall have the meanings ascribed to them in this Agreement, or as otherwise set forth below:

“Agreement” means this Power Purchase Agreement, including all Exhibits and attachments hereto.

“Alternative On-bill Credit” means an on-bill credit for Electricity generated by an Alternative On-bill Credit Generation Unit.

“Alternative On-bill Credit Generation Unit” means a Standalone Solar Tariff Generation Unit as defined in 225 CMR 20.02 that is enrolled under a tariff establishing a bill credit for generation from Solar Tariff Generation Units that is approved by the Massachusetts Department of Public Utilities and any other appropriate jurisdictional bodies, but that is not a tariff approved pursuant to 220 CMR 8.00 (Qualifying Facilities) or 220 CMR 18.00 (Net Metering).

“Applicable Legal Requirements” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, including the City, but not the User, ordinary or extraordinary, foreseen or unforeseen, which may at any time be applicable to the Agreement, the Premises or the System, or any part thereof, or to any condition or use thereof, or to the design, construction, installation, permitting, operation, maintenance, repair and removal of the System, including the Massachusetts Prevailing Wage Law (if and as applicable) and all Governmental Approvals which are or may be required for the use and occupancy of the Premises, and for the design, installation, permitting, operation, maintenance, repair and removal of the System, including the Tariff, and any required site plan approval or special permit required for the installation or operation of the System under the City’s Zoning Ordinance.

“Bankrupt” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within ninety (90) Business Days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Business Day” means any day except a Saturday, Sunday, or a Massachusetts legal holiday.

“Commercial Operation” means that the System is ready for regular, continuous daily operation, has been connected to the LDC System, has approval to interconnect from the LDC,

has been installed in accordance, and is in compliance with Applicable Legal Requirements in all respects, and is producing and delivering to the Delivery Point, or is immediately capable of producing and delivering to the Delivery Point, Electricity.

“Commercial Operation Date” means the first day on which the System achieves Commercial Operation, as certified in writing by Owner to User in the Notice of Commercial Operation.

“Construction Commencement Date” means the date of commencement of actual construction activities, which at a minimum shall include mobilization of labor and equipment to prepare the site for installation of the System on the Premises.

“Contract Year” means the consecutive three hundred sixty-five (365) day period commencing on the Commercial Operation Date.

“Delivery Point” means the point at which the System interconnects to the LDC System on the User’s side of the LDC Metering Device.

“Effective Date” is the date first set forth in the introductory paragraph of this Agreement.

“Electricity” means the actual and verifiable amount of electricity generated by the System and delivered to User at the Delivery Point, as metered in whole kilowatt-hours (kWh) at the LDC’s Metering Device. Electricity shall not include any electricity consumed by the System.

“Electricity Price” shall mean the price for each kWh of Electricity sold by Owner to User pursuant to this Agreement, and shall be equivalent to the value of each Net Metering Credit or Alternative On-bill Credit, as applicable, that is credited the User during the monthly billing interval for Electricity generated by the System.

“Environmental Attributes” means, to the extent applicable and without limitation, (i) financial-based incentive payments under any federal or state program; (ii) greenhouse gas offsets under the Regional Greenhouse Gas Initiative; (iii) tax credits, incentives, or depreciation allowances established under any federal or state law; and (iv) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Electricity generated by the System during the Term. Notwithstanding, “Environmental Attributes” shall not include Net Metering Credits or Alternative On-bill Credits, nor any credit, benefit, reduction, offset, financial incentive, rebate, emissions reductions, tax credit and other beneficial allowance that inures solely to User only because User is a governmental body or a Municipality or Other Governmental Entity as described under the Net Metering Rules.

“Event of Default” has the meaning set forth in Article 8.1.

“*Force Majeure*” means any event or circumstance that prevents a Party from performing its obligations under this Agreement, which event or circumstance (i) is not within the reasonable control, and is not the result of the fault or negligence, of the Party claiming Force Majeure (the “Claiming Party”), and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) User’s inability to economically use Electricity purchased hereunder, (ii) Owner’s ability to sell Electricity at a price greater than the Electricity Price under this Agreement, or (iii) naturally occurring fluctuations in sunlight or in the availability or unavailability thereof. In addition, a delay or inability to perform substantially attributable to a Party’s failure to timely take the actions necessary to obtain and maintain all necessary permits, a failure to satisfy contractual conditions or commitments (unless otherwise caused by an event of Force Majeure), or lack of or deficiency in funding or other resources, shall each not constitute a Force Majeure. Force Majeure includes, but is not limited to, any failure by the LDC to perform any obligation under the Interconnection Agreement.

“*Governmental Approval*” means any approval, consent, franchise, authorization, permit, agreement, confirmation, certificate, resolution, concession, license, privilege or assent issued by or on behalf of any applicable Governmental Authority.

“*Governmental Authority*” means the United States of America, the Commonwealth of Massachusetts, and any political or municipal subdivision thereof, and any agency, department, commission, board, bureau, committee, official, authority, or instrumentality of any of them, and any independent electric system operator, but shall neither include the User nor the LDC.

“*Governmental Charges*” means all applicable federal, state and local taxes (other than taxes based on income or net worth, but including, without limitation, real property, personal property, sales, use, gross receipts or similar taxes), governmental charges, emissions allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, fines, penalties, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, on or with respect to the Premises, the System, Electricity and/or this Agreement.

“*Host Customer*” is as defined in 220 CMR 18.00, *et seq.*, and who, under this Agreement, and subject to all requirements of this Agreement, shall be the Pittsfield Municipal Airport Commission.

“*Interconnection Agreement*” means an interconnection services agreement between Owner and the LDC for interconnection of the System to the LDC System.

“*Interconnecting Customer*” as used in this Agreement, is the Owner.

“*Interest Rate*” means a fluctuating interest rate per annum equal to the lesser of (i) the sum of the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus one (1) percentage point, or (ii) the maximum rate permitted by Applicable Legal Requirements. In the event that such rate is no longer published in The Wall Street Journal or such publication is

no longer published, the Interest Rate shall be set using an index or interest rate reflecting a purpose comparable to said Prime Rate, as designated or recognized by applicable Governmental Authority. The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of three hundred sixty-five (365) days and the actual number of days for which such interest is due.

“LDC” means the regulated electric local distribution company that provides electric distribution service to the municipality in which User is located, and is Western Massachusetts Electric Company d/b/a Eversource.

“LDC Metering Device” means the meter(s) and metering equipment installed by the LDC for the purpose of measuring Electricity generated by the System and delivered to the LDC System.

“LDC System” means the electric distribution system operated and maintained by the LDC.

“Lease” or “Lease Agreement” means one or more lease agreements for the use of the Premises granted by the Pittsfield Municipal Airport Commission to Owner, as same may be amended or modified from time to time.

“Lease Area” means the area leased to Owner for installation and operation of the System, as set forth in Exhibit A of the Lease and the drawings attached thereto.

“Market Net Metering Rate” has the same meaning as set forth in 220 CMR 18.02.

“Metering Device” means any and all utility revenue-grade quality meters, meter mounting equipment, and/or data acquisition equipment installed by Owner at Owner’s expense, in accordance with requirements of NEPOOL GIS and the Massachusetts Clean Energy Center for the registration, recording, and transmission of information regarding the amount of Electricity generated by the System.

“Net Metered Generation Unit” has the same meaning as set forth in 225 CMR 20.02, particularly a Standalone Solar Tariff Generation Unit that is also enrolled and compensated as a Class I Net Metering Facility, Class II Net Metering Facility or Class III Net Metering Facility as each such term is defined in 220 CMR 18.02.

“Net Metering” shall have the meaning set forth in M.G.L. c. 164, §138 and 220 CMR 18.00, *et seq.*, as they may be amended from time to time.

“Net Metering Cap Allocation” means a reserved allocation of net metering capacity within the System of Assurance.

“Net Metering Credit” shall mean the credit value of one (1) kilowatt hour of electricity with respect to a “Class II or Class III Net Metering Facility” as calculated in accordance with the Net Metering Rules.

“Net Metering Rules” means, collectively and as amended from time to time, the Massachusetts net metering statute, M.G.L. c. 164, §§ 138 – 140, the Massachusetts net metering

regulations, 220 CMR 18.00, *et seq.*, orders issued by Massachusetts Department of Public Utilities (the “DPU”) relating to Net Metering, and the Tariff, as the same may be amended.

“Owner” has the meaning set forth in the Preamble.

“Person” means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company, or any other entity of whatever nature.

“Premises” means the property described on Exhibit A of the Lease.

“SMART Program” means the Solar Massachusetts Renewable Target (SMART) Program, established pursuant to 225 CMR 20.00, *et seq.*

“Solar Tariff Generation Unit” has the same meaning as set forth in 225 CMR 20.02, particularly, a generation unit that generates electricity using solar photovoltaic technology and meets all of the eligibility criteria as set forth in 225 CMR 20.05 and 225 CMR 20.06.

“Standalone Solar Tariff Generation Unit” has the same meaning as set forth in 225 CMR 20.02, particularly, a Solar Tariff Generation Unit that serves no associated on-site load other than parasitic or station load used to operate the generation unit.

“Statement of Qualification” means a document issued by the Massachusetts Department of Energy Resources (the “DOER”) that confirms the qualification of a generation unit as a Solar Tariff Generation Unit pursuant to 225 CMR 20.00, *et seq.*

“System” means the solar photovoltaic electric generating facility or facilities, including but not limited to the System Assets, that produces the Electricity sold and purchased under this Agreement, all as further set forth in Exhibit B attached hereto.

“System Assets” means each and all of the assets of which the System is comprised, including Owner’s solar energy panels, mounting systems, inverters, and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, Metering Device, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the System.

“System of Assurance” means the Massachusetts System of Assurance of Net Metering Eligibility adopted by the DPU, pursuant to M.G.L. c. 164, §139(g): (i) to track the aggregate capacity of net metering facilities; and (ii) to provide host customers and other stakeholders with an assurance, before beginning construction, that a facility will receive net metering services.

“Tariff” means the tariffs of the LDC as approved by the Massachusetts Department of Public Utilities, including, but not limited to, the interconnection tariff, net metering tariff and the SMART Program tariff.

“*Tax Payment Agreement*” means the agreement between the Owner and the City, executed contemporaneously with this Agreement, with respect to the Owner’s payment of ad valorem property taxes.

“*Term*” shall have the meaning set forth in Article 2.1 hereof.

“*Termination Date*” means the earlier to occur of (i) the last day of the Term; (ii) the date of termination of this Agreement as the result of an Event of Default; and (iii) the date of termination of this Agreement pursuant to any other applicable provision of this Agreement or law.

“*User*” has the meaning set forth in the Preamble.

ARTICLE 2: TERM AND TERMINATION

2.1 Term. The term of this Agreement (the “Term”) shall commence on the Effective Date and shall remain in effect until the twentieth (20th) anniversary of the Commercial Operation Date. Notwithstanding the foregoing, the User and Owner shall each have the right to terminate the Agreement to the extent permitted by the provisions of this Agreement.

(a) Extension of Term. The Term may be extended by mutual agreement of the Parties for up to two (2) consecutive periods of five (5) years (each, an “Extension Term”) and at a price determined at the time of such extension. Either party may provide ninety (90) days’ prior written notice to the other Party prior to expiration of the Term or of an Extension Term, as the case may be, of its desire to extend the Term. The Term and all Extension Terms shall be referred to herein as the Term.

(b) Legislative/Executive Approval. Notwithstanding anything to the contrary in this Agreement or the Lease, this Agreement is subject to authorization by User’s legislative and executive bodies, absent which this Agreement shall not be effective. User represents that this Agreement was approved by the Pittsfield City Council on [_____] (insert date); and by the Mayor of Pittsfield on [_____] (insert date). User further represents that no further authorization, approval or vote is necessary to enter into the Agreement consistent with all applicable laws, regulations, or any other source of law.

2.2 Termination

(a) RESERVED

(b) Parties To Confer. By no later than June 30, 2018, that date certain being subject to reasonable extension by mutual agreement of the Parties, the Parties shall confer regarding whether, in the Parties’ estimation, the System will be eligible for and qualify as either (i) a Net Metering Facility as defined in 220 CMR 18.00 *et seq.*; or (ii) an Alternative On-bill Credit Generation Unit as defined in 225 CMR 20.02. Also by no later than June 30, 2018, that date certain being subject to reasonable extension by mutual agreement of the Parties, the Parties shall

confer regarding any anticipated administrative difficulties and expenses, borne by either Party, associated with structuring the Agreement to reflect the System's qualification as an Alternative On-bill Credit Generation Unit.

(c) Early Termination By Either Party. Prior to the Construction Commencement Date, either Party may terminate this Agreement upon ten (10) days' written notice to the other Party and such termination shall not be considered a termination for default and neither Party shall have any further obligation hereunder after termination, in the event that:

(i) the System is (1) ineligible for qualification, or is disqualified as, a Net Metering Facility as defined in 220 CMR 18.00 *et seq.*, or will otherwise not participate in Net Metering pursuant to 220 CMR 18.00 *et seq.*; and (2): is ineligible for treatment or is disqualified as, an Alternative On-bill Credit Generation Unit, or will otherwise not participate in the SMART Program as an Alternative On-bill Credit Generation Unit for any reason, including due to any administrative difficulty and expense as referenced in Article 2.2(b); or

(ii) the Lease is terminated.

(e) Early Termination by Owner. Owner may terminate this Agreement before the Commercial Operation Date upon ten (10) days' written notice to User for the reasons specified below; such termination shall not be considered a termination for default and neither Party shall have any further obligation hereunder after termination, provided, however, that Owner shall, as applicable, remove the System to the extent installed and restore the Premises to its condition prior to the Construction Commencement Date:

(i) There exist site conditions at the Premises (including environmental site conditions) or construction requirements which, despite Owner's examination of the Premises before execution of this Agreement, were not known as of the Effective Date, and which will substantially increase the cost of the construction of the System. This right of termination may only be exercised if Owner first notifies User of such conditions and requests a reasonable adjustment to the Electricity Price, and User does not agree, in its sole discretion, to such adjustment;

(ii) Owner is unable, despite its diligent efforts, as reasonably documented to User, to obtain financing for the System at least twenty (20) days prior to the Construction Commencement Date, on terms and conditions reasonably satisfactory to Owner, taking into account customary terms and conditions for the solar electricity generation industry;

(iii) Owner is unable, through no fault of its own and despite its diligent efforts, to obtain all Governmental Approvals and any related permits and approvals of any Governmental Authority or from the LDC for installation and operation of the System and for the sale and delivery of Electricity to User, on the terms and conditions contemplated by the terms of this Agreement and reasonably acceptable to Owner;

(iv) RESERVED

(v) the City and Owner do not execute any valid tax payment agreement in accordance with the Lease;

(vi) the LDC imposes or charges more than \$902,286 for Solar Area 1 and \$343,728 for Solar Area 2 for interconnection application costs, utility upgrade costs and utility impact study costs (said amount being the amount Owner reasonably anticipates as the cost of interconnection and upgrades, if any, as of the Effective Date); provided that such right of termination may be exercised only if Owner requests that User pay any such excess interconnection and utility costs directly to the LDC (or as otherwise agreed) and User does not agree to make such payment within a reasonable time thereafter (not to exceed forty-five (45) days);

(vii) and (viii) RESERVED;

(ix) In the event that the System does not receive a Statement of Qualification under the SMART Program certifying the System's capacity in Block 1, 2, 3, or 4 of the SMART Program.

2.3 Achievement of Commercial Operation. Owner shall use diligent efforts to achieve the Commercial Operation Date no later than the expiration date of the System's SMART Program reservation period. In the event that the SMART Program reservation period, including all DOER-granted extensions to same, expires prior to the Commercial Operation Date, and the System no longer qualifies for receipt of Net Metering Credits or Alternative On-bill Credits, the User may terminate this Agreement as provided in Article 2.2.

ARTICLE 3: FACILITY OWNERSHIP, DESIGN, INSTALLATION, OPERATION, MAINTENANCE, AND REMOVAL AND RELATED COSTS

3.1 RESERVED

3.2 Lease Agreement. Owner shall design, install, operate, insure, maintain, repair and remove the System on the Premises pursuant to and in strict conformance with this Agreement and the Lease.

3.3 Notice of Commercial Operation. Subject to the provisions of this Agreement, Owner shall promptly notify and represent to User when the System has achieved Commercial Operation ("Notice of Commercial Operation"), and shall in such written notice certify to User the Commercial Operation Date.

**ARTICLE 4: PURCHASE AND SALE;
DELIVERY; GOVERNMENTAL CHARGES**

4.1 Purchase and Sale of Electricity.

(a) Commencing on the Commercial Operation Date and continuing throughout the remainder of the Term, Owner shall deliver to User free and clear of all liens, security interests, claims, and other encumbrances, and User, as Host Customer, shall take delivery at the Delivery Point of all the Electricity generated by the System.

(b) Subject to the terms and requirements of this Agreement, User shall accept and purchase all of the Electricity generated by the System and delivered to the Delivery Point at the Electricity Price.

4.2 Monthly Electricity Price; Billing. Owner shall bill User for all Electricity generated by the System as measured by the LDC Metering Device during the LDC's monthly billing interval at the Electricity Price. The amount due Owner from User shall be the equivalent dollar amount for all Net Metering Credits or Alternative On-bill Credits, as applicable, generated by the System during the monthly billing interval ("Monthly Electricity Price").

(a) Adjustments to Electricity Price. In all cases, any adjustments in the Electricity Price shall be made to the nearest hundredth of a cent.

4.3 Title and Risk of Loss of Electricity. Title to and risk of loss of the Electricity will pass from Owner to User at the Delivery Point. Owner represents, warrants and agrees that it will deliver the Electricity to User at the Delivery Point free and clear of all liens, security interests, claims, and other encumbrances.

4.4 Governmental Charges.

(a) Owner is responsible for local, state and federal income taxes attributable to Owner for income received under this Agreement.

(b) Owner shall be responsible for payment of real and personal property taxes as provided in Article 4.2 and Article 4.5 of the Lease.

(c) User shall pay directly or reimburse Owner on an after-tax basis for all sales and use taxes that may be imposed by any Governmental Authority on the sale of Electricity. User shall provide Owner with User's applicable tax exemption documentation as may be necessary to qualify for a permitted exemption from Governmental Charges and to make sales of Electricity hereunder exempt from sales and use taxes.

(d) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions to minimize Governmental Charges. In the event any of the sales of Electricity hereunder are to be exempted from or not subject to one or more Governmental

Charges, the applicable Party shall, upon the other Party's request therefor, provide any available documentation within its possession to evidence such exemption or exclusion.

4.5 RESERVED

4.6 Net Metering.

(a) Owner understands and agrees that it is a primary purpose of this Agreement that the System qualify as a Class II or Class III Net Metering Facility of a Municipality or Other Governmental Entity, as defined in 220 CMR 18.00; that an assurance be issued by the Administrator of the System of Assurance that User will receive Net Metering Services (as defined in the Net Metering Rules) within the Public Cap so-called (as defined in the Net Metering Rules); and that User be entitled to receive, and receive, Net Metering Credits or their cash equivalent, at the LDC's election, and allocate such credits to its accounts with the LDC. Owner agrees to take and pay the costs of all steps necessary to ensure that the System so qualifies and receives such assurance. User shall reasonably cooperate with Owner in that regard. All Net Metering Credits generated by the System shall accrue to User. Owner shall, at its cost, on behalf of User, file all necessary "Schedule Zs" or other documents with the LDC and do such other things as may be necessary for that purpose, provided that User is responsible for furnishing the information necessary for the completion of the Schedule Z. Owner shall not make any changes to any Schedule Z without the written consent of User.

(b) and (c) RESERVED

(d) User may request from Owner a reconciliation of Net Metering Credits and production data following the end of Contract Year 1. With User's such request, User shall provide to Owner the production data recorded by the LDC Metering Device during Contract Year 1 as shown on the bills sent by the LDC to User, and a summary of Net Metering Credits allocated to User's accounts by the LDC during Contract Year 1. Within sixty (60) days after receiving such information, Owner shall review the data to determine to the best of its ability whether the Net Metering Credits allocated to User corresponds to the LDC Metering Device data. Owner agrees to perform such review for Contract Year 1 only.

(e) Change in Law. Changes in Law that may be made in the SMART Program or to the SMART Program Tariff after the Effective Date may result in adjustments to the Electricity Price, which shall be the sole basis to achieve the re-allocation of benefits and burdens on account of the impact of Changes in Law in the SMART Program and to the SMART Program Tariff, except as otherwise provided in this subsection. Owner, at its sole discretion, may terminate the Agreement upon a Change in Law that limits or restricts, in any way, the System's ability to produce Net Metering Credits or Alternative On-bill Credits, as applicable, and Owner shall have no further obligation hereunder after termination.

ARTICLE 5: ENVIRONMENTAL ATTRIBUTES

5.1 Title to Environmental Attributes. All Environmental Attributes relating to the System or the Electricity will be and remain property of Owner. To the extent not retained by the LDC, Owner shall have all right, title, and interest in and to any and all Environmental

Attributes that relate to the Electricity during the Term, and User shall have no right, title or interest in or to any such Environmental Attributes.

5.2 RESERVED

5.3 Further Assurances. At Owner's request and expense, User shall execute such additional documents and instruments reasonably necessary to effect or evidence Owner's right, title and interest in and to the Environmental Attributes relating to the Electricity. If the standards used to qualify the Environmental Attributes to which Owner is entitled under this Agreement are changed or modified, User shall, at Owner's request and expense, reasonably cooperate with Owner in Owner's efforts to cause the Environmental Attributes to comply with the standards as changed or modified.

ARTICLE 6: METERING DEVICE AND METERING

6.1 Metering Equipment. The Parties acknowledge and agree that Owner shall be responsible, at its cost, to provide, install, own, operate, maintain, repair and replace the Metering Device. User understands and agrees that the LDC will install and own the LDC Metering Device and Owner shall pay the LDC, in accordance with and to the extent required by the Tariff, for the costs and expenses incurred by the LDC to provide, install, own, operate, maintain, inspect, test, repair and replace the LDC Metering Device.

Any disputes regarding the accuracy of the LDC Metering Device shall be resolved in accordance with the Tariff and requirements of the LDC.

ARTICLE 7: LOSS, DAMAGE OR DESTRUCTION OF SYSTEM; REMOVAL OF SYSTEM FOR REPAIRS TO PREMISES; FORCE MAJEURE

7.1 RESERVED

7.2 RESERVED

7.3 Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) Business Days after the Claiming Party becomes aware of the Force Majeure event or circumstance), then the Claiming Party will be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party will use commercially reasonable and diligent efforts to eliminate or avoid the Force Majeure and, thereafter, promptly and diligently resume performing its obligations under this Agreement. Following receipt of notice from the Claiming Party and until the Force Majeure is eliminated or avoided by the Claiming Party, the non-Claiming Party will not be required to perform or resume performance of any obligations corresponding to the obligations of the Claiming Party excused by Force Majeure. For the avoidance of doubt, User

shall not be required to pay for any Electricity that is not generated by the System, whether such lack of generation is due to a Force Majeure or other cause.

7.4 Termination Due to Force Majeure. If a Claiming Party claims Force Majeure which continues for one hundred eighty (180) consecutive days or one hundred fifty (150) non-consecutive days in a twelve (12) month period, the non-Claiming Party may terminate this Agreement without any liability to the Claiming Party as a result of such termination, and Owner shall, at its sole cost, promptly remove the System from the Premises and return the Premises to its original condition normal wear and tear excepted.

ARTICLE 8: EVENTS OF DEFAULT; REMEDIES; USER STEP-IN RIGHTS

8.1 Events of Default. An “Event of Default” means, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

(a) the failure to make, when due, any payment required under this Agreement if such failure is not remedied within fifteen (15) calendar days after receipt of a written notice from the other Party (the “Non-Defaulting Party”) stating that such payment is overdue. For the avoidance of doubt, the failure to make a payment shall not constitute an Event of Default by the Defaulting Party unless and until such written notice has been received by such Party, and even then, not until five (5) days from the date of the Defaulting Party’s receipt of such notice have passed and the Defaulting Party has failed to make payment, provided, however, that the first (1st) day of such fifteen (15)-day period shall be the day after the Defaulting Party’s receipt of the written notice, and if the fifteenth (15th) day is not a Business Day, the fifteen (15) day period shall not be deemed to have expired until the next Business Day.

(b) any representation or warranty made by such Party in this Agreement was false or misleading in any material respect as of the Effective Date, and the false or misleading nature of the representation or warranty has resulted in, or will result in, material and adverse consequences to the other Party and the prompt correction of the representation or warranty by the Defaulting Party will neither avoid nor substantially mitigate such consequences;

(c) the failure to perform any material covenant or material obligation set forth in this Agreement (except to the extent constituting a separate Event of Default), if such failure is not remedied within thirty (30) calendar days after receipt of written notice from the Non-Defaulting Party, or, provided the Defaulting Party promptly commenced and is diligently undertaking a cure, such longer period as may be reasonably required to cure, provided, however, that the cure period shall not exceed sixty (60) calendar days, unless otherwise agreed to in writing by the Parties;

(d) such Party becomes Bankrupt;

(e) such Party fails to provide or maintain in full force and effect any required insurance, and such failure is not remedied within three (3) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party;

(f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity, and the resulting, surviving or transferee entity fails to assume, effective immediately upon the effectiveness of such consolidation, amalgamation, merger or transfer, each and all of the obligations of such Party under this Agreement, or the Party makes an assignment of some or all of its rights and obligations under this Agreement in a manner contrary to Article 16 of this Agreement;

(g) Occurrence of an Event of Default under the Lease.

8.2 Remedies for Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party (the “Non-Defaulting Party”) shall, without limiting the rights or remedies available to the Non-Defaulting Party under this Agreement or applicable law, have the right: (i) by notice to the Defaulting Party, to designate a date, not earlier than twenty (20) Business Days after the date such notice is effective, as an early termination date (“Early Termination Date”) in respect of this Agreement; (ii) to withhold any payments due to the Defaulting Party under this Agreement; and (iii) to suspend performance due to the Defaulting Party under this Agreement; and (iv) to exercise all rights and remedies under this Agreement on account of such Event of Default. In the event that the Non-Defaulting Party designates an Early Termination Date, this Agreement will terminate as of the Early Termination Date. The rights and remedies contained in this Article are cumulative to those available to the Non-Defaulting Party at law or in equity, and which the Non-Defaulting Party may pursue upon termination for default.

