

TOWN OF MEDFIELD

MEETING NOTICE

POSTED:

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TOWN OF MEDFIELD, MASS
2019 SEP 27 6:32
TOWN CLERK

OFFICE OF THE
TOWN CLERK

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 39 SECTION 23A AS AMENDED.

Board of Selectmen

Board or Committee

<u>PLACE OF MEETING</u>	<u>DAY, DATE, AND TIME</u>
Town Hall, Chenery Meeting Room, 2 nd floor	Tuesday October 1, 2019 @ 7:00 PM

AGENDA (Subject to change)

7:00 PM Call to order

Disclosure of video recording

We want to take a moment of appreciation for our Troops serving in the Middle East and around the world

Announcement: Representative Shawn Dooley will hold Fall Office Hour on Thursday October 24, 2019
11:30 AM to 12:30 PM in Town Hall Warrant Room, 1st floor

Citizen Comment

Appointments

Police Chief Michelle Guerette requests the Selectmen to vote to:

- Appoint Ryan Maxfield as Sergeant
- Offer conditional employment to the following candidates:
Kristi Martorana, Garrett Ledbetter, Charlotte DiClemente, Michael Downing, Francis Thisse, Joseph Sherbertes, Carolyn Sheingold, Terence Teehan
- Appoint Brendan Pasco and Bryan Syrett as Special Police Officers

Kingsbury Club Assignment of Solar Lease and Consent to Assignment, Steve Porter

Transfer Station and Recycling Committee, Chair Nancy Irwin

- Discuss appointment of additional members to the committee
- Committee Update

Action Items

Vote to open the November 18, 2019 Special Town Meeting Warrant

Town Planner Sarah Raposa requests the Selectmen to vote to authorize Chairman Murby to sign Ch. 40B Technical Review Assistance Application for the project, Aura at Medfield; location at 50 Peter Kristof Way

Town Planner Sarah Raposa requests the Selectmen to vote to authorize Chairman Murby to sign Award Letter Supplement for the project The Rosebay at Medfield

DPW Director Maurice Goulet requests the Selectmen to vote to award the primary bid for Joint Purchase of Salt 2019-2020 Bid to Champion Salt LLC; low bid CC \$46.95 and Treated Salt \$61.95. Also to vote to award Eastern Minerals, Inc. as the secondary supplier for the 2019-2020 winter season / CC \$47.00; Solar \$47.00; Treated Salt \$62.00

DPW Director Maurice Goulet requests the Selectmen to vote to award the following Agreements to:

- Environmental Partners Group, Inc. for Nebo Tank Rehab Amendment No.1 and in the amount of \$69,200.00
- Environmental Partners Group, Inc. for Professional Engineering Services, Medfield Water System-Emergency Response Plan Update and in the amount of \$9,7600.00
- Environmental Partners Group, Inc. for Preliminary Design Wells 3 and 4 and Permitting for Iron and Manganese Treatment Facility and in the amount of \$171,500.00
- Woodard & Curran, Inc. for Inflow and Infiltration Investigations and Monitoring and in the amount of \$115,500.00

Americans with Disabilities Act Update

Vote to appoint Kristine Trierweiler as ADA Coordinator

Vote to adopt ADA Grievance Procedures

Vote to adopt ADA Public Notice

Vote to appoint Americans with Disabilities Compliance Committee

Maurice Goulet, Amy Colleran, Kristine Trierweiler, Tina Cosentino, Chief Carrico

Confirm vote of the BOS to expand the Board of Health to five (5) members and appointment of the following members:

Carol Read, Steven Resch, Holly Rand, Michael Abernathy, and Melissa Coughlin

Vote to close the November 18, 2019 Special Town Meeting Warrant at close of meeting

Discussion

Lot 3

Medfield State Hospital Zoning Article

October 7, 2019 MSH Zoning Public Outreach/Information Session

November 18, 2019 Special Town Meeting

Licenses and Permits (consent agenda)

Town Planner Sarah Raposa requests permission to post signs at approved locations announcing:

October 3 Public Hearing MSH Rezoning 8:00 PM at Town Hall

October 7 Public Forum MSH Rezoning 7:00 PM at the High School

October 20 Public Forum #1 Townwide Master Plan Visioning Session 5-7:30 PM, Blake Middle School

November 18 Special Town Meeting, 7:00 PM at the High School

Signage also to be placed at MSH Grounds

Council on Aging requests one-day wine and malt beverage permit for the following events:

October Supper Club Wednesday October 23 4-7 PM

November Supper Club Wednesday November 20 4-7 PM

December Supper Club Wednesday December 18 4-7 PM

Accept/Correction of Meeting Minutes

2018--November 6, November 27, December 11

2019--May 28, June 4, August 13, September 3

Town Administrator Update

Board of Selectmen Action List

RECEIVED
TOWN OF MEDFIELD, MASS
2019 SEP 27 A 9:32
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Selectmen report

Informational

Copy of ZBA legal notice for October 9, 2019 public hearing
Packet of information from Medfield Conservation Commission

RECEIVED
TOWN OF MEDFIELD, MASS
2019 SEP 27 A 9:32
OFFICE OF THE
TOWN CLERK

E. Clarke
9-27-19



MASSACHUSETTS HOUSING PARTNERSHIP

CHAPTER 40B TECHNICAL ASSISTANCE PROGRAM GUIDELINES 2018

OVERVIEW

The Massachusetts Housing Partnership (MHP) provides technical assistance to local Zoning Boards of Appeal (ZBA) in the review of permit applications for Comprehensive Permits pursuant to Chapter 40B of the Massachusetts General Laws (“Chapter 40B”) and the regulations promulgated there under at 760 C.M.R. 56.00 (the “Regulations”).

The purpose of the MHP Chapter 40B Technical Assistance Program is to assist the Zoning Board of Appeals, and other relevant municipal boards, in the review of specific Chapter 40B development proposals. MHP provides awards of up to \$15,000 to municipalities to pay for third-party consultants to work with the ZBA to increase local capacity and to assist in the review and permitting process for Chapter 40B Comprehensive Permit projects. Communities that have achieved 10% on the Subsidized Housing Inventory or that have been certified by DHCD to have an affordable housing inventory that is at or above 10% or exceeds 1.5% of the land zoned for residential, commercial or industrial use are not eligible for the 40B TA Program.

Since the inception of this program in 1999, most communities receiving technical assistance from MHP have successfully negotiated comprehensive permits on terms mutually agreeable to the municipality and the developer. In a small number of cases MHP’s technical assistance has resulted in the withdrawal of inappropriate Chapter 40B proposals or the denial of the permit by the community.

PROCEDURES

Application Process

- The applicant contacts the MHP Chapter 40B technical assistance staff at any time to discuss a Chapter 40B development that has been filed or is likely to be filed with the ZBA.
- Applications are accepted by MHP after an initial phone intake.
- An application for technical assistance will only be accepted and reviewed by MHP after the comprehensive permit application has been filed with the ZBA,
- Applicants can request a pre-hearing training on 40B for the Zoning Board and other town staff, boards and committees.
- The MHP application must include:
 - a copy of the Project Eligibility Letter from the subsidizing agency,
 - the comment letter the municipality sent to the Subsidizing Agency, and
 - any Local Rules for Comprehensive Permits the ZBA may have adopted
- The application must be signed by both the ZBA Chair and the Chief Elected Official.
- MHP strongly recommends interested communities contact MHP early in the process to facilitate the engagement of a qualified consultant *prior* to the start of the first public hearing. MHP reserves the right to reject an application for assistance after the hearing has opened.

- MHP typically completes a review within 10 days of the receipt of a complete of the application and, if approved, sends an award letter to the applicant community.

