

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to enter into lease and power purchase agreements with Solect Energy Development, LLC for a period of twenty (20) years, relative to the development, operation, and maintenance of a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy.

The City of Lowell is desirous the development, operation, and maintenance a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy; and

Solect Energy Development, LLC submitted a proposal said services to the City of Lowell, and

The City Council must authorize the City Manager to proceed under the provisions of Massachusetts General Laws Chapter 30B, in order to obtain such services for a term of twenty (20) years.

NOW, THEREFORE, BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and is hereby authorized to seek, receive and accept proposals and enter into agreements with Solect Energy Development, LLC for a period of twenty (20) years to relative to the development, operation, and maintenance of a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy, under the provisions of Massachusetts General Laws Chapter 30B.

BE IT IS FURTHER VOTED:

That the City Manager be and hereby is authorized to execute and deliver any and all other documents related to the development, operation, and maintenance of a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy for twenty (20) years, on such terms and conditions as the City Manager deems to be in the best interest of the City of Lowell.

That the City Manager, on behalf of the City of Lowell, be and hereby is, authorized to execute any and all documents necessary in connection with said grant including the expenditure thereof.

LEASE AGREEMENT

This Lease Agreement (this “**Lease**”) is entered into as of _____, 20__, (the “**Effective Date**”) by and between the City of Lowell (“**Host**”), and Solect Energy Development LLC (“**Provider**”) a limited liability company located in Hopkinton, Massachusetts (together, the “**Parties**”).

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

WHEREAS, Provider and PowerOptions have entered into an agreement governing the terms and conditions of Provider’s participation in the PowerOptions Solar Programs;

WHEREAS, Host is the owner of the properties located and described in Exhibit A (the “**Site**” or the “**Property**”) and desires to make a portion of the Site (said portion of the Site as more fully described in Exhibit B, the “**Premises**”) available to Provider for the construction, operation and maintenance of a solar powered electric generating project (the “**Project**”); and

WHEREAS, Host and Provider have entered into a Power Purchase Agreement dated on or about the date hereof (as amended, modified and supplemented from time to time, the “**PPA**”) describing the power sales arrangement between the Parties.

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

1. DEFINITIONS. Certain capitalized terms used in this Lease not defined herein shall have the meanings set forth in the GLOSSARY OF TERMS attached to the PPA.

2. TERM.

The Term of the Lease shall begin as of the Effective Date and shall continue until 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the SMART Incentive Payment Effective Date occurs. Notwithstanding, in the event that the PPA is terminated prior to the otherwise applicable end of term, this Lease shall also terminate; provided, however, that in the event that the PPA terminates early pursuant to Section 20(c) of the PPA (due to Host Event of Default), and Host does not pay the Early Termination Amount to the Provider, and Provider desires to continue use of the Premises under this Lease, then the Term of this Lease shall continue until the end of the term as set forth above. This Lease may be extended in accordance with the provisions for an extension of the PPA (as more specifically set forth in Section 2 of the PPA). For greater clarity, the parties hereby confirm that Provider shall also have access rights as described in Section 3 hereof, for removal of the Project pursuant to Section 9 (Removal at End of Term) hereof.

3. LEASE RIGHTS.

(a) Lease Access Specifications; Easement Rights. Host hereby grants Provider and its designees (including Installer) access to the Premises, limited to those areas referenced in the site logistics plan, for the Term and for so long as needed after termination to remove the Project pursuant to the applicable provisions herein, at reasonable times and upon reasonable notice (except in situations where there is imminent risk of damage to persons or property), for the purposes of designing, installing, inspecting, operating, maintaining, repairing, and removing the Project, and any other purpose set forth in this Lease (the “**Permitted Uses**”), and otherwise in accordance with the provisions of this Lease. The Premises are leased together with the following Access Rights with respect to the Site:

(i) Vehicular & Pedestrian Access. A non-exclusive easement for reasonable vehicular and pedestrian access across the Site to the Premises, as noted in the site logistics plan, for the Permitted Uses. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

(ii) Utilities & Communication Cables. The right and easement to locate distribution utility and/or electrical lines, electrical equipment cables, and other related facilities, equipment and improvements across the Site. The location of any such lines and cables shall be subject to Host’s approval and shall be at locations that minimize any disruption to Host’s activities occurring on the Site. Access will also be provided for telephone and internet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(iii) Solar Easement. An easement to receive direct sunlight and solar energy, pursuant to which Host shall not construct new buildings or structures or install rooftop equipment, or plant new trees or vegetation of any type which now or hereafter, in Provider’s reasonable opinion, may be a hazard to the Project, overshadow or otherwise block or interfere with sunlight access to the Project at all hours of the day. The solar easement granted herein includes rights of unobstructed sunlight, and in furtherance thereof, the Parties have included provisions regarding trimming of vegetation and removal of obstructions which could impair insolation of the Project.

(iv) Interconnection Easement. An exclusive right to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the Project to the Local Electric Utility electrical distribution system, across portions of the Property to be determined by the Local Electric Utility, subject to the consent of Host and Provider, such consent not to be unreasonably withheld, conditioned or delayed. Provider shall bear all costs associated with interconnection, including fees, permits, taxes and charges.

(b) Quiet Enjoyment of Premises. Host hereby leases the Premises to Provider and Provider leases the Premises from Host for the Permitted Uses for the Term. Provided that

Provider remains in compliance with its obligations under this Lease and the site logistics plan, Provider shall lawfully and quietly have, hold, occupy and enjoy the Premises, use of the Easements and Access Rights, and any other rights granted by this Lease twenty-four hours a day, seven days a week, for the entire Term free of any claim of any person of superior title thereto without hindrance, interruption, suit, or interference of any kind by Host or any other person or entity claiming (whether at law or in equity) by, through, or under Host.

(c) Access to Premises. For the Term of this Lease, Host hereby grants to Provider the rights necessary for Provider to use and occupy portions of the Premises as described on the site logistics plan, for the installation, operation, maintenance, repair, and removal of the Project pursuant to the terms of this Lease, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the Project with the Premises' electrical wiring. Host hereby covenants that (i) Provider shall have access to the Premises and Project during the Term of this Lease and for so long as needed after termination to remove the Project pursuant to the applicable provisions herein, and (ii) Host shall not interfere or handle any Provider equipment or the Project without written authorization from Provider. Host may handle equipment in case of emergency, provided, however, that persons handling equipment on behalf of the Host are qualified, trained and licensed to do so as required by the local code and State of Massachusetts requirements, Additionally, Host shall at all times have access to and the right to observe the Installation Work or Project removal.

(d) No Interference. Host agrees not to conduct activities on, in or about the Property that have a reasonable likelihood of causing damage or impairment to, or otherwise adversely affecting, the Project. Host shall take reasonable steps to limit access to the Project to prevent theft, damage, vandalism and injury. Host and Provider agree to cooperate to determine if any commercially reasonable security measures are required at the Property. Provider shall have the right to provide and install such reasonable security measures, as Host and Provider deem in their reasonable discretion, are or may be necessary for the protection of the Project or to prevent injury or damage to persons or property, subject in all cases to Host's normal security procedures and Provider's Access Rights.

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

(f) Recording. Provider may record a Notice of this Lease in substantially the same form attached hereto as Exhibit C in the land records regarding its Access Rights under this Lease.

4. HAZARDOUS MATERIALS; SITE SECURITY; SITE CONDITIONS.

(a) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced and negligently released by Provider or Installer. Upon encountering any Hazardous Materials, Provider and Installer will stop

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

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

(c) Host shall not be required to make any repairs or alterations in or to the Site, except as follows: _____.

(d) The Parties agree that Provider shall not be liable for any conditions on the Site arising from or related to acts or omissions occurring prior to the Effective Date, except to the extent arising from or related to Provider's negligence or willful misconduct or to the extent that such conditions on the Site are exacerbated by the Provider or Installer.

5. CONSTRUCTION; OPERATION OF PERMITTED USES; ROOF.

(a) Provider and its contractors, agents, consultants, and representatives shall have reasonable access at all reasonable times to the Site for the Permitted Uses, and to any documents, materials and records of Host relating to the Site that Provider reasonably requests in conjunction with these activities. Provider, and its contractors, agents, consultants and representatives shall comply with Host's reasonable safety and security and operational procedures (as may be promulgated from time to time), and Provider and its contractors, agents, consultants and

representatives shall conduct such activities in such a manner and at such a time and day as to cause minimum interference with Host's activities at the Site.

(b) Provider shall operate, maintain, and repair the Project in a manner that will not obstruct or interfere with Host's use of the Site or the rights of any other occupants of the Site, to the extent such rights are disclosed to Provider.

(c) For rooftop projects only:

(i) Provider shall install the Project in a manner that will not void the roof warranty, provided Host has provided such warranty, in writing

(ii) The Parties agree to the following with respect to repairs to the roof to be made prior to the commencement of construction: _____.

(d) Host has provided to Provider Host's available records of the physical condition of the Premises which, to the best of Host's knowledge, are complete and correct. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information provided by Host, then the Parties shall negotiate in good faith to adjust the rates payable by Host in order to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions and, if the parties cannot agree to a good faith rate adjustment after thirty (30) days, Provider shall have the right to terminate this Lease and the PPA.

(e) Except with the prior express written consent of Host, Provider shall not use the Premises for any use other than the Permitted Uses.

(f) During the course of construction and completion of the Project and any substantial alteration thereto, Provider shall maintain all plans, shop drawings, and specifications relating to such construction which Host, its agents or representatives may examine at reasonable times upon reasonable prior notice for the purpose of determining whether the work conforms to the PPA and this Lease.

(g) Host has been informed by Provider and acknowledges that the presence of and construction and operation of the Project and other activities related to the development, operation and decommissioning of the Project may potentially result in some nuisance to Host, such as visual impact. Host hereby accepts said nuisance and waives any right that Host may have to object to such nuisance and Host releases Provider from any claims Host may have with respect to any such nuisance, provided the Project as built is consistent with the site plan and specifications attached hereto, as amended from time to time, or otherwise approved by Host, which approval shall not be unreasonably withheld, conditioned or delayed.

(h) For rooftop projects only, Host shall, at its sole cost and expense, throughout the Term, maintain, repair and replace in a good and workmanlike manner as and when necessary, the building on which the Project is installed, including all building structural portions, and portions of the Property subject to Access Rights. Host shall perform all maintenance, repairs (exempting

repair of damage caused by Provider, who shall be responsible) and replacements required under this subsection (h) (collectively, the “**Maintenance**”) promptly after Host learns of the need for such Maintenance, but in any event within thirty (30) days after Provider gives written notice to Host of the need for such Maintenance, and shall coordinate any Maintenance with Provider if such Maintenance requires access to the Premises; provided, however, that in cases of emergency, Host shall perform Maintenance as soon as reasonably practicable after it learns of the need for such Maintenance. Host shall reimburse Provider for any damage to the Project caused by Host’s Maintenance activities.

(i) Provider covenants and agrees to perform all work, including the construction, alteration (if permitted), repair and maintenance of the Project in a good and workmanlike manner and in such a way as to minimize noise, dust and interference with the operation, use and enjoyment of the Property by Host, or by other tenants, visitors or users of the Property.

(j) Provider shall, at Provider’s expense, comply with all laws and regulations applicable to Provider’s installation and operation of the Project at the Property, and shall be responsible for obtaining all permits or approvals required by any applicable authority in order to construct and operate the Project, and to comply, at all times during the term of this Lease, with all such permits and approvals.

(k) Provider covenants and agrees to keep the Project in good order, repair and condition throughout the Term, and to promptly and adequately repair all damage to the Premises and the Property caused by Provider or the Project. During the Term, any and all installation and construction work performed on the Property by Provider shall be conducted in a manner to comply with any requirements of any roof warranty delivered to Provider by Host (provided, however, in the event of a roof warranty that is not existing as of the Effective Date, Provider shall comply with such requirements to the extent that they do not interfere with Provider’s use of the Project).

(l) Provider shall not bring into or install or keep on the Premises, any objects, including the Project, the weight of which, singularly or in the aggregate, would exceed the maximum load per square foot of the building and/or roof of the building and taking into account snow loads and all other equipment located on the roof, as required by local building code. Provider shall engage an engineer licensed and qualified where the Project is located to certify the same to Host before Provider shall install, affix or place any part of the Project upon the Premises, with a copy of such certification to be provided to the Host.

(m) The Provider shall not make any alterations, improvements and/or additions to the Site, except as shown on the plans approved by Host as of the Effective Date, without first obtaining, in each instance, the written consent of the Host, which consent shall not be unreasonably withheld, delayed or conditioned.

(n) Provider acknowledges and agrees that the Premises are being leased by Provider in their condition as of the delivery date, “As Is,” without representation or warranty except for the express representations and warranties made by Host in this Lease and in the PPA, and Provider hereby waives any implied warranty that the Site is habitable or suitable for Provider's intended

purposes or any other particular purpose. Provider acknowledges that Provider has inspected the Premises, and that by commencing construction of the Project, Provider will be deemed to have found the same satisfactory. Provider agrees that Host is under no obligation to perform any work or provide any materials to prepare the Premises for Provider, except as set forth in Section 4(c) of this Lease.

6. RENT. In lieu of monetary rent, the consideration for this Lease is the terms of the PPA.

7. INTENTIONALLY OMITTED.

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

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval. Host shall cooperate in good faith with Provider and shall execute any such applications promptly upon request by Provider, and shall not unreasonably oppose or interfere with Provider in such regard. Provider shall provide Host with copies of all permits obtained in the approval process of the Project.

In furtherance of the above, Host hereby authorizes Provider to file with such federal, state and local authorities as Provider deems appropriate, and in the name of Host, Provider or both, as Provider deems appropriate (i) one or more applications to obtain any zoning relief regarding the Property or portions thereof as may be necessary and/or desirable to develop, construct and operate the Project on the Premises; and (ii) one or more applications to obtain construction, use or occupancy permits for the Project or any portion thereof.

(b) Project Ownership. Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon the real property comprising the Premises, on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a

Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Lease from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage, deed of trust, fixture filing or ground lease or similar encumbrance (a “**Mortgage**,” and the holder thereof from time to time the “**Holder**”) encumbering the Property, whether executed and delivered prior to or subsequent to the date of this Lease, Host shall, promptly upon request of Provider, use commercially reasonable efforts to cause the Holder of any such Mortgage to enter into a mutually agreeable nondisturbance agreement, which provides that (i) this Lease is subordinate to the Mortgage (unless the Holder shall elect otherwise); (ii) in the event that the Holder or any other party shall succeed to the interest of Host (such Holder or other party, a “Successor”), at the election of the Holder or Successor, Provider shall attorn to the Holder or Successor and this Lease shall continue in full force and effect between the Holder or Successor and Lessee; (iii) in the event of foreclosure of the Mortgage, so long as the Provider is not in default with the Lease after any applicable cure period, Holder agrees to recognize the rights of the Provider under this Lease, including Provider’s Access Rights and the priority of Provider’s (and/or Financing Party’s rights) in the Project; and (iv) Holder or Successor recognizes that the ownership of the Project remains in Provider and acknowledges that the Project is personal property of Provider. Such nondisturbance agreement shall be substantially in the form attached hereto as Exhibit D or in the form customarily used by Holder, and it shall be recorded, at Host’s expense, in the appropriate Land Registry. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises.

9. REMOVAL AT END OF TERM.

Subject to Host’s exercise of its purchase option under Section 9(a) or 9(b) of the PPA, upon the expiration or earlier termination of the Lease, Provider shall, at Provider’s expense, remove all of its tangible property comprising the Project from the Premises on a mutually convenient date but in no case later than one hundred eighty (180) days after the Expiration Date, which may be extended on a day to day basis if the circumstances warrant and are agreeable to the Parties. The Premises shall be returned to its original condition except for ordinary wear and tear. If the Project is to be located on a roof, then in no case shall Provider’s removal of the Project affect the integrity of Host’s roof, which shall be as leak proof as it was prior to installation of Project (other than ordinary wear and tear). For purposes of Provider’s removal of the Project, Host’s covenants pursuant to Section 3 (Lease Rights) and Section 16 (Representations and Warranties) shall remain in effect until the date of actual removal of the Project. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the Project by such agreed upon date, Host shall have the right, at its option, to

remove the Project to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Provider's reasonable cost.

10. RELOCATION; CLOSURE OR SALE OF SITE.

Sections 10(c) (Relocation) and 10(e) (Sale of Site) of the PPA are incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

11. TAXES.

Section 11 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease.