8.3 User Rights upon Termination for Default. In the event that User is the Non-Defaulting Party and elects to terminate this Agreement as provided in Article 8.2, Owner shall remove the System at Owner’s sole cost.

8.4 Owner Rights upon Termination for Default. In the event that Owner is the Non-Defaulting Party and elects to terminate this Agreement as provided above, Owner shall remove the System at User’s sole cost, but only to the extent that such costs incurred are reasonable and documented, in accordance with Article 16 of the Lease and, separately, User shall pay the User Termination Payment, as set forth at Exhibit C, to Owner within ninety (90) calendar days after termination.

8.5 Closeout Setoffs. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to set off, against any amounts due and owing the Defaulting Party under this Agreement, any liquidated or undisputed amounts due and owing to the Non-Defaulting Party.

ARTICLE 9: INVOICING AND PAYMENT

9.1 Invoicing and Payment. All invoices under this Agreement will be due and payable not later than forty-five (45) calendar days after receipt of the invoice (or, if such forty-fifth (45th) day is not a Business Day, then on the next Business Day). Each Party will make payment by electronic funds transfer to the account designated by the other Party, or by other mutually agreeable method(s).

9.2 Disputed Amounts. A Party may in good faith dispute any invoice under this Agreement at any time within twelve (12) months following the date the invoice was rendered. In the event that either Party disputes any invoice or invoice adjustment, it shall give prompt written notice of the basis of its dispute to the other Party. If such dispute arises before payment on such invoice has been made, such Party shall pay any undisputed portions of the disputed invoice or invoice adjustment by the applicable payment due date. The Parties shall comply with the dispute resolution procedures set forth in Article 14.1 to resolve any payment disputes. Following dispute resolution proceedings, any payment deemed required to be made will be made within five (5) Business Days after resolution of the applicable dispute, without interest.

9.3 RESERVED

9.4 Netting and Setoff. The Parties may net out undisputed amounts owed by the other Party against payment obligations that are due and owing under this Agreement, provided, however, that Governmental Charges, including ad valorem taxes owed, shall not be set off against amounts due from User.

9.5 Records and Audits. Each Party shall keep, for a period not less than six (6) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to transactions during such other Party's normal business hours.

**ARTICLE 10: REPRESENTATIONS AND WARRANTIES; USER
ACKNOWLEDGMENT**

10.1 Representations and Warranties. Owner represents and warrants to User that: (i) Owner is a limited liability company, duly formed and validly existing under the laws of Colorado and at all times shall be qualified and registered to do business in Massachusetts, (ii) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of Owner and do not require approval or consent of any person or entity; (iii) Owner has all requisite limited liability company power and authority to perform its obligations under this Agreement and to carry out the terms hereof and the transactions contemplated hereby, (iv) the execution and delivery by Owner of this Agreement and the performance of Owner's obligations hereunder and consummation of transactions contemplated hereby will not cause a default under or result in a violation of any agreement to which it is a party and will not result in a violation of Owner's organizational documents, (v) this Agreement constitutes the legal, valid and binding obligation of Owner enforceable against Owner in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

10.2 User Acknowledgement Regarding Bankruptcy Code Section 366. User acknowledges and agrees that, for purposes of this Agreement, Owner is not a "utility" as such term is used in Section 366 of the United States Bankruptcy Code (the "Bankruptcy Code").

10.3 Authorization. User represents and warrants that (i) User is a municipality of the Commonwealth of Massachusetts, duly formed, validly existing under the laws of the Commonwealth of Massachusetts, (ii) the execution, delivery and performance by User of this Agreement have been duly authorized by all necessary action on the part of the User and do not require any approval or consent of any person or entity; (iii) User has all requisite power and authority to perform its obligations under this Agreement and to carry out the terms hereof and the transactions contemplated hereby, (iv) the execution, delivery by User of this Agreement and the performance of the User's obligations and consummation of the transactions contemplated hereby will not cause a default under or result in a violation of any agreement to which it is a party, (v) this Agreement constitutes the legal, valid and binding obligation of User, enforceable against the User in accordance with its terms, except as the enforceability thereof may be limited by the bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

ARTICLE 11: INTENTIONALLY LEFT BLANK

ARTICLE 12: INTENTIONALLY LEFT BLANK

ARTICLE 13: INSURANCE AND INDEMNIFICATION

13.1 Insurance. Owner and User shall at all times comply with the insurance requirements and obligations included in the Lease.

13.2 Indemnification of User. Owner shall indemnify, defend and hold harmless User, its officers, officials, employees, agents and representatives (collectively, the "User Indemnified Parties") from and against all liabilities, losses, damages, fines, penalties, costs, and expenses, and reasonable attorneys' fees ("Losses"), in connection with claims by third parties for bodily injury or property damage that are imposed upon, charged or asserted against, or incurred by any User Indemnified Party and caused by or resulting from, in whole or in part, directly or indirectly, the negligence or willful misconduct of the Owner (its officers, officials, employees, agents, representatives, licensees, lessees, contractors and other persons acting on behalf of Owner or for whom Owner is responsible) in connection with this Agreement or the Lease, including any claims asserted against any User Indemnified Party on account of User's status as Host Customer. This right to be indemnified is in addition to, and not a limitation of, any other rights and remedies available to User under this Agreement, or at law or in equity. Owner's indemnification obligations hereunder shall be reduced in proportion to the percentage by which the User's negligence or willful misconduct caused any such Losses as determined by a Court of Law with competent jurisdiction, or as the Parties may otherwise agree to. This indemnification shall survive for a period of three (3) years after termination of this Agreement.

ARTICLE 14: DISPUTE RESOLUTION

14.1 Notice of Dispute/Negotiated Resolution. In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, either Party may, by written notice to the other, request a settlement meeting to discuss possible resolution of the controversy, claim or dispute. The written notice invoking these procedures shall set forth in reasonable detail the nature,

background and circumstances of the controversy, claim or dispute. During the twenty (20) Business Day period following said written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute.

14.2 Additional Remedies. In the event such dispute is not resolved through informal discussions during such twenty (20) Business Day period, then either party may resort to judicial proceedings in a court of competent jurisdiction. The foregoing Article notwithstanding, neither Party is prevented from exercising all rights and remedies under this Agreement, at law or in equity before, during, or after any dispute resolution procedures initiated in accordance with Article 14.1.

ARTICLE 15: NOTICES

15.1 Notices. All notices required or permitted to be given under this Agreement shall be made to the addresses and persons specified below and to Designated Third Parties, if any, as provided in Article 16.2(b)(6). All notices will be made in writing. Notices required to be in writing shall be delivered by U.S. certified mail, return receipt requested, hand delivery or overnight delivery. Notice by hand delivery or overnight delivery will be deemed to have been received when delivered or when delivery is refused. A Party may change its address and contact information by providing notice of the same in accordance with the provisions of this Article.

User:

Mayor, City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

With courtesy copies to:

Same address as above, but with Attention:
City Solicitor

And,

Airport Manager
Pittsfield Municipal Airport
832 Tamarack Road
Pittsfield, MA 01201

Owner:

Oak Leaf Solar XVII LLC
2645 East Second Avenue,
Suite 206,

Denver, CO 80206
Attention: Michael McCabe

And,

Cypress Creek Renewables
3250 Ocean Park Boulevard, Suite 355
Santa Monica, CA 90405
Attention: Patrick Leibach

ARTICLE 16: ASSIGNMENT; BINDING EFFECT

16.1 Assignment; Binding Effect

(a) Owner shall not, without the prior written consent of User, which consent will not be unreasonably withheld or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement, whether voluntarily or by operation of law, provided that any such User consent may be conditioned upon a satisfactory showing to the User that the assignee or transferee possesses substantially similar experience, technical expertise and financial capacity as Owner, and any such assignment or transfer without such consent will be null and void; provided, however, that Owner may, with only twenty (20) days' advance written notice to User, assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement (i) in connection with any merger, consolidation or sale of all or substantially all of the assets or equity interests of Owner, or (ii) for security purposes in connection with any financing or other financial arrangements which are reasonably necessary to finance the installation, operation or maintenance of the System (including without limitation, pursuant to a sale-leaseback or partnership flip transaction, which may include assignment or transfer of the System) (each, a "Permitted Transfer"). If Owner assigns all of Owner's rights and obligations under this Agreement, the assignee shall agree in writing to assume all of Owner's obligations under this Agreement. Owner shall deliver notice of any Permitted Transfer to User in writing at least ten (10) days before any assignment, pledge or transfer is made. If Owner makes a full assignment of all of its rights and obligations under this Agreement satisfying the terms of this Article 16.1, then Owner shall have no liability arising under this Agreement after the effective date of the assignment.

As of the Effective Date of this Agreement, Tenant has submitted information required under subsections (a) through (e) on behalf of Cypress Creek Renewables. Landlord has reviewed such materials and, pursuant to this Article, consents to the assignment of this Agreement to Cypress Creek Renewables.

(b) User and Owner acknowledge that User may, in its discretion and with the prior written consent of Owner, which consent will not be unreasonably withheld or delayed, transfer or assign certain rights to receive Net Metering Credits or rights to Alternative On-bill Credits to any one or more Municipality or Other Governmental Entity, as defined in the Net Metering Rules and the SMART Program Rules, which receives electrical services or supplies from the LDC in the same load zone(s) as User (which is Western/Central Massachusetts (WCMA) load

zones). The parties, including the User's assignee, shall execute and deliver such documents as are reasonably required to memorialize the assignment and the assignees' rights and obligations.

(c) Subject to the foregoing restrictions on assignment, this Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

16.2 Financing Provisions.

(a) Notwithstanding any contrary provisions contained in this Agreement, including without limitation Article 16.1, User specifically agrees, without any further request for prior consent but with twenty (20) days' advance written notice to User, to permit Owner to assign, transfer or pledge its rights under this Agreement and its rights to the System as collateral for the purpose of obtaining financing or refinancing in connection with the development, installation, operation or maintenance of the System (including, without limitation, pursuant to a sale-leaseback where Owner may transfer the System or partnership flip transaction) and User agrees to sign such documents as are reasonably requested by Owner or its lenders to acknowledge and evidence such assignment, transfer or pledge. The User agrees to cooperate with Owner in the negotiation and execution of any reasonable amendment or addition to this Agreement required by Owner's lenders so long as such amendment or addition does not in any way materially alter or amend the rights and obligations of the User herein, provided, however, the User shall not be obligated to amend or add to this Agreement.

(b) Third Party Rights.

(i) Notice to Designated Third Party. User agrees to give copies of any notice provided to Owner by User under Article 8 to the assignee or transferee permitted pursuant to Article 16.2 of which the User has notice ("Designated Third Party").

(ii) Exercise of Owner Rights. A Designated Third Party, as collateral assignee and if allowed pursuant to its contractual arrangements with Owner, shall have the right in the place of Owner, to any and all rights and remedies of Owner under this Agreement. Such Designated Third Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement, but subject to Applicable Legal Requirements and the terms of this Agreement.

(iii) Performance of Owner's Obligations. A Designated Third 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 Owner hereunder or cause to be cured any default of Owner hereunder in the time and manner provided by and subject to the terms of this Agreement. Nothing herein requires the Designated Third Party to cure any default of Owner under this Agreement or (unless such party has succeeded to the Owner's interests under this Agreement) to perform any act, duty or obligation of Owner under this Agreement, but User hereby gives such party the option to do so, provided any such cure, act, duty or obligation is performed in accordance with the terms of this Agreement.

(iv) Exercise of Remedies. Prior to the exercise of secured party remedies, including any sale of the System by a Designated Third Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Owner to the Designated Third Party (or any assignee of the Designated Third Party) in lieu thereof, the Designated Third Party shall give twenty (20) days' written notice thereof to User. Any such exercise of secured party remedies shall not constitute a default under this Agreement, unless the act of exercising such remedy itself constitutes an Event of Default.

(v) User agrees that a Designated Third Party is a third party beneficiary of the provisions of this Article.

(vi) User shall not exercise any rights to terminate or suspend this Agreement unless it shall have given the Designated Third Party a courtesy copy of prior written notice of its intent to terminate or suspend this Agreement specifying the condition giving rise to such right, and the Designated Third Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after Owner's cure period expires with respect to payment defaults and sixty (60) days with respect to all other defaults. The Parties' respective obligations will otherwise remain in effect during any cure period.

(vii) If pursuant to an exercise of remedies by a Designated Third Party, such party or its assignee shall acquire control of the System and this Agreement, and shall within the time periods describe in the preceding paragraph (6) cure all defaults under this Agreement existing as of the date of such change in control in the manner required by this Agreement, then such person or entity shall no longer be in default under this Agreement and this Agreement shall continue in full force and effect.

(c) User agrees to reasonably cooperate with Owner and its lenders in connection with any financing or refinancing of all or a portion of the System. In furtherance of the foregoing, as Owner or its lenders request from time to time, User agrees, subject to the other provisions of this Agreement, to (i) execute any acknowledgments of assignment, (ii) negotiate and deliver such reasonable estoppel certificate as an existing or prospective Designated Third Party may reasonably require, and (iii) furnish such reasonable information as Owner and its lenders may reasonably request.

16.3 User shall not assign this Agreement without prior written consent of Owner, but such consent shall not be required for any assignment of Net Metering Credits or Alternative On-bill Credits pursuant to the Net Metering Rules, the SMART Program Rules, and Applicable Legal Requirements.

ARTICLE 17: LIMITATION OF LIABILITY

17.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, AND EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR

IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY. THIS LIMITATION EXCLUDES, AND THEREFORE DOES NOT APPLY TO CLAIMS BY USER FOR INDEMNITY AGAINST THIRD PARTY LIABILITY PURSUANT TO ARTICLE 13.1. IT IS AGREED BY THE PARTIES THAT THE USER TERMINATION PAYMENT IS CONSIDERED TO BE DIRECT DAMAGES.

ARTICLE 18: MISCELLANEOUS

18.1 Contract Drafting. The Parties acknowledge that they jointly participated in the drafting of this Agreement, jointly participated in the choice of language used in this Agreement, and have each reviewed all of the terms of this Agreement. This document has not been proffered by one Party to the exclusion of the other Party. If any ambiguous word or phrase is found in this Agreement, the canon of construction requiring that any such word or phrase be construed against the drafter shall not be applied to determine the true meaning of that ambiguous word or phrase.

18.2 Waiver. Failure of either Party to complain of any act or omission on the part of the other Party, no matter how long the same may continue, shall not be deemed to be a waiver by said Party of any of its rights hereunder. No waiver by either Party at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by either Party shall require the consent or approval of the other Party, the other Party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on any subsequent occasion.

18.3 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

18.4 Headings. The headings of Articles of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such Articles.

18.5 Entire Agreement; Amendment. This Agreement and any Exhibits referenced herein, together with the Lease, Tax Payment Agreement and any Special Permit issued for or in connection with the System, if any, shall constitute the entire agreement of the Parties as to the subject matter addressed herein, and supersede all prior written or oral agreements between the Parties with respect to said subject matter. There are no other agreements between the Parties concerning the subject matter of this Agreement. This Agreement and its Exhibits may not be

altered, modified, supplemented, terminated or discharged except by way of an instrument in writing executed by both Parties.

18.6 Good Faith. All rights, duties and obligations established by this Agreement shall be exercised in good faith and in a commercially reasonable manner.

18.7 Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts, without resort to any principles of law that would call for the application of the laws of any other jurisdiction. Each of the Parties consents to the jurisdiction of the courts within the Commonwealth of Massachusetts with respect to all disputes arising under or out of this Agreement, and the Parties hereby assent to the jurisdiction of such courts.

18.8 Consent to Service of Process. Each Party hereby consents to service of process in the Commonwealth of Massachusetts in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement. Owner agrees that service of process upon it shall be valid if made by hand delivery or certified mail (return receipt requested) delivery at the address provided in Article 15.1.

18.9 RESERVED

18.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall have the same effect as original signatures and each Party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court proceedings between the Parties.

18.11 No Third Party Beneficiaries. Except for the rights granted a Designated Third Party under Article 16, nothing in this Agreement will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind. Where Owner assigns or transfers rights and obligations under this Agreement consistent with Article 16, all rights and causes of action relevant to such transferred rights and obligations shall accrue to the assignee or transferee.

18.12 Relationships of Parties. The Parties are independent contractors, and will not be deemed to be partners, joint venturers, or agents of each other for any purpose, unless expressly stated otherwise herein.

18.13 Nondiscrimination. Owner agrees that it shall not, because of race, color, national origin, ancestry, age, sex, religion, physical mental disability, sexual orientation, gender identity, genetic information or status as a veteran, discriminate against any qualified employee, applicant for employment, subcontractor, or person or firm seeking to provide goods or services to Owner, or deny any person access to the Premises or to any activities or programs carried out upon the Premises. Owner shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in employment or public accommodation.

18.14 No Limitation of Regulatory Authority. The Parties acknowledge that nothing in this Agreement or the Lease shall be deemed to be an agreement by User to issue or cause the issuance of any approval, consent, order, authorization, permit or license, or to limit or otherwise influence or affect the ability of the User or the Commonwealth of Massachusetts to exercise its legislative and executive functions or to fulfill its regulatory mandate or exercise its regulatory powers consistent with law and Applicable Legal Requirements.

18.15 Survival. Articles 4.4 (Governmental Charges), 8.3 (User Rights upon Termination for Default), 8.4 (Owner Rights upon Termination for Default), 8.5 (Closeout Setoffs), 9.5 (Records and Audits), 13.2 (Indemnification of User), 17.1 (Limitation of Liability), 18.1 (Contract Drafting), 18.7 (Governing Law), 18.8 (Consent to Service of Process), 18.11 (No Third Party Beneficiaries), 18.15 (Survival) and 18.17 (Miscellaneous) shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement shall survive termination in the event that any such provision includes express terms requiring such survival, or where such survival is otherwise the clear intention of the Parties as set forth in this Agreement.

18.16 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither Party shall unreasonably withhold its compliance with any reasonable request made pursuant to this Article, provided, however, that User shall not be required to execute any additional document, instrument or assurance that it reasonably believes will increase its risk or obligations under the Lease or the Agreement.

18.17 Certifications by Owner. By signing this Agreement, the Owner certifies under penalties of perjury, as follows:

(a) It has complied with all laws of the Commonwealth of Massachusetts relating to taxes, the reporting of employees and contractors, and the withholding and remitting of child support.

(b) Its proposal, submitted in response to User's Request for Proposals, was made and submitted in good faith and without collusion or fraud with any person. As used in this provision, the word "person" means any natural person, business, partnership, corporation, limited liability company, union, committee, club, or other organization, entity, or group of individuals.

(c) It has not given, offered, promised or agreed to give any gift, contribution, offer of employment, or thing of value as an inducement for, or in connection with, User's award of this Agreement or the Lease to Owner in violation of the Massachusetts Conflict of Interest Law, M.G.L. c. 268A. Owner shall familiarize its employees involved with this Agreement with the provisions of M.G.L. c. 268A, as may be amended. Owner represents it and its employees do not now have an interest which would violate M.G.L. c. 268A. Owner shall comply with M.G.L. c. 268A during the term of this Agreement.

18.18 Miscellaneous. Notwithstanding anything to the contrary in this Agreement or the Lease:

(a) In the event the Lease expires or is terminated, this Agreement shall automatically and simultaneously expire or be deemed terminated, except that in the event of a termination which requires the removal of the System and restoration of the Premises by Owner, Owner shall have a revocable license for the period of time within which such removal and restoration is required to be accomplished under the Agreement.

(b) User shall not be required to execute documents or instruments subsequent to the execution of the Agreement which User reasonably believes will increase User's risk or obligations under the Agreement or Lease, or result in the waiver of any of User's rights or remedies under the Agreement, the Lease or at law or in equity.

(c) Any requirement that User reasonably cooperate or assist Owner shall not require User to interfere with or influence the independent executive, regulatory, licensing, permitting or legislative functions of any department, board, committee, body or commission of the City.

(d) The Agreement and Lease shall be subject to Applicable Legal Requirements, which shall control if in conflict with the provisions of the Agreement or Lease.

(e) Owner agrees that it shall not engage in conduct declared to be unlawful under Section 2 of Chapter 151E of the Massachusetts General Laws.

(f) Nothing in this Agreement or the Lease is intended, and nothing shall operate, to waive any of the rights, remedies, defenses and immunities afforded User, as a municipality, under M.G.L. c. 258, all of which rights, remedies, defenses and immunities User hereby reserves.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this SOLAR POWER PURCHASE AGREEMENT under seal as of the day and year first above written.

USER:

City of Pittsfield

By: _____

Name: Linda M. Tyler

Title: Mayor

Colleen Hunter-Mullett, MCPPO
Chief Procurement Officer

OWNER:

Oak Leaf Solar XVII LLC

By: _____

By: _____

Name: Michael McCabe

Title: President

EXHIBIT A
DESCRIPTION OF PREMISES

Lease Area 1

Landlord's Property is described in an Order of Taking dated October 25, 2005 and recorded at the Berkshire Middle District Registry of Deeds at Book 03368, Page 139 (attached).

The Property is shown on the city tax assessor maps as Parcel ID No. EO40001001.

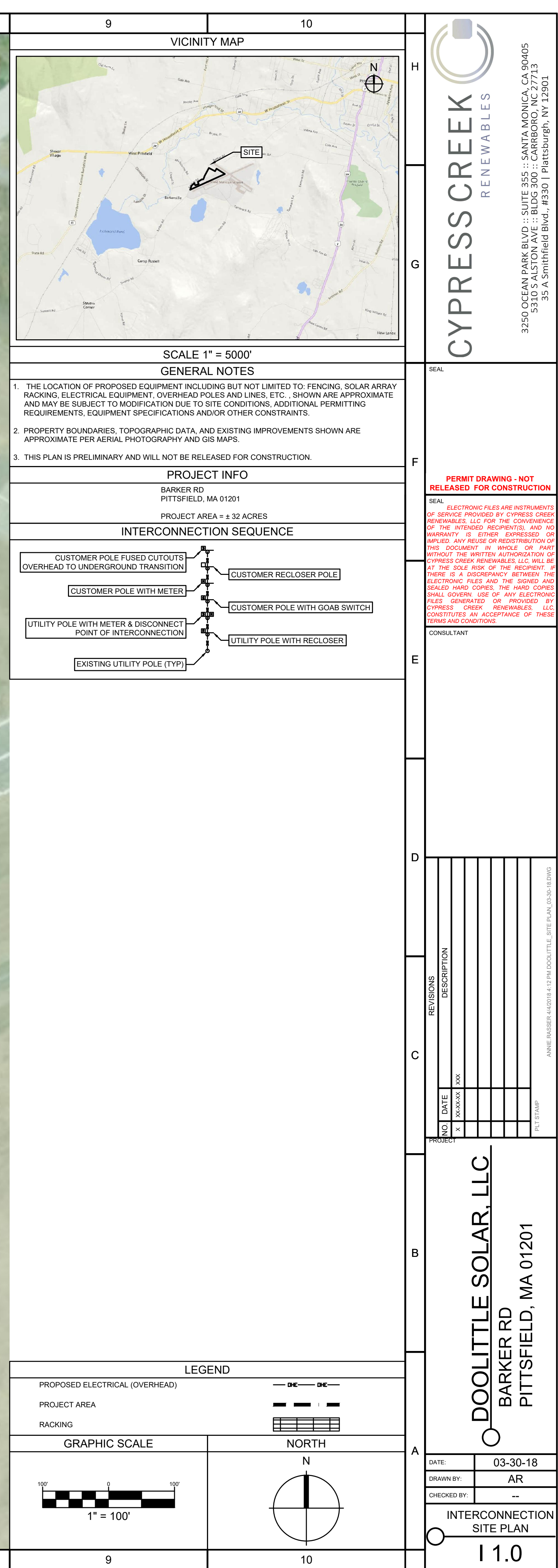
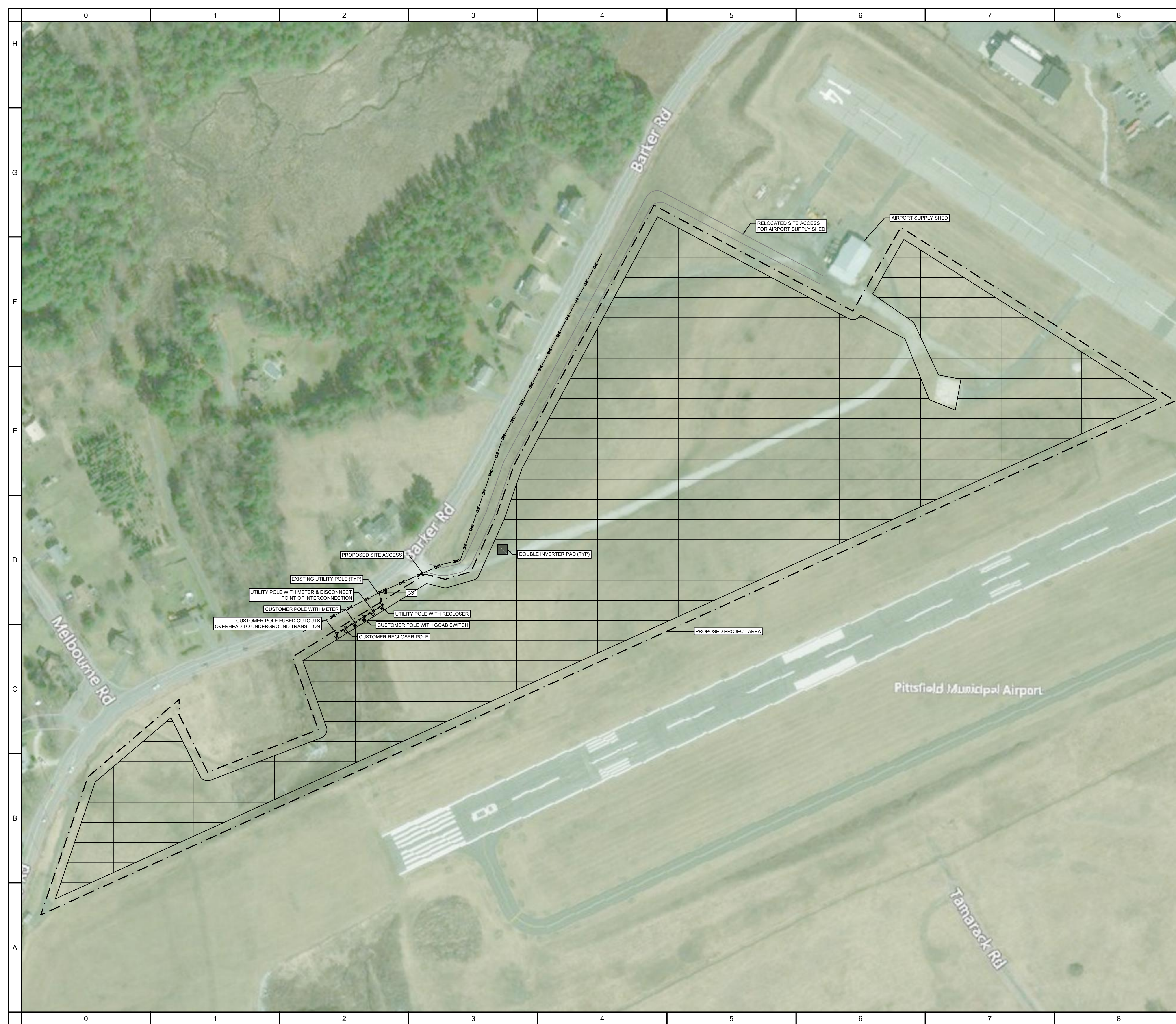
Note: The Parties agree to collaborate on the final System design to optimize the facility size and layout. The Parties further agree that the Access Gate on Barker Road will be retained, and any Access Road located on the Parcel will either be retained or relocated by Owner at its own expense. Such construction and relocation shall be subject to the written approval of User.