Consultant Services

- Prior to receiving an award a community must select a consultant from MHP's list of Program Consultants.
- Program Consultants are responsible for
 - providing technical assistance to the municipality in understanding the Chapter 40B permitting and review process;
 - assisting in identifying areas needing additional study or technical information; and
 - facilitating constructive discussions between the developer and the ZBA.
- The Program Consultant's role in providing comprehensive Chapter 40B technical assistance does not replace the role of the municipality's legal counsel. However, in accepting the technical assistance award, the municipality agrees that the consultant will be the lead consultant for the project and will assist in assessing the need for additional technical assistance including peer review consultants.
- Program Consultants are limited to contracting with a maximum of 3 communities at one time. Exceptions may be made for consultants who have previously contracted with communities under the Program.

Uses of Technical Assistance Funds

- MHP Program staff will work with the applicant community to determine the amount of the technical assistance award. A maximum of \$15,000 is available for the first award to a given community with a typical award amount of up to \$10,000 for subsequent requests.
- For communities with multiple simultaneous 40B projects, MHP reserves the right to limit the total amount of funds awarded at any given time to a community.
- An award under the Program does not fund or take the place of services that are typically the financial responsibility of the developer, such as peer review for engineering, traffic, architecture and other technical issues eligible for funding under M.G.L. c. 44 Sec. 53G.
- Legal costs for municipal counsel and mediation services are not within the scope of this Program.

Contracting and Payment

- MHP will contract with the Program Consultant selected by the applicant, who will be an independent contractor of MHP and will render the contracted services directly to the community. The Program Consultant shall perform the services in a professional, independent, impartial manner in accordance with Chapter 40B, the Regulations, DHCD's Guidelines for Ch. 40B Comprehensive Permit Projects, and the 40B Consultant Program Guidelines
- MHP will furnish a copy of the signed contract to the municipality, which will contain a scope of work.
- The Program Consultant shall submit invoices directly to MHP for payment. MHP will request authorization for payment from the municipality prior to making a payment to the Program Consultant. However, if no response by the municipality is received within 5 business days, approval will be assumed.

Reporting and Evaluation

- MHP requests that the municipality notify MHP if the Chapter 40B permit application is withdrawn by the developer or if for any reason the technical assistance award funds are no longer needed.
- MHP requires that a copy of the final ZBA decision be sent to MHP at the time the decision is issued and filed with the Clerk's office.
- MHP requires the completion and submission of the *MHP Chapter 40B Program Evaluation Form* which is used to evaluate consultant assistance and the effectiveness of the program.

To speak to MHP staff about your Chapter 40B project and to request an application for technical assistance contact Laura Shufelt at 857.317.8582or lshufelt@mhp.net .



Date: _____

Ch. 40B Technical Review Assistance Application

Please speak to Community Assistance staff to discuss your project before requesting an application.

Laura Shufelt: 857.317.8582 or lshufelt@mhp.net

CONTACT INFORMATION

Municipal Contact for Application	Sarah Raposa	ZBA Chair	John J McNicholas	Chief Elected Official	Gustave H. Murby
Address	459 Main Street	Address	same	Address	same
City/Town/Zip	Medfield, MA 02052	City/Town/Zip	same	City/Town/Zip	same
Phone	508-906-3027	Phone	same	Phone	same
Email	sraposa@medfield.net	Email	jmcnicholas@fletchertilton.com	Email	gmurby1651@gmail.com

PROJECT INFORMATION

Project Name: Aura at Medfield	Developer: Mayrock Development LLC
Principals: William Lane Jr, Edward Coolbrith	Attorney: Vincent O'Brien (permitting) Paul Lane (real estate)
Consultants: Dean E. Harrison	Engineer: Legacy Engineering, LLP
Project Address: 50 Peter Kristof Way, Medfield	

DEVELOPMENT SITE & ZBA MEETINGS

Number of Units Proposed: Total 56 Affordable 14

Project Type: Rental Homeownership

Size of Site: 4.5 acres

Age-restricted? Yes No

Date Permit Application Filed with ZBA: _____

First Hearing Date? _____

Is 1st Hearing within 30 days of application? Yes No

Day/Time ZBA meets? Second Thursdays at 7 pm

Have hearings been held already for this project? Yes No

If Yes, dates? _____

SITE APPROVAL/ELIGIBILITY LETTER:

What is the source of the project eligibility letter? DHCD

Date of Project Eligibility Letter 7/15/19

Please provide a copy of the letter with this application.