12. INSURANCE.

Section 12 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS; RIGHT TO INSPECT AND ENTER.

(a) Cooperation. Section 13(a) of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein. Additionally, Host shall execute and deliver to Provider and/or the Local Electric Utility any agreements required by Local Electric Utility for the interconnection of the Project with the Local Electric Utility's distribution system.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee, invitee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, or engage in any activities on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project. Further, Host shall maintain the Premises in a manner which allows for full unobstructed passage of sunlight to the Project, including removing or trimming vegetation or other objects causing shading of the Premises. Provided, however, for rooftop projects, Host may construct, reconstruct, modify, or alter the Premises so long as such activities do not interfere (including shading) with the operation of the Project. Host's failure to comply with its obligations in this section 13(b) shall be a material breach. Provided, however, Host shall have thirty (30) days to cure such breach.

(c) Provider's Right to Remove. The parties hereby acknowledge that Provider shall have the right (but shall not be obligated) to trim or remove, at Host's reasonable cost, any trees or other vegetation now or hereafter on the Site which now or hereafter in the reasonable opinion of Provider may overshadow or otherwise block or interfere with access of sunlight to the Project.

(d) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall use commercially reasonable efforts to obtain from owners of

adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Host shall negotiate and Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) five years or (ii) the remaining term of this Lease without regard to Host's option to purchase the Project.

(e) Right to Inspect and Enter. Host and its agents, consultants, and representatives shall have reasonable access to the Premises at all reasonable times, subject to Provider's reasonable safety, security, and operational rules and, except for emergency situations, subject to Provider's consent which shall be obtained at least 5 business days prior and such consent not to be unreasonably withheld, conditioned or delayed, to inspect the Premises for the purpose of ascertaining its condition and to carry out such maintenance and repairs to Host's property and equipment as may be required; provided, however, that such access shall not interfere with Provider's performance of its obligations hereunder; and provided, further, that neither Host nor any of its agents, employees, consultants, contractors or representatives shall operate, touch or perform any repair or maintenance to the Project.

14. PRESS RELEASES AND CONFIDENTIALITY.

Section 14 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

15. INDEMNIFICATION.

Section 15 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

16. REPRESENTATIONS AND WARRANTIES.

Section 16 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

17. FORCE MAJEURE; CASUALTY.

Section 17 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

18. INTENTIONALLY OMITTED.

19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Section 19(a) (Provider Events of Default) of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

(b) Remedies. Upon the occurrence of a Provider Event of Default, Host may, at its option, terminate this Lease, and shall be entitled to exercise any and all rights and remedies available under this Lease, at law or in equity.

20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Section 20(a) (Host Events of Default) of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

(b) Remedies. Upon the occurrence of a Host Event of Default, Provider may, at its option, terminate this Lease, and shall be entitled to exercise any and all rights and remedies available under this Lease, at law or in equity.

21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

Section 21 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

22. LIMITATIONS ON DAMAGES.

Section 22 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

23. DISPUTE RESOLUTION.

Section 23 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

24. NOTICES.

Section 24 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

25. MISCELLANEOUS.

Section 25 of the PPA is incorporated as if fully set forth herein, and any references to the PPA shall apply to the Lease as used therein.

(rest of page left blank intentionally – signatures appear on next page)

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

APPROVED

Solect Energy Development, LLC
a Massachusetts limited liability company

Thomas A. Golden, Jr.,
City Manager

By: _____
Signature

Name and Title

APPROVED AS TO FORM:

Federal I.D. or Social Security No.

Corey F. Williams
City Solicitor

CITY OF LOWELL

(name)
[DEPARTMENT HEAD]

Kelly Oakes
City Auditor

DATE: _____

P. Michael Vaugh
Chief Procurement Officer

EXHIBIT A to Lease Agreement

DESCRIPTION OF SITE

**Property Address: 50 Father Morissette Boulevard
& 75 Arcand Drive, Lowell, MA 01852**

Two parcels of land, together with the buildings and improvements thereon, located at (1) 50 Father Morissette Boulevard, Lowell, Massachusetts and known as the Lowell High School Freshman Academy, described in that certain quitclaim Deed from the City Development Authority to the City of Lowell dated June 29, 1978 and recorded with the Middlesex North Registry of Deeds on July 10, 1978 in Book 2313, Page 190, and (2) 75 Arcand Drive, Lowell, Massachusetts and known as the Lowell High School Gymnasium, described in that certain Order of Taking by the City of Lowell dated November 7, 2018 and recorded with said Registry on November 13, 2018 in Book 32559, Page 1; copies of each such instrument of which are attached hereto and incorporated herein.

[Remainder of page intentionally left blank]

BK2313

BK2313 PG 190

DEED

City Development Authority, a public body, politic and corporate, duly organized and existing pursuant to Massachusetts General Laws, Chapter 610 of the Acts of 1967, having an usual place of business in Lowell, Middlesex County, Massachusetts (the Grantor) in consideration of One Dollar (\$1.00) paid grant unto the CITY OF LOWELL, a municipal corporation duly established by law and having its usual place of business ^{At City Hall} in Lowell, Middlesex County, Massachusetts (the Grantee) with QUITCLAIM COVENANTS, the following parcel of land:

A certain parcel of land situated in Lowell, Easterly side of Arcand Drive and the Southerly side of a new street containing 143,129 square feet, more or less, and being shown as Lot 7C on a plan entitled "Compiled Disposition Map of Lot 7C in Lowell, Massachusetts, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"=100', dated November 29, 1968, Dana F. Perkins & Sons, Inc. Civil Engineers & Surveyors Lowell and Reading, Massachusetts", which plan is to be recorded herewith and thus bounded and described:

Beginning at a point at Arcand Drive and Lot 7A as shown on said plan

Thence N 17° 07' 25" E 129.03 to a point

Thence along a curved line at a radius of 44.00 feet and a length of 69.12 feet to a point on French Street Extension

Thence S 72° 52' 35" E 313.32 feet to a point

Thence along a curved line with a radius of 1260.00 feet and a length of 194.85 to land of the City of Lowell as shown on said plan

Thence S 64° 00' 58" E 27.47 feet to a point

Thence S 48° 24' 12" W 431.20 feet to a point

Thence N 41° 40' 42" W 414.61 feet to Arcand Drive the point of beginning

Subject to a right of way granted to the Boston and Maine Corporation dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot Utility Easement granted by the City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 84.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking, No. 12, dated May 31, 1968 and recorded with said Registry of Deeds Book 1845, Page 189 and Order of Taking No. 10, dated September 26, 1966 recorded in said Registry of Deeds, Book 1770, Page 158.

La. Pl. Bk. 126-142

The above described parcel is conveyed subject to the following:

A. Easements specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area, Project No. Mass. R-16 (hereinafter called the "Redevelopment Plan"), a copy of which is on file in the office of the City Clerk of the City of Lowell.

B. All restrictions, rights, easements and reservations which are excluded and excepted and specifically set forth in said abovementioned Order of Taking.

The grantee covenants and agrees for himself, his heirs and assigns, that the grantee and his heirs and assigns shall

- (i) devote the granted premises to, and only to and in accordance with the uses specified in the Redevelopment Plan, as hereafter amended and extended from time to time; and
- (ii) not discriminate upon the basis of race, color, religion, sex and national origin in the sale, lease, or rental or in the use or occupancy of the granted premises or any improvements erected or to be created thereon, or any part thereof.

The agreements and covenants provided in the preceding paragraph shall be covenants running with the land and they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided herein, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the grantor, its successors and assigns, the City of Lowell, and any successor in interest to the grantee of the granted premises or any part thereof, and the United States of America (in the case of the agreement and covenant provided in clause (ii) of the preceding paragraph) against the grantee, his heirs and assigns, to or of the granted premises or any part thereof or any interest therein, and any party in possession or occupancy of the granted premises or any part thereof, provided however, that the agreement and covenant provided in clause (i) of said preceding paragraph shall remain in effect until August 28, 1992 (at which time such agreement and covenant shall terminate) and those provided in clause (ii) shall remain in effect without limitations as to time; and provided, further, however, that such agreements and covenants shall be binding on the grantee, his heirs and assigns, and each party in possession or occupancy, respectively only for such period as they shall have title to or an interest in or possession or occupancy of the granted premises or part thereof. In amplification and not in restriction, of

BK2313

PG 192

the foregoing provisions, it is intended and agreed that the grantor, its successors and assigns, and the City of Lowell, shall each be deemed a beneficiary of the agreement and covenant provided in the preceding paragraph, and the United States of America shall be deemed a beneficiary of the agreement and covenant provided in clause (ii), both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the grantor, its successors and assigns, the City of Lowell, and the United States of America, for the entire period during which such agreements and covenants shall be in force and effect without regard to whether the grantor, its successors and assigns, or the City of Lowell or the United States of America has at any time been, remains, or is an owner of any land or interest therein, to, or in favor of, which such agreements and covenants relate. The grantor, its successors and assigns (or, in the case of its failure, refusal or dissolution, then the City of Lowell), shall have the right, in the event of any breach of any such agreement or covenant, and the United States of America shall have the right in the event of any breach of the agreement or covenant provided in clause (ii) of the preceding paragraph, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

This conveyance is to effect the purposes and intents of Chapter 353 of Act of 1976, of the General Laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, on the 29th day of JUNE, 1978, at Lowell, Massachusetts, the parties hereto have caused this instrument to be signed, sealed, and delivered by its duly authorized officers or representatives respectively.

CITY DEVELOPMENT AUTHORITY

Arthur Calabrese
Chairman

[Signature]

James R. Loney

William D. [Signature]

George C. Elades, Jr.

(SEAL)
ATTEST
By [Signature]
Executive Administrator

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Lowell, June 29, 1978

Then personally appeared before me the abovementioned named,
Members of Authority, who executed the foregoing instrument on behalf
of the City Development Authority and acknowledged the same to be the
free act and deed of said Authority.

[Signature]
Notary Public

My commission expires: June 29, 1984

Rec July 10 1978 12:47PM #12345

6

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL



Bk: 32559 Pg: 1 Page: 1 of 5
Recorded: 11/13/2018 11:26 AM

In City Council

ORDER OF TAKING

To Take by Eminent Domain a certain parcel of land in the City of Lowell for Municipal Purposes; namely 75 Arcand Drive, Lowell, MA to serve as the site of the new High School, and other municipal purposes associated therewith.

The City of Lowell is desirous of constructing a new High School building and expanding their current downtown campus; and

The City Council of the City of Lowell, in order to accomplish the construction of the new Lowell High School building, has the right to exercise its power of eminent domain to acquire thereby a certain property; and

The property located at 75 Arcand Drive has been identified as a necessary part of what will be the new, expanded downtown campus.

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF LOWELL as follows:

1. That the City of Lowell, by right of eminent domain, pursuant to the applicable provisions of Massachusetts General Laws, Chapter 79 and of any and every other power granted or implied, hereby takes 75 Arcand Drive by eminent domain for the municipal purpose of constructing a new High School and expanding its current downtown campus. The taking of 75 Arcand Drive by eminent domain is for fee simple interest and includes any buildings, vegetation and improvements thereon.

The taking by eminent domain is subject to any utility easements to Lowell Gas Company, Mass. Electric Co. or New England Telephone, or the successors of such entities and any other utility easements as may be recorded at Middlesex North District Registry of Deeds, which easements are specifically excluded from this Order of Taking.

The taking of 75 Arcand Drive, consists of one separate parcel identified as Lot "7A" containing approximately 62,293 ± sq. ft., as shown on the plan entitled "Disposition Map of

Lots 7A and 7B, Northern Canal Renewal Area, Project No. Mass R-16, Scale 1"=100', Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass.", which plan shall be recorded with this Order of Taking at Middlesex North District Registry of Deeds, and a copy is attached hereto as Attachment "A". The Plan is incorporated by reference and made a part of this Order. Further, a property description of 75 Arcand Drive is attached hereto as Attachment "B". The Description is incorporated by reference and made a part of this Order. A copy of deed is recorded in Book 2736 Page 152.

2. IT IS FURTHER ORDERED that as compensation to the owners for all damages arising from the Taking of 75 Arcand Drive, (inclusive of building, vegetation and improvements) the following sum is awarded for damages incurred by reason of the taking of a fee simple interest in 75 Arcand Drive, reserving the right to amend the award at any time prior to the payment by reason of a change of ownership or for other good cause shown:

Parcels taken and shown on Attachment "A" and "B" are identified as specified below:

TOTAL SQUARE FOOTAGE	PROPERTY ADDRESSES	OWNER'S NAME	MONETARY AWARD
62,293 sq. ft±	75 Arcand Drive Lot "7A"	Trs. Lowell Doctors Park Trust Book 2736 Page 146.	\$2,600,000.00
TOTAL			\$2,600,000.00

OTHER PARTIES IN INTEREST: *Marginal Reference: Bk. 2736, Pg 152*

<u>Name & Address</u>	<u>Interest</u>
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 123	Mortgage (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 130	Assignment of Rents (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852	Mortgage (\$150,000.00)

Book 20874, Page 24

Enterprise Bank and Trust Company
222 Merrimack Street
Lowell, MA 01852
Book 20874, Page 31

Assignment of Rents (\$150,000.00)

GRAND TOTAL SUM OF AWARD OF DAMAGES \$2,600,000.00

3. It is further Ordered that the amount of any unpaid encumbrances and/or taxes will be deducted by the City from any award and paid directly to the party entitled thereto.

4. IT IS FURTHER ORDERED that a copy of the Order, related Plan and Description, be recorded at the Middlesex North District Registry of Deeds, and the Land Registration Section, if applicable, in compliance with MGL Chapter 79.

5. IT IS FURTHER ORDERED that the total sum of TWO MILLION SIX HUNDRED THOUSAND (\$2,600,000.00) DOLLARS for the Taking of 75 Arcand Drive in fee simple interest, including the parcel of land, with the buildings thereon, as all damages caused in connection with the Taking, plus the cost of recordings and other incidental charges related thereto, be charged against the appropriations entitled:

"Account # 67160005-580800"

In City Council November 6, 2018, Read twice and adopted on roll call vote 7 yeas, 2 nays (C. Elliott, C. Mercier). So Voted./s/Michael Q. Geary, City Clerk

Approved by City Manager Eileen M. Donoghue November 7, 2018.

A true copy
ATTEST:


Michael Q. Geary
City Clerk

Orderofaking-75ArcandDr-LHS

NORTHERN CANAL RENEWAL AREA
PROJECT NO. MASS. R-16

SCALE 1" = 100' MAR. 31, 1967

LOWELL PLANNING BOARD
DANA F. PERKINS & SONS INC.
Approval Under the Subdivision
CIVIL ENGINEERS & SURVEYORS.
LOWELL, MASS.

April 5, 1967

John L. James
Planning Director

Frank W. Steady
Asst. City Engineer

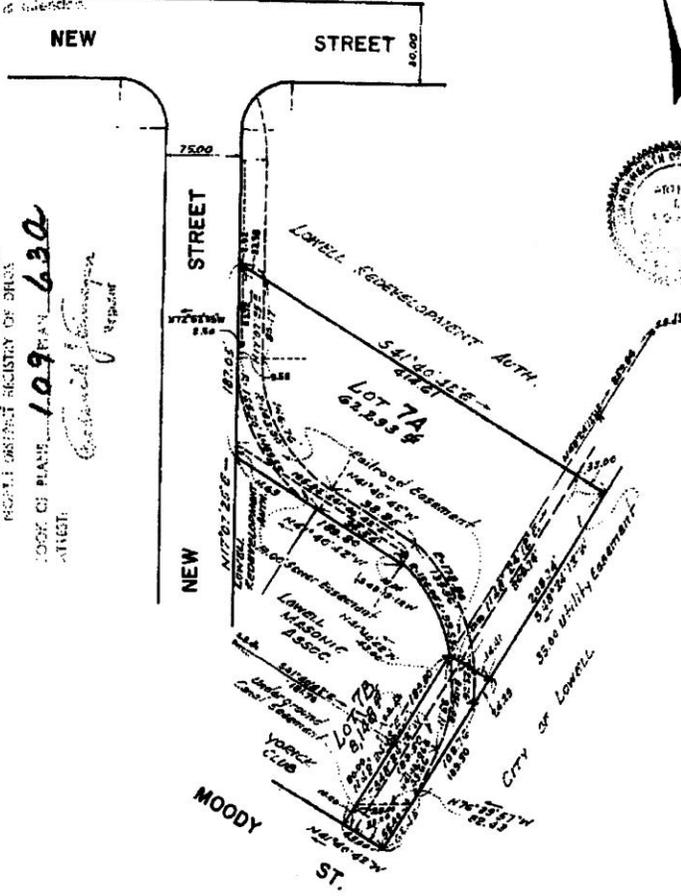
No determination of compliance
with Zoning Regulations has been
made or is intended.