Lease Area 2

Landlord's Property is described in a Deed dated April 24, 2007 and recorded at the Berkshire Middle Registry of Deeds at Book 3818, Page 72 (attached).

The Property is shown on the city tax assessor maps as Parcel: ID No. FO50002010

Preliminary depictions of Lease Areas 1 and 2, with Access Areas, and Utility Areas are shown on the drawings attached to this Exhibit A.



Middle Berkshire - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 7/13/2017 3:53:58 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
697155	ORDER		03368/139	10/27/2005	
Property-Street Address and/or Description					
BARKER RD TAKING BY EMINENT DOMAIN					
Grantors					
MORSE CARMINA F					
Grantees					
PITTSFIELD CITY					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

2005 00697155

Bk: 3368 Pg: 139 Doc: ORDR

Page: 1 of 7 10/27/2005 09:14 AM

No. 82

**TAKING BY EMINENT DOMAIN A VACANT PARCEL OF LAND OWNED BY
ESTATE OF CARMINA F. MORSE AND LOCATED AT BARKER ROAD, PITTS-
FIELD, MASSACHUSETTS, TO PROVIDE ADEQUATE LAND
USE CONTROLS FOR EXISTING RUNWAY PROTECTION ZONES
LOCATED AT OR NEAR THE PITTSFIELD MUNICIPAL AIRPORT**

Ordered:

WHEREAS, an Order for the authorization and appropriation for the purpose of an eminent domain taking had previously been made by the City Council by Order 81 of the Series of 2005, in accordance with M.G.L.A. Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, for a parcel of land owned by the Estate of Carmina F. Morse and located at Barker Road, Pittsfield, Massachusetts, for a municipal purpose, namely (1) to use a portion of the land to provide adequate land use controls for existing Runway Protection Zones located at or near the Pittsfield Municipal Airport, which is being accomplished in accordance with Federal Aviation Administration criteria; (2) to excavate portions of the land and use the earth as fill for the extension of the runway safety areas as well as the runway, which is being accomplished in accordance with Federal Aviation Administration criteria; (3) for re-routing portions of South Mountain Road in Pittsfield, MA; and (4) for other airport purposes; and

NOW THEREFORE, the City Council, acting for and in behalf of the City of Pittsfield by virtue of and in accordance with the authority and provisions of M.G.L.A. Chapter 79 and Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, does hereby vote, declare, specify and ORDER:

1. That the City Council of the City of Pittsfield does hereby take by eminent domain, for and in behalf of said City under the provisions of M.G.L.A. Chapter 79, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, a vacant parcel of land in fee simple, absolutely free and clear of all liens and encumbrances, which is owned by the Estate of Carmina F. Morse at Barker Road, Pittsfield, Massachusetts, for a municipal purpose, namely (1) to use a portion of the land to provide adequate land use controls for existing Runway Protection Zones located at or near the Pittsfield Municipal Airport, which is being accomplished in accordance with Federal Aviation Administration criteria; (2) to excavate portions of the land and use the earth as fill for the extension of the runway safety areas as well as the runway, which is being accomplished in accordance with Federal Aviation Administration criteria; (3) for re-routing portions of South Mountain Road in Pittsfield, MA; and (4) for other airport purposes, as more fully described in Appendix "A", which is attached hereto and made a part hereof, and shown on a plan titled "Plan of Land Prepared For Pittsfield Municipal Airport, Barker Road, Pittsfield, MA, Date: July 19, 2005, Prepared by Foresight Land Services", which

697155

**CITY OF PITTSFIELD
KATHLEEN - ASSISTANT CITY SOLICITOR
ALLEN ST - CITY HALL
PITTSFIELD, MA 01201** P

plan is on file in the office of the Pittsfield Municipal Airport Commission, 832 Tamarak Road, Pittsfield, Massachusetts.

2. In addition to the foregoing, this taking of eminent domain shall include all trees on said lands.

3. Damages are awarded in the sum of ONE HUNDRED AND FIFTY THREE THOUSAND (\$153,000.00) DOLLARS to the Estate of Carmina F. Morse for said property and to any person or corporation having an interest therein to be apportioned as their respective interests may appear as damages sustained by them to the property of each by reason of the taking.

4. That the City Clerk as Clerk of the City Council is hereby authorized and directed to record a certified copy of this Order with the Berkshire Middle District Registry of Deeds within thirty (30) days from the effective date hereof.

IN CITY COUNCIL
October 25, 2005

Read and adopted 11 Yeas 0 Nays

/s/ Gerald M. Lee, City Council President
/s/Jody L. Phillips, City Clerk

MAYOR'S OFFICE
Approved: October 26, 2005
/s/ James M. Roberto, Mayor

A true copy Attest


City Clerk

APPENDIX "A"

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts, and is more particularly described and bounded as follows:

Beginning at a point in the easterly sideline of a public way known as Barker Road. Said point also marks the northwest corner of land now or formerly of Robert W. Shade;

Thence running S 28° 23' 30" E along the westerly line of said Shade a distance of 251.63 feet to a point. Said point also marks the southwest corner of land of said Shade;

Thence running the following two (2) courses along the southerly line of said Shade:

Generally northeasterly along a curve to the right having a radius of 717.00 feet, an arc distance of 94.62 feet to an iron pipe to be set;

N 61° 34' 39" E a distance of 55.45 feet to an iron pipe to be set. Said iron pipe also marks the southwesterly corner of land now or formerly of Francis A. Marchand and Claire J. Marchand;

Thence running N 61° 34' 39" E along the southerly line of said Marchand a distance of 150.00 feet to an iron pipe to be set. Said iron pipe also marks a point in the westerly line of land now or formerly of Western Massachusetts Electric Company;

Thence running S 28° 25' 21" E along the westerly line of said Western Massachusetts Electric Company a distance of 245.45 feet to an iron pipe to be set. Said iron pipe also marks a point in the westerly line of land now or formerly of Edwin Watroba;

Thence running the following ten (10) courses along the westerly line of said Edwin Watroba:

S 12° 56' 34" W a distance of 132.02 feet to a point;

S 08° 03' 55" E a distance of 31.90 feet to a point;

S 15° 04' 24" W a distance of 293.48 feet to a point;

S 12° 05' 10" W a distance of 68.64 feet to a point;

S 14° 03' 02" W a distance of 126.49 feet to a point;

S 09° 31' 51" W a distance of 82.79 feet to a point;

S 18° 44' 53" W a distance of 23.14 feet to a point;

S 09° 51' 08" W a distance of 90.57 feet to a point;

S 14° 48' 04" W a distance 95.38 feet to a point;

S 13° 14' 18" W a distance of 139.24 feet to an iron pipe to be set. Said iron pipe also marks a point in the northerly line of other lands now or formerly of Edwin Watroba;

Thence running the following two (2) courses along the northerly line of said Watroba:

N 76° 32' 56" W a distance of 183.54 feet to an iron pipe;

N 79° 19' 00" W a distance of 364.71 feet to an iron pipe. Said iron pipe also marks the northeast corner of land now or formerly of The City of Pittsfield;

Thence running N 79° 37' 50" W along the northerly line of said City of Pittsfield a distance of 336.14 feet to an iron pipe. Said iron pipe also marks the northeast corner of land now or formerly of Heather Chapman;

Thence running N 78° 44' 09" W along the northerly line of said Chapman a distance of 81.52 feet to an iron pipe to be set. Said iron pipe also marks the southeast corner of land now or formerly of David A. Ockerhausen;

Thence running N 34° 32' 02" W a distance of 161.11 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John H. Crane, II and Denise M. Crane;

Thence running N 56° 41' 36" E along the southerly line of said Crane a distance of 149.91 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of Edward J. Bushey and Anne G. Bushey;

Thence running N 49° 50' 03" E along the southerly line of said Bushey a distance of 150.00 feet to an iron pipe to be set. Said iron pipe also marks the southwest corner of land now or formerly of Franklin J. Casino and Gina Casino;

Thence running N 45° 59' 54" E along the southerly line of said Casino a distance of 148.96 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John E. McDonough, Jr. and Emily F. McDonough;

Thence running N 46° 04' 13" E along the southerly line of said McDonough a distance of 150.10 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of E & G Nominee Trust;

Thence running N 46° 12' 49" E along the southerly line of said E & G Nominee Trust a distance of 150.24 feet to an iron pipe. Said iron pipe also marks the southwest corner of land now or formerly of John R. Weatherwax and Jacquelyn Weatherwax;

Thence running the following two (2) courses along the southerly and easterly lines of said Weatherwax:

N 45° 51' 30" E a distance of 149.82 feet to an iron pipe;

N 34° 37' 51" W a distance of 250.02 feet to a point in the easterly sideline of said Barker Road;

Thence running N 46° 00' 55" E along the easterly sideline of said Barker Road a distance of 120.06 feet to a point. Said point also marks the northwest corner of land now or formerly of Joseph P. Amerio and Mabel Amerio;

Thence running the following three (3) courses along the westerly, southerly and easterly lines of said Amerio:

S 34° 22' 03" E a distance of 250.41 feet to an iron pipe;

N 45° 40' 07" E a distance of 124.76 feet to an iron pipe;

N 28° 28' 15" W a distance of 249.93 feet to a point in the easterly sideline of said Barker Road;

Thence running generally northeasterly in a curve to the right having a radius of 967.00 feet, an arc distance of 66.93 feet to the point of beginning.

The above described parcel contains 20.46 acres of land and is shown on a plan entitled: "Plan of Land Prepared For Pittsfield Municipal Airport, Barker Road, Pittsfield, MA, Date: July 19, 2005, Prepared by Foresight Land Services", which plan is recorded in the Berkshire Middle District Registry of Deeds in Plat H # 53.

The above described parcel is subject to an easement to lay water pipes given by Francis Morse to Joseph P. Amerio and Mable Amerio which instrument was recorded in the Berkshire Middle District Registry of Deeds on December 4, 1959 in Book 699, Page 538.

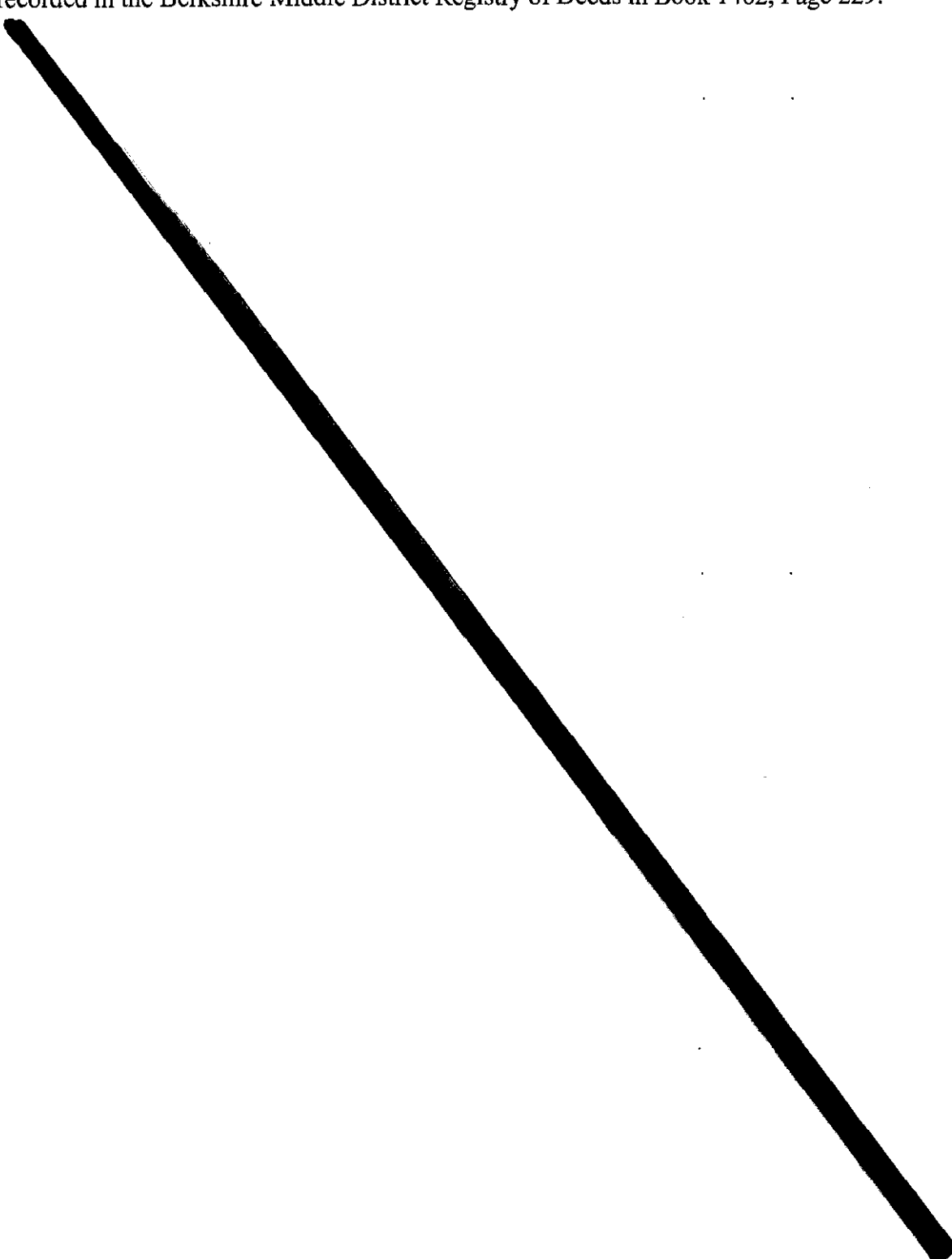
Excepted from this taking are the following deeds:

1. Francis Morse to Ruth C. Bailey dated and recorded on September 2, 1954 in the Berkshire Middle District Registry of Deeds in Book 615, Page 419.
2. Francis Morse to Edward S. Bandurski and Evelyn Bandurski dated June 18, 1956 and recorded on June 21, 1956 in the Berkshire Middle District Registry of Deeds in Book 642, Page 342.

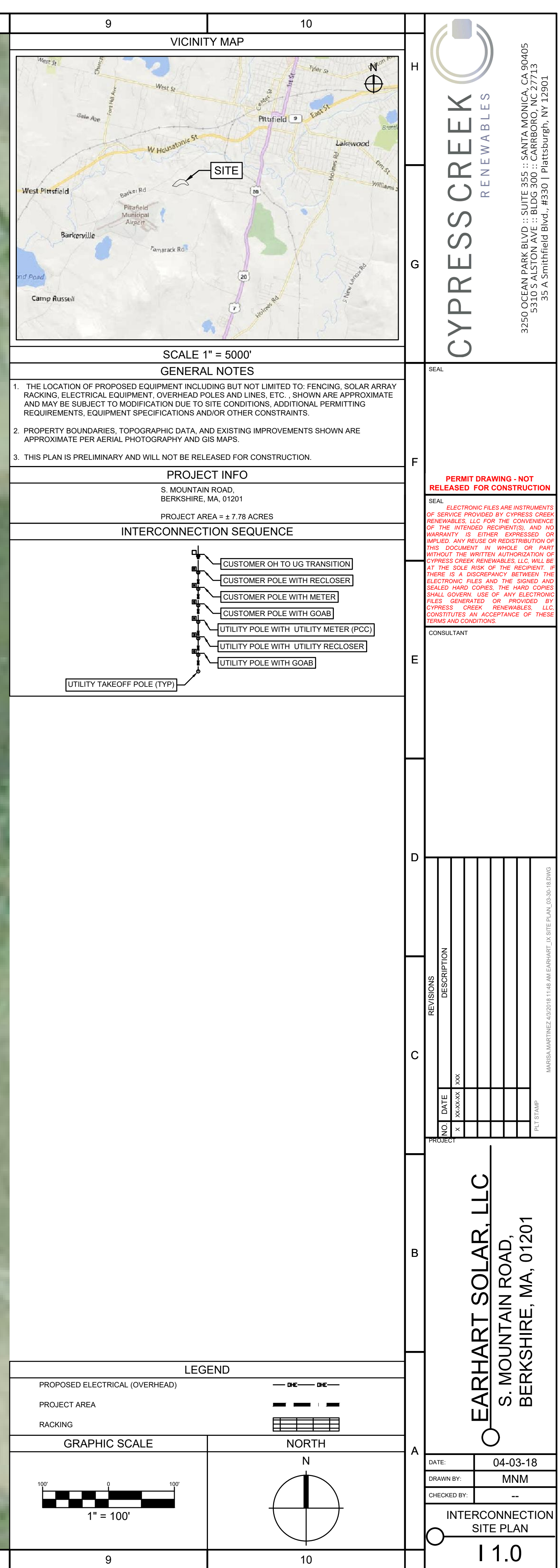
3. Francis Morse to William S. Shade and Regina M. Shade dated September 17, 1956 and recorded on September 27, 1956 in the Berkshire Middle District Registry of Deeds in Book 647, Page 185.
4. Francis Morse to John E. McDonough, Jr. and Emily F. McDonough dated and recorded on October 16, 1956 in the Berkshire Middle District Registry of Deeds in Book 648, Page 57.
5. Francis Morse to Peter L. Soldato and Elaine D. Soldato dated and recorded on October 25, 1956 in the Berkshire Middle District Registry of Deeds in Book 648, Page 316.
6. Francis Morse to the Quinnehtuk Company dated and recorded on April 15, 1957 in the Berkshire Middle District Registry of Deeds in Book 654, Page 320.
7. Francis Morse to William S. Shade and Regina M. Shade dated October 8, 1958 and recorded on October 16, 1958 in the Berkshire Middle District Registry of Deeds in Book 680, Page 93.
8. Francis Morse to Joseph P. Amerio and Mabel Amerio dated November 7, 1958 and recorded on November 17, 1958 in the Berkshire Middle District Registry of Deeds in Book 681, Page 394.
9. Francis Morse to Eugene F. Coty and Beverly A. Coty dated May 19, 1959 and recorded on May 26, 1959 in the Berkshire Middle District Registry of Deeds in Book 689, Page 383.
10. Francis Morse to Salvatore E. Faillace and Patsy Lou Faillace dated June 13, 1960 and recorded on June 21, 1960 in the Berkshire Middle District Registry of Deeds in Book 707, Page 227.
11. Francis Morse to Howard G. Kraay and Francis Kraay dated August 26, 1960 and recorded on August 30, 1960 in the Berkshire Middle District Registry of Deeds in Book 711, Page 55.
12. Francis Morse to John R. Sutton and Edith May Sutton dated September 1, 1978 and recorded on September 26, 1978 in the Berkshire Middle District Registry of Deeds in Book 1010, Page 471.

The parcel herein being taken is the remainder of a certain parcel of land (after the above-mentioned exceptions) conveyed by a certain deed from Emma R. Robbins, Frances D. Robbins, Josephine Robbins, Joseph C. Robbins (all of whom were unmarried), Mary D. Kelley, and Cornelia R. Bradley to Francis Morse dated and recorded on August 21, 1951 in the Berkshire Middle District Registry of Deeds in Book 575, Page 330. For additional information on title, refer to (1) the deed in Book 575, Page 330 with regard to the release by the spouses of Mary D. Kelley and Cornelia R. Bradley; (2) Berkshire Probate Docket No.: 96-P0606-FI (foreign inventory)

as well as Middlesex Probate Docket No.: 92-P539-TE in connection with the Estate of Francis Morse; (3) Berkshire Probate Docket No.: 05-P0105-EP in connection with the Estate of Carmina F. Morse; (4) Certificate Releasing Estate Tax Lien (M792) on the Estate of Francis Morse recorded in the Berkshire Middle District Registry of Deeds in Book 1462, Page 229.



Berkshire Middle District Registry of Deeds - END OF DOCUMENT



Middle Berkshire - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 7/13/2017 3:53:58 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
733058	DEED		03818/72	06/14/2007	1685000.00
Property-Street Address and/or Description					
SOUTH MOUNTAIN RD					
Grantors					
WATROBA EDWIN F					
Grantees					
PITTSFIELD CITY					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					



2007 06/33058
 Bk: 3818 Pg: 72 Doc: DEED
 Page: 1 of 6 06/14/2007 09:37 AM

QUITCLAIM DEED

EDWIN F. WATROBA of 48 Cumberland Circle, Dalton, Massachusetts ("Grantor"), for consideration of One Million Six Hundred and Eighty-Five Thousand Dollars (\$1,685,000) including costs associated with relocation, grants to the CITY OF PITTSFIELD, a municipal corporation with a principal place of business located at 70 Allen Street, Pittsfield, Massachusetts ("Grantee") with Quitclaim Covenants, the following described land:

Parcel I

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts more particularly bounded and described as follows:

Beginning at an iron pipe in the southerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the northeasterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the southerly sideline of said South Mountain Road:

S69-34-05E a distance of 148.33 feet to a point;

N88-19-37E a distance of 82.98 feet to an iron pipe. Said iron pipe also marks the northwesterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the westerly and southerly lines of said City of Pittsfield:

S12-42-42W a distance of 724.71 feet to an iron pipe;

S85-45-37E a distance of 209.71 feet to an iron pipe in the westerly line of land now or formerly of Edwin F. Watroba;

Thence running S13-22-56W along the westerly line of said Watroba a distance of 1954.52 feet to an iron pipe in the northerly line of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the northerly line of said City of Pittsfield:

733058

Grantee Address: South Mountain Road, Pittsfield, MA
 Property Address:

N56-00-36W a distance of 274.37 feet to a concrete bound;
 N49-10-23W a distance of 341.85 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of other land now or formerly of City of Pittsfield.

Thence running N13-03-17E along the easterly line of said City of Pittsfield a distance of 2065.76 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of land now or formerly of City of Pittsfield;

Thence running the following two (2) courses along the southerly and easterly lines of said City of Pittsfield:

S77-07-36E a distance of 132.00 feet to an iron pipe;
 N12-52-24E a distance of 321.50 feet to the point of beginning.

The above described parcel of land containing 28.42 acres is shown as "Parcel 1" on a plan entitled "Plan of Land Prepared for Pittsfield Municipal Airport, Watroba Life Estate on Parcel 1, South Mountain Road, Pittsfield, MA" sheet 6 of 9, dated April 13, 2007 prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File H, No. 282.

Reserving to Grantor, and his assigns, the exclusive right to use and occupy for agricultural purposes, for and during the life of Grantor, that portion of Parcel 1 containing approximately 8.83 acres and described, as follows:

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts and is more particularly bounded and described as follows:

Beginning at an iron pipe in the westerly line of land now or formerly of Edwin F. Watroba. Said iron pipe also marks the southeasterly corner of Parcel J as shown on the above mentioned plan;

Thence running S13-22-56W along the westerly line of said Watroba a distance of 1071.90 feet to an iron pipe;

Thence running the following five (5) courses through Parcel 1 shown on the above mentioned plan:

N74-55-05W a distance of 443.20 feet to an iron pipe;
 N13-58-08E a distance of 425.13 feet to an iron pipe;
 N61-55-29E a distance of 120.24 feet to an iron pipe;
 N13-36-52E a distance of 216.78 feet to an iron pipe; and
 N38-12-37E a distance of 334.89 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of said Parcel J;

Thence running S85-45-37E along the southerly line of said Parcel J a distance of 209.71 feet to the point of beginning.

The above described portion of parcel 1 containing approximately 8.83 acres is shown as the "Life Estate Parcel" on the above mentioned plan.

Parcel II

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts and is more particularly bounded and described as follows:

Beginning at an iron pipe in the northerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the southwesterly corner of land now or formerly of Edwin F. Watroba;

Thence running S88-19-37W along said northerly sideline a distance of 251.35 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of the City of Pittsfield;

Thence running the following four (4) courses along land of said City of Pittsfield:

N04-57-07E a distance of 205.49 feet to an iron pipe;

N69-34-05W a distance of 100.00 feet to an iron pipe;

N69-34-05W a distance of 100.00 feet to an iron pipe; and

S04-57-07W a distance of 225.65 feet to an iron pipe in the northerly sideline of said South Mountain Road;

Thence running N69-34-05W along said northerly sideline a distance of 180.23 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of the City of Pittsfield;

Thence running N12-11-45E along the easterly line of land of said City of Pittsfield a distance of 337.17 feet to an iron pipe. Said iron pipe also marks a southeasterly corner of land shown as "Parcel 2" on a plan entitled "Plan of Land prepared for Pittsfield Municipal Airport, South Mountain Road, Pittsfield, MA" Sheet 6 of 9, dated April 13, 2007, prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File

H, No. 282.

Thence running N12-09-40E along the easterly line of said "Parcel H" a distance of 143.21 feet to an iron pipe in the southerly line of land now or formerly of Francis Morse;

Thence running the following two (2) courses along the southerly line of said Morse:

S79-19-00E a distance of 364.71 feet to an iron pipe; and

S76-32-56E a distance of 183.54 feet to a point. Said point also marks the southwesterly corner of land of land now or formerly of Edwin F. Watroba;

Thence running S76-32-56E along the southerly line of said Watroba a distance of 62.36 feet to an iron pipe. Said iron pipe also marks the northwesterly corner of land now or formerly of Edwin F. Watroba;

Thence running the following two (2) courses along the westerly line of said Watroba:

S10-21-40W a distance of 172.42 feet to an iron pipe; and
S11-48-31W a distance of 286.52 feet to the point of beginning.