Did the municipality submit comments to the Subsidizing Agency? Yes No

Please provide a copy of the comment letter with this application.

What specific review issues would you like assistance?

Process, decision drafting

What are the main municipal concerns with the project?

n/a

Does municipal staff or ZBA members have prior experience reviewing comprehensive permits ?

Yes No If yes, how much? _____

Does the municipality have a Housing Production Plan that addresses affordable housing?

Yes No

If yes, is the plan approved by DHCD? Yes No **Certified?** Yes No

Has the municipality adopted Comprehensive Permit review rules? Yes No

If yes, please include a copy of the rules with this application.

Who is the counsel/attorney for the ZBA on this project?

Mark Cerel, Town Counsel

Please list the Comprehensive Permit applications submitted to the municipality in the last 5 years .

NAME OF PROJECT	FUNDING SOURCE	APPROVED/DENIED	DATE
1. 67 North Street	DHCD	Approved	5/22/17
2. 71 North Street	DHCD	Approved	5/24/18
3. Hillside Village	DHCD	Approved	5/24/18
4. Medfield Meadows	DHCD	Approved	5/10/19

5. Rosebay at Medfield DHCD Currently under review with ZBA

Which consultant does the ZBA prefer?

1. Paul Haverty

2. _____

SIGNATURE OF CHIEF ELECTED OFFICER

DATE

Gustave H. Murby, Chair
PRINT NAME AND TITLE

SIGNATURE OF ZBA CHAIR

DATE

John J. McNicholas, Chair
PRINT NAME

September 12, 2019

Sarah Raposa
Town Planner
Town of Medfield
459 Main Street
Medfield, MA 02052

RE: 40B Technical Assistance- The Rosebay at Medfield

Dear Ms. Raposa:

I have enclosed the town's award letter and a copy of the agreement between MHP and 40B consultant for the project referenced above.

Also enclosed are two copies of an award supplement. Please sign both copies. Send one to my attention and keep the second for your records.

Contact me at any time with any questions or concerns at kbosse@mhp.net or 857-317-8517.

Sincerely,



Katie Bosse
Program Coordinator
Community Assistance



Massachusetts
Housing
Partnership

September 12, 2019

Gustave Murby
Chair, Medfield Board of Selectmen
Town of Medfield
459 Main Street
Medfield, MA 02052

John McNicholas
Chair, Medfield Zoning Board of Appeals
Town of Medfield
459 Main Street
Medfield, MA 02052

160 Federal Street
Boston, Massachusetts 02110
Tel: 617-330-9955
Fax: 617-330-1919

www.mhp.net

PROJECT NAME: The Rosebay at Medfield

Dear Mr. Murby and Mr. McNicholas:

I am pleased to inform you that the Massachusetts Housing Partnership ("MHP") has approved the application of the Town of Medfield for up to **\$5,000** under the 40B Technical Assistance Grant program. This award is provided to the Zoning Boards of Appeal and will be used to pay for the consulting services of **Paul Haverty of Blatman, Bobrowski, and Haverty, LLC** to assist with the review of **The Rosebay at Medfield**.

MHP's 40B Technical Assistance Grant program supports Zoning Boards of Appeal in reviewing applications for Chapter 40B Comprehensive Permits. Technical assistance is provided by qualified third-party professionals who are pre-approved by MHP. Consultants are hired to advise the ZBA and review technical reports submitted as part of a comprehensive permit application. The Ch. 40B technical assistance award is available for **12 months** from the date of this letter. Repayment of these funds is not expected.

MHP will contract with the Program Consultant who will render services directly to the Town and shall be required to submit invoices to MHP, with a copy to the Town. MHP will make payment directly to the Program Consultant upon confirmation by the Town that the services were rendered and were deemed satisfactory.