LOWELL, MASS. September 19, 1967
RECORDED AND INDEXED WITH ADDRESSES
PEOPLE'S ORIGINIST REISTRY OF CHINA

LOOK UP PLANS 109 PLAN 630
ATTN: [unclear]

City of Lowell
Register



"A"

A certain parcel of land in Lowell, Massachusetts, including any and all buildings, structures of any kind, parking lots, landscape features, lighting, utilities, and trees, within the bounds set forth, situated on the southeasterly side of Arcand Drive, northerly land now or formerly of the Lowell Masonic Assoc., containing 62,293 square feet, more or less, and being shown as LOT 7A on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and thus bounded and described:

Beginning at a point on the southeasterly side of a public way currently known and designated as Arcand Drive, formally known as New Street on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and the westerly corner of land now or formerly of the Lowell Redevelopment Authority;

THENCE S 41 40' 42" E along land now or formerly of Lowell Redevelopment Authority; 414.61 feet to a point;

THENCE S 48 24' 12" W along land now or formerly of the City of Lowell, 209.74 feet to LOT 7B;

THENCE Westerly by three courses along LOT 7B; land now or formerly of Lowell Masonic - Assoc., and land now or formerly of Lowell Redevelopment Authority N 41 40' 42" W, 43.00 feet; 99.85 feet at a radius of 156.00 feet; N 41 40' 42" W, 189.80 feet to Arcand Drive;

THENCE N 17 07' 25" E along said Arcand Drive, 187.05 feet to the point of beginning.

Subject to a Right-of-Way granted by City Development Authority to the Boston and Maine Corporation, dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot utility easement granted by City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 81.

Subject also to a 10.00 foot sewer easement granted by City Development Authority to the Lowell Masonic Association, Inc., dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 85.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking #12, dated May 31, 1968, and recorded-May 31, 1968, in said Registry of Deeds, Book 1845, Page 189.

The above described premises are conveyed subject to easement specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area Project No. Mass. R-16, dated July, 1962, as amended, a copy of which is on file in the office of the City Clerk of the City of Lowell. Subject also to all restrictions, rights, easements, and reservations which are excluded and excepted and specifically set forth in said above mentioned Order of Taking.

The Grantee covenants and agrees, for itself and its successors and assigns, that the Grantee and such successors and assigns shall be subject to the covenants and agreements set forth in a deed from City development Authority to the Grantor recorded in said Registry of Deeds, Book 1997, Page 705.

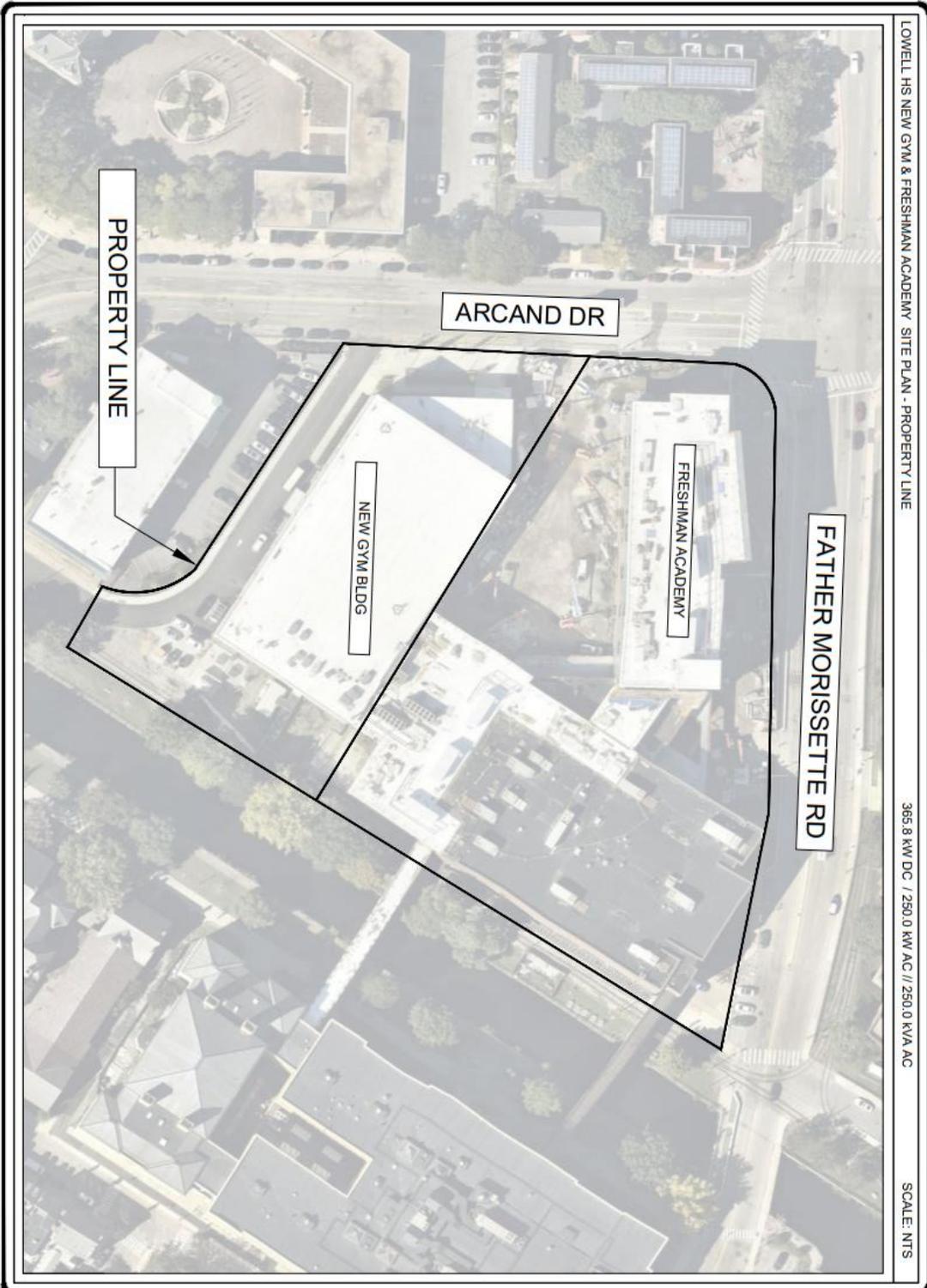
"B"

EXHIBIT B to Lease Agreement

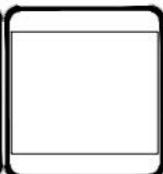
DESCRIPTION OF PREMISES

The Premises includes locations where solar equipment will be installed and accessed for construction, operation, maintenance and decommissioning as depicted on the Site Plan below (as it or the Project may be modified pursuant to the Lease).

The Premises is benefitted by the Access Rights and Easements set forth in Section 3 of the Lease including rights to combine and connect the Project to Host's existing main electric equipment and rights to interconnect the Project to the utility network.



SCALE	AS NOTED
DATE	10/20/23
DRAWN BY	CP
CHECKED BY	
SHEET	PVSP-2



PROPOSED ROOF MOUNTED SOLAR PV SYSTEM
 LOWELL HS NEW GYM & FRESHMAN ACADEMY
 50 FATHERMORISSETTE BLVD,
 WEST BLDG
 LOWELL, MA 01854

solectenergy
 Smart Solar. Smart Business.

89 Hayden Rowe Street, Suite E
 Hopkinton, MA 01748 - (508) 598-3511

ISSUED FOR	IA	
REVISIONS		
NO.	DATE	DESCRIPTION

EXHIBIT C to Lease Agreement
Form of Notice of Lease
[On following Page]

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

NOTICE OF LEASE

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

Parties to the **[insert name of lease agreement]** (the “Lease”):

Host/Landlord:

Provider/Tenant: Solect Energy Development LLC
89 Hayden Rowe Street
Hopkinton, MA 01748
(and its successors and/or assigns)

Property Description: The real property located at **[Street], [Town, State Zip]** described on the attached **Exhibit A** (the “Property”). **For Landlord’s title see Deed recorded with the [__Insert County__] [Registry of Deeds/Land Records] in [Book _____, Page _____] [Certificate of Title No_____].**

Description of Leased Premises: A portion of the Property as described on the attached **Exhibit B** where solar equipment will be installed and accessed for the term of the agreement, including the roofs, exterior and interior walls, through to the main electric room, and exterior areas of the Property. (the “**Lease Area**”)

Date of Execution of the Lease: _____ (the “**Effective Date**”).

Term of Lease:

The Term of the Lease includes a Development Period, Operations Period and Decommissioning Period. The Lease shall commence on the Effective Date and, unless terminated earlier pursuant to the provisions of the Lease, the Operations Period shall continue until 11:59 p.m. on the last day of the calendar month in which the **twentieth (20th)** anniversary of the Commercial Operation Date, as defined in the Lease, **unless the Tenant exercises the Options to Extend**, in which case the Term of Lease shall include the Development Period, the Operations Period, the **[Extension Terms]** and the Decommissioning Period.

Options to Extend:

Tenant shall have the right to extend the Term of the Lease for **[]** year terms.

Decommissioning Period

Tenant shall remove the System within **180 days** of the termination of the Lease, (provided that if such **180 day** term ends within the months of December, January, February, March, or April, the Decommissioning Period shall extend to July 31) whereupon the Lease shall expire and shall be of no further force and effect

Easements.

- (a) Under the Lease, Landlord granted the easements (the “Easements”) to Tenant described in Exhibit C across and burdening the Property.
- (b) Landlord’s grant of Easements in the Lease shall commence on the Effective Date and end upon termination of the Decommissioning Period.

Ownership of the Facility.

Landlord shall have no right, title or interest in the solar energy facility (as defined in the Lease) (“Project”) or any component thereof and Tenant shall be the exclusive owner thereof.

Miscellaneous

1. This Notice of Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.
2. This Notice of Lease does not describe or refer to all of the terms or conditions contained in the actual Lease and nothing contained herein shall serve to modify or amend the terms of the

actual Lease. In the event of any inconsistency between the provisions of the Lease and the provisions of this Notice, the provisions of the Lease shall control.

- 3. Any capitalized term not defined herein shall have the definition ascribed to it in the Lease.

EXECUTED as a sealed instrument on as of _____, 202_.

LANDLORD:
[insert name of Landlord]

By: _____
Name and Title:

COMMONWEALTH OF MASSACHUSETTS

_____ County

On this ____ day of _____, 202_, before me, the undersigned Notary Public, personally appeared the above-named _____, the _____ of _____ proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose on behalf of _____.

Notary Public
My Commission Expires:

TENANT:
Solect Energy Development LLC

By: _____
James R. Dumas, CFO, an Authorized
Signatory

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this _____ date of _____, 2020, before me, the undersigned notary public, personally appeared James R. Dumas, CFO of Solect Energy Development LLC, and an Authorized Signatory, personally known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as CFO of Solect Energy Development LLC, a Massachusetts limited liability company and the voluntary act of the company.

Notary Public
My Commission Expires:

EXHIBIT A

PROPERTY DESCRIPTION

**Property Address: 50 Father Morissette Boulevard
& 75 Arcand Drive, Lowell, MA 01852**

Two parcels of land, together with the buildings and improvements thereon, located at (1) 50 Father Morissette Boulevard, Lowell, Massachusetts and known as the Lowell High School Freshman Academy, described in that certain quitclaim Deed from the City Development Authority to the City of Lowell dated June 29, 1978 and recorded with the Middlesex North Registry of Deeds on July 10, 1978 in Book 2313, Page 190, and (2) 75 Arcand Drive, Lowell, Massachusetts and known as the Lowell High School Gymnasium, described in that certain Order of Taking by the City of Lowell dated November 7, 2018 and recorded with said Registry on November 13, 2018 in Book 32559, Page 1; copies of each such instrument of which are attached hereto and incorporated herein.

[Remainder of page intentionally left blank]

BK2313

BK2313 PG 190

DEED

City Development Authority, a public body, politic and corporate, duly organized and existing pursuant to Massachusetts General Laws, Chapter 610 of the Acts of 1967, having an usual place of business in Lowell, Middlesex County, Massachusetts (the Grantor) in consideration of One Dollar (\$1.00) paid grant unto the CITY OF LOWELL, a municipal corporation duly established by law and having its usual place of business ^{At City Hall} in Lowell, Middlesex County, Massachusetts (the Grantee) with QUITCLAIM COVENANTS, the following parcel of land:

A certain parcel of land situated in Lowell, Easterly side of Arcand Drive and the Southerly side of a new street containing 143,129 square feet, more or less, and being shown as Lot 7C on a plan entitled "Compiled Disposition Map of Lot 7C in Lowell, Massachusetts, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"=100', dated November 29, 1968, Dana F. Perkins & Sons, Inc. Civil Engineers & Surveyors Lowell and Reading, Massachusetts", which plan is to be recorded herewith and thus bounded and described:

Beginning at a point at Arcand Drive and Lot 7A as shown on said plan

Thence N 17° 07' 25" E 129.03 to a point

Thence along a curved line at a radius of 44.00 feet and a length of 69.12 feet to a point on French Street Extension

Thence S 72° 52' 35" E 313.32 feet to a point

Thence along a curved line with a radius of 1260.00 feet and a length of 194.85 to land of the City of Lowell as shown on said plan

Thence S 64° 00' 58" E 27.47 feet to a point

Thence S 48° 24' 12" W 431.20 feet to a point

Thence N 41° 40' 42" W 414.61 feet to Arcand Drive the point of beginning

Subject to a right of way granted to the Boston and Maine Corporation dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot Utility Easement granted by the City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 84.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking, No. 12, dated May 31, 1968 and recorded with said Registry of Deeds Book 1845, Page 189 and Order of Taking No. 10, dated September 26, 1966 recorded in said Registry of Deeds, Book 1770, Page 158.

La. Pl. Bk. 126-142

The above described parcel is conveyed subject to the following:

A. Easements specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area, Project No. Mass. R-16 (hereinafter called the "Redevelopment Plan"), a copy of which is on file in the office of the City Clerk of the City of Lowell.

B. All restrictions, rights, easements and reservations which are excluded and excepted and specifically set forth in said abovementioned Order of Taking.

The grantee covenants and agrees for himself, his heirs and assigns, that the grantee and his heirs and assigns shall

- (i) devote the granted premises to, and only to and in accordance with the uses specified in the Redevelopment Plan, as hereafter amended and extended from time to time; and
- (ii) not discriminate upon the basis of race, color, religion, sex and national origin in the sale, lease, or rental or in the use or occupancy of the granted premises or any improvements erected or to be created thereon, or any part thereof.

The agreements and covenants provided in the preceding paragraph shall be covenants running with the land and they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided herein, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the grantor, its successors and assigns, the City of Lowell, and any successor in interest to the grantee of the granted premises or any part thereof, and the United States of America (in the case of the agreement and covenant provided in clause (ii) of the preceding paragraph) against the grantee, his heirs and assigns, to or of the granted premises or any part thereof or any interest therein, and any party in possession or occupancy of the granted premises or any part thereof, provided however, that the agreement and covenant provided in clause (i) of said preceding paragraph shall remain in effect until August 28, 1992 (at which time such agreement and covenant shall terminate) and those provided in clause (ii) shall remain in effect without limitations as to time; and provided, further, however, that such agreements and covenants shall be binding on the grantee, his heirs and assigns, and each party in possession or occupancy, respectively only for such period as they shall have title to or an interest in or possession or occupancy of the granted premises or part thereof. In amplification and not in restriction, of

BK2313

PG 192

the foregoing provisions, it is intended and agreed that the grantor, its successors and assigns, and the City of Lowell, shall each be deemed a beneficiary of the agreement and covenant provided in the preceding paragraph, and the United States of America shall be deemed a beneficiary of the agreement and covenant provided in clause (ii), both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the grantor, its successors and assigns, the City of Lowell, and the United States of America, for the entire period during which such agreements and covenants shall be in force and effect without regard to whether the grantor, its successors and assigns, or the City of Lowell or the United States of America has at any time been, remains, or is an owner of any land or interest therein, to, or in favor of, which such agreements and covenants relate. The grantor, its successors and assigns (or, in the case of its failure, refusal or dissolution, then the City of Lowell), shall have the right, in the event of any breach of any such agreement or covenant, and the United States of America shall have the right in the event of any breach of the agreement or covenant provided in clause (ii) of the preceding paragraph, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

This conveyance is to effect the purposes and intents of Chapter 353 of Act of 1976, of the General Laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, on the *29th* day of *JUNE, 1978*, at Lowell, Massachusetts, the parties hereto have caused this instrument to be signed, sealed, and delivered by its duly authorized officers or representatives respectively.