The above described parcel of land containing 6.13 acres is shown as "Parcel 2" on the above mentioned plan.

Parcel III

A certain parcel of land situated in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts more particularly bounded and described as follows:

Beginning at an iron pipe in the northerly sideline of a public way known as South Mountain Road. Said iron pipe also marks the southeasterly corner of land now or formerly of Edwin F. Watroba;

Thence running the following three (3) courses along the easterly and northerly lines of said Watroba:

N11-48-31E a distance of 286.52 feet to an iron pipe;
N10-21-40E a distance of 172.42 feet to an iron pipe;
N76-32-56W a distance of 62.36 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of land now or formerly of City of Pittsfield;

Thence running the following ten (10) courses along the easterly line of said City of Pittsfield:

N13-14-18E a distance of 139.24 feet to a point;
N14-48-04E a distance of 95.38 feet to a point;
N09-51-08E a distance of 90.57 feet to a point;
N18-44-53E a distance of 23.14 feet to a point;
N09-31-51E a distance of 82.79 feet to a point;
N14-03-02E a distance of 126.49 feet to a point;
N12-05-10E a distance of 68.64 feet to a point;
N15-04-24E a distance of 293.48 feet to a point;
N08-03-55W a distance of 31.90 feet to a point;
N12-56-34E a distance of 132.02 feet to an iron pipe. Said iron pipe also marks the southeasterly corner of an easement held by Western Massachusetts Electric Company;

Thence running N12-38-59E along the easterly line of said Western Massachusetts Electric Company Easement a distance of 324.95 feet to an iron pipe. Said iron pipe also marks the

southeasterly corner of land now or formerly of Peter L. Soldato, Nancy A. Soldato and Lisa A. Soldato;

Thence running N12-46-52E along the easterly line of said Soldato a distance of 219.12 feet to an iron pipe. Said iron pipe also marks the southwesterly corner of land now or formerly of Amy L. Crowley and Timothy S. Batho:

Thence running the following two (2) courses along the southerly and easterly lines of said Crowley and Batho:

S79-45-24E a distance of 171.50 feet to an iron pipe;
N10-14-36E a distance of 145.00 to an iron pipe in the southerly line of land now or formerly of Thomas P. Greenleaf;

Thence running the following three (3) courses along the southerly and westerly lines of said Greenleaf:

S79-45-24E a distance of 579.29 feet to an iron pipe;
S10-38-09W a distance of 700.00 feet to an iron pipe;
S79-45-24E a distance of 300.00 feet to an iron pipe in the westerly line of land now or formerly of Jimmie L. Giacoletto and Pauline M. Giacoletto;

Thence running the following two (2) courses along the westerly line of said Giacoletto:

S12-09-32W a distance of 557.51 feet to a point;
S09-54-39W a distance of 571.87 feet to an iron pipe in the northerly sideline of said South Mountain Road;

Thence running the following six (6) courses along the northerly sideline of said South Mountain Road:

N75-43-33W a distance of 348.91 feet to a point;
Generally southwesterly along a curve to the left having a radius of 277.29 feet and an arc distance of 258.40 feet to a point;
S50-52-55W a distance of 33.65 feet to a point;
S46-41-31W a distance of 70.46 feet to a point;
Generally southwesterly along a curve to the right having a radius of 488.03 feet and an arc distance of 256.54 feet to a point;
S76-48-35W a distance of 226.56 feet to the point of beginning.

The above described parcel of land containing 42.37 acres is shown as Parcel 10 on a plan entitled "Plan of Land Prepared for Pittsfield Municipal Airport, South Mountain Road, Pittsfield, MA" sheet 7 of 9, dated June 12, 2006 prepared by Foresight Land Services recorded in the Berkshire County Middle District Registry of Deeds in Plat File H, No. 283.

Parcels I, II and III being a portion of the Grantor's premises conveyed by deed to Nache W. Kaminiski and Josephine J. Watroba and recorded with the Berkshire Middle District Registry of Deeds on January 17, 1972 in Book 920, Page 454. See Probate Doc. 89103, Probate Doc 90P0130-E1.

Executed as a sealed instrument this 24th day of April, 2007.

Edwin F. Watroba
Edwin F. Watroba

COMMONWEALTH OF MASSACHUSETTS

Berkshire, SS.

On this 24th day of April, 2007, before me, the undersigned notary public, personally appeared Edwin F. Watroba and proved to me through satisfactory evidence, which was (personal knowledge of identity)(~~a current driver's license~~)(~~a current U.S. passport~~), to be the person whose name is signed on the foregoing document, and acknowledge to me that he signed it voluntarily for its stated purpose,

Ira J. Kaplan

Notary Public

My Commission Expires: 8-27-2010



IRA J. KAPLAN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 27, 2010

EXHIBIT B

SYSTEM DESCRIPTION

The final System Description shall be the final As-Built drawings to be provided after Commercial Operation Date. The parties shall amend the Agreement to substitute a revised Exhibit F with the final System Description.

		Solar Area 1	Solar Area 2
General System Description:			
1	DC System Size: kW-DC at STC capacity	6020	2500
2	AC System Size: kW-AC	5000	1666
Solar PV Panels:			
1	Manufacturer:	JA Solar	JA Solar
2	Model Number:	18,242	7,576
3	Module Wattage:	330	330
4	Panel Count:	25	25
5	Type: Polycrystalline	Polycrystalline	Polycrystalline
6	Array tilt:	Single-axis tracker	Single-axis tracker
7	Warranty Information:	25	25
(a)	Free from defects in materials/workmanship (yrs)	12	12
(b)	Percent min production in Year 1	97.5%	97.5%
(c)	25 year linear power output with XX% min production at year 25.	80%	80%
Inverters:			
1	Manufacturer:	SMA	SMA
2	Model Number:	SCS 2500-EV-US	SCS 1850-EV-US
3	Number and size to be installed:	2500 Kwac (2)	1666 kWac (1)
4	String size and Quantity:	652; 9.24 kW each	270; 9.24 kW each
5	Warranty Information:	10 yrs	10 yrs
Mounting System:			
1	Manufacturer:	TerraSmart	TerraSmart
2	Model:	Single-Axis Tracker Foundation	Single-Axis Tracker Foundation
3	Type:	Driven pile	Driven pile
4	Warranty Information:	5 yrs	5 yrs
Data Acquisition System (DAS):			
1	Manufacturer:	Nor-Cal Controls (hardware); Power Factors Drive (software)	
2	Warranty Information:	Ongoing service	Ongoing service
Battery Energy Storage System (BESS):			
1	Manufacturer:	IHI Energy Storage	IHW Energy Storage
2	Model Name:	ESWare	ESWare
3	Unit Size:	700 kW / 1,750 kWh	700 kW / 1,750 kWh
4	Unit Number:	5	2
5	Warranty Information:	10 yrs	10 yrs

EXHIBIT C

USER TERMINATION PAYMENT

SOLAR AREA 1					SOLAR AREA 1				
TERM	YEAR (Ending)	Annual Production (kWh)	Nominal SMART Public Offtake Adder Value (\$)	Termination Payment (\$)	TERM	YEAR	Annual Production (kWh)	Nominal SMART Public Offtake Adder Value (\$)	Termination Payment (\$)
INITIAL TERM	Year 1	7,675,500	\$ 147,370	\$1,397,267	INITIAL TERM	Year 1	3,187,500	\$ 61,200	\$580,261
	Year 2	7,637,123	\$ 146,633	\$1,361,679		Year 2	3,171,563	\$ 60,894	\$565,481
	Year 3	7,598,937	\$ 145,900	\$1,323,981		Year 3	3,155,705	\$ 60,590	\$549,826
	Year 4	7,560,942	\$ 145,170	\$1,284,000		Year 4	3,139,926	\$ 60,287	\$533,222
	Year 5	7,523,137	\$ 144,444	\$1,241,550		Year 5	3,124,227	\$ 59,985	\$515,594
	Year 6	7,485,522	\$ 143,722	\$1,196,429		Year 6	3,108,605	\$ 59,685	\$496,856
	Year 7	7,448,094	\$ 143,003	\$1,148,422		Year 7	3,093,062	\$ 59,387	\$476,919
	Year 8	7,410,854	\$ 142,288	\$1,097,292		Year 8	3,077,597	\$ 59,090	\$455,686
	Year 9	7,373,799	\$ 141,577	\$1,042,787		Year 9	3,062,209	\$ 58,794	\$433,051
	Year 10	7,336,930	\$ 140,869	\$984,633		Year 10	3,046,898	\$ 58,500	\$408,901
	Year 11	7,300,246	\$ 140,165	\$922,534		Year 11	3,031,664	\$ 58,208	\$383,112
	Year 12	7,263,745	\$ 139,464	\$856,173		Year 12	3,016,505	\$ 57,917	\$355,553
	Year 13	7,227,426	\$ 138,767	\$785,202		Year 13	3,001,423	\$ 57,627	\$326,081
	Year 14	7,191,289	\$ 138,073	\$709,252		Year 14	2,986,416	\$ 57,339	\$294,540
	Year 15	7,155,332	\$ 137,382	\$627,919		Year 15	2,971,484	\$ 57,052	\$260,764
	Year 16	7,119,556	\$ 136,695	\$540,771		Year 16	2,956,626	\$ 56,767	\$224,573
	Year 17	7,083,958	\$ 136,012	\$447,337		Year 17	2,941,843	\$ 56,483	\$185,771
	Year 18	7,048,538	\$ 135,332	\$347,112		Year 18	2,927,134	\$ 56,201	\$144,149
	Year 19	7,013,295	\$ 134,655	\$239,549		Year 19	2,912,498	\$ 55,920	\$99,480
	Year 20	6,978,229	\$ 133,982	\$124,057		Year 20	2,897,936	\$ 55,640	\$51,519
	Total	146,432,452				Total	57,710,659		



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

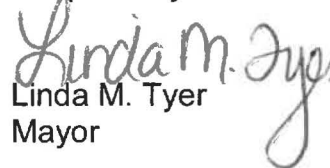
April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order accepting a grant of funds in the amount of \$5,625.00 from the Executive Office of Public Safety and Security-Highway Division for a FY18 Pedestrian, Bicycle Safety Enforcement and Equipment grant.

Respectfully submitted,


Linda M. Tyer
Mayor

LMT/CVB
Enclosure



**CITY OF PITTSFIELD
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733

OFFICE OF THE CHIEF OF POLICE

(413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

March 28, 2018

Honorable Linda Tyer
Mayor - City Of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Mayor Tyer:

Submitted for your consideration, is an authorization requesting the City of Pittsfield to accept a FY18 Pedestrian, Bicycle Safety Enforcement and Equipment Grant in the amount of \$5,625.00 from the Executive Office of Public Safety and Security-Highway Safety Division to the Pittsfield Police Department.

Sincerely,

Michael J. Wynn
Chief of Police

c: Matthew Kerwood, Treasurer
Alison Crespo, Accountant

No. _____

City of Pittsfield
M A S S A C H U S E T T S
IN CITY COUNCIL
AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT A GRANT OF FUNDS IN
THE AMOUNT OF \$5,625.00 FROM THE MASSACHUSETTS EXECUTIVE OFFICE
OF PUBLIC SAFETY – HIGHWAY SAFETY DIVISION**

Ordered:

That the City of Pittsfield, acting through its Mayor and City Council, and pursuant to M.G.L. Chapter 44, Section 53A, is hereby authorized to accept a FY18 Pedestrian, Bicycle and Moped-Type Safety Enforcement and Equipment Grant in the amount of \$5,625.00 from the Massachusetts Executive Office of Public Safety – Highway Safety Division to the Pittsfield Police Department.



Office of the Governor
Commonwealth of Massachusetts

State House
Boston, Massachusetts 02133
Tel: (617) 725-4000

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

March 16, 2018

Chief Michael Wynn
Pittsfield Police Department
39 Allen St
Pittsfield, MA 01201

Dear Chief Wynn:

We are pleased to inform you that the Pittsfield Police Department has been selected to receive a FFY 2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant award from the Executive Office of Public Safety and Security, Office of Grants and Research-Highway Safety Division. Based on the federal funding to support this award from the National Highway Traffic Safety Administration, your award amount is \$5,625.00, of which up to \$1,406.25 may be spent on allowable equipment purchases.

The contract and related award documents have been provided to you by your Program Coordinator for this grant, Richard Valeri. Should you have any questions when filling them out, please contact Rich at Richard.Valeri@state.ma.us or 617-933-3528.

We thank you for the work you do to keep Massachusetts roads safe for everyone.

Sincerely,

Governor Charles D. Baker

Lt. Governor Karyn E. Polito

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: City of Pittsfield, Police Department (and d/b/a):		COMMONWEALTH DEPARTMENT NAME: Executive Office of Public Safety & Security	
Legal Address: (W-9, W-4, T&C): 70 Allen Street, Pittsfield, MA 01201		MMARS Department Code: EPS	
Contract Manager: Michael J. Wynn		Business Mailing Address: 10 Park Plaza, Suite 3720, Boston, MA 02116	
E-Mail: mwynn@cityofpittsfield.org		Billing Address (if different):	
Phone: 413-448-9717 Fax: 413-395-0131		Contract Manager: Diane Perrier	
Contractor Vendor Code: VC6000192129		E-Mail: Diane.Perrier@state.ma.us	
Vendor Code Address ID (e.g. "AD001"): AD002 (Note: The Address ID must be set up for EFT payments.)		Phone: 617-725-3301 Fax: 617-725-0260	
MMARS Doc ID(s): 2018PITTSFIELDPEBIKE		RF/Procurement or Other ID Number: Grant Application	
<u>X</u> NEW CONTRACT PROCUREMENT OR EXCEPTION TYPE: (Check one option only) ☐ Statewide Contract (OSD or an OSD-designated Department) ☐ Collective Purchase (Attach OSD approval, scope, budget) ☒ Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) ☐ Emergency Contract (Attach justification for emergency, scope, budget) ☐ Contract Employee (Attach Employment Status Form, scope, budget) ☐ Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)		<u> </u> CONTRACT AMENDMENT Enter Current Contract End Date <u>Prior</u> to Amendment: <u> </u> , 20 <u> </u> Enter Amendment Amount: \$ <u> </u> . (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) ☐ Amendment to Scope or Budget (Attach updated scope and budget) ☐ Interim Contract (Attach justification for Interim Contract and updated scope/budget) ☐ Contract Employee (Attach any updates to scope or budget) ☐ Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)	
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. ☒ Commonwealth Terms and Conditions ☐ Commonwealth Terms and Conditions For Human and Social Services			
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. ☐ Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) ☒ Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or <i>new</i> Total if Contract is being amended). \$ <u>5,625.00</u>			
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days <u> </u> % PPD; Payment issued within 15 days <u> </u> % PPD; Payment issued within 20 days <u> </u> % PPD; Payment issued within 30 days <u> </u> % PPD. If PPD percentages are left blank, identify reason: ☒ agree to standard 45 day cycle ☐ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ☐ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)			
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) FFY2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant Program PS-18-02-61/FASTACT405h CFDA# 20.616			
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: ☒ 1. may be incurred as of the <u>Effective Date</u> (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . ☐ 2. may be incurred as of <u> </u> , 20 <u> </u> , a date <u>LATER</u> than the <u>Effective Date</u> below and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . ☐ 3. were incurred as of <u> </u> , 20 <u> </u> , a date <u>PRIOR</u> to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
CONTRACT END DATE: Contract performance shall terminate as of <u>09/30</u> , 2018, with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached <u>Contractor Certifications</u> (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>Instructions and Contractor Certifications</u> , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: <u>Michael J. Wynn</u> Date: <u>3/28/2018</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>MICHAEL J. WYNN</u> Print Title: <u>Chief of Police</u>		AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: <u>Angela F.F. Davis</u> Date: <u> </u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Angela F.F. Davis</u> Print Title: <u>Executive Director, Office of Grants & Research</u>	

office copy

Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Office of Grants and Research
Highway Safety Division
10 Park Plaza, Suite 3720
Boston, MA 02116
Tel: (617) 725-3301

Application Form

FFY 2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant Program

Deadline for Applications: August 18, 2017 at 4 PM

Applications received after the deadline will not be accepted.

ASSURANCES

The Pittsfield Police Department acknowledges and if funded agrees to comply with all grant contract requirements and performance measures. This municipality or department understands and agrees that a grant received as a result of this application is subject to the regulations governing highway safety projects and grant management requirements and will comply with all State, Federal, and Office of Grants and Research Guidelines. Funding is based on availability of federal funds. I certify that the federal funds that may be received for this grant program do not supplant any other funds available to this department or municipality. I hereby acknowledge my understanding of the above grant requirements and will comply with the best of my ability:

Michael J. Wym - Chief of Police

Authorized Representative Name and Title (please print)

Please note that the signatory must be authorized to enter into a contract with the Commonwealth, per the Authorized Signatory Listing form.

Michael J. Wym

Authorized Signature in Blue Ink

8/9/2017

Date

*Please note that a town or city administrator must complete the Authorized Signatory form with signature at the bottom of page 1, designating the Police Chief and any other individual(s) as Authorized Signatories. Notarized page 2 is required for all individuals listed in the box on page 1.

NEW

All sections must be completed to be eligible.

Organization Name	Pittsfield Police Department
Organization Street Address	39 Allen Street
Organization Mailing Address (if different)	
City/Town	Pittsfield
Zip Code	01201

Social Media (Y/N – If yes, provide account name)	
Twitter	<u>@pittsfieldpd</u>
Facebook	<u>www.facebook.com/PittsfieldPolice/</u>
Other	

Grant Contact Name*	James B. McIntyre
Title	Traffic Officer
Email Address	jmcintyre@pittsfieldpd.org
Telephone	413-822-6325
Fax	413-395-0124

*Contact person responsible for submitting application, managing program, and submitting monthly reports.

If multiple individuals will be responsible for these tasks, please include an additional page of contact information at the end of this document and indicate specific assignments/roles for each.

Chief Name	Chief Michael Wynn
Email Address	mwynn@pittsfieldpd.org
Telephone	413-448-9700
Fax	413-395-0124

Problem Identification

1. Provide data and source(s) of your city or town's pedestrian and bicycle problems by filling in the following tables.

Crashes

Year/Category	Pedestrian	Bicycle
2012	31	14
2013	30	17
2014	19	16
2015	34	9
2016	22	11

Source of data:

Injuries

Year/Category	Pedestrian	Bicycle
2012	26	11
2013	24	14
2014	15	13
2015	28	6
2016	22	9

Source of data:

Fatalities

Year/Category	Pedestrian	Bicycle
2012	1	0
2013	1	0
2014	2	0
2015	1	0
2016	3	0

Source of data: Pittsfield Police Crash Data.

2. In addition to the data, please describe the most pressing of the bicycle and pedestrian safety concerns on your community's roads:

The issue of distracted driving and the motorist failure to be aware of the presence of bicyclists and pedestrians in the roadway is a pressing concern in Pittsfield. In 2016, 13 pedestrians were in a marked crosswalk when they were struck. Another 14 were in the roadway or on the shoulder when they were hit. The motorist needs to be alert, to slow down and be willing to share the roadway with bicyclists and pedestrians. Pedestrians need also to be mindful to use marked crosswalks or to cross only at intersections in an effort to reduce crashes. Pedestrians need to wait for the signal to allow them to cross the roadway. Bicyclists and pedestrians need to be visible especially at night.

Proposed Programming

Public Information Plan

1. Describe how you will ensure that the community is notified of grant activities during and after the grant period, including targeted outreach for low-income and diverse populations (newspaper, radio, mail, department website, etc.)

The Pittsfield Police Department has plans to announce the grant award in a number of different outlets. We will use the local printed newspapers which include the Berkshire Eagle, Pittsfield Gazette and Berkshire Courier. We will announce it through several internet sites including The Berkshire Eagle.com and internet news site, I-Berkshires. The Pittsfield Police has an updated and active Facebook account. The Department also has a Twitter social media site. The City of Pittsfield has a website where the grant awarding will be announced and the funded activities. The Police Department has numerous partners in the Business community and in civic organizations to announce the pedestrian enforcement activity. Announcements will be sent through electronic means to select social service agencies that will benefit from the services provided by the grant. The Police Department has utilized rented or donated billboard space in the past to announce the increased efforts to promote pedestrian awareness and bicycle safety. The Department will use electronic message boards positioned in strategically placed locations to broadcast to the community our increased pedestrian-bicycle safety initiatives. To reach the low income and diverse population, we will make announcements through agencies that work directly with members of these groups

Program Activities

1. Please check off each program activity that your department plans to implement for the FFY 2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant.

- X Targeted enforcement (Required)
- ☐ Crosswalk law enforcement decoys
- ☐ Pedestrian sweeper patrols
- ☐ Adopt-a-Cone programs
- ☐ Retro-reflective signage and community banners
- ☐ Pedestrian breakaway signs
- ☐ Crosswalk retro-reflective tape
- ☐ Print materials, flyers, and materials to mobilize business and community groups
- ☒ Distribution of bicycle safety helmets

Describe in detail the planned program activities you have checked above, explaining how the planned activity will help prevent or reduce pedestrian and bicycle crashes, injuries, and fatalities:

The Pittsfield Police Department will implement targeted enforcement in areas that have been the location of pedestrian or bicycle involved crashes. We will use our own experience, our computer data and information from MASSTRAC to identify these crash sites. The Department will draw from citizen complaints and from input from community partners to identify areas that present a hazard for pedestrian crossings. We have had success in the past by implementing enforcement in the downtown area that has a large amount of pedestrian activity with a focus on the area of the YMCA, A-Mart and Lipton Mart stores, St Joseph's Church and the Tyler Street business district. We have conducted enforcement in the immediate areas of several elementary schools to ensure a safe route to school for the students. The areas surrounding the Berkshire Medical Center campus has been the location of several successful pedestrian enforcement details. Berkshire Medical Center has posted pedestrian awareness matters in their employee publications. Enforcement activities are planned for locations close to our cultural venues such as the Barrington Stage, Beacon Cinemas, Berkshire Museum and the Colonial Theater. The Pittsfield Police Department plans to have an increased visible presence and a well publicized effort to attain higher compliance with pedestrians and bicycle laws and regulations. We will strive to reduce the amount of pedestrians involved motor vehicle crashes through our enforcement activities. Targeted Enforcement has been shown to be a best practice based on our past experience and also NHTSA studies.

The Pittsfield Police Department will utilize the law enforcement decoys which we have found to be a best practice in prior years enforcement mobilizations. The law enforcement decoy, in plain clothes, with their safety in mind and safety of the motorists also taken into consideration, enters a posted and marked crosswalk in an effort to ensure that motorists will stop for the presence of a pedestrian in a crosswalk. The Pittsfield Police Department will conduct these enforcement mobilizations using a zero tolerance enforcement approach which has been shown in NHTSA studies as an effective countermeasure. During the mobilizations, the decoy police officer will engage pedestrians in the targeted area to educate and encourage them to use the available marked crosswalks or any nearby traffic control device to safely cross the roadway.

The Pittsfield Police Department will use handouts and printed materials to inform the public of the applicable pedestrian and bicycle laws and related statistics in an effort to raise awareness, reduce crashes and increase compliance with the laws.

Collaborations

1. Please describe any collaboration you have planned with other community stakeholders on this project and the specific roles and responsibilities of each (e.g. bike groups, service clubs, traffic safety coalitions, downtown business associations, etc.)

The Pittsfield Police Department has a positive and long standing working relationship with the MA DOT and the City of Pittsfield Engineering Department. We have worked with both agencies to address pedestrian issues in the city and to make pedestrian crossings safer. The Police Department has advocated for increased safety by having the pedestrian crossings clearly marked and appropriate signage erected. The City of Pittsfield Highway Department has made a priority of installing the latest in MUTCD compliant reflective and fluorescent lime green signs. We have worked with MA DOT and the City of Pittsfield to have electronic flashing pedestrian signals installed during recent street construction projects. The City of Pittsfield has incorporated pedestrian safety features in other recent street projects and has plans to continue them in future street enhancement projects. Berkshire Medical Center has installed 2 pedestrian crossing signals on roadways surrounding their campus.

The Police Department has a good working relationship with the Pittsfield Prevention Partnership. This agency works to educate youths on making positive and intelligent decisions regarding drug and alcohol usage. We have had meetings with this group and have spoken on traffic safety topics with the desired goal to minimize motor vehicle crashes involving young people. Pedestrian safety issues have also been discussed.

The Department has a solid relationship with "Downtown Pittsfield, Inc" and the "Tyler Street Business Partner, which is an active association of commercial and retail business owners in their respective area. These groups hold regular meetings and police officers regularly attend these meetings. The group's concerns regarding traffic and pedestrian issues have been discussed and addressed accordingly.

The Pittsfield Police Department has 3 full time school resource officers plus a DARE officer assigned to the Pittsfield Public School system. The officers provide for safety at the schools plus provide education regarding safety issues. The Department's crash Reconstructionists have in the past participated in mock exercises and presentations to various school and college groups.

The Department will have a presence at the Parks Departments annual "Citywide Bicycle Ride and Bike Safety Awareness Event. Safety Officer Michael Ortega will be on hand at the event to speak to participants on proper helmet use and offering safety tips. We have reached out to the Berkshire Cycling Organization to work with them regarding safer routes for bicyclists in the City of Pittsfield. We are looking to gain from them a serious bicyclists perspective on motorists behavior toward the presence of bicyclists in the roadway.

Timeline

1. Provide your monthly project timeline on a monthly basis for program activities and evaluation.

Month	Activity
October	Grant award announcement to City of Pittsfield Initiate Pedestrian Decoy Enforcement.
November	Perform (1 or 2) Pedestrian Decoy enforcements
December	Winter -Weather conditions (enforcement based on conditions)
January	Winter -Weather conditions (enforcement based on conditions)
February	Winter -Weather conditions (enforcement based on conditions)
March	Winter -Weather conditions (enforcement based on conditions)
April	Perform (2) Pedestrian Decoy enforcements Locations and times of enforcement will vary
May	Perform (2) Pedestrian Decoy enforcements Location & time will vary.
June	Perform (2) Pedestrian Decoy enforcements Locations and times of enforcement will vary
July	Perform (3) Pedestrian Decoy enforcements Locations and times of enforcement will vary
August	Perform (2) Pedestrian Decoy enforcements Locations and times of enforcement will vary
September	Perform (3) pedestrian decoy enforcements in coordination with the reopening of schools. Crosswalks in proximity to schools will be locations of enforcement.