As part of 40B Technical Assistance Grant program, an MHP evaluation form will be mailed to the municipality at the time the ZBA issues a decision for the project. It is the municipality's responsibility to notify MHP in a timely manner of the issuance of the decision.

MHP is pleased to offer support to this proposal. **Please indicate your acceptance of this technical assistance by signing the enclosed original copies of the supplement attached and returning one to Philip Crean at 160 Federal Street, 2nd Floor, Boston, MA 02110.**

Sincerely,

Laura F. Shufelt
Assistant Director of Community Assistance

CC: Sarah Raposa, Medfield Town Planner



ATTACHMENT A: Award Letter Supplement
PROJECT NAME: The Rosebay at Medfield

MHP provides the following supplement to Zoning Boards of Appeal for use of the 40B Technical Assistance funds. If you should have questions please don't hesitate to contact MHP staff about your award, disbursement procedures or your consultant's technical assistance scope.

Use of Technical Assistance (TA) Funds

TA funds are to be used only for the engagement of an MHP 40B consultant to assist the ZBA in responding to the proposed project. MHP's technical assistance funds may not be used for services that are typically the financial responsibility of the developer, such as Peer Review of engineering, traffic, architecture and other technical issues. Legal costs for municipal counsel and mediation are not within the scope of our services.

Scope of Services for MHP 40B Consultants

Ideally consultants are engaged early enough in the review process to provide a training and education session to ZBA members, city boards and other interested citizens about the Ch. 40B process and proposal review.

Responding to the Developer's Proposal

Consultant services may include, but are not limited to the following:

- 1) Educating the Town boards about the comprehensive permit process as needed;
- 2) In conjunction with the Town, reviewing the comprehensive permit application for completeness and appropriateness, with specific attention to specific issues depending on the Town needs and consultant expertise
- 3) Assisting the Town and local ZBA to identify local concerns and issues that might require outside consultants and/or additional impact studies;
- 4) Facilitating productive discussion between the Town and the developer about the proposed development. Assisting the Town with negotiations as appropriate;
- 5) Advising Zoning Board of Appeals as needed.

Municipality's Responsibilities

Responsibilities of the municipality include:

- 1) Keeping MHP informed of any unusual delays in the decision schedule.
- 2) Notifying MHP, in a timely manner, of final decisions and/or permit issuance.

Billing Procedure

MHP prepares the contract for 40B technical assistance. MHP pays the consultant directly upon verbal or written authorization from the applicant for each invoice submitted.

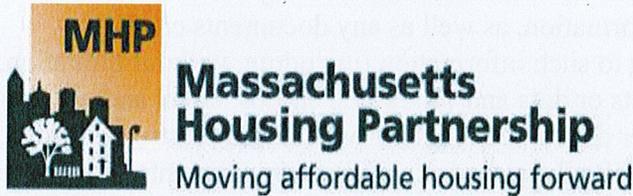
AGREED AND ACCEPTED BY:

By: _____
 Gustave Murby, Chair of BOS

By _____
 John McNicholas, Chair, ZBA

Date: _____
 Hereunto duly authorized

Date _____
 Hereunto duly authorized



Consultant: Blatman, Bobrowski & Haverty, LLC
Project: Medfield 40B – The Rosebay at Medfield
Amount: \$5,000
Completion Date: August 19, 2020
Account: 9350-350-230

CONTRACT FOR SERVICES

This Contract for Services (“Contract”) is made as of this 19th day of August, 2019 by and between the Massachusetts Housing Partnership Fund Board, a body politic and corporate having its principal place of business at 160 Federal Street, Boston, Massachusetts 02110 ("MHP"), and Blatman, Bobrowski & Haverty, a limited liability company with a principal place of business at 9 Damonmill Square, Suite 4A4, Concord, Massachusetts 01742 ("Contractor").

1. Services.

Contractor agrees to provide timely the services described in Schedule A to this Contract (the “Services”). Contractor warrants that the Services will be consistent with generally accepted business practice in Contractor’s area of expertise. Also, Contractor agrees that the Services will be completed on or before August 19, 2020 unless otherwise agreed in a writing signed by Contractor and MHP.