CITY DEVELOPMENT AUTHORITY

Arthur Calabrese
Chairman

[Signature]

James R. Loney

William D. [Signature]

George C. Elades, Jr.

(SEAL)
ATTEST
By [Signature]
Executive Administrator

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Lowell, June 29, 1978

Then personally appeared before me the abovementioned named,
Members of Authority, who executed the foregoing instrument on behalf
of the City Development Authority and acknowledged the same to be the
free act and deed of said Authority.

[Signature]
Notary Public

My commission expires: June 29, 1984

Rec July 10 1978 12:47PM #12345

6

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL



2018 00049531

Bk: 32559 Pg: 1 Page: 1 of 5
Recorded: 11/13/2018 11:26 AM

In City Council

ORDER OF TAKING

To Take by Eminent Domain a certain parcel of land in the City of Lowell for Municipal Purposes; namely 75 Arcand Drive, Lowell, MA to serve as the site of the new High School, and other municipal purposes associated therewith.

The City of Lowell is desirous of constructing a new High School building and expanding their current downtown campus; and

The City Council of the City of Lowell, in order to accomplish the construction of the new Lowell High School building, has the right to exercise its power of eminent domain to acquire thereby a certain property; and

The property located at 75 Arcand Drive has been identified as a necessary part of what will be the new, expanded downtown campus.

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF LOWELL as follows:

1. That the City of Lowell, by right of eminent domain, pursuant to the applicable provisions of Massachusetts General Laws, Chapter 79 and of any and every other power granted or implied, hereby takes 75 Arcand Drive by eminent domain for the municipal purpose of constructing a new High School and expanding its current downtown campus. The taking of 75 Arcand Drive by eminent domain is for fee simple interest and includes any buildings, vegetation and improvements thereon.

The taking by eminent domain is subject to any utility easements to Lowell Gas Company, Mass. Electric Co. or New England Telephone, or the successors of such entities and any other utility easements as may be recorded at Middlesex North District Registry of Deeds, which easements are specifically excluded from this Order of Taking.

The taking of 75 Arcand Drive, consists of one separate parcel identified as Lot "7A" containing approximately 62,293 ± sq. ft., as shown on the plan entitled "Disposition Map of

Lots 7A and 7B, Northern Canal Renewal Area, Project No. Mass R-16, Scale 1"=100', Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass.", which plan shall be recorded with this Order of Taking at Middlesex North District Registry of Deeds, and a copy is attached hereto as Attachment "A". The Plan is incorporated by reference and made a part of this Order. Further, a property description of 75 Arcand Drive is attached hereto as Attachment "B". The Description is incorporated by reference and made a part of this Order. A copy of deed is recorded in Book 2736 Page 152.

2. IT IS FURTHER ORDERED that as compensation to the owners for all damages arising from the Taking of 75 Arcand Drive, (inclusive of building, vegetation and improvements) the following sum is awarded for damages incurred by reason of the taking of a fee simple interest in 75 Arcand Drive, reserving the right to amend the award at any time prior to the payment by reason of a change of ownership or for other good cause shown:

Parcels taken and shown on Attachment "A" and "B" are identified as specified below:

TOTAL SQUARE FOOTAGE	PROPERTY ADDRESSES	OWNER'S NAME	MONETARY AWARD
62,293 sq. ft±	75 Arcand Drive Lot "7A"	Trs. Lowell Doctors Park Trust Book 2736 Page 146.	\$2,600,000.00
TOTAL			\$2,600,000.00

OTHER PARTIES IN INTEREST: *Marginal Reference: Bk. 2736, Pg 152*

<u>Name & Address</u>	<u>Interest</u>
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 123	Mortgage (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 130	Assignment of Rents (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852	Mortgage (\$150,000.00)

Book 20874, Page 24

Enterprise Bank and Trust Company
222 Merrimack Street
Lowell, MA 01852
Book 20874, Page 31

Assignment of Rents (\$150,000.00)

GRAND TOTAL SUM OF AWARD OF DAMAGES \$2,600,000.00

3. It is further Ordered that the amount of any unpaid encumbrances and/or taxes will be deducted by the City from any award and paid directly to the party entitled thereto.

4. IT IS FURTHER ORDERED that a copy of the Order, related Plan and Description, be recorded at the Middlesex North District Registry of Deeds, and the Land Registration Section, if applicable, in compliance with MGL Chapter 79.

5. IT IS FURTHER ORDERED that the total sum of TWO MILLION SIX HUNDRED THOUSAND (\$2,600,000.00) DOLLARS for the Taking of 75 Arcand Drive in fee simple interest, including the parcel of land, with the buildings thereon, as all damages caused in connection with the Taking, plus the cost of recordings and other incidental charges related thereto, be charged against the appropriations entitled:

"Account # 67160005-580800"

In City Council November 6, 2018, Read twice and adopted on roll call vote 7 yeas, 2 nays (C. Elliott, C. Mercier). So Voted./s/Michael Q. Geary, City Clerk

Approved by City Manager Eileen M. Donoghue November 7, 2018.

A true copy
ATTEST:


Michael Q. Geary
City Clerk

Orderofaking-75ArcandDr-LHS

NORTHERN CANAL RENEWAL AREA
PROJECT NO. MASS. R-16

SCALE 1" = 100' MAR. 31, 1967

LOWELL PLANNING BOARD
DANA F. PERKINS & SONS INC.
CIVIL ENGINEERS & SURVEYORS
LOWELL, MASS.

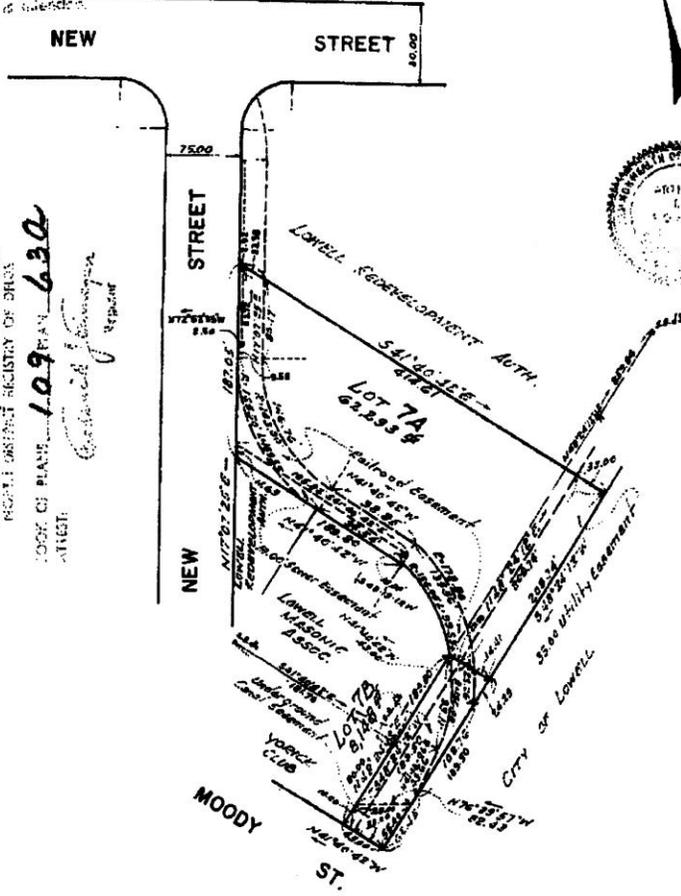
Approval Under the Subdivision
Control Law (No. 228A)

April 5, 1967
John L. James President
Frank W. Steady Asst. City Engineer

No determination of compliance
with Zoning Regulations has been
made or is intended.



LOWELL, MASS. September 19, 1967
RECORDED AND INDEXED WITH ADDRESSES
PEOPLE'S OMBUDSMAN OFFICE OF CHINA
LOOK UP PLANS 109 PLAN 630
ATTEST: *City of Lowell*



"A"

A certain parcel of land in Lowell, Massachusetts, including any and all buildings, structures of any kind, parking lots, landscape features, lighting, utilities, and trees, within the bounds set forth, situated on the southeasterly side of Arcand Drive, northerly land now or formerly of the Lowell Masonic Assoc., containing 62,293 square feet, more or less, and being shown as LOT 7A on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and thus bounded and described:

Beginning at a point on the southeasterly side of a public way currently known and designated as Arcand Drive, formally known as New Street on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and the westerly corner of land now or formerly of the Lowell Redevelopment Authority;

THENCE S 41 40' 42" E along land now or formerly of Lowell Redevelopment Authority; 414.61 feet to a point;

THENCE S 48 24' 12" W along land now or formerly of the City of Lowell, 209.74 feet to LOT 7B;

THENCE Westerly by three courses along LOT 7B; land now or formerly of Lowell Masonic - Assoc., and land now or formerly of Lowell Redevelopment Authority N 41 40' 42" W, 43.00 feet; 99.85 feet at a radius of 156.00 feet; N 41 40' 42" W, 189.80 feet to Arcand Drive;

THENCE N 17 07' 25" E along said Arcand Drive, 187.05 feet to the point of beginning.

Subject to a Right-of-Way granted by City Development Authority to the Boston and Maine Corporation, dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot utility easement granted by City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 81.

Subject also to a 10.00 foot sewer easement granted by City Development Authority to the Lowell Masonic Association, Inc., dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 85.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking #12, dated May 31, 1968, and recorded-May 31, 1968, in said Registry of Deeds, Book 1845, Page 189.

The above described premises are conveyed subject to easement specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area Project No. Mass. R-16, dated July, 1962, as amended, a copy of which is on file in the office of the City Clerk of the City of Lowell. Subject also to all restrictions, rights, easements, and reservations which are excluded and excepted and specifically set forth in said above mentioned Order of Taking.

The Grantee covenants and agrees, for itself and its successors and assigns, that the Grantee and such successors and assigns shall be subject to the covenants and agreements set forth in a deed from City development Authority to the Grantor recorded in said Registry of Deeds, Book 1997, Page 705.

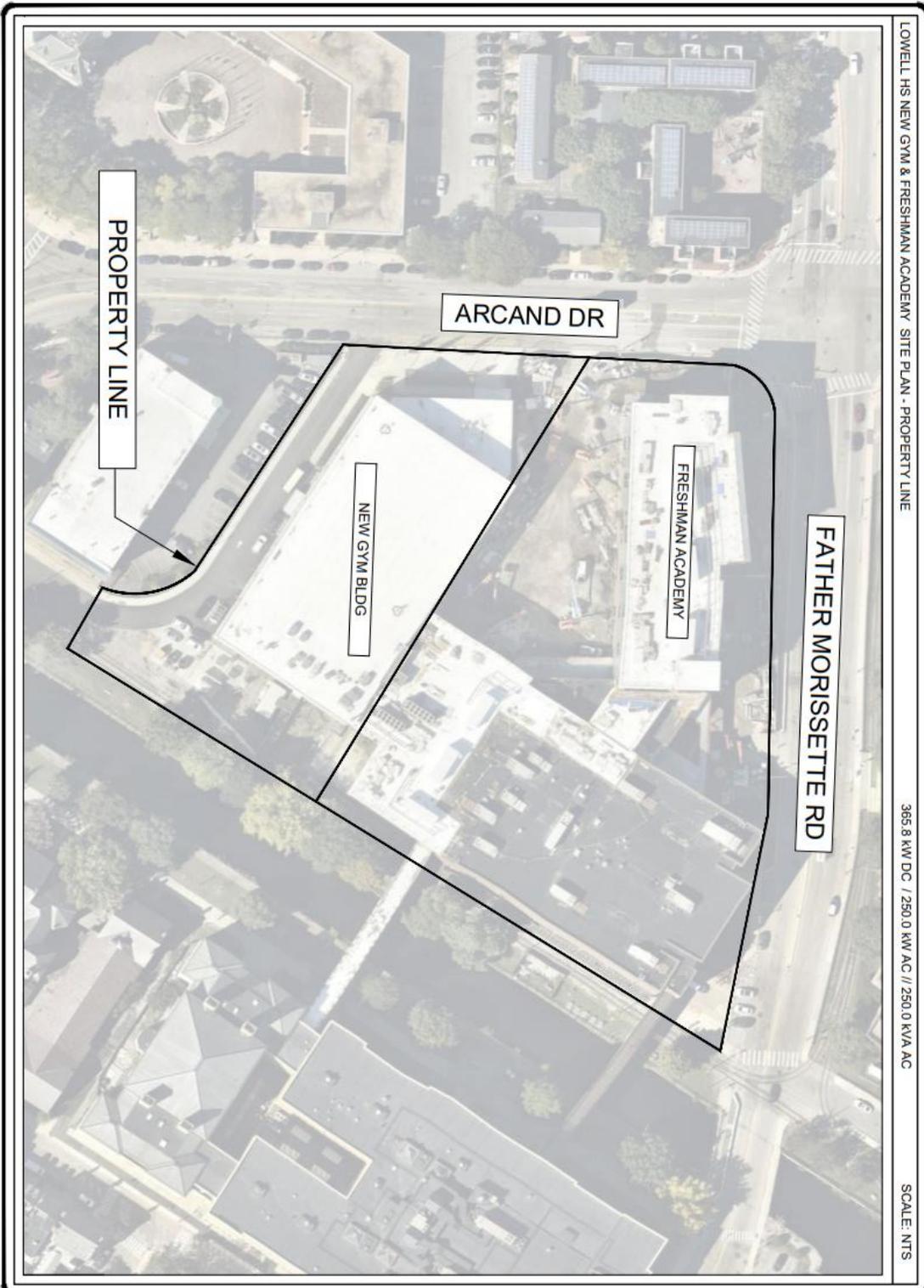
"B"

EXHIBIT B to Lease Agreement

DESCRIPTION OF PREMISES

The Premises includes locations where solar equipment will be installed and accessed for construction, operation, maintenance and decommissioning as depicted on the Site Plan below (as it or the Project may be modified pursuant to the Lease).

The Premises is benefitted by the Access Rights and Easements set forth in Section 3 of the Lease including rights to combine and connect the Project to Host's existing main electric equipment and rights to interconnect the Project to the utility network.

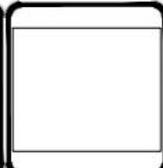


LOWELL HS NEW GYM & FRESHMAN ACADEMY SITE PLAN - PROPERTY LINE

365.8 KW DC / 250.0 KW AC // 250.0 KVA AC

SCALE: NTS

SCALE	AS NOTED
DATE	05/20/23
DRAWN BY	CP
CHECKED BY	
SHEET	PVSP-2



PROPOSED ROOF MOUNTED SOLAR PV SYSTEM
 LOWELL HS NEW GYM & FRESHMAN ACADEMY
 50 FATHERMORISSETTE BLVD,
 WEST BLDG
 LOWELL, MA 01854

solectenergy
 Smart Solar. Smart Business.

89 Hayden Rowe Street, Suite E
 Hopkinton, MA 01748 • (508) 598-3511

©2023 Solect Energy. All rights reserved.

NO.	DATE	REVISIONS
1		ISSUED FOR IA
2		
3		
4		

EXHIBIT C

EASEMENTS [update with Easements/Access Rights per lease and PPA]

EXHIBIT D to Lease Agreement

FORM OF SNDA

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of this _____ day of _____, 20__, by and among _____, a duly organized banking association, with a principal office at _____ ("Lender"), _____ ("Landlord"), and Solect Energy Development LLC, ("Tenant").