Experience

Provide a summary of previous experience with similar activities by your department.

The Pittsfield Police Department has been an active and long time successful participant with the EOPPS-HSD's various traffic safety grant programs for many years. These grant funds are of great assistance in our continuing efforts to increase pedestrian safety and to reduce motor vehicle crashes. The Pittsfield Police Department has utilized the grant funds to their maximum potential in our effort to adjust the behavior of operators, bicyclists and pedestrian actions to make our roadways safer for all users.

The Pittsfield Police Department has been awarded grant funds in 2015, 2016 and 2017 from EOPPS-HSD. The Department has achieved overwhelming success with our enforcement mobilizations. In the 2016 grant period officers conducted 149 motor vehicle stops and issued 146 citations for pedestrian-crosswalk violations. In the current 2017 grant period through the course of 3 mobilizations, officers have made 34 stops and issued 34 citations for crosswalk violations. A small percentage the citations will likely be appealed thru the court process but our experience is that most will be upheld at the magistrate hearings. In 2017 the Department chose not to use any of the awarded funds for new equipment but to use the funds exclusively for enforcement.

The Pittsfield Police Department has been the recipient of grant funds issued thru by EOPPS-HSD in the past for bicycle helmet programs, child safety seats, traffic enforcement and Automated License Plate readers. The plate reader has been used to recover stolen vehicles, locate uninsured vehicles and to assist in criminal investigations. We have assisted other police agencies in Berkshire County with investigations thru use of the ALPR in their community.

The Pittsfield Police Department was awarded grant funding for Pedestrian-Bicyclist Enhanced Enforcement thru the MA DOT. The purpose of this grant is to reduce crashes involving bicycles and pedestrians. It is a combination of enforcement, education and gaining information for potential infrastructure improvements. Our grant period with the MA DOT has been extended into 2017 and those grant funds will continue to assist us in education and pedestrian-bicycle enforcement.

1. What were some of the successes of these previous activities?

The Pittsfield Police Department has had success with the decoy mobilizations. Our statistics reveal an uptick in the number of pedestrian involved motor vehicle crashes from 34 in 2015 to a noticeable decrease to 22 in 2016. In 2015, we did see an unfortunate increase in pedestrian involved crashes to 34 from a low of 19 in 2014. Bicycle involved crashes have remained at an average of 13 between 2012 and 2016. We reached a low of 9 bicycle involved crashes in 2015. During the year I am repeatedly asked to set up the crosswalk enforcement by citizens or business owners that have witnessed our decoy pedestrian enforcement mobilizations in their neighborhoods.

2. What were some of the challenges of these previous activities? How did you address these challenges and how do you plan to address future ones?

We are still challenged with the task of changing driver behavior. We are working to change driver behavior to be alert for the presence of pedestrians in crosswalks and for bicycles sharing the roadway. Some of the most common statements from a motorist stopped for a pedestrian-crosswalk violation is "I never saw a pedestrian" to "I saw them too late to stop" or "I thought that the car behind me, would rear end me if I slammed on my brakes.". Motorists should be alert and attentive to the roadway and driving responsibilities. We are working to reduce driver distractions such as GPS systems, cell phone use and texting. Our crash data reveals that in 2016, distraction was noted as contributing factor in 269 crashes.

A challenge that we still work to reduce is the behavior of pedestrians who fail to use caution when crossing streets. We strive to get pedestrians to only cross in designated marked crosswalks and not to jaywalk. Pedestrians need to stand close enough to the roadway and their intended crosswalk to convince the motorists that they actually have intentions of crossing the road.

We hope to address the challenge of changing driver and pedestrian behavior by education and enforcement. We stop the motorists for a crosswalk violation. As a result of that stop a citation is generated and it will hopefully educate the motorist and prevent future violations.

Goals

1. Identify measureable goals and objectives for each program area (for example, complete X amount of crosswalk decoys with X amount of documented stops). You will be asked to note your progress towards your goals in the Final Report.

A realistic and measurable goal for our targeted pedestrian enforcement using a decoy police officer would be to make a minimum of 3 motor vehicle stops per hour. During the mobilizations, the traffic officers conduct a zero tolerance approach to the enforcement effort. The officers will then issue a written citation for all pedestrian crosswalk violations. Over the course of the pedestrian safety grant period with our budgeted 14 enforcement periods, this enforcement activity will result in a **minimum** of 168 civil citations. The citation activity shall increase as we try to use on duty traffic officers to assist in the enforcement activity due to the availability of the decoy pedestrian. Our objective would be to reduce the amount of pedestrian involved motor vehicle crashes.

Evaluation

1. Describe your evaluation plan (for example, a pre and post data comparison for your community during the grant period with the same time period in 2016-2017). Please provide baseline data for comparison even if this will be your first year with this grant.

The Pittsfield Police Department anticipates evaluating the effectiveness of the grant program by comparing crash and violation statistics pre-enforcement mobilization and post-enforcement mobilization, paying particular attention to the selected locations. We will also utilize input from our community partners to assess and evaluate pedestrian observations on enforcement efficacy. The compilation of crash data, observed compliance and citizen input will aid us in assessing whether the high visibility, zero tolerance enforcement efforts had the desired impact on the behavior of motorists and pedestrians.

Baseline Data:

2016 Data: 22 pedestrian crashes and 11 bicycle involved crashes
3 Fatal pedestrian crashes

2017 Data 13 pedestrian crashes and 8 bicycle involved crashes
1 Fatal bicycle crash.

Sustainability Plan

1. Describe how you plan to continue to provide bicycle and pedestrian programming in your community after the grant period. List anticipated funding source(s).

The Pittsfield Police Department will continue our efforts to maintain a safe environment for all pedestrians, motorists and bicyclist who utilize and share our roadways. Through our normal budget process and regular routine police patrols, the department will conduct enforcement as a means to maintain a visible presence in the areas of heavy pedestrian and bicycle traffic. The Police Department will have funds set aside in a special budget for traffic enforcement. We will draw from these funds to continue our efforts to ensure a safe environment for pedestrians when crossing our roadways. The department has a restructured Traffic Unit. The unit is comprised of traffic officers available to work full time on traffic safety issues and to conduct enforcement. As always, the Pittsfield Police Department will be responsive throughout the year to input from citizens regarding areas that pose a risk or are potentially hazardous to pedestrians, bicyclists or motorists.

Funding Request

Departments can request a grant ranging from \$1,000 to \$7,500. Applicants will be evaluated based on stated need, community crash data, and utilization of prior year's award (if applicable). HSD may utilize additional evaluation as appropriate.

Requested amount: \$ 7,500

Proposed Budget

Please provide a breakdown of how funding will be spent by State Fiscal Year. All line items must add up to the exact amount requested.

October 1, 2017- June 30, 2018

Enforcement Hours and Program Activity	Cost/Rate	Total
Enforcement Activities (8)	Average cost of \$ 432 per 4 hour mobilization	\$3,456
Equipment purchase(s) (no more than 25% of requested amount)		
Bicycle Helmets (approx 42 helmets)	Ave cost \$14	\$588
Total		\$4,044

July 1, 2017- September 30, 2018

Enforcement Hours and Program Activity	Cost/Rate	Total
Enforcement Activities (8)	Average cost of \$ 432 per 4 hour mobilization	\$3,456
Equipment purchase(s) (no more than 25% of requested amount)		
Total		\$3,456

Grand Total \$ 7,500



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

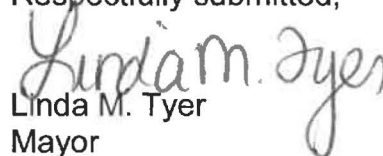
April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order accepting a donation of one (1) K9 Vest for PPD K9 (Jango) in the amount of \$950.00 from the Vested Interest in K9's, Inc.

Respectfully submitted,


Linda M. Tyer
Mayor

LMT/CVB
Enclosure



**CITY OF PITTSFIELD
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733

OFFICE OF THE CHIEF OF POLICE

(413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

April 2, 2018

Honorable Linda Tyer
Mayor - City Of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Mayor Tyer:

Submitted for your consideration, is an authorization requesting the City of Pittsfield to accept a donation of one (1) K9 Vest for PPD K9 (Jango) in the amount of \$950.00 from Vested Interest in K9's, Inc. to the Pittsfield Police Department.

Sincerely,


Michael J. Wynn
Chief of Police

c: Matthew Kerwood, Finance

No. _____

City of Pittsfield
M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT A DONATION OF ONE K9
VEST VALUED AT \$950.00 FROM VESTED INTEREST IN K9s, INC.**

Ordered:

That the City of Pittsfield, acting through its Mayor and City Council, and pursuant to M.G.L. Chapter 44, Section 53A, is hereby authorized to accept a donation of one (1) vest for PPD K9 Jango in the amount of \$950.00 from Vested Interest in K9's Inc., to the Pittsfield Police Department.

Traversa, Gary

From: Jodi Roos <publicrelations@vik9s.org>
Sent: Sunday, February 4, 2018 9:07 PM
To: gtraversa@pittsfieldpd.org
Subject: TIME SENSITIVE - 1st Press Release Required to Announce K9 Vest Award - K9 Jango
Attachments: Pittsfield PD, MA - Jango - 1st.docx

Importance: High

Law Enforcement Agency,

Congratulations from Vested Interest in K9s, Inc. Please regard this as official notification that your K9(s) is being awarded a ballistic vest(s). Please read instructions below in entirety.

IMPORTANT:

This is the first required release, “(1) IMMEDIATELY upon notification of vest award”, for your K9 vest application. The K9 vest WILL NOT be ordered until this step is complete.

This provided release must appear in at least one media outlet, IN IT'S ENTIRETY, as defined in these instructions. Removing information or altering the template in a way other than instructed will cause the press release to not be considered complete. Media coverage via social media (Facebook, Twitter etc) and print are what should be your main focus. Additional radio and television coverage is always appreciated.

Please DO NOT email us your prepared press release.

TO COMPLY WITH THE FIRST REQUIREMENTS for your K9 vest application process, please follow the instructions below, immediately:

1. Please download and open the attached press release. COPY and PASTE all information in a TEXT format. DO NOT convert to a PDF; then, add the following:
2. Add a photo of the K9(s) who has/have been selected to receive vest(s) from this campaign.
3. Add details about K9 team(s), any quotes regarding K9(s) who will be receiving vests through Vested Interest in K9s, Inc.
4. Add any additional details as determined relevant by the appropriate person(s) in the department.
5. Submit this press release, in its ENTIRETY, to at least one of the following media outlets: local, non-subscription newspaper(s) or public social media page or post.
6. FACEBOOK posting guidelines: When posting on a public Facebook page, FIRST upload the PHOTO; SECOND, copy and paste the press release TEXT into the post, to make sure it populates correctly when the post is published.
7. As soon as any published links are available with all content please include them in an email to publicrelations@vik9s.org, so that we may place the K9 vest order.

Kind regards,

--

Jodi Roos

Volunteer Board Member, Clerk, Public Relations Coordinator Vested Interest in K9s, Inc.

Confidential cell: 802-535-2496

Visit us online: www.vik9s.org

Join us on facebook: www.facebook.com/vik9s

"Protecting K9's is our Priority"

Privacy Policy: Contact details for the handler/officer department, and/or any other personal or identifiable information shall remain confidential to Vested Interest in K9s, Inc. We are committed to the privacy and protection of all officers, both human and K9.

DISCLAIMER: This e-mail message is intended only for receipt and use by the individual(s) or entity(ies) to which it is specifically addressed.

It also may contain information that is privileged, confidential or protected from disclosure under applicable law. If you are not the intended recipient, you should not review the information or share it with anyone. Please contact info@vik9s.org if you have received this email in error. Further, any dissemination, distribution or copying of this communication by a person who is not its intended recipient is strictly prohibited. If you are not the intended recipient of this email, please notify us immediately by reply email and delete or destroy the original and all copies. Emails from Vested Interest in K9s, Inc.

may be retained, as required by law or regulation. Please direct any related concerns to info@vik9s.org. Thank you.



Vested Interest in K9s, Inc. Vest Recipient Application

PLEASE SUBMIT IN ONE EMAIL.

ONLY COMPLETED APPLICATIONS WILL BE REVIEWED.

The mission of non-profit Vested Interest in K9s, Inc. is to spread awareness about and raise much-needed funds to provide bullet and stab protective vests and other assistance to K9s of law enforcement and related agencies throughout the United States. The 501c(3), Massachusetts based organization, offers the vests at no cost to the eligible agencies.

Vest awards are given on a first come, first served basis as funds become available and are embroidered with the sentiment: "This gift of protection provided by Vested Interest in K9s, Inc." This application does not guarantee that a K9 vest will be awarded.

To be eligible for consideration to receive a ballistic K9 vest, law enforcement and related agencies must agree to all of the following terms and conditions.

RECIPIENT PARTICIPATION TERMS:

As a participant, the agency/department agrees to:

1. Complete and submit a vest sizing form via email PDF or JPG (see attached).
2. Provide copy of K9's current certification, demonstrating that the K9 team is certified, actively employed in the United States by the agency or department, and that the K9 is at least 20 months of age.
3. Provide a one paragraph biography for each applicant team: describing the K9 team (including their certifications /dept/state), as well as detailing the K9's age, abilities, personality traits, likes, and dislikes. This should be attached in an MS Word or text document or pasted directly into the email.
4. Provide **TWO, HIGH QUALITY, in focus, close up, clear digital photos in good lighting** of each K9 applicant (one off-duty and one on-duty), with or without the handler, and attach in JPG or PNG format, via email.
5. Submit a local press release at each of the following times: (1) **IMMEDIATELY upon notification of vest award** & (2) **UPON RECEIPT of the awarded vest(s)** (approx. 10 weeks post order), to at least one of the following media outlets: local, non-subscription newspaper(s) or public social media page or post. A template for this release, along with instructions, is provided by Vested Interest in K9s, Inc. to the PIO listed below when the application is approved. It must appear, in its entirety, as defined in its instructions. Additional media coverage via social media, print, radio, television, etc... is appreciated.
6. Submit all forms via email to: application@vik9s.org. Applications are accepted by email only. Questions call (508) 824-6978

In order for an applicant to be considered, all fields on this form must be completed, agreed to, and submitted by an authorized party. The submission must also include the required supporting documents and photos.

Please below list each K9 team (Handler and K9) that is applying: ☐

Officer Nicholas Sondrini and K9 Jango

Authorized party: listed below, provides permission via signature, to Vested Interest in K9s, Inc. to utilize the submitted biography and photos for fundraising activities through social media, our website and third party fundraising promotions. Permission to use, publish and reproduce comments and testimonials received from the law enforcement agency or other related grant recipient on behalf of his/her K9 partner including name, K9s name, department, city and state for promotion, advertising or any other purpose is granted to Vested Interest in K9s, Inc.

****Handler, please have your administration sign this application.**

Printed Name: LT. Matthew Kirchner Authorized Signature: [Signature]
PRINTED NAME OF AUTHORIZED SIGNER ORIGINAL SIGNATURE REQUIRED
Print, sign, scan, and return via email

Date: 12/18/17 Title: Lieutenant Phone: 413-448-9700

Email: MKirchner@PittsfieldPD.org Dept: Pittsfield Police Dept. State: MA

PIO Name: LT. Gary Traversa Phone: 413-448-9700 Email: GTraversa@PittsfieldPD.org
PUBLIC INFORMATION OFFICER

PRIVACY POLICY: Only the submitted biography and photos may be made public as specified within this application. Contact details for the handler/officer, department, and/or any other personal or identifiable information shall remain confidential to Vested Interest in K9s, Inc. We are committed to the privacy and protection of all officers, both human and K9.

North American Police Work Dog Association

This is to certify that

Nicholas Sondrini & K9 Jango

has achieved the high standards set forth by, and to the satisfaction of the North American Police Work Dog Association. This accreditation is only valid when this Police K9 Team is being utilized through direct assignment from their law enforcement employer.



Let it be known that on the

1st day of December, 2017

we do approve accreditation for:

"Police Utility Dog" Title

Obedience Article Search, Area Search, Building Search
Tracking and Aggression Control

Kyle McCraith

Kyle McCraith
Master Trainer

Richard L. Ashburn
President

Void if membership not current. Expires 1 yr. from accreditation date.

Nº 45709



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

April 4, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Ordinance amending the City Code, Chapter 16, Personnel, Attachment 1, Compensation Schedule.

Respectfully submitted,

Linda M. Tyer
Linda M. Tyer
Mayor

LMT/CVB

Enclosure



**CITY OF PITTSFIELD
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733

OFFICE OF THE CHIEF OF POLICE

(413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

April 2, 2018

Honorable Linda Tyer
Mayor- City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Mayor Tyer,

Please find enclosed the relevant paperwork to support the new position of the Police Finance and Administration Manager which was reviewed and approved by the Personnel Review Board on April 2, 2018.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Wynn", is written over the printed name.

Michael J. Wynn
Chief of Police

No.



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

AMENDING THE CODE OF THE CITY OF PITTSFIELD, CHAPTER 16 - PERSONNEL

SECTION I:

That the Code of the City of Pittsfield Chapter 16 – Personnel, Attachment 1, Compensation Schedules, be amended by adding the following:

Police Finance & Administration Manager - Grade M-6

SECTION II:

This ordinance shall take effect upon enactment.



CITY OF PITTSFIELD
POLICE DEPARTMENT

DEPARTMENT MEMORANDUM

TO: Linda M. Tyer, Mayor

FROM: Michael Wynn
Chief of Police

C: Michael Taylor, Personnel Director
Matthew Kerwood, Finance Director
FILE

RE: Police Department Staff Re-alignment: Finance/Administration Manager

DATE: March 1, 2018

Position: Police Finance and Administration Manager

Reports To: Chief of Police

Supervises: Administrative Assistant, Records Clerk, Firearms Administrator

Compensation Classification: M-5 or M-6

SUMMARY: The Department is currently divided into three (3) functional areas (Uniformed Patrol Division, Detective Bureau, and Administrative Services Division). Each area is commanded by a Police Captain, who serves as the Division Commander. Each Division Commander is a direct report to the Chief of Police.

Historically, the Administrative Services Commander is an operational police commander who is moved into the division to supervise the Department's financial and administrative staff. This position is responsible for the oversight of all of the Department's administrative and financial functions. However, the majority of the work in the division is performed by the experienced, civilian staff.

Under this proposal, the Administrative Services Commander (Police Captain) will be removed from the Administrative Services Division and placed in command of a new operational division. A trained and experienced, non-sworn civilian would be placed in command of the administrative functional area, with the simulated (brevet) rank of lieutenant, and join the Department's senior command staff.

"DEDICATED TO EXCELLENCE"



CITY OF PITTSFIELD POLICE DEPARTMENT

DEPARTMENT MEMORANDUM

BACKGROUND:

For most of its recorded history, the Pittsfield Police Department (PPD) has adhered to a very traditional, para-military, hierarchical organization. As a result, all of the Department's functional areas, including its administrative and finance functions, are commanded and supervised by sworn police officers. It should be noted that working police officers receive little to no training in administration and finance, prior to being promoted and placed in command of the division.

Historically, the Administrative Services Division Commander (Admin Captain) has supervised all of the Department's civilian support personnel and has been responsible for various administrative functions, including equipment and uniform procurement, overtime tracking, grant management, and budget development. However, in the past several years, as a result of both personnel consolidations and technological improvements, this position has assumed more of an oversight and advisory role and more of the actual work has been performed by key members of the civilian staff.

Since 2007, the Department has had a succession of four (4) new Administrative Services Division Commanders (including the current Chief for a brief five months). Each time this roll has transitioned, there has been a steep and difficult learning curve. With each successive transition, there has been less and less institutional knowledge, less direct involvement in the financial aspects of the division's work, less participation in budget development, and more work shifted to the members of the civilian support staff. As a result, while the Division Commander remains the direct supervisor of all of the civilian members of the division, there is, in fact, a direct reporting relationship between the Department's Office Manager and the Chief of Police.

As a result of this shift in both work and resources, the Office Manager's role has evolved into an actual managerial position. While the office manager remains a lateral peer of the rest of the division, the position actually supervises members of the division and oversees much of the division's work. Additionally, these additional management responsibilities have come **in addition** to the regular duties of the position. Since the work has been added to the existing work, additional hours have been required to complete all of the tasks. Over the last four (4) years, the average annual overtime (OT) earned by the Office Manager has been **\$25,159**.

"DEDICATED TO EXCELLENCE"



CITY OF PITTSFIELD POLICE DEPARTMENT

DEPARTMENT MEMORANDUM

PROPOSAL:

Under this proposal, the sworn police position of Administrative Services Division Commander (Admin Captain) will be transferred out of the Division and placed in command of a new (to be determined) operational police command. The role of the Division Commander (Manager) would be assumed by a qualified, trained, and experienced non-sworn civilian.

This position would be given the title of Finance and Administration Manager (Police). The Manager would be a member of the Department's Command Staff, with the simulated (brevet) rank of Lieutenant. The Admin Manager would assume responsibility for all financial, administrative, and personnel functions within the Department, with the exception of the maintenance of Internal Affairs and disciplinary records (these records are maintained within the Office of the Chief of Police). The Admin Manager would supervise the Administrative Support personnel (three (3) direct reports) and liaise with the Executive Assistant to the Chief of Police. The Admin Manager would be placed in the Management Group at a salary commensurate with the current base pay plus average overtime for the past 4 years.

In order to implement this realignment, in deference to both training and experience, preference would be given to the current Office Manager to fill the new role. Once the position is accepted, a detailed job description will be developed, including minimum education requirements for future applicants.

"DEDICATED TO EXCELLENCE"

PERSONNEL REVIEW BOARD – Request to Create New Position

Date: February 28, 2018

1. Department: Police Department

2. Position Title: Administration and Finance Manager (Police)

3. Grade & Salary: M-5 or M-6 (brevet Lieutenant, member of command staff (57,000 to 65,000))

4. Hours per week: 37.5

5. Work Schedule: Administrative Mon-Fri, 0830-1600, plus as required

6. Is funding for this position in your current budget?

Funding exists in the current budget and has been budgeted in the upcoming request.

7. Explain the need for the proposed position at this time.

See attached.

8. General statement of duties and responsibilities for proposed positions?

The Administration and Finance Manager (Police) would serve as a member of the Department's Command Staff. This civilian Manager position would replace the sworn position of Administrative Services Commander. Reporting directly to the Chief of Police, the Admin and Finance Manager would oversee all non-operational administrative, financial, and personnel matters, including Payroll, Accounts Receivable, Accounts Payable, Budget Planning, Personnel Documentation, Procurement and Purchasing, Records, and Firearms Administration.

The Manager would supervise the Department's Administrative Assistant, Records Clerk, and Firearms Administrator. Additionally, the Manager would liaise with the Department's Grant Manager (Executive Assistant to the Chief) to oversee the financial portions of the Department's grants.

9. How are these duties and responsibilities being performed at this time?

Under the Department's existing Table of Organization, these duties are essentially being performed in the same manner. However, under the current structure, they are performed under the supervision of a Police Commander with limited financial and administrative training and experience. By re-aligning the duties and upgrading the current Department Office Manager, all administrative tasks will fall under one functional area, and the existing Captain will be reassigned to police operations.

10. If this position is full time, could it be changed to part time or temporary without serious consequences, or can the work be performed in fewer hours?

No.

11. Provisions, which will be made for emergency circumstances, i.e. functions that are connected with the public safety and health. Statement of emergency:

The Department is understaffed and over tasked. We do not need a trained experience police officer performing functions for which they were not trained, when the existing staff is capable of running this unit.

12. Could this position be combined with another position? If so, explain. (For example, combining two part-time positions or merging with a similar position in another department)

No.

13. Explain the possibility, as you have researched it, for contracting out the functions of this job:

This job can not be contracted. It is an essential component of the Chief's Command Staff.

14. Have you obtained the Mayor's approval to create this position?

Yes.

15. Please classify this position (check all that apply):

Exempt/Non-Exempt ☐ Management ☒

Union ☐

Name of union _____

Other _____

Please submit the following information with this request:

- ☐ Job Description
- ☐ Departmental Organizational Chart
- ☐ Any additional information deemed relevant

Submitted by:

Michael J. Wynn

Title:

Chief of Police

Mayor:

Linda M. Ayer



City of Pittsfield

Job Description

Position Title:	Finance and Administration Manager	Grade Level:	M-6
Department:	Police Department	Union/Non-Union:	Exempt
Reports to:	Chief of Police	Date Prepared:	March 5, 2018

Job purpose

- A part of the Police Department's senior command staff, this position is responsible for the oversight of all of the Department's financial, administrative, and personnel functions, with the exception of the maintenance of Internal Affairs and disciplinary records (these records are maintained within the Office of the Chief of Police.)

Duties and responsibilities

1. Serves as the Commander of the Department's Administrative Services Division
2. Oversees all aspects of the Department's Financial, Administrative and personnel matters.
3. Supervises the civilian members of the Administrative Services Division.
4. Assists the Chief of Police in developing and implementing the Department's budget.
5. Provides other Department commanders of regular budget reports for planning and accountability purposes.
6. Represents the Chief of Police in some administrative and financial matters.
7. Performs other duties as assigned or required.

Qualifications

1. A minimum of a Bachelor's Degree in Business Administration, Finance, Accounting, Public Administration, or a related field. Relevant commensurate experience may be substituted for a formal degree with the approval of the Mayor and the Personnel Director.
2. Candidates must be able to pass a law enforcement background investigation and security clearance.
3. Proficiency in Microsoft Office products. Experience with both MUNIS and IMC (Zuercher/TriTech) is preferred.
4. Ability to maintain strict confidentiality regarding personnel matters.
5. Prior experience working in municipal government is preferred.
6. Thorough knowledge of municipal budgetary and financial methods and principles.
7. Ability to express oneself clearly and concisely, orally and in writing.

8. Ability to maintain professional working relationships with other employees and departments within the City; ability to interact with people on an up-beat and friendly basis, regardless of circumstances

Working conditions

Successful candidates are expected to work in police headquarters and will be exposed to a variety of police operations, including prisoner handling processes, loud noises, and frequent disruptions. The position may require evening and weekend work in order to maintain workflow with other City Departments.