2. Compensation.

In full consideration for Contractor providing the Services and performing all Contractor’s other obligations under this Contract, MHP agrees to pay the compensation described in Schedule B to this Contract (the “Compensation”). The maximum total amount paid to Contractor for providing the Services will be five thousand dollars (\$5,000.00) unless otherwise agreed in a writing signed by Contractor and MHP.

To the extent that Contractor is or may be deemed to be a state employee as defined in the conflict of interest law, Massachusetts General Law, Chapter 268A and the regulations promulgated thereunder, MHP shall require, as a condition to payment hereunder, the submission of a current Certificate of Completion of the on-line training course offered by the State Ethics Commission.

3. Termination.

Either party may terminate this Contract upon seven (7) days prior written notice to the other party. In the event of an unforeseen public emergency mandating immediate action, MHP may terminate this Contract without cause and without penalty upon immediate written notification to Contractor.

Upon termination of this Contract, Contractor will promptly submit to MHP a final invoice for work performed up to the effective date of termination.

Further, immediately upon any termination of this Contract or other termination of Contractor’s right to possess and/or use Confidential Information (as defined in Section 5 herein), Contractor shall turn over to MHP (or destroy and certify the same in writing, if requested in writing by MHP) all disks,

tapes, drawings, notes, memoranda, specifications, devices, documents, or any other tangible or intangible embodiments of any Confidential Information, as well as any documents created by Contractor containing, summarizing or referring to such information (including, without limitation, documents, tapes, electronic records, spreadsheets or data and/or reports, entries, email and all reports and documents generated therefrom and all other data and documents whether in electronic format, on CD, DVD or hardcopies) and shall deliver to MHP all finished or unfinished documents, work product, data, studies and reports, and all other property, prepared or purchased by Contractor in the course of performing the Services.

4. Independent Contractor.

a. The parties intend and agree that Contractor and any subcontractor (“personnel”) hired by Contractor are independent contractors and not employees or agents of MHP. Subject to the terms and conditions of this Contract, Contractor alone will control the manner and means by which the Services are provided to MHP. As neither Contractor nor its personnel hired are MHP’s employees, MHP will not take any action or provide Contractor or its personnel with any benefits or commitments, including, without limitation, withholding of FICA (social security) from Contractor’s payments; making state or federal unemployment insurance contributions on behalf of Contractor or its personnel; withholding of state and federal income tax from payments to Contractor; making disability insurance contributions on behalf of Contractor or its personnel; and obtaining worker’s compensation insurance on behalf of Contractor or its personnel.

b. Contractor shall bear sole responsibility for payment of compensation to its personnel, including, if applicable, state and federal tax withholding, social security taxes, unemployment insurance, health or disability insurance, retirement benefits or other welfare or pension benefits, if any, to which such personnel may be entitled. Contractor agrees to defend, indemnify and hold MHP, its officers, directors, agents and employees and the administrators of MHP’s benefits plans, harmless from and against any claims, liabilities, or expenses relating to such compensation, tax, insurance and benefit matters.

c. Contractor shall obtain and maintain in effect written agreements with personnel who participate in or perform any of the Services. Such agreements shall contain terms sufficient for Contractor to comply with all provisions of this Contract, and shall confirm that such personnel shall have no status as employees of MHP and claim under any MHP benefit plan, and shall ensure that such personnel have read and agreed to abide by the terms of this Contract, including, without limitation, paragraph 5.

5. Proprietary/Confidential Information.

Contractor agrees that any inventions, discoveries or improvements made, developed or conceived by Contractor during the performance of the Services will be the exclusive property of MHP, and Contractor will have no right, title or interest in any such proprietary information.

Contractor also agrees that Contractor will not disclose any “Confidential Information” as defined below in Section 5a, and will take reasonable steps to prevent the disclosure of Confidential Information by employees and agents of Contractor.