W I T N E S S E T H

WHEREAS, Tenant and Landlord have entered into a Lease Agreement dated _____, 20__, (the "Lease") covering the premises located at _____ (the "Premises"), notice of which is recorded with [Name of Registry] (the "Registry") in Book _____, Page _____, (being the property more particularly described in Exhibit A attached hereto and incorporated herein) pursuant to which Tenant has installed or will install on the Premises a photovoltaic facility for the generation of electricity from solar energy (the "Solar Facility"); and

WHEREAS, Lender is the mortgagee pursuant to a [Mortgage and Security Agreement dated _____] (the "Mortgage") and a [Conditional Assignment of Rents and Leases dated _____] (the "Assignment") encumbering, the Premises which are both recorded with the _____ Registry in Book _____ page _____ and Book _____ page _____ respectively; and

WHEREAS, Lender, Tenant, and Landlord wish to set forth respective rights of each party;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other valuable consideration, the parties hereto covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of Tenant thereunder in and to the Premises are and shall be subject and subordinate to the Mortgage and to all of the terms and conditions contained therein, and to any advances, renewals, modifications, replacements, consolidations, amendments and extensions thereof.

2. Lender consents to the Lease and in the event Lender comes into possession of or acquires title to the Premises as a result of the foreclosure, or other enforcement of the Mortgage, or as a result of any other means, Lender agrees that Lender will recognize Tenant and will not disturb Tenant or Tenant's financing parties in their possession of the Premises or their rights in the Lease for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without any further action by Landlord, the termination of the

Lease, and the Lease will continue in full force and effect as a direct agreement between Lender and Tenant.

3. The Solar Facility shall not be, or be deemed to be, a part of or an accession or addition to or a fixture on the Premises even though the Solar Facility is installed on the Premises; nor shall the Solar Facility be moved from the Premises by the Lender unless Tenant's prior written consent to such move has been obtained.

4. Lender waives any and all right, title and interest in the Solar Facility and shall not acquire any such right title or interest by virtue of the installation of the Solar Facility on the Premises. The undersigned Lender further waives any right to seize, or to claim any interest, whatsoever in the Solar Facility on account of any claim or right the undersigned may have against any person, including, without limitation, any claim or right the undersigned may have or assert against the Landlord, by foreclosure or otherwise.

5. Tenant may at any time, at its option, enter upon the Premises and inspect, maintain, remove or repair the Solar Facility to the extent provided in the Lease.

6. When sending to Landlord any notice of impending or actual foreclosure of the Premises, the undersigned Lender shall concurrently provide Tenant a copy of the same.

7. Tenant agrees with Lender that if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or any other manner, or shall be conveyed thereafter by Lender or shall be conveyed pursuant to a foreclosure sale of the Premises, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the time thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the landlord under the Lease and Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises. Notwithstanding the foregoing, Lender shall not be: (i) liable for any act or omission of Landlord, or for any fact, circumstance or condition existing or arising prior to Lender's succession in interest to Landlord unless such fact, circumstance or condition shall continue after such succession; or (ii) subject to any offsets, claims or defenses which Tenant might have against Landlord, except as set forth in the Lease.

8. This Agreement shall bind and inure to the benefit of the parties hereto, their successors and assigns. As used herein the term "Tenant" shall include Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Lender" shall include the Lender herein specifically named and any of its successors, participants and assigns, including anyone who shall have succeeded to Landlord's interest in the Premises by, or through, Lender foreclosure of the Mortgage.

9. All notices, consents and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt, or by facsimile with confirmation of transmission, and shall be deemed given when postmarked and addressed as follows:

If to Lender:

If to Tenant: Solect Energy Development LLC
89 Hayden Rowe Street
Hopkinton, MA 01748
Attn: Legal Notices

If to Landlord:

or to such other address as shall from time to time have been designated by written notice by such party to the other parties as herein provided.

10. This Agreement may not be modified orally or in any manner other than by agreement, in writing, signed by the parties hereto. This Agreement may be executed in counterparts, each of which shall be deemed an original, and such counterparts taken together shall constitute but one agreement. This Agreement shall be governed by the laws of the state or commonwealth where the Premises are located.

[This Page Ends Here – Signature Page to SNDA Follows]

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals the day and year first written above.

TENANT:
SOLECT ENERGY DEVELOPMENT LLC

By: _____
Printed Name:
Title:

LANDLORD:

By: _____
Printed Name:
Title:

LENDER:

By: _____
Printed Name:
Title:

POWER PURCHASE AGREEMENT

For

High School Gym and Freshman Academy
50 Father Morissette Blvd. & 75 Arcand Dr.
Lowell, MA 01852

Dated as of

between

City of Lowell
375 Merrimack St
Lowell, MA 01852-1205

And

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

CONTENTS

1.	DEFINITIONS.	4
2.	TERM.	4
3.	ACCESS RIGHTS.	6 65
4.	PLANNING, INSTALLATION AND OPERATION OF PROJECT.	6
5.	SALE OF ELECTRIC ENERGY.	11
6.	PAYMENT AND BILLING.	12 124
7.	SUPPLEMENTAL POWER	13 134
8.	OWNERSHIP OF PROJECT; SERVICE CONTRACT.	14
9.	PURCHASE OPTIONS; REMOVAL AT END OF TERM.	15 154
10.	SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.	16
11.	TAXES.	18
12.	INSURANCE.	19
13.	COOPERATION.	20
14.	PRESS RELEASES AND CONFIDENTIALITY.	20
15.	INDEMNIFICATION.	22 224
16.	REPRESENTATIONS AND WARRANTIES.	23
17.	FORCE MAJEURE; CASUALTY.	24
18.	CHANGE IN LAW.	26 2625
19.	PROVIDER DEFAULT AND HOST REMEDIES.	26
20.	HOST DEFAULT AND PROVIDER REMEDIES.	27
21.	COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.	29 2928
22.	LIMITATIONS ON DAMAGES.	31 3130
23.	DISPUTE RESOLUTION.	31
24.	NOTICES.	32 3234
25.	MISCELLANEOUS.	33 3332
	GLOSSARY OF TERMS	36

EXHIBITS

- EXHIBIT A – ENERGY PURCHASE PRICES
- EXHIBIT A-1 – PILOT AMOUNTS
- EXHIBIT B – EARLY TERMINATION AMOUNTS
- EXHIBIT C – DESCRIPTION OF SITE
- EXHIBIT D – DESCRIPTION OF PREMISES
- EXHIBIT E – DESCRIPTION OF PROJECT
- EXHIBIT F – ESTIMATED ANNUAL PRODUCTION
- EXHIBIT G – INSURANCE REQUIREMENTS

POWER PURCHASE AGREEMENT

This Power Purchase Agreement (“**Agreement**” or “**PPA**”) is entered into as of _____, (the “**Effective Date**”), by and between City of Lowell, a municipality with an address of 375 Merrimack St., Lowell, MA 01852-1205, United States (“**Host**”), and Solect Energy Development LLC, (“**Solect**” or “**Provider**”) a Limited Liability Company located in Hopkinton, Massachusetts (together, the “**Parties**”).

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

WHEREAS, Provider and PowerOptions have entered into an agreement dated June 30th, 2020, as amended, governing the terms and conditions of Provider’s participation in the PowerOptions Solar and Storage Program;

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

WHEREAS, this Agreement is a service contract within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986, as amended; and

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

WHEREAS, Provider and Host have entered into that certain Lease dated on or about the date hereof (as amended or modified from time to time, the “**Lease**”) pursuant to which Host has granted Provider a leasehold interest and certain use and access rights to the Premises.

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

1. DEFINITIONS. Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS or as defined in the body of this Agreement.

2. TERM.

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, “**Term**” shall mean all of the Initial Period and the Operations Period, unless the

Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement, but any such termination shall not terminate any provisions hereof that expressly survive such termination.

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

(c) Operations Period. The Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the SMART Incentive Payment Effective Date.

(d) Extensions. Provider shall have one option to extend the Operations Period for five (5) years (an “**Extension Term**”) upon mutual agreement between Provider and Host. Provider shall delivering a written request to extend to Host at least six months prior to the end of the Operations Period, or Extension Term, as the case may be. Any extension shall be reflected in a written amendment to this Agreement signed by the Parties.

(e) Early Termination by Host. If Host terminates the Agreement prior to the Expiration Date, except as otherwise provided in this subsection (e), Section 9 (Purchase Option), Section 17 (Force Majeure), or Section 19 (Provider Event of Default and Host Remedies), Host shall pay, as liquidated damages, the Early Termination Amount set forth on Exhibit B, and Provider shall cause the Project to be disconnected and removed from the Premises in accordance with the Lease. Upon Host’s payment to Provider of the Early Termination Amount, this Agreement and the Lease, in accordance with its terms, shall terminate automatically. Notwithstanding the foregoing, Host may (i) terminate this Agreement with no liability whatsoever pursuant to Section 4(d) or (ii) in lieu of termination, if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, be entitled (as its sole and exclusive remedy) to (x) the payment by Provider to Host of Delay Liquidated Damages not to exceed \$15/kW in the aggregate, plus (y) (if Installation Work had commenced at the Premises as of the date of termination) all direct costs reasonably incurred by Host to return its Premises to its condition prior to commencement of the Installation Work if Provider fails to do so within a reasonable time, as required pursuant to the Lease. Alternatively, Host may terminate this Agreement with no liability whatsoever if Provider fails to commence the Operations Period by the date that is 60 days after the Guaranteed Commercial Operation Date.

The Construction Start Date and Guaranteed Commercial Operation Date shall be extended on a day-for-day basis due to (a) Force Majeure or (b) acts, omissions or delays of a Governmental Authority or Local Electric Utility. Provided, however that clause (b) shall be beyond the reasonable control of the Provider and not caused by the Provider's fault or negligence. Provided, further that the day-to-day extension of the Construction Start Date shall not exceed one hundred eighty (180) days, unless otherwise mutually agreed by the Parties in writing.

3. ACCESS RIGHTS.

(a) Access Specifications. Pursuant to the Lease, Provider has access to and use of the Premises, limited to those areas specified on the site logistics plan, for the Term for the purposes of designing, installing, inspecting, operating, maintaining, repairing, and removing the Project, and for any other purpose set forth in this Agreement or in the Lease, and otherwise in accordance with the provisions of the Lease. Access Rights with respect to the Site are more fully described in the Lease and include, without limitation, vehicular and pedestrian access, and other rights to install electrical lines and communications cables.

(b) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet enabling remote monitoring of the Project.

4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project. The Provider shall, in accordance with Section 5(1) of the Lease, at its own cost, engage an engineer licensed and qualified in the state where the Project is located, to certify that any objects brought, installed or kept on the Premises will not exceed the maximum load per square foot of the building and/or roof of the building and taking into account snow loads and all other equipment located on the roof as required by local building code. Provider shall provide a copy of any structural engineering analysis to Host at Host's request.

(b) Termination of Development Activities by Provider. At any time during the Initial Period, Provider shall have the right to cease development of the Project and terminate this Agreement upon written notice to Host if:

(i) Provider determines that the Premises, as is, are insufficient to accommodate the Project; or

(ii) there exist site conditions or construction or interconnection requirements that were not known as of the effective date of this Agreement and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the Project as designed;

(iii) there has been a material adverse change in the rights of Host to occupy the Premises or Provider to construct the Project on the Premises;

(iv) an interconnection agreement with the Local Electric Utility, in form and substance satisfactory to Provider, is not executed by Provider and the Local Electric Utility within two hundred seventy (270) days after the date of this Agreement, provided Provider shall not have caused any delay in seeking this agreement;

(v) Provider has not obtained financing within twelve months after the date of this Agreement to construct, install, own and operate and maintain the Project despite Provider's best efforts;

(vi) the Project does not qualify under the Applicable Solar Program;

(vii) despite its diligent efforts, Provider does not obtain all permits and approvals, on terms and conditions satisfactory to Provider, which are necessary for the construction, operation and maintenance of the Project; or

(viii) the Project is not exempt from personal property tax pursuant to M.G.L. c.59, § 5, cl. 45 (Acts of 2021, Chapter 8, §61, as amended and the Massachusetts Department of Revenue regulations adopted in connection therewith) and a Payment In Lieu of Taxes Agreement with the municipality where the Project is located is not executed and approved by the municipality to establish fixed payments in the amount(s) set forth on Exhibit A-1.

If Provider gives Host notice of such termination, this Agreement shall terminate effective as of the date specified in delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to its pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. Provider shall conduct a construction kick off meeting with Host. Upon prior notice to Host, Provider shall have the right to commence installing the Project on the Premises in accordance with the agreed-upon schedule as determined during the construction kick off meeting.

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

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes shall not result

in the Project exceeding the nameplate capacity, building footprint (if project is on the roof), location and height set forth in Exhibits D and E, without Host's approval.

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

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

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

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and the requirements of the interconnection agreement, and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular, and all instructions of any original equipment manufacturers' warranties

for equipment included in the Project. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site. In the event of an emergency or unplanned outage, Provider shall have unimpeded access to the Project, subject to any site-specific security requirements of Host.

(h) Provider Project Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project Provider shall give Host notice of such shutdown soon as reasonably practicable. At other times, Provider shall give Host advance notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown unless the performance guarantee in Section 5(b) is not met. Provider and Host will agree upon a reasonable shut down duration. Provider shall use reasonable efforts not to schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

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

Subject to any applicable requirements of the Local Electric Utility:

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

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

(iii) Testing and Correction.

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

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

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

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

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

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

B. Host's Right to Witness Tests. Host shall have the right to witness each test or any calibration of meters or monitoring equipment conducted by or under the supervision of Provider to verify the accuracy of the measurements and recordings of the meter or the monitoring equipment. Provider shall provide at least five (5) Business Days prior written notice to Host of the date upon which any such test or calibration is to occur. Provider shall prepare a written report setting forth the results of each such test, and shall provide Host with copies of such written report and the underlying supporting documentation not later than thirty (30) days after completion of such test. Host shall have the right to access all meters at reasonable times and with reasonable prior notice for the purpose of verifying readings and calibrations, but Host shall not have the right to open or undertake any other physical actions on the meters and access rights shall be subject to any requirements or limitations of the Local Electric Utility. If the metering equipment

is found to be inaccurate, it shall be corrected and past readings shall be promptly adjusted in accordance with Section 4(i)(A)(5).

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

5. SALE OF ELECTRIC ENERGY.

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

(b) Performance Guarantee. Beginning on the Commercial Operation Date and as of each anniversary thereof, if the Project produces less than eighty-five percent (85%) of the applicable Estimated Annual Production specified in Exhibit F, unless, and then only to the extent that, the failure to meet the Estimated Annual Production is due to (i) failure, damage or downtime attributable to third parties or Host, (ii) equipment failure or delayed repair of equipment due to the claims process with the equipment manufacturer which are beyond the reasonable control of Provider, (iii) a Force Majeure Event, (iv) variability of the weather from Provider's yearly forecasted weather calculations based on data from the National Oceanic and Atmospheric Administration (v) acts or omissions of Host of any of its obligations hereunder, (vi) any Host Requested Shutdown, Provider Safety Shutdown or Project Relocation under Section 10(a), (b), or (c); or (vi) any reduction in output attributable to interference with solar access of the Project by adjoining landowners; in its next invoice Provider shall credit Host an amount equal to the product of (i) the positive difference, if any, of the Avoided Energy Price during such period minus the applicable kWh Rate specified in Exhibit A, multiplied by (ii) the difference between the actual Project Output during such 12-month period and eighty-five percent (85%) of the Estimated Annual Production for such period. Such credit shall be Host's sole and exclusive remedy for Provider's failure to meet the Estimated Annual Production for such period.

6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto. The rate during any Extension Term shall be mutually agreed upon by Host and Provider.

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

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

To Host: City of Lowell
 375 Merrimack St
 Lowell, MA 01852-1205
 Attention: City Manager
 Email: manager@lowellma.gov

(d) Payment. Subject to the subparagraph (e) below regarding disputed invoices, Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by check or electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

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

7. SUPPLEMENTAL POWER

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

(b) Interconnection and Interconnection Fees. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering". Host shall be responsible for maintaining the interconnection of the Site with the Local Electric Utility through to the Host's side of the Point of Delivery. Provider shall be responsible for maintaining the interconnection of the Project to the Provider's side of the Point of Delivery with the Local Electric Utility. Host shall enter into any retail agreement required by the Local Electric Utility pursuant to its tariffs. Provider shall be responsible for all costs, fees, charges and obligations required to connect the Project to the Local Electric Utility distribution system, including but not limited to fees associated with system upgrades and operation and maintenance carrying charges ("Interconnection Obligations"), however, if system upgrades in addition to any upgrades contemplated and budgeted for as of Effective Date are required, Provider shall be entitled to adjust the Energy Purchase Prices in Exhibit A to compensate Provider for such increased costs, and if the Parties are unable to agree on such adjustments, Provider may exercise its right to terminate under Section 4(b).