Physical requirements

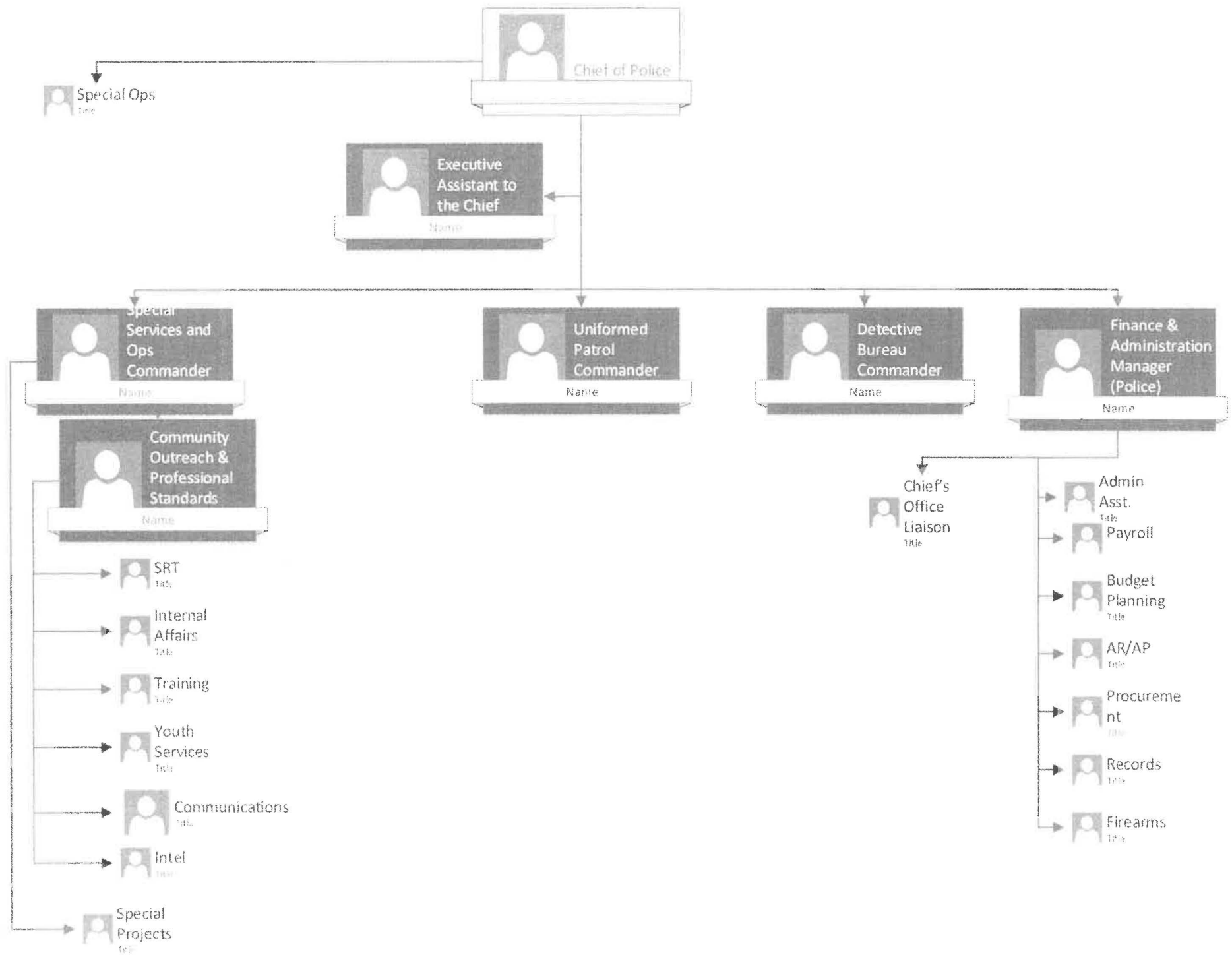
Operates standard office equipment including computers and keyboards, at efficient speed; and moves throughout the Department's Administrative spaces in Police Headquarters and other municipal offices as needed/required. Lifts/moves objects weighing up to 10 pounds. Administrative spaces are not accessible or ADA compliant.

Direct reports

Police Administrative Assistant
Police Records Clerk
Police Firearms Administrator

Administrative reports (Time Off and Scheduling) include the Department Custodian and Department Mechanic.

Approved by:	
Date approved:	
Reviewed:	<i>April 2, 2018</i>





THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

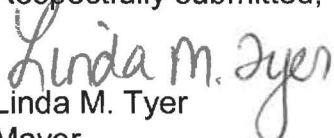
April 5, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order amending the borrowing authorizations for the reconstruction of runways (8/26) and (14/32) at the Pittsfield Municipal Airport.

Respectfully submitted,


Linda M. Tyer
Mayor

LMT/CVB
Enclosure



CITY OF PITTSFIELD

OFFICE OF DIRECTOR OF FINANCE AND ADMINISTRATION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MA 01201
(413) 499-9466

April 2, 2018

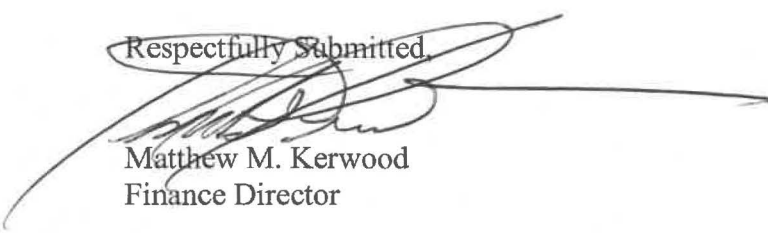
Honorable Linda M. Tyer, Mayor
City Of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Mayor Tyer:

Submitted for your consideration is an Order amended the fiscal year 2016 and 2017 capital authorizations for the reconstruction of the main runway (8/26) at the Pittsfield Municipal Airport. The order rescinds the fiscal year 2017 authorization and increases the fiscal year 2016 authorization. The reason for this request is twofold. The first is to consolidate all the authorizations for this project into one capital account. This will make the financial management of the project much easier for staff. The second is that the scope of the project has been expanded to include the reconstruction of Runway 14/32 to comply with with Federal Aviation Administration mandated design requirement criteria. Therefore, the total authorization must be increased to account for the expanded scope and cost of the project. However, it should be noted that the city has already accepted two grants for this project which will make the city's share of the project \$349,735.70.

I respectfully request that you submit this Order to the City Council for its review and approval.

Respectfully Submitted,


Matthew M. Kerwood
Finance Director

cc: Nicole Gai, Assistant Treasurer
Allie Crespo, City Accountant

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

AN ORDER AMENDING THE BORROWING AUTHORIZATIONS FOR THE
RECONSTRUCTION OF THE MAIN RUNWAY AT THE PITTSFIELD MUNICIPAL
AIRPORT

No. _____

Ordered:

That Order No. 61 adopted by the City Council on June 28, 2016 and approved by the Mayor on June 29, 2016 is hereby amended by rescinding the amount authorized to be borrowed thereunder for the reconstruction of the main runway 8-26.

Furthered ordered:

That Order No. 53 adopted by the City Council on June 23, 2015 and approved by the Mayor on June 26, 2015 is hereby amended by increasing the amount authorized to be borrowed thereunder for the reconstruction of runways 8-26 and 14-32 to \$6,995,000

No. 61

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

AN ORDER AUTHORIZING THE CITY TREASURER WITH THE APPROVAL OF THE MAYOR TO BORROW, UNDER THE PROVISIONS OF M.G.L. CHAPTER 44, OR ANY OTHER ENABLING AUTHORITY, AN AGGREGATE SUM NOT EXCEEDING \$11,898,000.00 FOR CAPITAL EXPENDITURES FOR FISCAL YEAR 2017

Ordered:

That the sum of Eleven Million, Eight Hundred Ninety Eight Thousand Dollars be and hereby is appropriated to pay costs of conducting the following capital improvement projects and to pay costs of purchasing the various items of capital equipment described below, and for the payment of all other costs incidental and related thereto:

FY2017 Approved Capital Budget Borrowing

<u>Department</u>	<u>Enabling Statute</u>	<u>Amount</u>
Public Works/Public Services:		
Street System Improvements	Chapter 44 Sec 7(6)	\$ 2,500,000.00
Stormwater Improvements	Chapter 44 Sec 7(3)	\$ 1,000,000.00
1-ton Hook Lift All Season Truck (with Plow)	Chapter 44 Sec 7(9)	\$ 110,000.00
Vibratory Roller	Chapter 44 Sec 7(9)	\$ 40,000.00
Total		\$ 3,650,000.00
Airport:		
FY17 Reconstruct the main runway 8-26	Chapter 44 Sec 8(13)	\$ 2,600,000.00
Total		\$ 2,600,000.00
Maintenance (Schools):		
Door Replacements	Chapter 44 Sec 7(3a)	\$ 40,000.00
Environmental Abatement (schools)	Chapter 44 Sec 7(31)	\$ 100,000.00
Carpet Replacement-Conte	Chapter 44 Sec 7(3a)	\$ 125,000.00
Crosby PA System replacement	Chapter 44 Sec 7(9)	\$ 70,000.00
Crosby Day Care area/halls & bathroom tile replacement	Chapter 44 Sec 7(3a)	\$ 45,000.00
Crosby Floor	Chapter 44 Sec 7(3a)	\$ 35,000.00
Herberg Floor	Chapter 44 Sec 7(3a)	\$ 35,000.00
Security & Safety Upgrades	Chapter 44 Sec 7(3a)	\$ 50,000.00
PHS/Egremont Sidewalk Repairs	Chapter 44 Sec 7(3a)	\$ 50,000.00
School Window Repairs	Chapter 44 Sec 7(3a)	\$ 20,000.00
Maintenance (City):		
Environmental - Abatement	Chapter 44 Sec 7(31)	\$ 75,000.00
Fire Window Replacements	Chapter 44 Sec 7(3a)	\$ 50,000.00

Site Analysis and Design for New Police Building	Chapter 44 Sec 7(22)	\$ 250,000.00
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Total All Building Maintenance		\$ 945,000.00
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Fire Department:

Structural Firefighting Protective Ensembles Replacement	Chapter 44 Sec 7(9)	\$ 70,000.00
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Command Staff Vehicles (2)	Chapter 44 Sec 7(9)	\$ 105,000.00
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Ladder Truck Replacement	Chapter 44 Sec 7(9)	\$ 600,000.00
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Total		\$ 775,000.00
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Police Department:

Support Services Vehicles	Chapter 44 Sec 7(9)	\$ 43,000.00
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Radio replacement program	Chapter 44 Sec 7(14)	\$ 200,000.00
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Dell: Year 3 & 4; 3 year PC replacement program	Chapter 44 Sec 7(29)	\$ 50,000.00
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Mobile Data Terminal replacement program	Chapter 44 Sec 7(14)	\$ 45,000.00
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Technology/Software	Chapter 44 Sec 7(6)	\$ 40,000.00
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Total		\$ 378,000.00
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Total General Fund		\$ 8,398,000.00
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Enterprise Funds:

Sewer Collection System Improvements	Chapter 44 Sec 8(15)	\$ 3,550,000.00
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Total		\$ 3,550,000.00
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Grand Total		\$ 11,898,000.00
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And that to raise this appropriation, the City Treasurer, with the approval of the Mayor, is hereby authorized to borrow not exceeding the sum of \$11,898,000.00 under and pursuant to the various portions of the General Laws described above, as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The amount authorized for each item as described above shall be reduced to the extent of any grants, gifts or reimbursements received by the City on account of any of such projects prior to the issuance of any permanent bonds on account thereof.

AND FURTHER ORDERED: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any and all bonds or notes of the City authorized by this vote or pursuant to any prior vote of the City, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require.

IN CITY COUNCIL

June 28, 2016

Read and adopted 9 Yeas 2 Nays

/s/ Peter M. Marchetti, City Council President

/s/ Jody L. Phillips, City Clerk

MAYOR'S OFFICE

Approved: June 29, 2016

/s/ Linda M. Tyer, Mayor

A true copy Attest:

Jody L. Phillips
 City Clerk

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

AN ORDER AUTHORIZING THE CITY TREASURER WITH THE APPROVAL OF THE MAYOR TO BORROW, UNDER THE PROVISIONS OF M.G.L. CHAPTER 44, OR ANY OTHER ENABLING AUTHORITY, AN AGGREGATE SUM NOT EXCEEDING \$11,120,000.00 FOR CAPITAL EXPENDITURES FOR FISCAL YEAR 2016

Ordered:

That the sum of Eleven Million, One Hundred Twenty Thousand Dollars be and hereby is appropriated to pay costs of conducting the following capital improvement projects and to pay costs of purchasing the various items of capital equipment described below, and for the payment of all other costs incidental and related thereto:

<u>Project</u>	<u>Authorizing Statute</u>	<u>Amount</u>
Street System Improvements	Ch 44, s 7 (6)	\$ 2,500,000.00
Stormwater Improvements	Ch 44, s 7 (3)	\$ 850,000.00
(1) 5-ton Rolloff Snow Fighter System	Ch 44, s 7 (9)	\$ 200,000.00
Reconstruction of Main Runway 8-26	Ch 44, s 8(13)	\$ 3,500,000.00
City Hall Telecommunications Services Upgrade	Ch 44, s 7 (9)	\$ 160,000.00
Environmental Abatement (Schools)	Ch 44, s 7(31)	\$ 25,000.00
Security & Safety Upgrades	Ch 44, s 7(3A)	\$ 25,000.00
PHS Boiler #2 Retubing	Ch 44, s 7(3A)	\$ 70,000.00
Crosby Boiler #2 Replacement	Ch 44, s 7(3A)	\$ 250,000.00
PHS Handicap Ramp & Air Intake Repairs	Ch 44, s 7(3A)	\$ 300,000.00
Mercer Boiler Replacement	Ch 44, s 7(3A)	\$ 75,000.00
PHS Auditorium Upgrades	Ch 44, s 7(3A)	\$ 150,000.00
Special Education Room Upgrades	Ch 44, s 7(3A)	\$ 50,000.00
Garage Sweeper	Ch 44, s 7 (9)	\$ 75,000.00
Environmental Abatement (City)	Ch 44, s 7(31)	\$ 25,000.00
City Hall Front Stairs/Foundation Repairs	Ch 44, s 7(3A)	\$ 100,000.00
Tax Collector's Counter Refurbish	Ch 44, s 8 (13)	\$ 40,000.00
Mobile Stage Repairs	Ch 44, s 7 (9)	\$ 30,000.00
PFD/PPD Mini Split AC units	Ch 44, s 7 (9)	\$ 30,000.00
(1) 1-ton Dump Truck w/Plow	Ch 44, s 7 (9)	\$ 151,000.00
Streetscape Phase 4	Ch 44, s 7 (6)	\$ 550,000.00
Streetscape Phase 5 Design	Ch 44, s 7 (6)	\$ 200,000.00
Tyler St. Streetscape Design	Ch 44, s 7 (6)	\$ 200,000.00
Fiber Optic Connection to Berkshire Innovation Center	Ch 44, s 7(28)	\$ 30,000.00
Springside House Repair and Restoration	Ch 44, s 7(3A)	\$ 500,000.00
Onota Lake Invasive Weed Treatment	Ch 44, s 7(25)	\$ 74,000.00
Basketball Court Rehabilitation	Ch 44, s 7(25)	\$ 100,000.00
(1) Triple Combination Fire Engine	Ch 44, s 7 (9)	\$ 500,000.00

FY16

No. 53

City of Pittsfield
M A S S A C H U S E T T S
IN CITY COUNCIL
AN ORDER

Ordered:

Truck 2 (Ladder Truck) Refurbishments	Ch 44, s 7 (9)	\$ 200,000.00
Structural Firefighting Protective Ensembles Replacements	Ch 44, s 7 (9)	\$ 70,000.00
PC Replacement Program (Year 3)	Ch 44, s 7(29)	\$ 50,000.00
Mobile Data Terminal Replacements (Year 1)	Ch 44, s 7(14)	\$ 40,000.00
	Grand Total	\$11,120,000.00

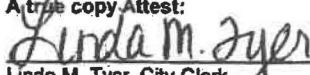
And that to raise this appropriation, the City Treasurer, with the approval of the Mayor, is hereby authorized to borrow not exceeding the sum of \$11,120,000.00 under and pursuant to the various portions of the General Laws described above, as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The amount authorized for each item as described above shall be reduced to the extent of any grants, gifts or reimbursements received by the City on account of any of such projects prior to the issuance of any permanent bonds on account thereof.

AND FURTHER ORDERED: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any and all bonds or notes of the City authorized by this vote or pursuant to any prior vote of the City, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require.

IN CITY COUNCIL
June 23, 2015
Read and adopted - 8 Yeas 3 Nays
/s/ Melissa Mazzeo, City Council President
/s/ Catherine VanBramer, Clerk

MAYOR'S OFFICE
Approved: June 26, 2015
/s/ Daniel L. Bianchi, Mayor

Attest:


Linda M. Tyer, City Clerk



Pittsfield Municipal Airport

Gloria Bouillon
Airport Manager

Chris Pedersen
Chairman

October 6, 2017

Honorable Linda M. Tyer, Mayor
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Re: Airport Improvement Program Grant, Project No. 3-25-0041-2017

Dear Mayor Tyer,

The Airport has successfully received a grant offer from Massachusetts Department of Transportation, Aeronautics Division to reconstruct Runway 08/26 and 14/32. The completion of the project will enhance safety of the Airport by eliminating potential hazards caused by deteriorating runway pavement; and by correcting longitudinal and traverse runway grade deficiencies.

The total cost of the reconstruction of Runway 08/26 and Runway 14/32 is, \$6,994,710.41. The FAA grant agreement is 90% of the total cost of said project, in the amount of, \$6,295,239.00. The Department of Transportation MassDOT Aeronautics amount is 5.33% of the total amount of the project; \$374,736.30. The City share of the total cost is 5.06%, \$349,735.70. The City share of the total project was approved with the FY16 Capital Authorization.

Sincerely,



Gloria Bouillon
Airport Manager

David Keator – Vice Chairman
Airport Commissioners: Christopher Farrell; Ned Kirchner; Tom Sakshaug; Gail Molari, Ashley Sulock

Pittsfield Municipal Airport – 832 Tamarack Road – Pittsfield, MA 01201
(413) 448-9790 or (413) 448-8006 fax

No. 71

City of Pittsfield
M A S S A C H U S E T T S
IN CITY COUNCIL
AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT GRANTS
OF FUNDS FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION
AND THE COMMONWEALTH OF MASSACHUSETTS**

Ordered:

That the City of Pittsfield, acting by and through its Mayor and City Council, is hereby authorized to accept grants of funds in the amount of six million two-hundred and ninety-five thousand two-hundred thirty-nine dollars (\$6,295,239.00) from the United States Department of Transportation, by and through its Federal Aviation Administration for the Airport Improvement Program (AIP) Project No. 3-25-0041-2017.

Furthermore, that the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the Pittsfield Municipal Airport Commission and/or its agent to expend said grants of funds in accordance with the provisions of Massachusetts General Laws, Chapter 44, section 53A.

That the City of Pittsfield, acting by and through its Municipal Airport Commission, is hereby authorized to execute any and all other documents necessary to implement this Order.

IN CITY COUNCIL
September 12, 2017
Read and adopted: 11 Yeas, 0 Nays
/s/ Peter M. Marchetti, City Council President
/s/ Jody L. Phillips, City Clerk

MAYOR'S OFFICE
Approved: September 13, 2017
/s/ Linda M. Tyer, Mayor

A true copy Attest:


City Clerk

No. 84

City of Pittsfield
M A S S A C H U S E T T S
IN CITY COUNCIL
AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT GRANTS
OF FUNDS FROM THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION**

Ordered:

That the City of Pittsfield, acting by and through its Mayor and City Council, is hereby authorized to accept grants of funds in the amount of Three hundred Seventy-Four Thousand Seven Hundred Thirty-Six Dollars and Thirty Cents (\$374,736.30) from the Massachusetts Department of Transportation Aeronautics Division to reconstruct Runway 08/26 and 14/32.

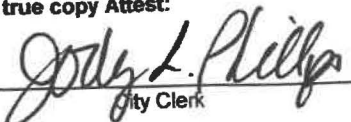
Furthermore, that the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the Pittsfield Municipal Airport Commission and/or its agent to expend said grants of funds in accordance with the provisions of Massachusetts General Laws, Chapter 44, section 53A.

That the City of Pittsfield, acting by and through its Municipal Airport Commission, is hereby authorized to execute any and all other documents necessary to implement this Order.

IN CITY COUNCIL
October 24, 2017
Read and adopted: 11 Yeas, 0 Nays
/s/ Peter M. Marchetti, City Council President
/s/ Jody L. Phillips, City Clerk

MAYOR'S OFFICE
Approved: October 26, 2017
/s/ Linda M. Tyer, Mayor

A true copy Attest:


City Clerk



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

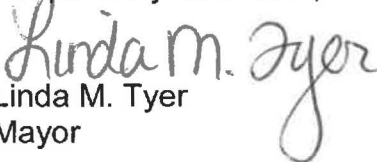
April 5, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration, pursuant to Massachusetts General Laws, Chapter 44, Section 20, is an Order supplementing the fiscal year 2017 and 2018 capital orders to allow for the use of bond premiums to pay project costs. Using bond premiums to pay project costs is consistent with the Municipal Modernization Act and the city's debt management goals.

Respectfully submitted,


Linda M. Tyer
Mayor

LMT/CVB
Enclosure



CITY OF PITTSFIELD

OFFICE OF DIRECTOR OF FINANCE AND ADMINISTRATION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MA 01201
(413) 499-9466

April 2, 2018

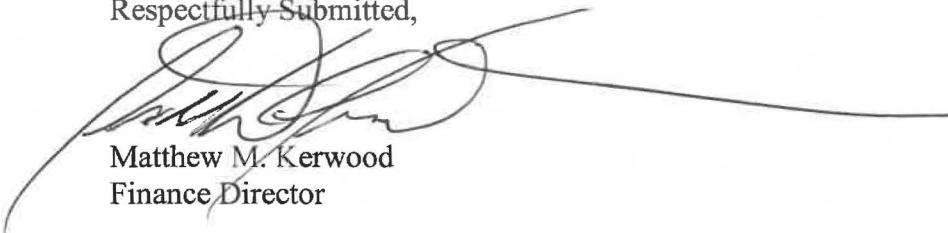
Honorable Linda M. Tyer, Mayor
City Of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Mayor Tyer:

Submitted for your consideration, pursuant to Massachusetts General Law Chapter 44, Section 20 is an Order supplementing the fiscal year 2017 and 2018 capital orders to allow for the use of bond premiums to reduce the amount to be borrowed for the items contained in the orders. This use of premium is allowed by the Municipal Modernization Act and aligns with the city's long term debt management goals and objectives. This order has been reviewed and approved by bond counsel.

I respectfully request that you submit this Order to the City Council for its consideration.

Respectfully Submitted,



Matthew M. Kerwood
Finance Director

cc: Allie Crespo, City Accountant
Nicole Gai, Assistant Treasurer

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. _____

AN ORDER SUPPLEMENTING PRIOR ORDERS REGARDING THE USE OF BOND PREMIUMS TO REDUCE THE PAR AMOUNT OF BONDS OR NOTES ISSUED

Ordered:

That order number 61 approved June 28, 2016 and order number 50 approved June 13, 2017 which authorizes the borrowing of money to pay costs of capital projects is hereby supplemented to provide that, in accordance with Chapter 44, Section 20 of the General Laws, the premium received by the City upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.

No. 61

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

**AN ORDER AUTHORIZING THE CITY TREASURER WITH THE APPROVAL OF
THE MAYOR TO BORROW, UNDER THE PROVISIONS OF M.G.L. CHAPTER 44,
OR ANY OTHER ENABLING AUTHORITY, AN AGGREGATE SUM NOT
EXCEEDING \$11,898,000.00 FOR CAPITAL EXPENDITURES FOR FISCAL YEAR 2017**

Ordered:

That the sum of Eleven Million, Eight Hundred Ninety Eight Thousand Dollars be and hereby is appropriated to pay costs of conducting the following capital improvement projects and to pay costs of purchasing the various items of capital equipment described below, and for the payment of all other costs incidental and related thereto:

FY2017 Approved Capital Budget Borrowing

<u>Department</u>	<u>Enabling Statute</u>	<u>Amount</u>
Public Works/Public Services:		
Street System Improvements	Chapter 44 Sec 7(6)	\$ 2,500,000.00
Stormwater Improvements	Chapter 44 Sec 7(3)	\$ 1,000,000.00
1-ton Hook Lift All Season Truck (with Plow)	Chapter 44 Sec 7(9)	\$ 110,000.00
Vibratory Roller	Chapter 44 Sec 7(9)	\$ 40,000.00
Total		\$ 3,650,000.00
Airport:		
FY17 Reconstruct the main runway 8-26	Chapter 44 Sec 8(13)	\$ 2,600,000.00
Total		\$ 2,600,000.00
Maintenance (Schools):		
Door Replacements	Chapter 44 Sec 7(3a)	\$ 40,000.00
Environmental Abatement (schools)	Chapter 44 Sec 7(31)	\$ 100,000.00
Carpet Replacement-Conte	Chapter 44 Sec 7(3a)	\$ 125,000.00
Crosby PA System replacement	Chapter 44 Sec 7(9)	\$ 70,000.00
Crosby Day Care area/halls & bathroom tile replacement	Chapter 44 Sec 7(3a)	\$ 45,000.00
Crosby Floor	Chapter 44 Sec 7(3a)	\$ 35,000.00
Herberg Floor	Chapter 44 Sec 7(3a)	\$ 35,000.00
Security & Safety Upgrades	Chapter 44 Sec 7(3a)	\$ 50,000.00
PHS/Egremont Sidewalk Repairs	Chapter 44 Sec 7(3a)	\$ 50,000.00
School Window Repairs	Chapter 44 Sec 7(3a)	\$ 20,000.00
Maintenance (City):		
Environmental - Abatement	Chapter 44 Sec 7(31)	\$ 75,000.00
Fire Window Replacements	Chapter 44 Sec 7(3a)	\$ 50,000.00

Site Analysis and Design for New Police Building	Chapter 44 Sec 7(22)	\$ 250,000.00
Total All Building Maintenance		\$ 945,000.00
Fire Department:		
Structural Firefighting Protective Ensembles Replacement	Chapter 44 Sec 7(9)	\$ 70,000.00
Command Staff Vehicles (2)	Chapter 44 Sec 7(9)	\$ 105,000.00
Ladder Truck Replacement	Chapter 44 Sec 7(9)	\$ 600,000.00
Total		\$ 775,000.00
Police Department:		
Support Services Vehicles	Chapter 44 Sec 7(9)	\$ 43,000.00
Radio replacement program	Chapter 44 Sec 7(14)	\$ 200,000.00
Dell: Year 3 & 4; 3 year PC replacement program	Chapter 44 Sec 7(29)	\$ 50,000.00
Mobile Data Terminal replacement program	Chapter 44 Sec 7(14)	\$ 45,000.00
Technology/Software	Chapter 44 Sec 7(6)	\$ 40,000.00
Total		\$ 378,000.00
Total General Fund		\$ 8,398,000.00
Enterprise Funds:		
Sewer Collection System Improvements	Chapter 44 Sec 8(15)	\$ 3,550,000.00
Total		\$ 3,550,000.00
Grand Total		\$ 11,898,000.00

And that to raise this appropriation, the City Treasurer, with the approval of the Mayor, is hereby authorized to borrow not exceeding the sum of \$11,898,000.00 under and pursuant to the various portions of the General Laws described above, as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The amount authorized for each item as described above shall be reduced to the extent of any grants, gifts or reimbursements received by the City on account of any of such projects prior to the issuance of any permanent bonds on account thereof.

AND FURTHER ORDERED: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any and all bonds or notes of the City authorized by this vote or pursuant to any prior vote of the City, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require.

IN CITY COUNCIL
June 28, 2016
Read and adopted 9 Yeas 2 Nays
/s/ Peter M. Marchetti, City Council President
/s/ Jody L. Phillips, City Clerk

MAYOR'S OFFICE
Approved: June 29, 2016
/s/ Linda M. Tyer, Mayor

A true copy Attest:


City Clerk

No. 50

City of Pittsfield
M A S S A C H U S E T T S
IN CITY COUNCIL
AN ORDER

**AN ORDER AUTHORIZING THE CITY TREASURER WITH THE APPROVAL OF
THE MAYOR TO BORROW, UNDER THE PROVISIONS OF M.G.L. CHAPTER 44,
OR ANY OTHER ENABLING AUTHORITY, AN AGGREGATE SUM NOT
EXCEEDING \$14,390,000 FOR ENTERPRISE FUND CAPITAL EXPENDITURES FOR
FISCAL YEAR 2018**

Ordered:

That the sum of Fourteen million, Three Hundred Ninety Thousand Dollars be and hereby is appropriated to pay costs of conducting the following capital improvement projects and to pay costs of purchasing the various items of capital equipment described below, and for the payment of all other costs incidental and related thereto:

FY2018 Approved Capital Budget Borrowing

<u>Department</u>	<u>Enabling Statute</u>	<u>Amount</u>
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DPU Water Enterprise:

West Housatonic Water Main Improvements	Chapter 44 Sec 8(5)	\$ 1,440,000
Upper Sackett Reservoir Dam Improvements	Chapter 44 Sec8(25)	\$ 1,800,000
West Street Tank and Water Main Phase 2	Chapter 44 Sec 8(5)	\$ 250,000
Total Water Enterprise:		<u>\$ 3,490,000</u>

DPU Sewer Enterprise:

Wastewater Treatment Plant Projects

WWTP Force Main Replacement	Chapter 44 Sec7(1)	\$ 8,400,000
Infiltration Rehabs (Lining and Replacement) Ph 3	Chapter 44 Sec7(1)	\$ 1,250,000
Siphon Repairs	Chapter 44 Sec7(1)	\$ 1,200,000
One ton utility body truck with plow	Chapter 44 Sec7(1)	\$ 50,000
Total Sewer Enterprise:		<u>\$ 10,900,000</u>
Total Enterprise		<u>\$ 14,390,000</u>

And that to raise this appropriation, the City Treasurer, with the approval of the Mayor, is hereby authorized to borrow not exceeding the sum of \$14,390,000.00 under and pursuant to the various portions of the General Laws described above, as amended and supplemented, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The amount authorized for each item as described above shall be reduced to the extent of any grants, gifts or reimbursements received by the City on account of any of such projects prior to the issuance of any permanent bonds on account thereof.

AND FURTHER ORDERED: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any and all bonds or notes of the City authorized by this vote or pursuant to any prior vote of the City, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require.

IN CITY COUNCIL

June 13, 2017

Read and adopted: 11 Yeas, 0 Nays

/s/ Peter M. Marchetti, City Council President

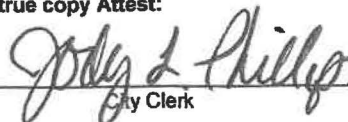
/s/ Jody L. Phillips, City Clerk

MAYOR'S OFFICE

Approved: June 20, 2017

/s/ Linda M. Tyer, Mayor

A true copy Attest:


City Clerk

PETITION FOR SOLELY OWNED POLE AND WIRE LOCATIONS

By the City Council of Pittsfield, Massachusetts

WESTERN MASSACHUSETTS ELECTRIC COMPANY DBA EVERSOURCE requests permission to relocate and/or install poles, wires, cables and fixtures, including the necessary sustaining and protecting fixtures along and across the following public way:

Location – Partridge Road, Pittsfield. Install one (1) solely owned pole approximately 1.2 miles north of the centerline on Crane Ave. It will be approximately one hundred seventy-five feet (175') south of existing joint pole #533/27 and sixty-five feet (65') north of existing pole #533/26.

Reason – To allow interconnection of the solar installation located near the Partridge Road Substation at 401 Partridge Road.

Wherefore it prays that after due notice and hearing as provided by law, let it be granted a location for and permission to construct and maintain a pole, wires and cables, together with such sustaining and protecting fixtures as they may find necessary, said pole to be erected substantially in accordance with the plan filed herewith and made a part hereof marked **6B721281**.

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

Your petitioners agree to reserve space for one crossarm at a suitable point on each of said poles for the fire and police telephone signal wires belonging to the municipality and used by it exclusively for municipal purposes.

WESTERN MASSACHUSETTS ELECTRIC COMPANY DBA EVERSOURCE

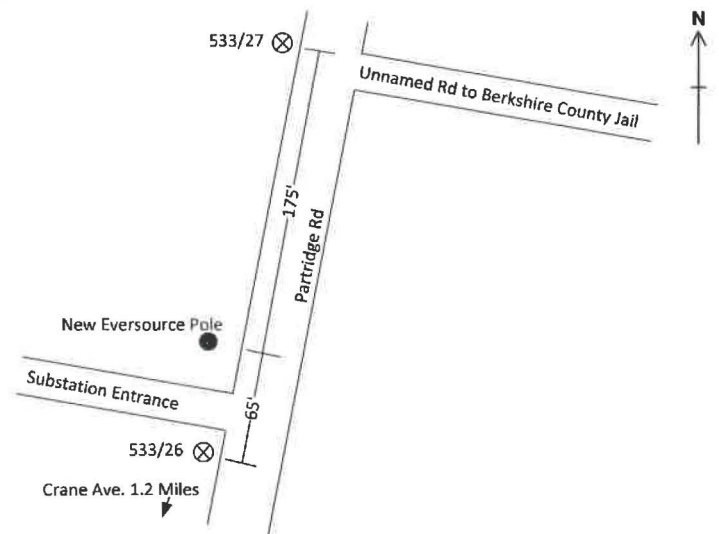
By Joanne Fox
Joanne Fox
District Representative

Dated this 13th day of March, 2018

EVERSOURCE COPY



EVERSOURCE	
CITY: PITTSFIELD	STREET: PARTRIDGE RD



PURPOSE AND DESCRIPTION:

Install new Eversource pole on Partridge Rd. approximately 1.2 miles North of the centerline on Crane Ave. 175' S of existing Joint Pole 533/27 and 65' N of existing Joint Pole 533/26.

The purpose of this new pole is to allow interconnection of the solar installation located near the Partridge Rd Substation at 401 Partridge Rd.

LEGEND	
● PROPOSED JOINT POLE	● HEXHOLE
● PROPOSED EVERSOURCE POLE	⊕ HANDHOLE
⊗ EXISTING JOINT POLE	□ MANHOLE
○ EXISTING EVERSOURCE POLE	■ PAD MONT TRANSFORMER
⊗ EXISTING FOREIGN POLE TO BE MADE JOINT	--- U.G. CONDUIT
⊗ EXISTING EVERSOURCE POLE TO BE MADE JOINT	—P— U.G. PRIMARY CABLE
	—S— U.G. SECONDARY CABLE

DRAWN BY: CHRISTIAN CANZONERI	W.O.#: 68721281 W.R.#: 2977935	PETITION #: N/A	DISTANCES ARE APPROXIMATE NOT TO SCALE
----------------------------------	-----------------------------------	--------------------	---



City of Pittsfield

April 3, 2018

To the City Council of the City of Pittsfield: —

The Committee on
Committee on Ordinance and Rules

to whom was referred the
a communication from the Community Development Board
recommending the adoption of the amendment to the City Code,
Chapter 23-Zoning Ordinance all related to the cultivation,
manufacturing, production, testing and sales of recreational use
of medical marijuana

having considered the same, report and recommend that the Ordinance be amended as follows:
amending the Ordinance to remove the
proposed cap on retail facilities under Section
7.850 (4/1)
amending the Ordinance to remove the
additional screening requirements for Outdoor
Cultivation uses from Section 7.736 and 7.852
(unanimous)

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter T. White", is written over the "Respectfully submitted," text.

Chairman



RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 MAR 21 A 10:12

CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

March 20, 2018

To the Honorable Members
Of the City Council
Of the City of Pittsfield

Re: Zoning Map Amendment – Recreational and Medical Marijuana

Dear Councilors:

At the March 19, 2018 Community Development Board meeting, the Board voted unanimously to recommend the adoption of the amendment to City Code, Chapter 23 (the City of Pittsfield Zoning Ordinance), Article 23-2 Section 2.2, Article 23-4, Section 4.202 (Table of Principal Permitted Uses), and Article 23-7, Sections 7.735, 7.736, 7.850, 7.851, and 7.852, all related to the cultivation, manufacturing, production, testing, and sales of recreational and medical marijuana.

Sincerely,

COMMUNITY DEVELOPMENT BOARD


Sheila B. Irvin
Chair

SI/ch



City of Pittsfield

February 21 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

petitions the City Council of the City of Pittsfield to amend City Code, Chapter 23, Article 23-2 Section 2.2, Article 23-4 Section 4.202 Article 23-7 Sections 7.735, 7.736, 7.850, 7.851, and 7.852 – Permitting of uses related to the cultivation, manufacturing, testing, and sales of recreational and medical marijuana

Respectfully submitted,

PITTSFIELD COMMUNITY DEVELOPMENT BOARD


Sheila B. Irvin
Chair

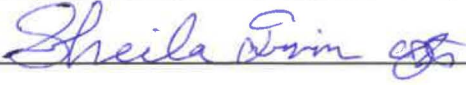
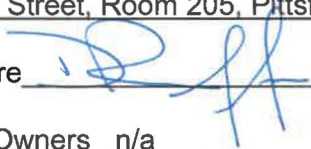
Date Received _____

By _____
(fee paid)

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 FEB 21 P 1:48

AMENDMENT TO THE ZONING ORDINANCE
CITY OF PITTSFIELD

1. Amend Zoning Map _____ Amend text, Chapter 23, Code of Laws X
2. Present Zoning District n/a
Zoning Requested n/a
3. Name of Petitioner City of Pittsfield Community Development Board
Address 70 Allen Street, Room 205, Pittsfield, MA 01201 Telephone # (413) 499-9368
Signature Sheila Tim 
4. Name of Agent Director of the City of Pittsfield Department of Community Development
Address 70 Allen Street, Room 205, Pittsfield, MA 01201 Telephone # (413) 499-9368
Signature 
5. Name of Property Owners n/a
Address _____ Telephone # _____
6. If Petitioner is not the Property Owner, attach a document indicating interest in property.
State interest: n/a
7. Legal Description: n/a
(Attach "Metes and Bounds" Description if necessary) Assessor's Map No. n/a
8. Attach map of property (drawn to scale) including streets, buildings, uses and property dimensions. n/a
9. If an amendment to the Text of Chapter 23, Code of Laws, state the nature of the amendment: The proposed amendment to Article 23-2 Section 2.2, Article 23-7, Sections 7.735 & 7.736 and Article 7-8 Sections 7.850, 7.851, & 7.852, would allow for the permitting of recreational and medical marijuana establishments.
10. Article and Section proposed to be amended: Article 23-2 Section 2.2, Article 23-7, Sections 7.735 & 7.736 and Article 7-8 Sections 7.850, 7.851, & 7.852 Article 23-4 Section 4.202

Community Development Board: Hearing Date _____ Recommendation _____

City Council: Hearing Date _____ Action Taken _____ Ordinance No. _____



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 23, ZONING

SECTION I

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-2, Definitions, Section 2.2, Glossary, shall be amended by adding, in the appropriate alphabetical order, the following new definitions:

"Marijuana Testing and Research – Any use which involves the handling, storage, transporting, and manipulation of marijuana or marijuana derived products for purposes of testing or research"

"Marijuana Cultivation, Manufacturing and Processing – Any use or facility, indoors or outdoors, which involves the cultivation, processing, handling, storage, transportation (including direct delivery) or manufacturing of marijuana, marijuana derived, or marijuana infused products"

"Medical Marijuana Retail – Any use which involves the sale and/or consumption of marijuana, marijuana derived, marijuana infused, or marijuana related products by a registered marijuana dispensary to a qualified patient or certified caregiver."

"Outdoor Marijuana Cultivation – Any use or facility which involves the storage, processing, transportation and outdoor cultivation of marijuana, including but not limited to open air, hot house, or cold frame greenhouse production, which is not (a) for personal use or (b) conducted by a licensed caregiver, in amounts not to exceed the state imposed limits for individuals or caregivers."

"Recreational Marijuana Retail – Any use which involves the sale and/or consumption of marijuana, marijuana derived, marijuana infused, or marijuana related products and services to adults 21 years of age and older"

SECTION II

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-2, Definitions, Section 2.2, Glossary, shall be amended by removing the definition for "Medical Marijuana Dispensary".

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

SECTION III

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-4, District Regulations, Section 4.202, Table of Principal Permitted Uses, shall be amended by (a) removing the following Principal Permitted Uses:

PRINCIPAL PERMITTED USES	USE GROUP	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	B-D	C-W-S	I-L	I-G	L-D-I	B-N
f. RETAIL AND CONSUMER SERVICES															
Medical marijuana dispensary	SP							X	X	X	X	X	X		
j. OTHER PRINCIPAL USES															
Agricultural Uses, Except those involving livestock	BR	X	X	X	X	X	X	X	X	X	X	X	X		

And by (b) adding the following Principal Permitted Uses

PRINCIPAL PERMITTED USES	USE GROUP	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	B-D	C-W-S	I-L	I-G	L-D-I	B-N
f. RETAIL AND CONSUMER SERVICES															
Recreational and/or Medical Marijuana Retail	SP							X	X	X	X	X	X	X	
h. INDUSTRIAL, MANUFACTURING, AND STORAGE USES															
Marijuana Cultivation, Manufacturing, Processing	SR										X	X	X	X	
Marijuana	SP							X	X	X					

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

Cultivation, Manufacturing, Processing															
Marijuana Testing and Research	SR										X	X	X	X	
Marijuana Testing and Research	SP							X	X	X					
j. OTHER PRINCIPAL USES															
Agricultural Uses, (as defined under M.G.L Ch.40A Section 3)	BR	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Outdoor Marijuana Cultivation (<20,000 s.f.)	SR	X	X	X							X	X	X	X	
Outdoor Marijuana Cultivation (>20,000 s.f)	SP	X	X	X							X	X	X	X	

SECTION IV

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-7, Conditional Uses, Section 7.8 Conditional Uses Requiring Special Use Permit (Use Group SP) , shall be amended by replacing the existing Section 7.850 with the following:

SECTION 7.850 RECREATIONAL MARIJUANA RETAIL AND/OR MEDICAL MARIJUANA RETAIL, REQUIREMENTS:

- A. Purpose
- The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Special Permit by the City of Pittsfield does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws. This section replaces in its entirety the prior section “7.850 Medical Marijuana Dispensary, Requirements”.

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

B. Applicability

A Special Permit under this section shall be required for any principal or accessory use, or combination of uses, which also involves a medical and/or a recreational marijuana retail use.

C. Special Permit Granting Authority

For the purposes of this section, the Special Permit Granting Authority is designated to be the Zoning Board of Appeals.

D. Performance Standards

1. No medical and/or recreational marijuana retail use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.

~~2. The number of medical and/or recreational marijuana retail uses located within the City of Pittsfield shall not exceed ten (10), or the minimum number allowed under the rules and regulations put forward by the Commonwealth of Massachusetts, whichever is greater. Facilities which provide both medical and recreational retail services in one shared location shall be considered a single unit for purposes of this section.~~

~~3.~~ 2. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:

- a. Character of the neighborhood to include visual compatibility with surrounding uses.
- b. Proximity to other licensed marijuana uses to prevent clustering.
- c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
- d. The provision of adequate lighting to promote security for customers and the public.
- e. Hours of operation.
- f. Site design and other development related site impacts.

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

SECTION V

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-7, Conditional Uses, Section 7.8 Conditional Uses Requiring Special Use Permit (Use Group SP) , shall be amended by inserting the following proposed Section 7.851:

SECTION 7.851 MARIJUANA CULTIVATION, MANUFACTURING, PROCESSING; MARIJUANA TESTING AND RESEARCH – IN A B-G, B-D, or B-C ZONING DISTRICT

A. Purpose

The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Special Permit by the City of Pittsfield does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws.

B. Applicability

A Special Permit under this section shall be required for any principal or accessory use or combination of uses which also involves the cultivation, manufacturing and processing and/or laboratory testing and research of marijuana and marijuana derived products in a B-G, B-D, or B-C zoning district.

C. Special Permit Granting Authority

For the purposes of this section, the Special Permit Granting Authority is designated to be the Zoning Board of Appeals.

D. Performance Standards

1. No marijuana cultivation, manufacturing, processing use or laboratory testing and research use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.
2. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:

Approved as to Form and Legality,

City Solicitor



No.

City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

- a. Character of the neighborhood to include visual compatibility with surrounding uses.
- b. Proximity to other licensed marijuana uses to prevent clustering.
- c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
- d. The provision of adequate lighting to promote security for customers and the public.
- e. Hours of operation.
- f. Site design and other development related site impacts.

SECTION VI

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-7, Conditional Uses, Section 7.8 Conditional Uses Requiring Special Use Permit (Use Group SP) , shall be amended by inserting the following Section 7.852:

SECTION 7.852 OUTDOOR MARIJUANA CULTIVATION, REQUIREMENTS:

A. Purpose

The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Special Permit by the City of Pittsfield does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws.

B. Applicability

A Special Permit under this section shall be required for any principal or accessory use, or combination of uses, involving the outdoor cultivation of marijuana which exceeds a dedicated marijuana cultivation area of 20,000 square feet.

C. Special Permit Granting Authority

For the purposes of this section, the Special Permit Granting Authority is designated to be the Zoning Board of Appeals.

D. Performance Standards

1. No marijuana cultivation, manufacturing, processing use or laboratory testing and research use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.

2. The minimum lot size for this use shall be five (5) acres.
3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
4. The minimum required front, side, and rear yard setbacks shall be fifty (50) feet. No marijuana shall be planted within a required setback.
- ~~5. In a residential zone, any property line of an abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.~~
- ~~6.5. Marijuana not grown inside a securable structure shall be enclosed within a six (6) foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from all property lines.~~
7. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
 - a. Character of the neighborhood to include visual compatibility with surrounding uses.
 - b. Proximity to other licensed marijuana uses to prevent clustering.
 - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
 - d. The provision of adequate lighting to promote security for customers and the public.
 - e. Hours of operation.
 - f. Site design and other development related site impacts.

SECTION VII

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-7, Conditional Uses, Section 7.7 Conditional Uses Subject to Special Requirements (Use Group SR), shall be amended by inserting the following Section 7.735:

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

SECTION 7.735 MARIJUANA CULTIVATION, MANUFACTURING, PROCESSING; MARIJUANA TESTING AND RESEARCH – IN A I-L, I-G, C-W-S, or L-D-I ZONING DISTRICT

A. Purpose

The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Site Plan Approval by the City of Pittsfield does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws.

B. Applicability

Site Plan Review under this section shall be required for any principal or accessory use or combination of uses which also involves the cultivation, manufacturing and processing and/or laboratory testing and research of marijuana and marijuana derived products in a I-L, I-G, C-W-S, L-D-I zoning district.

C. Performance Standards

1. No marijuana cultivation, manufacturing, processing use or laboratory testing and research use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.
2. Applications for Site Plan Review shall include a project impact statement which addresses potential impacts of the use on traffic, on-site parking, storm-water runoff, lighting, and landscaping.

SECTION VIII

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-7, Conditional Uses, Section 7.7 Conditional Uses Subject to Special Requirements (Use Group SR), shall be amended by inserting the following Section 7.736:

SECTION 7.736 OUTDOOR MARIJUANA CULTIVATION, REQUIREMENTS:

A. Purpose

Approved as to Form and Legality,

City Solicitor



City of Pittsfield

In the Year Two Thousand

AN ORDINANCE

Be it ordained by the City Council of the City of Pittsfield, as follows:

The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Site Plan Approval by the City of Pittsfield does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws.

B. Applicability

Site Plan Review under this section shall be required for any principal or accessory use, or combination of uses, involving the outdoor cultivation of marijuana with a dedicated marijuana cultivation area of less than 20,000 square feet.

C. Performance Standards

1. No marijuana outdoor marijuana cultivation use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.
2. The minimum lot size for this use shall be five (5) acres.
3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
4. The minimum required front, side, and rear yard setbacks shall be fifty (50) feet. No marijuana shall be planted within a required setback.

~~5. In a residential zone, any property line of an abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.~~

~~6.5. Marijuana not grown inside a securable structure shall be enclosed within a six (6) foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from all property lines.~~

SECTION IX

This Ordinance shall take effect upon its enactment.

Approved as to Form and Legality,

City Solicitor



CITY OF PITTSFIELD

OFFICE OF THE CITY CLERK, CITY HALL, 70 ALLEN ST., PITTSFIELD, MA 01201 (413) 499-9361

March 30, 2018

Honorable Members
of the City Council
City of Pittsfield

Dear Councilors:

Submitted herewith for your consideration is an Order approving the use of the Image Cast Precinct Tabulator System for voting in the City of Pittsfield.

LHS Associates was awarded the contract as the lowest qualified bidder, pending the approval of the City Council. Our previous AccuVote Tabulators will be traded in to LHS Associates. Use of the new voting equipment will begin with the State Primary Election on September 4, 2018.

Respectfully submitted,

A handwritten signature in blue ink, reading "Michele M. Cetti".

Michele M. Cetti
City Clerk

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. _____

APPROVING THE USE OF IMAGE CAST PRECINCT TABULATOR SYSTEM FOR
VOTING IN THE CITY OF PITTSFIELD

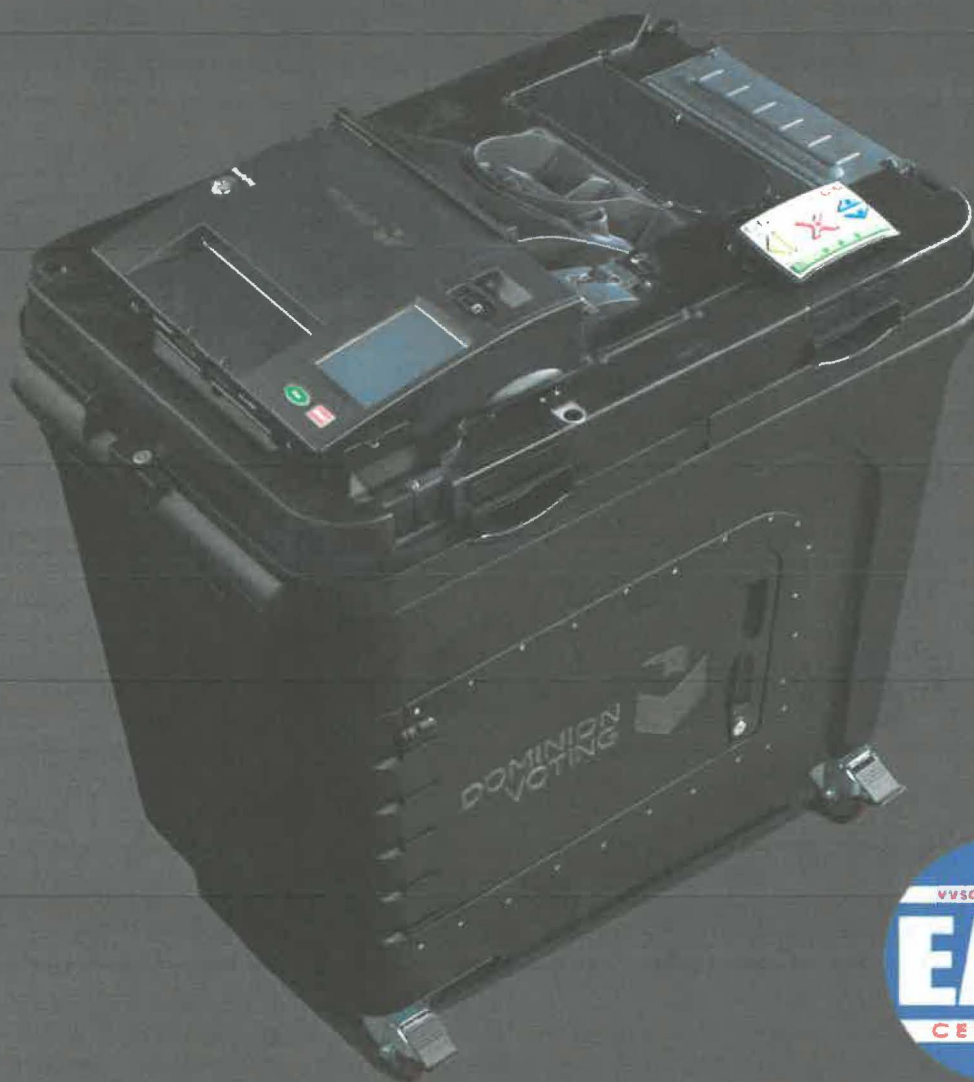
Ordered:

That the Image Cast Precinct Tabulator System be, and hereby is, approved for voting in the City of Pittsfield beginning with the September 4, 2018, State Primary Election and to discontinue the use of the existing AccuVote OS Direct Read Optical Vote Tabulator System.

IMAGECAST[™] PRECINCT

THE WORLD'S MOST RELIABLE TABULATOR

Dominion's ImageCast Precinct is the most tried and proven tabulation equipment in the industry, backed by our dedicated service team.