(c) Production Excess. Provider shall, with the cooperation of Host, work to qualify the Project for the highest available compensation for any solar production which is not used at the time of generation and is transmitted to the Local Electric Utility (the "**Production Excess**"). The Parties will work cooperatively and in good faith to meet all requirements regarding such Production Excess under Applicable Law, the Applicable Solar Program, and Local Electric Utility tariffs, including applicable interconnection and metering requirements (e.g., Massachusetts tariff Schedule Z). In the event that the Project produces Production Excess, then the Parties agree that (a) Host shall be entitled to the associated compensation and/or bill credits (including but not limited to Net Metering Credits, Alternative On-Bill Credits, or Qualifying Facility compensation), and (b) Provider shall transmit such Production Excess into the Local Electric Utility system on behalf of and for the account of Host.

(d) Applicable Solar Program Incentives. Provider shall receive all payments available under any Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this Section 7(d) is limited to any payments actually received by Host.

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

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

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

(h) Neither Party is A Utility. Neither Party is, and neither Party shall assert that the other Party is, (i) an electric utility or public service company or similar entity that has a duty to provide service, (ii) subject to electric rate regulation, or (iii) otherwise subject to regulation by any governmental authority as a result of its obligations or performance under this Agreement.

(i) Project Alterations. Host agrees to negotiate in good faith with respect to any alterations to the Project proposed by the Provider that may increase payments available under the Applicable Solar Program, Tax Attributes, Environmental Attributes, or increased capacity or ancillary services. Proposed alterations may include, but are not limited to, the addition of an energy storage system to the Project. Upon mutual agreement, this Agreement and the Lease shall be amended to include any agreed upon Project alteration.

8. OWNERSHIP OF PROJECT; SERVICE CONTRACT.

(a) Ownership of Project. As between the Parties, Provider shall retain title to (i) the Project and the Environmental Attributes produced or associated with the Project or the energy produced by the Project, and (ii) all compensation associated with such Environmental Attributes under the Applicable Solar Program or under any other successor program.

(b) Service Contract. Since this Agreement provides for the sale of electric energy from the Project which is an alternative energy facility under Section 7701(e)(3)(D) of the Internal Revenue Code of 1986 as amended, this Agreement is a service contract within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986, as amended.

9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.

(a) Early Purchase Option. On the seventh (7th), tenth (10th), and fifteenth (15th) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the applicable value identified in Exhibit B or (ii) the Fair Market Value of the Project as determined by mutual agreement of Host and Provider as of such anniversary date; provided, however, if Host and Provider cannot agree to a Fair Market Value within twenty (20) days after Host has exercised its option, the Parties shall select and share equally the costs of a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project, provided that Host may, in its discretion, rescind its exercise of the option to purchase by written notice to Provider received no later than the fifth (5th) Business Day following receipt of such appraisal. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and, unless it has rescinded the exercise of the option as aforesaid, on or before such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider.

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

discretion, rescind its exercise of the option to purchase by written notice to Provider received no later than the fifth (5th) Business Day following receipt of such appraisal.

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

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

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

(f) Removal of Project at Expiration. Provider shall decommission the Project in accordance with Section 9 of the Lease or Easement.

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

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days or a predetermined date mutually agreed upon by both the Host and Provider, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure or Allowed Disruption Time as defined below, nor where the maintenance activities were made necessary by a Provider Event of Default), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown. Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on reasonably estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, or based on reasonable data offered by Provider if the Project was offline for any reason during such previous Operations Year.

Notwithstanding the foregoing, the Parties agree that after year six (6) (but not during years one (1) through six (6)) of the Operations Period of the Agreement, Host shall be afforded a total of fifteen (15) days which may be used consecutively or in periods of at least twenty-four hours each (“Allowed Disruption Time”) during which the Host may request that the Project be shut down if, and only if, Host is performing maintenance or repairs to the Premises which require the Project to be offline. Host shall not be obligated to make payments to Provider for electricity not received during the Allowed Disruption Time; nor shall Host be required to reimburse Provider for any other lost revenue during the Allowed Disruption Time, including any lost revenue associated with any reduced sales of Environmental Attributes and Tax Attributes.

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

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

(d) Premises Shutdown; Interconnection Deactivated. In the event the facilities where the Premises are located are closed or the interconnection becomes deactivated, Host shall not be excused for the period of closure or deactivation from paying Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery unless such closure or deactivation is caused by (i) a Force Majeure Event or (ii) any unexcused action or inaction of Provider or persons for whom Provider is responsible.

(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, except as otherwise provided in this subsection (e), Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing at the time of the transfer, and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host shall be released from further obligations under this Agreement. For avoidance of doubt, if Host is a municipality or governmental entity, the sale, lease or transfer of all or a portion of Host's interest in the Site to a transferee that is a municipality or governmental entity with a credit rating assigned by Moody's Investor Service at least equal to or better than Host's shall be deemed an acceptable transferee, provided the other requirements set forth in this Section 10(e) are satisfied.

11. TAXES.

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

(b) Sales Taxes. Host shall provide Provider with any certificates or other documents required or appropriate to evidence Host's exemption from any applicable taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it by any Governmental Authority. To the extent Provider pays such amounts, Provider shall notify Host in writing with a detailed statement of such amounts, which shall be invoiced by Provider and Host shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. If project will produce not more than 125% of the annual load of the Property Provider will apply to the City of Lowell for exemption of the Project from personal property tax pursuant to M.G.L. c.59, § 5, cl. 45, and will employ commercially reasonable efforts to secure such exemption. If the project will produce more than 125% of the annual load of the Property or if the exemption is not granted, Provider will seek to enter into a Payment In Lieu of Taxes (PILOT) Agreement with the City of Lowell to establish fixed payments in lieu of personal property tax. Upon execution of a PILOT Agreement, if the PILOT amounts differ from the Assumptions Around Pricing Elements as set forth in Exhibit A, Provider will prepare and the

Parties shall execute an amendment to this Agreement , in accordance with the provisions of Exhibit A, to reflect the new rate effective as of the date the PILOT payments begin.

If Provider is assessed any real property taxes related to the existence of the Project on the Premises or if Provider is unable to obtain exemption of the Project from personal property tax and is not able to enter into a PILOT Agreement with the City of Lowell, then Host acknowledges and agrees that Provider shall have the right once per year to invoice Host for the exact amount of the such property taxes. Such invoice shall include documentation demonstrating the tax liability from the taxing authority for the current tax year and proof of payment from Provider to the taxing authority. Such invoice shall be submitted to the Host separately from any monthly invoice for solar energy generation.

If Provider seeks to obtain exemption of the Project from personal property tax, and/or seeks to enter into a PILOT Agreement with the City of Lowell, and is ultimately unsuccessful, within thirty (30) days of such determination being made Provider will inform Host of such determination and, (1) if Host or the owner of the Site is a municipality, Host will provide Provider, or (2) if Host or the owner of the Site is not a municipality, Provider will provide Host with a good faith estimate of the annual amount of the expected personal property taxes.

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

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

12. INSURANCE.

(a) Coverage. Provider shall maintain the insurance coverage set forth in Exhibit G in full force and effect throughout the Term. Provider shall also provide any additional insurance which may be required from time to time by the Local Electric Utility or any legal or regulatory authority affecting the Premises or operation of the Project. If Host has established and maintains a program of self-insurance, Host shall maintain self-insurance for the coverages and in the amounts set forth on Exhibit G. Notwithstanding any term in this Agreement to the contrary, Host has informed Provider that it is a political subdivision of the Commonwealth and is prohibited from insuring Commonwealth property or equipment absent specific legislative authorization, pursuant to M.G.L. c. 29, § 30. Host also represents to Provider that the Commonwealth does not purchase separate personal and property liability insurance, but properly presented and finalized claims for damages are paid in accordance with M.G.L. c. 258, the Massachusetts Tort Claims Act, subject to appropriation and available funds in the Liability Management Reduction Fund created under M.G. L. c.7A, § 16.

(b) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party agrees to give the other Party written notice before the insurance is cancelled or materially altered.

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

(d) Insurance Providers. All insurance maintained hereunder shall be maintained with companies approved to do business in Massachusetts, and rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated), provided such requirement shall not apply if a Party maintains an active self-insurance program and provides required insurance pursuant to such self-insurance program.

13. COOPERATION.

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

14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. Provider and Host's Executive Team (City Manager, Assistant City Manager, and Department Heads) shall coordinate and cooperate with each other when making public announcements related to the execution and existence of the Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, the Agreement. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Host agrees that Provider may, at its sole discretion, take photographs of the installation process of the Project and/or the completed Project, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Host permission and the installation site shall not be disclosed beyond the type of establishment (such as "Retail Store," "Distribution Center," or such other general terms), the city and state. Only Provider has the exclusive right to claim that (i) they are the Party responsible for the electric energy provided to Host and generated by the Project, (ii) Provider is responsible for the reductions in emissions of

pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 14.

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

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena or required filing to disclose any Confidential Information provided by the disclosing Party, the receiving Party may make disclosure as required by law, but the receiving Party shall prior to making any disclosure, if lawfully permitted to do so, notify the disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party, in any efforts by the disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed. If Host is a public entity subject to the requirements of M.G.L. c. 66, § 10 (“MA Public Records Law”) the provisions of the MA Public Records Law will govern Host’s obligations under Section 14(b) and this Section 14(c), including Provider’s right to raise applicability of the exemptions included in the MA Public Records Law. In the event that Host receives a Publics Records Request seeking purportedly confidential information, Host shall promptly notify Provider so that Provider may choose, at it’s own expense, to challenge or litigate the request. Host shall otherwise perform the functions required by law. Notwithstanding any term herein to the contrary, the failure to notify the disclosing Party pursuant to this Section 14(c) shall not be deemed an Event of Default.

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

15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend and hold harmless Host and its directors, officers, employees, agents, volunteers, and invitees (“Host’s Indemnified Parties”), from and against all Losses, totaling less than or equal to \$100,000, incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any third party claim for injury to or death of any Person or loss or damage to property to the extent caused by Provider’s or Provider’s Indemnified Parties (defined below) negligence or willful misconduct; (ii)) third party claims for penalties or fines arising from a Provider’s or Provider’s Indemnified Parties violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility or Applicable Law; or (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider’s employees, agents, volunteers, and invitees and released as a result of the negligence of Provider or Installer or any of Provider’s or Installer’s employees, agents, volunteers, and invitees. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host’s side of the Point of Delivery except to the extent caused by incidents on Provider’s side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. To the extent permitted by law, Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party (“**Provider’s Indemnified Parties**”), harmless from and against all Losses, totaling less than or equal to \$100,000, incurred by the Provider’s Indemnified Parties to the extent arising from or out of (i) any third-party claim for injury to or death of any Person or loss or damage to property to the extent caused by the negligence or willful misconduct of any of Host’s Indemnified Parties; (ii) Host’s violation of Applicable Law; or (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider’s Indemnified Parties and improperly stored, disposed of or negligently released by Provider or Installer). Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

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

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

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

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

16. REPRESENTATIONS AND WARRANTIES.

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

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

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; (3) any law or regulation.

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

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

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

(i) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If, during the Development Period, Provider deems such records inadequate for its intended purposes hereunder, it shall so notify Host in writing before commencing installation of the Project, in which event the Host shall reasonably cooperate in Provider's efforts to procure such information as Provider may reasonably require regarding the condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project are to be installed, are materially different from the information presented by Host and from conditions reasonably visible to Provider during site visits prior to entering this Agreement, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays actually incurred by Provider in order to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

(ii) Title to Premises. Host is the fee owner of and has good and valid title to [has a valid and enforceable leasehold interest in] the Premises and to Host's knowledge there are no mortgagees, lienholders or other third party claimants to the Premises. There are no encumbrances on the Premises that would interfere with or prevent the development, construction, operation or maintenance of the Project or any portion thereof.

(iii) Host Organization. Host is a City organized and existing under the laws of the Commonwealth of Massachusetts.

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

(i) Interconnection Agreement and Permits. Provider shall use commercially reasonable efforts to obtain an executed interconnection agreement and all permits for the Project in a timely and efficient manner.

17. FORCE MAJEURE; CASUALTY.

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of

this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Excepting a Force Majeure Event which impacts business or banking transactions nationally or globally, in which case such obligations shall be suspended but not excused, obligations to make payments for services provided prior to the Force Majeure Event shall not be excused by a Force Majeure Event.

(c) Casualty; Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate without penalty to either Party. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate without penalty to either Party. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

If any damage to the Project is caused by the negligence or willful misconduct of Host or Host's employees, agents, or invitees, Provider shall send written notice to Host specifying (i) the reasonable and documented expenses for repair and replacement of the Project, and (ii) documented lost revenue for sales of electricity and solar incentives (including, but not limited to, Applicable Solar Program, Tax Attributes, Environmental Attributes) that would have been received based on the estimated energy production of the Project. Host shall have thirty (30) days from the receipt of such notice to review the information contained within such notice. Any undisputed amounts shall be due and payable within thirty (30) days after Provider's notice. If Host disagrees with any information contained in such notice, Host shall provide written notice to Provider within the Host's thirty (30) day review period. In the event of a dispute, Host and Provider shall use good faith to resolve such dispute and agree upon a reimbursement amount. Once Host and Provider have agreed upon the reimbursement amount, Host shall pay such agreed amount within thirty (30) days after agreement and in the event there is no dispute, then within thirty (30) days after receipt of the notice.

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

18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will submit to Host and PowerOptions within 60 days a written notice setting forth, in reasonable detail, the following: (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future prices such that the new prices compensate Provider for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the prices set forth in Exhibit A for the Term of this Agreement.

19. PROVIDER DEFAULT AND HOST REMEDIES.

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

(i) Misrepresentation. Any representation or warranty by Provider under Section 16, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within thirty (30) days after receipt of written notice from Host identifying the defect.

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

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events), and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project for a period of ninety (90) consecutive days, provided, however, that such thirty (30) day cure period shall be extended by the number of calendar days during which Provider is prevented, through no fault of its own, from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

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

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law and such petition is not dismissed within 90 days; or (G) takes any action authorizing its dissolution.

(vi) Provider has an Event of Default which results in termination under the Lease.

(b) Financing Party Opportunity to Cure; Host Remedies. Subject to the right of the Financing Party to cure a Provider Event of Default, as set forth in Section 21, upon a Provider Event of Default, if Provider or Financing Party does not cure such Provider Event of Default in accordance with the terms hereof, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue any and all other remedies available at law or equity.

20. HOST DEFAULT AND PROVIDER REMEDIES.

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

(i) Misrepresentation. Any representation or warranty by Host under Section 16, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within 30 calendar days after receipt of written notice from Provider identifying the defect.

(ii) Obstruction. Host (i) obstructs commencement of installation of the Project; (ii) fails to take any reasonable actions required by this Agreement or requested by Provider or necessary for the interconnection of the Project; or (iii) fails to take electric energy produced by the Project; and, in any of these circumstances, fails to correct such action or inaction, as the case may be, within fifteen (15) Business Days after receipt of written notice from Provider with respect to such act or omission.

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

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

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

(vi) Host has an Event of Default which results in termination under the Lease.

(b) Default Damages. Upon a Host Event of Default, Provider may require Host to pay to Provider the Early Termination Amount, whereupon this Agreement shall terminate immediately. Alternatively, Provider may elect to sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales; and/or pursue other remedies available at law or in equity. If necessary to sell electricity to persons other than Host, Host shall allow Provider to add a new meter dedicated to the solar Project, change the point of interconnection, and/or will support Provider with necessary approvals to change the Schedule Z. After Provider's receipt of such Early Termination Amount

pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

(c) Survival of Lease, Access Rights and Easement. Upon a Host Event of Default, unless Host pays the Early Termination Amount to Provider in full thus terminating this PPA, Provider may, in its exercise of remedies pursuant to Section 20(b), make continued use of, and Host may not terminate the Lease. Provider shall not be obligated to pay any rent or other consideration for the use of such rights or interests.

21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

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

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

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

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

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

succeeded to Provider's interests under this Agreement or has otherwise assumed Provider's obligations) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

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

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

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party a copy of Host's prior written notice to Provider of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within sixty (60) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and diligently and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional sixty (60) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the applicable time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect. If the Financing Party notified Host in writing within such sixty (60) day period that it must foreclose on Provider's Interest or otherwise take possession of Provider's interest under this Agreement in order to cure the default (the "**Foreclosure**

Notice”), the Host shall not terminate this Agreement and shall permit the Financing Party a reasonable period of time, which shall be outlined in the Foreclosure Notice, as may be necessary for such Financing Party, with the exercise of due diligence, to foreclose or acquire Provider’s interest under this Agreement and to perform or cause to be performed all of the covenants and agreements of Provider under this Agreement and the Lease.