ImageCast Precinct Optical Scan Tabulator: Reliable & Versatile

- Over 100,000 units deployed worldwide
- Lightweight, easy to store, carry & set-up
- Optional ADA compliant configuration
- Can read ballots up to 30 inches



Fact Sheet

- We have been using our current voting machines, AccuVote Tabulators since March of 2004.
- They are no longer making parts to repair or maintain our current machines.
- Funds are allocated in the FY18 Capital Budget.
- There are only two qualified bidders allowed by the State of Massachusetts, LHS Associates and Election Systems & Software, LLC.
- The request for bid went out in mid-March and was awarded to the lowest qualified bidder, LHS Associates on March 29, 2018.
- Next step: A majority vote of the City Council must be taken at least on hundred and twenty days before the primary election to use the new equipment and discontinue using the existing system, as required by MGL Chapter 54, Section 34.
- The ImageCast Precinct Tabulator is an optical scan device with digital imaging capabilities used to scan and tabulate marked paper ballots. The ImageCast Precinct ballot scanner and vote tabulator is used in conjunction with ImageCast compatible ballot storage boxes. The system is designed to scan marked paper ballots, interpret voter marks on the paper ballot and store and tabulate each vote from each paper ballot. Standard features include: High resolution scanning technology, Automatic detection of fraudulent ballots, Ultrasonic multi-feed detection, Dual commercial grade memory cards, Internal ballot diverter, and Patented Auditmark image technology. With over 100,000 units deployed worldwide, this light weight, easy to store and setup tabulator will improve transparency and integrity of the election process.
- We will continue to use the same ballot style as our current machines.
- A two year hardware warranty including all parts, labor, travel and shipping costs.



City of Pittsfield

April 4 20 18

To the City Council of the City of Pittsfield:-

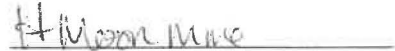
The undersigned respectfully

The City Council invites representatives of the Berkshire County Mosquito Control Project to:

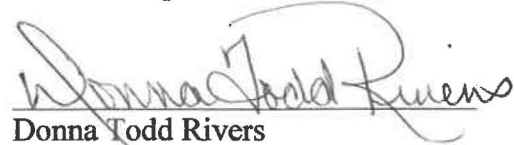
- Review the project's current methods to reduce mosquitos, including larvicide, spraying, ditch-digging and other standing water reduction methods, education and other elements of the current program in the City of Pittsfield.
- Review line-item expenses of the Berkshire County Mosquito Control Project for the past three years, including the current fiscal year, including dollars spent on adulticide (spraying) chemicals, personnel and other expenditures.
- Review healthier and more environmentally-friendly alternatives for mosquito control.
- Review the agreement between the City of Pittsfield, the Commonwealth and the Berkshire County Mosquito Control Program as it relates to mosquito control.

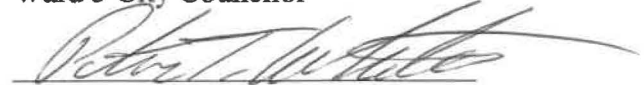
The undersigned recommend this petition be referred to the City Council's Committee on Public Health and Safety, where we request the presence of the City Solicitor to aid the Committee's review of the agreement between the City and the Berkshire Mosquito Control Project. In addition, the undersigned invite representatives of the City's Board of Health and other pertinent City staff members who support the management of the Berkshire Mosquito Control Project.


John M. Krol, Jr.
VP, Ward 6 City Councilor


Helen Moon
Ward 1 City Councilor


Earl Persip
At-Large City Councilor


Donna Todd Rivers
Ward 5 City Councilor


Peter White
At-Large City Councilor



City of Pittsfield

April 3, 2018

To the City Council of the City of Pittsfield: —

The Committee on Committee on Ordinance and Rules

to whom was referred the a petition to review City Code, Chapter 8 - Solid Waste
Collection and Disposal and request a presentation from the
Health Department on the current system and enforcement.

having considered the same, report and recommend that Motion by Councilor Mazzeo to except the
presentation (unanimous)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. White", is written over a horizontal line.

Chairman

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 MAR 15 P 12:09

City of Pittsfield

March 15 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request the City Council review current City Ordinance Chapter 8: Solid Waste Collection and Disposal. The undersigned also request presentation from Health Department on current system and enforcement.

Sec 8-5 Collection generally
Sec 8-6 Drainage and storage of materials
Sec 8-7 Requirement of containers
Sec 8-8 Location, maintenance, etc.; of containers

The undersigned further request the petition be referred to Rules & Ordinance so enforcement of current city codes in chapter 8 can be reviewed.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Earl G Persip III", is written over a horizontal line.

Earl G Persip III
City Councilor At Large



City of Pittsfield

April 3, 2018

To the City Council of the City of Pittsfield: —

The Committee on Committee on Ordinance and Rules

to whom was referred the a communication from the Human Rights Commission to
consider changing some of the language in the City Code relating
to the Human Rights Commission

having considered the same, report and recommend that Motion by Councilor Krol to approve
(unanimous)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. White".

Chairman



CITY OF PITTSFIELD

HUMAN RIGHTS COMMISSION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201

March 2, 2018

City Council of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Attention: President Marchetti

The Human Rights Commission would like the City Council to consider changing some of the language in the City Code relating to the Human Rights Commission. The requested changes are indicated in the attached document.

Thank you,

A handwritten signature in cursive script that reads "Drew Herzig".

Drew Herzig
Chairman
Human Rights Commission

ARTICLE XXVII

HUMAN RIGHTS COMMISSION¹

Sec. 2-136. Establishment and title. [Ord. No. 666, § 1, 10-29-1990]

There is hereby established a municipal board to be known as the "Human Rights Commission" of the City of Pittsfield (hereinafter referred to as "Commission").

Sec. 2-137. Policy of the City of Pittsfield. [Ord. No. 666, § 1, 10-29-1990; Ord. No. 702, § 1, 4-29-1992; Ord. No. 1166, § I, 3-22-2016]

Purpose and intent. It is the finding of the City of Pittsfield that no individual should be denied equal treatment or opportunity as a result of his or her age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, source of income, sex or sexual orientation.

(a)

Policy. It is the policy of the City of Pittsfield to uphold the human rights of all persons in Pittsfield and the free exercise and enjoyment of any and all rights and privileges secured by the Constitutions, laws, ordinances and regulations of the United States, the Commonwealth of Massachusetts and the City of Pittsfield. As such, actions that may deny or tend to deny to an individual equal access or opportunity in matters of housing, employment, education, municipal services, contracts, purchasing or public accommodations on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, source of income, sex or sexual orientation are hereby prohibited. The City shall protect each individual in the enjoyment of his or her individual civil rights and shall encourage and bring about mutual understanding and respect among all individuals in the City through mutual acceptance and tolerance.

(b)

1. Editor's Note: Ord. No. 666, § 1, Adopted 10-29-1990, Repealed Former Art. XXVII, §§ 2-136 – 2-146, In Its Entirety And Enacted New Provisions Therefor. Former Art. XXVII, Human Rights Commission And Human Rights Advisory Committee, Derived From Ord. No. 240, § 1, Adopted 12-29-1975, As Amended By Ord. No. 297, § 1, Adopted 11-14-1977.

Sec. 2-136 Sec. 2-138

:1

Sec. 2-138. Composition. [Ord. No. 666, § 1, 10-29-1990; Ord.

No. 1121, § I, 3-10-2015; Ord. No. 1142, § XXXVI, 9-29-2015]

The Human Rights Commission shall consist of nine members, one of whom shall be the City Council President or his/her designee, and the other shall be the Personnel Director of the School Department or his/her designee. In accordance with Article 2, Section 2-10, Article 3, Section 3-3 and Article 6 of Chapter 72 of the Acts of 2013, the Mayor shall appoint all of the members to the Human Rights Commission subject to City Council approval. The terms of initial appointment shall be for one, two or three years and must be so arranged so that approximately 1/3 of the members will expire each year. After the expiration of the initial appointments, each member shall serve a term of three years. In the event of a vacancy, the Mayor shall appoint a successor as soon as practicable, subject to City Council approval, and said successor shall fulfill the unexpired term of the member whose seat was vacated. The members of the Commission shall serve without compensation.

In accordance with Article 10, Section 10-6(a) of the City Charter enacted by Chapter 72 of the Acts of 2013, the Commission shall elect a chair, a vice chair, and a secretary and any other officer it deems necessary.

Sec. 2-139. Meetings. [Ord. No. 666, § 1, 10-29-1990; Ord. No. 1142, § XXXVII, 9-29-2015]

In accordance with Article 10, Section 10-6(b) of the City Charter enacted by Chapter 72 of the Acts of 2013, the Commission shall establish rules in connection with the Commission's meetings.

Sec. 2-140. Records. [Ord. No. 666, § 1, 10-29-1990; Ord. No. 1142, § XXXVIII, 9-29-2015]

The Commission shall keep a detailed record of its acts and proceedings in accordance with Article 10, Section 10-6(c) of the City Charter enacted by Chapter 72 of the Acts of 2013.

Sec. 2-141. Function, powers, and duties of the commission.

[Ord. No. 666, § 1, 10-29-1990; Ord. No. 701, § 1, 4-29-1992]

The function of the Commission shall be to implement the policy of this article by the exercise of the following powers and duties. ~~To receive and investigate complaints of, and to initiate its own investigation of the denial of equal access to, and discrimination in employment, housing, education, recreation and public accommodations (regardless of the public or private source of such denial and discrimination) where such denial or discrimination against either an individual or group is based on race, color, religious creed, national origin, sex, age, or ancestry, marital status, sexual orientation, source of income, or handicap;~~

a.

~~Denial to any person or group of equal access to and benefit from all public services;~~

b.

~~Violation of the enjoyment and exercise by any person or group of his, her or its civil rights; and~~

c.

~~The presenece in the city of prejudice, intolerance, bigotry, diserimination and the disorder occasioned thereby.~~

d.

~~For the purposes of this article, handicap is defined as a physical or mental impairment which substantially limits one or more major life activities of a person; a record of having such impairment; or being regarded as having such impairment.~~

e.

~~To attempt by mediation to resolve any complaint over which it has jurisdiction and to recommend to the mayor or other appropriate governmental agency, federal, state, or local, such as it feels will resolve any such complaint and in the case of any unresolved complaint or in the case of any investigation which would be aided thereby, to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any matter in question or under investigation before the commission. The powers enumerated in this subsection may be exereised by a majority vote of the total membership of the commission only. At any hearing before the commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any hearings, at the expense of said witness.~~

(2)

~~After completion of any investigation or hearings on any complaint or matter not resolved by mediation, either:~~

~~To make a written report of its findings and recommendations to the mayor on any matter within his or her jurisdiction for his or her review and for the implementation by him or her of such of the recommendations of the commission (including the taking of disciplinary or administrative action) as the mayor deems justified; or, similarly, to the school committee on any matter in question, and in all cases, urging, and using its best efforts, to bring about complianee with its recommendations; or~~

~~To recommend to any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside the jurisdiction of the mayor yet one which is within the jurisdiction of the commission under this article, to seek further representation before the MCAD or some other state or federal governmental agency or court by an attorney, Western Massachusetts Legal Services, Inc., The Urban Coalition, The National Center for Dispute Settlement of the American Arbitration Association or any other~~

~~similar organization. The commission may request the Berkshire Bar Association or other similar professional legal organization, individual partnership or corporation to submit the names of those attorneys willing to provide professional services on a voluntary basis for those persons before the commission as complainants or respondents for whom undue hardship in the opinion of the commission would otherwise result. In conduct of any mediation, investigation, hearing or representation of any complainant, the commission may seek to utilize not only the members of the commission, but such organizations as the Berkshire Bar Association, Western Massachusetts Legal Services, Inc., The Urban Coalition, The National Center for Dispute Settlement of the American Arbitration Association, and any other similar organization.~~

b.

To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, *sexual orientation, gender identity, gender expression*, marital status, handicap, age, or ancestry; provided, however, that no publication or results of investigation or research shall be issued pending the investigation or the outcome of a criminal trial in which a member or members of the Pittsfield Police Department or other police agencies of the Commonwealth of Massachusetts or federal police agencies are involved, provided that publication or results of investigation or research may be issued after the termination of any such trial process in any District Court of Berkshire County or after the conclusion of any such trial in the Berkshire Superior Court, and then only through the office of the mayor. ~~Providing, however, that no such publication shall include or refer to any names of persons, natural or legal, or particulars of any case before the commission.~~

(4)

Sec. 2-141 Sec. 2-141

:4

To cooperate with federal, state, and city agencies, including the school department and the MCAD (*Massachusetts Commission Against Discrimination*), in developing courses of instruction for presentation in public and private schools, public libraries, and other suitable places, devoted to eliminating prejudice, intolerance, bigotry and discrimination and showing the need for mutual self-respect and the achievement of harmonious intergroup relationship in the City of Pittsfield, and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations, and other groups to effectuate the policy of this article.

(5)

To create such subcommittees from the members of the commission as in the commission's judgment will best aid in effectuating the policy of this article and to empower such

subcommittees to study the problems of prejudice, intolerance, bigotry, and discrimination prevailing in the City of Pittsfield.

(6)

To cooperate with the affirmative action officer and the department of administrative services, both of the City of Pittsfield, or their successors, in effectively and aggressively developing, administering, and enforcing the Affirmative Action Program of the City of Pittsfield.

(7)

To make such recommendations to the mayor as in its judgement will effectuate the policy of this article and annually to make a written report to the mayor and city council of its activities.

(8)

(9) To perform such other duties as may be prescribed under law.

Sec. 2-142. Contributions to commission. [Ord. No. 666, § 1, 10-29-1990]

The commission may, with the approval of the mayor and city council, on behalf of the City of Pittsfield, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations private or public, to effectuate the policy of this article. ~~However, that no such publication shall include or refer to any names of persons, natural or legal, or particulars, of any case before the commission.~~

Sec. 2-141 Sec. 2-143

:5

Sec. 2-143. Relations with city agencies. [Ord. No. 666, § 1, 10-29-1990]

So far as practicable and subject to the approval of the mayor, or in the case of the school department, the school committee, the cooperation of all other city departments, agencies, and commissions shall be made available to the commission for effectuating the policy of this article, provided such cooperation shall not be construed to mean provision of direct staff services for powers under this article. The head of any department, agency, or other commission shall furnish information in the possession of such department, agency, or commission when the commission, after consultation with and approval of the mayor, or the superintendent of schools, as the case may be, so requests and where such information relates to the duties and responsibilities of the commission; ~~provided, however, that no information, records or data relating to a complaint pending before the commission which are in the custody of the Pittsfield police department and have been compiled by the~~

~~Pittsfield police department in the course of its investigation of the said complaint shall be forwarded to the said commission without the express consent of the Pittsfield police department if there is pending at that time an investigation, hearing, complaint, or trial in which the Pittsfield Police Department, other police agencies of the commonwealth, or police agencies of the federal government are involved and the complaint by these agencies runs against or toward the person or persons seeking to register a complaint before the Commission; and provided further that the furnishing of any such information, records or data shall not violate the rights of privacy, privilege or confidentiality of any person or otherwise be in violation of law.~~

Sec. 2-144. Rules and regulations of Commission. [Ord. No.

666, § 1, 10-29-1990]

The Commission may adopt rules and regulations consistent with this article and the laws of the commonwealth to carry out the policy and provisions of this article and the powers and duties of the Commission in connection therewith.

~~**The Commission shall adopt rules of procedures for the conduct of its investigation and hearings. Said rules shall ensure the due process rights of all persons involved in the investigations and hearings.**~~

Sec. 2-143 Sec. 2-144

:6

Any person or persons appearing before the Commission who avails himself, herself, or themselves of constitutional guarantees shall not be punished in any way by invoking such constitutional guarantees.

Sec. 2-145. Construction of article. [Ord. No. 666, § 1, 10-29-1990]

Nothing in this article shall be interpreted to contravene the General Laws of this commonwealth.

Sec. 2-146. Severability. [Ord. No. 666, § 1, 10-29-1990]

If any provision or section of this article shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this article, which shall remain in full force and effect.



THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201
(413) 499-9321 • ltyer@pittsfieldch.com

Linda M. Tyer
Mayor

March 21, 2018

To the Honorable Members of the City Council
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration are two Orders authorizing the City of Pittsfield to take by eminent domain a permanent drainage easement over land of Gloria B. Leavitt.

Respectfully submitted,

Linda M. Tyer
Linda M. Tyer
Mayor

LMT/CVB
Enclosure

City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

AUTHORIZING THE CITY OF PITTSFIELD TO TAKE BY EMINENT DOMAIN A PERMANENT DRAINAGE EASEMENT OVER LAND OF GLORIA B. LEAVITT

Ordered:

WHEREAS, the City of Pittsfield desires to take by eminent domain a drainage easement in, on, upon, over, under, across and through a parcel of land owned by the Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts, for a municipal purpose, namely improvements to the City's storm water drainage system; and

WHEREAS, the City Council deems it proper for the common good and public convenience to do so;

NOW THEREFORE, the City Council, acting for and in behalf of the City of Pittsfield by virtue of and in accordance with the authority and provisions of M.G.L.A. Chapter 79 and Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, does hereby vote, declare, specify and ORDER:

1. That the City Council of the City of Pittsfield does hereby authorize the City of Pittsfield to take by eminent domain, for and in behalf of said City under the provisions of M.G.L.A. Chapter 79, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, a drainage easement in, on, upon, over, under, across and through a parcel owned by Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts and bounded and described in Appendix A hereto and made a part hereof, for a municipal purpose, namely improvements to the City's storm water drainage system.

2. In addition to the foregoing, this taking of eminent domain shall include the right to excavate, fill, construct, reconstruct, repair and maintain drainage systems on in, on, upon, over, under, across and through a parcel owned by Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts and bounded and described in Appendix A hereto and made a part hereof.

3. That the sum of SIX THOUSAND, SIX HUNDRED (\$6,600.00) DOLLARS is hereby appropriated for the purpose of awarding damages to Gloria B. Leavitt or her heirs for said property and to any person or corporation having an interest therein to be apportioned as their respective interests may appear as damages sustained by them to the property of each by reason of the taking

4. That the City Clerk as Clerk of the City Council is hereby authorized and directed to record a certified copy of this Order with the Berkshire Middle District Registry of Deeds within thirty (30) days from the effective date hereof.

APPENDIX "A"

That certain piece or parcel of land shown and designated as Lon No. 12 on Plan of Land of Robert O. Nicolai, Trustee, call "Windermere", made by Barnes & Spaulding, Engineers, dated August, 1912, and recorded in the Berkshire Middle District Registry of Deeds, in Book 355, Page 622.

Being the same parcel of land conveyed to Jason C.L. Leavitt and Gloria B. Leavitt by deed of Walter Kozick dates August 17, 1959 and Berkshire Middle District Registry of Deeds, in Book 694, Page 348.

No. _____

City of Pittsfield
M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

**TAKING BY EMINENT DOMAIN OF A PERMANENT DRAINAGE EASEMENT
OVER LAND OF GLORIA B. LEAVITT**

Ordered:

WHEREAS, an Order for the authorization and appropriation for the purpose of an eminent domain taking had previously been made by the City Council by Order ____ of the Series of 2018, in accordance with M.G.L.A. Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, for a drainage easement in, on, upon, over, under, across and through a parcel of land owned by the Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts, for a municipal purpose, namely improvements to the City's storm water drainage system; and

NOW THEREFORE, the City Council, acting for and in behalf of the City of Pittsfield by virtue of and in accordance with the authority and provisions of M.G.L.A. Chapter 79 and Chapter 40, section 14, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, does hereby vote, declare, specify and ORDER:

1. That the City Council of the City of Pittsfield does hereby take by eminent domain, for and in behalf of said City under the provisions of M.G.L.A. Chapter 79, and all other acts, statutes, laws and ordinances or other parts thereof applicable thereto, a drainage easement in, on, upon, over, under, across and through a parcel owned by Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts and bounded and described in Appendix A hereto and made a part hereof, for a municipal purpose, namely improvements to the City's storm water drainage system.

2. In addition to the foregoing, this taking of eminent domain shall include the right to excavate, fill, construct, reconstruct, repair and maintain drainage systems on in, on, upon, over, under, across and through a parcel owned by Gloria B. Leavitt or her heirs and located on Waubeek Road, Pittsfield, Massachusetts and bounded and described in Appendix A hereto and made a part hereof.

3. Damages are awarded in the sum of SIX THOUSAND, SIX HUNDRED (\$6,600.00) DOLLARS to Gloria B. Leavitt or her heirs for said property and to any person or corporation having an interest therein to be apportioned as their respective interests may appear as damages sustained by them to the property of each by reason of the taking.

4. That the City Clerk as Clerk of the City Council is hereby authorized and directed to record a certified copy of this Order with the Berkshire Middle District Registry of Deeds within thirty (30) days from the effective date hereof.

APPENDIX "A"

That certain piece or parcel of land shown and designated as Lon No. 12 on Plan of Land of Robert O. Nicolai, Trustee, call "Windermere", made by Barnes & Spaulding, Engineers, dated August, 1912, and recorded in the Berkshire Middle District Registry of Deeds, in Book 355, Page 622.

Being the same parcel of land conveyed to Jason C.L. Leavitt and Gloria B. Leavitt by deed of Walter Kozick dates August 17, 1959 and Berkshire Middle District Registry of Deeds, in Book 694, Page 348.



City of Pittsfield

1050
RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:18

LI-3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

a petition asking that the use of
political lawn signs be abolished and
the city instead negotiate with ACTV -
a 3 month period of time before a primary
or general election - so that candidates
for election can repeatedly speak to the
general public about their platform and
goals for the city. This takes money out
of the equation and levels the playing
field for all candidates for public office.

J C Laehr

1098 West St

Pittsfield, MA.

01201



City of Pittsfield

RECEIVED CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:18

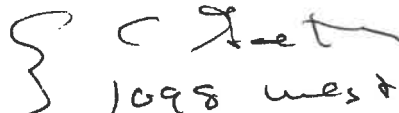
4-3

20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A Petition asking that a citizen advisory/oversight committee to provide checks and balances over the police dept be instituted


 1098 west st
 Pitts, MA 01201



City of Pittsfield

8/05
RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:19

4-3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A Petition asking that all Senior
Citizens 65 YEARS OF Age and older be able
to park for free AT ANY parking space in
the down town area

SC Smith
1078 West St
Pitts, MA
01201



City of Pittsfield

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -2 P 1:40

April 02, 2018

To the City Council of the City of Pittsfield:-

I, Alexander Blumin, resident of Pittsfield
Petition City of Pittsfield Councilors to support
Resolution below:

The undersigned respectfully by
Alexander Blumin
16 Hamlin St
Pittsfield, MA 01201
413-212-9872

Resolution to Honorable

Mayor of Pittsfield, Linda Tyler

I, Alexander Blumin, ask Your Honor Mayor of Pittsfield, to
remove completely Mr. Drew Herzog from Human Rights Commission:
and replace him by either Councilor Pete White and/or
Mrs. Diniz Guier both well known Human & Civil Rights
advocates, deeply respected by whole community-decent people.

Reasons:

- #1 Nobody should be harassed, insulted or falsely accused
of any crimes, unless proven in Court.
Mr. Drew Herzog did just that on 03-27-2018 City Council Meeting-
he insulted, Harassed & charged City Councilors of "poisoning women,
children & elderly by poisoning water supply" - which is Terrorism
by Federal 18 U.S. Code, Chapter 113!
 - #2 Mr. Drew Herzog forced HRC member - Joacim Bernal to resign.
 - #3 it took more than one (1) year for Mr. Drew Herzog to understand Open
Meeting law and mandatory Open Hearing of Human Rights Complaints
- Obviously Mr. Drew Herzog has serious mental & psychological problems
so he admitted him-self: "I misunderstood Open Meeting laws"
Respectfully - Alex Blumin



City of Pittsfield

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

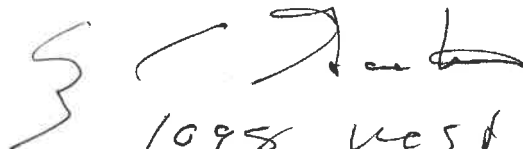
2018 APR -4 P 1:19

413 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A petition asking that military veterans be given preference for city positions such as teaching positions, police, fire and DPW positions. also veterans should be placed on the seniority/step equivalent to the time period of their first enlistment


1098 West St

Pitts, MA. 01201



City of Pittsfield

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:18

4-3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

a petition asking that the City Council
President refrain from notifying people who
speak in the public session - as to what they
can or can't say. If a citizen doesn't like
what a Mayor or Councilor does in their
official capacity, they can chastise such
individuals ~~in~~ in a way that does so - not ~~using~~ using
poor language. Freedom of speech is tantamount
and should not be suppressed

J C Galt

1098 West ST

Pitts, MA. 01201



City of Pittsfield

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:19

4/4 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A Petition to the City Council asking
that they inform all City Dept. Heads
that taxpayers have the right to visit
any + all City owned facilities. The Dept.
should schedule a visit within 24 hrs of
a request.

3 C 12

1098 west 5

Pittsfield, MA
01201



City of Pittsfield

668
RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

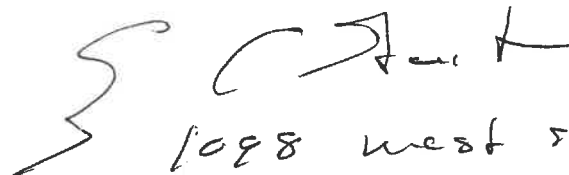
2018 APR -4 P 1:19

4-3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A petition asking that all petitioners
petitions be read verbatim at City Council
meetings


1088 West St
Pitts, MA.
01204



City of Pittsfield

5 of 8

RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:19

4-3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A Petition asking that rule 27 and
the power given to the city Council President
to throw citizens petitions in the
garbage can be abolished



City of Pittsfield

RECEIVED BY CLERK
CITY OF PITTSFIELD, MA

2018 APR -4 P 1:18

41 - 3 20 18

To the City Council of the City of Pittsfield:-

The undersigned respectfully

A Petitioner asking that any one (citizen) who submits a petition to the City Council be given the right to read their petition and to enter into dialogue with Councilors regarding their petition.

A petitioner can fill out a petition form or simply enter their name & address and need not enter any more than that.

This eliminates the power of the City Council president who has sole power of rule 27 to throw any petition he doesn't like into the garbage can. This new procedure is long over due.

S. C. Retman
1088 West St
Pitts, MA 01209