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

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

22. LIMITATIONS ON DAMAGES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR THE LEASE, AND EXCEPT AS PROVIDED IN THIS AGREEMENT IN SECTIONS 10, 19(B) AND 20(B), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. FOR GREATER CLARITY, IT IS AGREED BY THE PARTIES THAT THE EARLY TERMINATION PAYMENT AND ANY PAYMENT BY HOST SPECIFICALLY ADDRESSED HEREIN, INCLUDING WITHOUT LIMITATION, UNDER SECTION 10, ARE CONSIDERED DIRECT DAMAGES. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER DAMAGES ARE HEREBY WAIVED.

Notwithstanding anything to the contrary, Provider’s total combined liability to Host under this Agreement and the Lease (whether due to breach of contract, negligence, strict liability or any other cause) shall not exceed, for all claims, a total amount of Provider’s commercial general liability policy limit (combined single limit); provided that claims by Host for indemnity related to third-party claims as provided under Section 15(a) shall not be subject to such limit.

23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a “**Dispute**”) within 30 days after the date that a Party gives written notice of such Dispute to the other Party, except that a Party may seek injunctive relief to prevent irreparable harm without first proceeding or completing any dispute resolution proceedings.

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

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

24. NOTICES.

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

If to Host:

City of Lowell
375 Merrimack St
Lowell, MA 01852-1205
Attention: City Manager
Email: manager@lowellma.gov

If to Provider:

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

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

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

25. MISCELLANEOUS.

(a) Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of law, and including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

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

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

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

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

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

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

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

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

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

(rest of page left blank intentionally – signatures appear on next page)

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

APPROVED

Solect Energy Development, LLC
a Massachusetts limited liability company

Thomas A. Golden, Jr.,
City Manager

By: _____
Signature

Name and Title

APPROVED AS TO FORM:

Federal I.D. or Social Security No.

Corey F. Williams
City Solicitor

CITY OF LOWELL

(name)
[DEPARTMENT HEAD]

Kelly Oakes
City Auditor

DATE: _____

P. Michael Vaugh
Chief Procurement Officer

GLOSSARY OF TERMS

“Access Rights” means the rights more fully described in the Lease for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

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

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

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

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

“Avoided Energy Price” means the rate, expressed in \$/kWh, set forth in Exhibit A for purposes of calculating any credits owed to Host pursuant to Section 5(b). The Year 1 Avoided Energy Price shall be the average applicable tariff rate per kWh, at the time of execution of the Power Purchase Agreement, that Host would have paid for full requirements delivered electric service (which shall include energy-related charges such as delivery, service, distribution, or taxes, but excluding demand and other related charges) from its Local Electric Utility, with a 3% annual escalation rate applied to each subsequent Guarantee Year.

“Business Day” means a day other than Saturday, Sunday, or other day on which commercial banks in Massachusetts are authorized or required by law to be closed.

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

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

“Commercial Operation Date” means the date, which shall be specified by Provider to Host pursuant to Section 4(d), when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

“Confidential Information” means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, Project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party; or, if applicable (v) is the subject of a lawful disclosure request under the Public Records Law, M.G.L. c.66, §10 or any other applicable public disclosure laws governing Host.

“Construction Start Date” means sixty (60) days after receipt of (i) executed interconnection agreement for the Project and (ii) all permits, which shall be extended day-by-day for Force Majeure Events.

“Delay Liquidated Damages” means the daily payment of (i) \$0.250/day/kW, not to exceed \$15/kW in the aggregate, if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date in accordance with and subject to Section 2(e).

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

“Early Termination Amount” (a) for terminations occurring after the first to occur of transfer of the Project to a Financing Party or the Commercial Operation Date, means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes, provided however, (b) in the event Host becomes liable for payment of the Early Termination Amount prior to the first to occur of the events listed in (a), Host shall instead pay to Provider a termination payment equal to the sum of the following, not to exceed the Early Termination Amount for Year 1 set forth in Exhibit B: (1) all fees, costs and expenses reasonably incurred which are either paid by Provider, or which Provider is obligated to pay and does pay, to third parties for permits, interconnection application fees and studies,

SMART incentives and other Governmental Authority and Utility approvals; and (2) all fees, costs and expenses reasonably incurred which are either paid by Provider, or which Provider is obligated to pay and does pay, to subcontractors and suppliers as of the termination date for design, engineering and procurement of equipment and other materials included in the Project, including any battery energy storage system and including the expenses and cancellation charges reasonably incurred and paid by Provider in termination of contracts and purchase orders pertaining to the System and the Installation Work; and (3) charges for Provider's internal engineering manpower and materials reasonably expended developing the Project up to the termination date based on Provider's labor rate sheet attached hereto as Exhibit H, which may be reasonably adjusted for inflation (in writing) on an annual basis, and, in the case of the costs described in sub-clauses (1) and (2) only, plus an amount equal to eighteen percent (18%) of such costs.

"Effective Date" shall have the meaning assigned to such term in the recitals.

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

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

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

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

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

"Financing Party" means a Project Lessor or Lender.

"Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the

reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, declared state of emergency or public health emergency, pandemic, government mandated quarantine or travel ban, epidemic, terrorist acts, or rebellion; (iv) acts or omissions of Governmental Authorities, including the Local Electric Utility to the extent not caused by the action or inaction of Provider; and (v) strikes or labor disputes (except involving employees of the affected Party). Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

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

“Guaranteed Commercial Operation Date” means 270 days from the Construction Start Date, which shall be extended day-by-day for Force Majeure Events and for other events outside of Provider’s reasonable control.

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

“Host” means the entity identified as Host in the recitals, and all successors and assigns.

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

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

“Initial Period” has the meaning provided in Section 2.

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

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

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

“Lease” has the meaning provided in the Recitals hereof.

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

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

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

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

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

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

“Operations Period” has the meaning provided in Section 2.

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

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

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

“Premises” means the portions of the Site described on Exhibit D.

“Production Excess” has the meaning set forth in Section 7(b)(i).

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

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

“Provider” means Solect Energy Development LLC.

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

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

“SMART Incentive Payment Effective Date” means the date on which the SMART incentive payment becomes effective as determined by the Local Electric Utility.

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

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

“Term” shall have the meaning provided in Section 2 hereof.

EXHIBIT A

ENERGY PURCHASE PRICES

The PPA \$/kWh rates set forth in this Exhibit A are dependent on Provider’s good faith assumptions around the Pricing Elements set forth below, and are in accordance with the rules of the PowerOptions Solar and Storage Program. The actual SMART Incentive Payment Rate will be established upon receipt of the SMART Statement of Qualification from Massachusetts Department of Energy Resources. Upon receipt of the Statement of Qualifications, Provider shall forward a copy to Host.

SMART Incentive Block	10
PPA Rate (\$/kWh)	\$0.1075

Assumptions around Pricing Elements:

- Additional utility interconnection costs. Prices shown include budgeted interconnection costs and exclude costs (if any) for utility engineering studies or system upgrades.
- Project is exempt from personal property tax
- Prices shown do not include costs required to comply with additional site work, stormwater management infrastructure, environmental compliance or remediation, or Orders of Conditions, as required by local AHJ (i.e. Planning Board, Conservation Commissions).
- Federal investment tax credit amount will reflect the calendar year in which installation begins.
- Steel pricing for ground mounted or canopy structures. A change in price shall be considered material when the price of the applicable steel product or products changes by 5% percent or more between the Effective Date and the Construction Commencement Date based on the benchmark prices published by CME group U.S. Midwest Hot-Rolled Coil Index (CRU), <https://www.cmegroup.com/markets/metals/ferrous/hrc-steel.contractSpecs.html> or such other steel index as is agreed with PowerOptions.

-

Variations:

Should the actual values of the Pricing Elements materially differ from the assumed values, Provider will prepare a Final PPA Rate in accordance with the rules of the PowerOptions Solar plus Storage program. Such Final PPA Rate will be provided to Host no later than 20 days prior to the Construction Start Date, and shall automatically take effect provided such Final PPA Rate does not exceed a Maximum PPA Rate of: \$0.1570 unless the parties have reached agreement on

a Final PPA Rate that exceeds the Maximum PPA Rate as determined pursuant to the process described below.

If, upon receipt of all documentation necessary to establish a Final PPA Rate, the Provider determines that the Final PPA Rate exceeds the Maximum PPA Rate, the parties will cooperate in good faith to negotiate a PPA Rate acceptable to both parties. If, after fifteen (15) days, the Parties are not able to agree on an acceptable PPA Rate, Provider may, in its sole discretion, elect to (i) continue performance under this Agreement with the PPA Rate equal to the Maximum PPA Rate, or (ii) terminate this Agreement upon ten (10) days' written notice to Host. Upon a termination hereunder, Host shall reimburse Provider for Provider's direct costs incurred in performing under this Agreement between the Effective Date and the date of such termination.

AVOIDED ENERGY PRICE

The following table sets forth the "Avoided Energy Price" for purposes of calculating the amount on any credit due to the Host under the Performance Guarantee in Section 5(b), with a 2% annual escalation rate.

Guarnatee Year	Avoided Energy Price (\$/kWh)
1	\$0.1848
2	\$0.1894
3	\$0.1941
4	\$0.1990
5	\$0.2039
6	\$0.2090
7	\$0.2143
8	\$0.2196
9	\$0.2251
10	\$0.2307
11	\$0.2365
12	\$0.2424
13	\$0.2485
14	\$0.2547
15	\$0.2611
16	\$0.2676
17	\$0.2743
18	\$0.2811
19	\$0.2882
20	\$0.2954

EXHIBIT A-1
PILOT AMOUNTS

N/A

EXHIBIT B

Early Termination Amounts are calculated to achieve the same net present value for the investor as if early termination had not happened and the project went to full term.

Subject to final PPA Prices in Exhibit A
EARLY TERMINATION AMOUNTS

Year	Early Termination Amount	Early Purchase
1	\$ 1,435,540	N/A
2	\$ 1,330,428	N/A
3	\$ 1,225,528	N/A
4	\$ 1,178,935	N/A
5	\$ 1,070,141	N/A
6	\$ 959,225	N/A
7	\$ 846,059	\$ 688,834
8	\$ 790,707	N/A
9	\$ 753,039	N/A
10	\$ 714,598	\$ 542,794
11	\$ 674,451	N/A
12	\$ 634,399	N/A
13	\$ 592,545	N/A
14	\$ 548,781	N/A
15	\$ 502,994	\$ 303,826
16	\$ 455,062	N/A
17	\$ 402,954	N/A
18	\$ 348,324	N/A
19	\$ 291,022	N/A
20	\$ 230,890	N/A

EXHIBIT C

DESCRIPTION OF SITE

**Property Address: 50 Father Morissette Boulevard
& 75 Arcand Drive, Lowell, MA 01852**

Two parcels of land, together with the buildings and improvements thereon, located at (1) 50 Father Morissette Boulevard, Lowell, Massachusetts and known as the Lowell High School Freshman Academy, described in that certain quitclaim Deed from the City Development Authority to the City of Lowell dated June 29, 1978 and recorded with the Middlesex North Registry of Deeds on July 10, 1978 in Book 2313, Page 190, and (2) 75 Arcand Drive, Lowell, Massachusetts and known as the Lowell High School Gymnasium, described in that certain Order of Taking by the City of Lowell dated November 7, 2018 and recorded with said Registry on November 13, 2018 in Book 32559, Page 1; copies of each such instrument of which are attached hereto and incorporated herein.

[Remainder of page intentionally left blank]

BK2313

BK2313 PG 190

DEED

City Development Authority, a public body, politic and corporate, duly organized and existing pursuant to Massachusetts General Laws, Chapter 610 of the Acts of 1967, having an usual place of business in Lowell, Middlesex County, Massachusetts (the Grantor) in consideration of One Dollar (\$1.00) paid grant unto the CITY OF LOWELL, a municipal corporation duly established by law and having its usual place of business ^{At City Hall} in Lowell, Middlesex County, Massachusetts (the Grantee) with QUITCLAIM COVENANTS, the following parcel of land:

A certain parcel of land situated in Lowell, Easterly side of Arcand Drive and the Southerly side of a new street containing 143,129 square feet, more or less, and being shown as Lot 7C on a plan entitled "Compiled Disposition Map of Lot 7C in Lowell, Massachusetts, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"=100', dated November 29, 1968, Dana F. Perkins & Sons, Inc. Civil Engineers & Surveyors Lowell and Reading, Massachusetts", which plan is to be recorded herewith and thus bounded and described:

Beginning at a point at Arcand Drive and Lot 7A as shown on said plan

Thence N 17° 07' 25" E 129.03 to a point

Thence along a curved line at a radius of 44.00 feet and a length of 69.12 feet to a point on French Street Extension

Thence S 72° 52' 35" E 313.32 feet to a point

Thence along a curved line with a radius of 1260.00 feet and a length of 194.85 to land of the City of Lowell as shown on said plan

Thence S 64° 00' 58" E 27.47 feet to a point

Thence S 48° 24' 12" W 431.20 feet to a point

Thence N 41° 40' 42" W 414.61 feet to Arcand Drive the point of beginning

Subject to a right of way granted to the Boston and Maine Corporation dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot Utility Easement granted by the City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 84.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking, No. 12, dated May 31, 1968 and recorded with said Registry of Deeds Book 1845, Page 189 and Order of Taking No. 10, dated September 26, 1966 recorded in said Registry of Deeds, Book 1770, Page 158.

La. Pl. Bk. 126-142

The above described parcel is conveyed subject to the following:

A. Easements specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area, Project No. Mass. R-16 (hereinafter called the "Redevelopment Plan"), a copy of which is on file in the office of the City Clerk of the City of Lowell.

B. All restrictions, rights, easements and reservations which are excluded and excepted and specifically set forth in said abovementioned Order of Taking.

The grantee covenants and agrees for himself, his heirs and assigns, that the grantee and his heirs and assigns shall

- (i) devote the granted premises to, and only to and in accordance with the uses specified in the Redevelopment Plan, as hereafter amended and extended from time to time; and
- (ii) not discriminate upon the basis of race, color, religion, sex and national origin in the sale, lease, or rental or in the use or occupancy of the granted premises or any improvements erected or to be created thereon, or any part thereof.

The agreements and covenants provided in the preceding paragraph shall be covenants running with the land and they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided herein, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the grantor, its successors and assigns, the City of Lowell, and any successor in interest to the grantee of the granted premises or any part thereof, and the United States of America (in the case of the agreement and covenant provided in clause (ii) of the preceding paragraph) against the grantee, his heirs and assigns, to or of the granted premises or any part thereof or any interest therein, and any party in possession or occupancy of the granted premises or any part thereof, provided however, that the agreement and covenant provided in clause (i) of said preceding paragraph shall remain in effect until August 28, 1992 (at which time such agreement and covenant shall terminate) and those provided in clause (ii) shall remain in effect without limitations as to time; and provided, further, however, that such agreements and covenants shall be binding on the grantee, his heirs and assigns, and each party in possession or occupancy, respectively only for such period as they shall have title to or an interest in or possession or occupancy of the granted premises or part thereof. In amplification and not in restriction, of

BK2313

PG 192

the foregoing provisions, it is intended and agreed that the grantor, its successors and assigns, and the City of Lowell, shall each be deemed a beneficiary of the agreement and covenant provided in the preceding paragraph, and the United States of America shall be deemed a beneficiary of the agreement and covenant provided in clause (ii), both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the grantor, its successors and assigns, the City of Lowell, and the United States of America, for the entire period during which such agreements and covenants shall be in force and effect without regard to whether the grantor, its successors and assigns, or the City of Lowell or the United States of America has at any time been, remains, or is an owner of any land or interest therein, to, or in favor of, which such agreements and covenants relate. The grantor, its successors and assigns (or, in the case of its failure, refusal or dissolution, then the City of Lowell), shall have the right, in the event of any breach of any such agreement or covenant, and the United States of America shall have the right in the event of any breach of the agreement or covenant provided in clause (ii) of the preceding paragraph, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

This conveyance is to effect the purposes and intents of Chapter 353 of Act of 1976, of the General Laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, on the *29th* day of *JUNE, 1978*, at Lowell, Massachusetts, the parties hereto have caused this instrument to be signed, sealed, and delivered by its duly authorized officers or representatives respectively.

CITY DEVELOPMENT AUTHORITY

Arthur Calabrese
Chairman

[Signature]

James R. Loney

William D. [Signature]

George C. Elades, Jr.

(SEAL)
ATTEST
By [Signature]
Executive Administrator

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Lowell, June 29, 1978

Then personally appeared before me the abovementioned named,
Members of Authority, who executed the foregoing instrument on behalf
of the City Development Authority and acknowledged the same to be the
free act and deed of said Authority.

[Signature]
Notary Public

My commission expires: June 29, 1984

Rec July 10 1978 12:47PM #12345

6

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL



Bk: 32559 Pg: 1 Page: 1 of 5
Recorded: 11/13/2018 11:26 AM

In City Council

ORDER OF TAKING

To Take by Eminent Domain a certain parcel of land in the City of Lowell for Municipal Purposes; namely 75 Arcand Drive, Lowell, MA to serve as the site of the new High School, and other municipal purposes associated therewith.

The City of Lowell is desirous of constructing a new High School building and expanding their current downtown campus; and

The City Council of the City of Lowell, in order to accomplish the construction of the new Lowell High School building, has the right to exercise its power of eminent domain to acquire thereby a certain property; and

The property located at 75 Arcand Drive has been identified as a necessary part of what will be the new, expanded downtown campus.

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF LOWELL as follows:

1. That the City of Lowell, by right of eminent domain, pursuant to the applicable provisions of Massachusetts General Laws, Chapter 79 and of any and every other power granted or implied, hereby takes 75 Arcand Drive by eminent domain for the municipal purpose of constructing a new High School and expanding its current downtown campus. The taking of 75 Arcand Drive by eminent domain is for fee simple interest and includes any buildings, vegetation and improvements thereon.

The taking by eminent domain is subject to any utility easements to Lowell Gas Company, Mass. Electric Co. or New England Telephone, or the successors of such entities and any other utility easements as may be recorded at Middlesex North District Registry of Deeds, which easements are specifically excluded from this Order of Taking.

The taking of 75 Arcand Drive, consists of one separate parcel identified as Lot "7A" containing approximately 62,293 ± sq. ft., as shown on the plan entitled "Disposition Map of

Lots 7A and 7B, Northern Canal Renewal Area, Project No. Mass R-16, Scale 1"=100', Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass.", which plan shall be recorded with this Order of Taking at Middlesex North District Registry of Deeds, and a copy is attached hereto as Attachment "A". The Plan is incorporated by reference and made a part of this Order. Further, a property description of 75 Arcand Drive is attached hereto as Attachment "B". The Description is incorporated by reference and made a part of this Order. A copy of deed is recorded in Book 2736 Page 152.

2. IT IS FURTHER ORDERED that as compensation to the owners for all damages arising from the Taking of 75 Arcand Drive, (inclusive of building, vegetation and improvements) the following sum is awarded for damages incurred by reason of the taking of a fee simple interest in 75 Arcand Drive, reserving the right to amend the award at any time prior to the payment by reason of a change of ownership or for other good cause shown:

Parcels taken and shown on Attachment "A" and "B" are identified as specified below:

TOTAL SQUARE FOOTAGE	PROPERTY ADDRESSES	OWNER'S NAME	MONETARY AWARD
62,293 sq. ft±	75 Arcand Drive Lot "7A"	Trs. Lowell Doctors Park Trust Book 2736 Page 146.	\$2,600,000.00
TOTAL			\$2,600,000.00

Marginal Reference: Bk. 2736, Pg 152

OTHER PARTIES IN INTEREST:

<u>Name & Address</u>	<u>Interest</u>
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 123	Mortgage (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852 Book 10907, Page 130	Assignment of Rents (\$650,000.00)
Enterprise Bank and Trust Company 222 Merrimack Street Lowell, MA 01852	Mortgage (\$150,000.00)

Book 20874, Page 24

Enterprise Bank and Trust Company
222 Merrimack Street
Lowell, MA 01852
Book 20874, Page 31

Assignment of Rents (\$150,000.00)

GRAND TOTAL SUM OF AWARD OF DAMAGES \$2,600,000.00

3. It is further Ordered that the amount of any unpaid encumbrances and/or taxes will be deducted by the City from any award and paid directly to the party entitled thereto.

4. IT IS FURTHER ORDERED that a copy of the Order, related Plan and Description, be recorded at the Middlesex North District Registry of Deeds, and the Land Registration Section, if applicable, in compliance with MGL Chapter 79.

5. IT IS FURTHER ORDERED that the total sum of TWO MILLION SIX HUNDRED THOUSAND (\$2,600,000.00) DOLLARS for the Taking of 75 Arcand Drive in fee simple interest, including the parcel of land, with the buildings thereon, as all damages caused in connection with the Taking, plus the cost of recordings and other incidental charges related thereto, be charged against the appropriations entitled:

"Account # 67160005-580800"

In City Council November 6, 2018, Read twice and adopted on roll call vote 7 yeas, 2 nays (C. Elliott, C. Mercier). So Voted./s/Michael Q. Geary, City Clerk

Approved by City Manager Eileen M. Donoghue November 7, 2018.

A true copy
ATTEST:


Michael Q. Geary
City Clerk

Orderofaking-75ArcandDr-LHS

A certain parcel of land in Lowell, Massachusetts, including any and all buildings, structures of any kind, parking lots, landscape features, lighting, utilities, and trees, within the bounds set forth, situated on the southeasterly side of Arcand Drive, northerly land now or formerly of the Lowell Masonic Assoc., containing 62,293 square feet, more or less, and being shown as LOT 7A on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and thus bounded and described:

Beginning at a point on the southeasterly side of a public way currently known and designated as Arcand Drive, formally known as New Street on a plan entitled, "Disposition Map of LOTS 7A & 7B, Northern Canal Renewal Area, Project No. Mass. R-16, Scale 1"-100' Mar. 31, 1967, Dana F. Perkins & Sons, Inc., Civil Engineers & Surveyors, Lowell, Mass. which plan is recorded in Middlesex North District Registry of Deeds, Plan Book 109, Plan 63A, and the westerly corner of land now or formerly of the Lowell Redevelopment Authority;

THENCE S 41 40' 42" E along land now or formerly of Lowell Redevelopment Authority; 414.61 feet to a point;

THENCE S 48 24' 12" W along land now or formerly of the City of Lowell, 209.74 feet to LOT 7B;

THENCE Westerly by three courses along LOT 7B; land now or formerly of Lowell Masonic - Assoc., and land now or formerly of Lowell Redevelopment Authority N 41 40' 42" W, 43.00 feet; 99.85 feet at a radius of 156.00 feet; N 41 40' 42" W, 189.80 feet to Arcand Drive;

THENCE N 17 07' 25" E along said Arcand Drive, 187.05 feet to the point of beginning.

Subject to a Right-of-Way granted by City Development Authority to the Boston and Maine Corporation, dated May 14, 1968, recorded in Middlesex North District Registry of Deeds, Book 1895, Page 607.

Subject also to a 33.00 foot utility easement granted by City Development Authority to the City of Lowell, dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 81.

Subject also to a 10.00 foot sewer easement granted by City Development Authority to the Lowell Masonic Association, Inc., dated August 29, 1969, recorded in said Registry of Deeds, Book 1898, Page 85.

Being a portion of the premises taken by eminent domain by the City Development Authority, by Order of Taking #12, dated May 31, 1968, and recorded-May 31, 1968, in said Registry of Deeds, Book 1845, Page 189.

The above described premises are conveyed subject to easement specified and shown as continuing or to be created or reserved in the Urban Renewal Plan for the Northern Canal Renewal Area Project No. Mass. R-16, dated July, 1962, as amended, a copy of which is on file in the office of the City Clerk of the City of Lowell. Subject also to all restrictions, rights, easements, and reservations which are excluded and excepted and specifically set forth in said above mentioned Order of Taking.

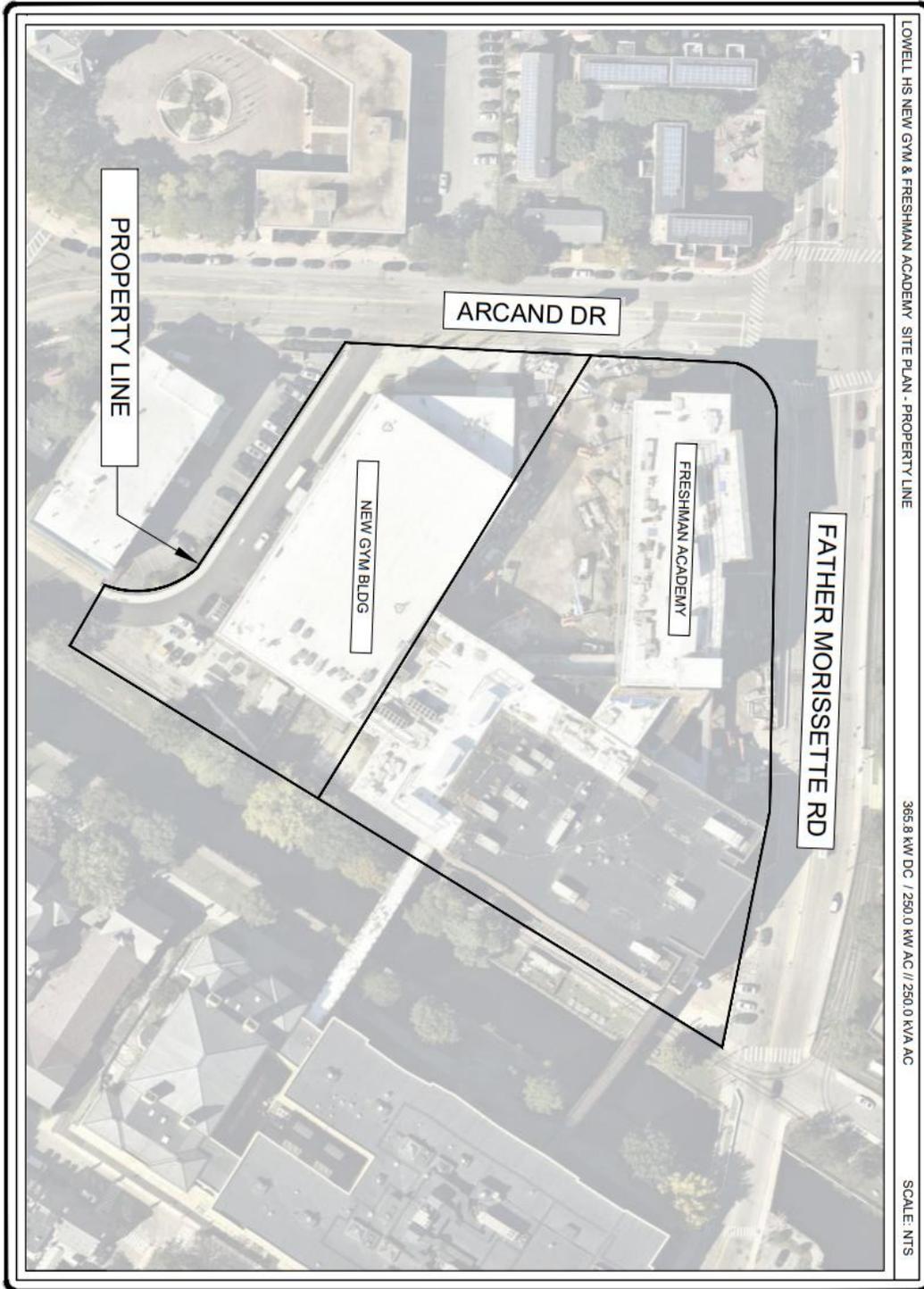
The Grantee covenants and agrees, for itself and its successors and assigns, that the Grantee and such successors and assigns shall be subject to the covenants and agreements set forth in a deed from City development Authority to the Grantor recorded in said Registry of Deeds, Book 1997, Page 705.

"B"

EXHIBIT D

DESCRIPTION OF PREMISES

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



LOWELL HS NEW GYM & FRESHMAN ACADEMY SITE PLAN - PROPERTY LINE

365.8 kW DC / 250.0 kW AC // 250.0 kVA AC

SCALE: NTS

SCALE	AS NOTED
DATE	10/26/23
DRAWN BY	CP
CHECKED BY	
SHEET	

PVSP-2



PROPOSED ROOF MOUNTED SOLAR PV SYSTEM
 LOWELL HS NEW GYM & FRESHMAN ACADEMY
 50 FATHERMORISSETTE BLVD,
 WEST BLDG
 LOWELL, MA 01854



89 Hayden Rowe Street, Suite E
 Hopkinton, MA 01748 - (508) 598-3511

ISSUED FOR	NO.	DATE	REVISION
	1A		

EXHIBIT E

DESCRIPTION OF PROJECT

Point of Delivery is the Local Electric Utility's meter.

This is a "behind the meter" project.

The Point of Delivery is the Local Electric Utility's electric meter.

Qty. 762 x Tier 1 solar photovoltaic module, 480W or equivalent.

Qty. 3 x SolarEdge inverters or equivalent.

Unirac solar mounting equipment or equivalent.

Disconnects, meters, wireless modem, solar reporting system, balance of system.

Equipment list may change during the course of the Project

EXHIBIT F

ESTIMATED ANNUAL PRODUCTION

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

Year	Estimated Production (kWh)
1	423,111
2	420,784
3	418,470
4	416,168
5	413,879
6	411,603
7	409,339
8	407,088
9	404,849
10	402,622
11	400,408
12	398,205
13	396,015
14	393,837
15	391,671
16	389,517
17	387,375
18	385,244
19	383,125
20	381,018

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

EXHIBIT G

INSURANCE REQUIREMENTS

1. General Liability

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

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

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

2. Workers’ Compensation

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

3. Property Loss

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

4. Additional Insurance Provisions

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

5. Additional Installation Contractor Requirements

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

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



Paul St. Cyr
Commissioner of Public Works

MEMORANDUM

TO: Thomas A. Golden, Jr., City Manager

FROM: Katherine Moses, Sustainability Director

CC: Paul St. Cyr, Commissioner of Public Works

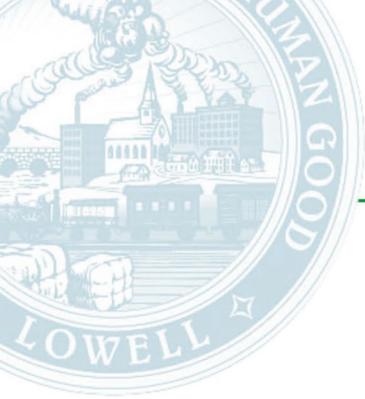
DATE: February 23, 2024

SUBJECT: **Vote** – Lowell High School Solar

The Sustainability Division has been pursuing multiple solutions to help reduce emissions across our portfolio. One of those solutions is development of more behind-the-meter solar. The attached vote will allow us the ability to reach an important milestone in solar development by moving to contract development. The attached vote allows the City to enter into 20-year Lease and Power Purchase Agreements with Solect Energy Development, LLC for the development, operation, and maintenance of a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy.

This project is one that the City management, municipal staff, City Councilors, and community members have advocated for since the conception of a new LHS facility. The project, once constructed, is estimated to produce 423,000 kWh of renewable energy in its first year and is projected to net over \$1 million in utility bill savings during its lifetime.

Your favorable consideration of these agreements would be greatly appreciated. Attached please find a copy of the Vote authorizing the City Manager to enter into 20-year agreements.



Thomas A. Golden, Jr.
City Manager

February 23, 2024

Mayor Daniel P. Rourke

and

Members of the City Council

SUBJECT: Approve 20-year contracts for solar at Lowell High School

Dear Mayor Rourke and Members of the City Council:

The attached vote allows the City to enter into 20-year Lease and Power Purchase Agreements with Solect Energy Development, LLC for the development, operation, and maintenance of a 366 kW (DC) solar system at the Lowell High School gym and new Freshman Academy. This project is one that the City management, municipal staff, City Councilors, and community members have advocated for since the conception of a new LHS facility. The project, once constructed, is estimated to produce 423,000 kWh of renewable energy in its first year and is projected to net over \$1 million in utility bill savings during its lifetime.

Your favorable consideration of these agreements would be greatly appreciated. Attached please find a copy of the Vote authorizing the City Manager to enter into 20-year agreements.

Sincerely,

Thomas A Golden, Jr.
City Manager

Attachment