Contractor shall comply with M.G.L. c. 66A (fair information practices) if Contractor has access to personal information, as defined in M.G.L. c. 93H, or personal data, as defined in M.G.L. c. 66A and shall comply in all respects with the Contractor Certification attached hereto and made a part hereof.

a. **CONFIDENTIAL INFORMATION.** Confidential Information shall mean information that (i) is disclosed in writing or other tangible form to one party by the other party or by a person having an obligation of confidence to such party and is designated in such writing or tangible form as confidential or proprietary (or, if disclosure is made orally, is designated as confidential by the person disclosing the information or is of a nature that the recipient knew or reasonably should have known, under the circumstances, would be regarded by the owner of the information as confidential); (ii) is not generally known in the relevant industry or industry segment; and (iii) affords possessors of the information a commercial or business advantage over others who do not have the information; and (iv) to the extent not included in (i)-(iii) hereof, is information deemed confidential, described in Section 5b below.

Further, without granting by implication any rights with respect to any particular item of Confidential Information, the following also shall be deemed conclusively to be Confidential Information: (i) any data, information, documents, flow charts, logic diagrams, relating to the Confidential Information; and (ii) any accounting, financial or statistical data or information, sales and marketing information, development plans, business plans, strategies, forecasts, customer lists, customer data or the like, not generally known to the public.

b. **INFORMATION DEEMED CONFIDENTIAL.** Without limiting the provisions of the preceding paragraphs and whether or not otherwise meeting the criteria described therein, any and all documents, data, financial statements, or other information containing the identity of and/or pertaining to MHP borrowers or customers ("MHP Customers") and any and all financial information pertaining to MHP Customers as well as any documents created by Contractor containing, summarizing or referring to such information (including, without limitation, spreadsheets or data and/or reports, entries, email and all reports and documents generated therefrom and all other data and documents whether in electronic format, on CD, DVD or hardcopies) shall be deemed conclusively to be Confidential Information.

c. **SECURITY OF CONFIDENTIAL INFORMATION.** Contractor will maintain all such Confidential Information under secure conditions, using reasonable security procedures, practices and measures appropriate to the nature of the Confidential Information, and in any event not less than the same security procedures used by Contractor for the protection of its own Confidential Information of a similar kind, to protect Confidential Information from unauthorized access, destruction, use, modification or disclosure.

d. **NON-DISCLOSURE OBLIGATION.** Except as otherwise may be permitted by this Contract, Contractor shall not disclose any Confidential Information to any third party without the express prior written consent of MHP provided, however, that Contractor may disclose appropriate portions of Confidential Information to those of its personnel who have a substantial need to know the specific information in question in connection with Contractor exercise of rights or performance of obligations under this Contract so long as all such personnel have been instructed that such Confidential Information is subject to the obligation of confidence set forth by this Contract.

e. **COMPELLED DISCLOSURE.** If Contractor is ordered by a court, administrative agency, or other governmental body of competent jurisdiction to disclose Confidential Information, or if it is served with or otherwise becomes aware of a motion or similar request that such an order be issued, then Contractor will not be liable for disclosure of Confidential Information required by such order if Contractor complies with the following requirements: (i) if an already-issued order calls for immediate disclosure, then Contractor shall move for or otherwise request a stay of such order to permit MHP to respond as set forth in this paragraph; (ii) Contractor immediately notifies MHP of the motion or order by the most expeditious possible means; and (iii) Contractor shall join or agree to (and in any case shall not oppose) a motion or similar request by MHP for an order protecting the confidentiality of

the Confidential Information, including joining or agreeing to (and in any case not opposing) a motion for leave to intervene by MHP.

f. **COPYING OF CONFIDENTIAL INFORMATION.** Except as otherwise may be permitted by this Contract, Contractor shall not use, copy, duplicate, compile, disassemble, record, or otherwise reproduce any part of any Confidential Information, nor attempt to do any of the foregoing, without the prior written consent of MHP. Any tangible embodiments of Confidential Information that may be generated, either pursuant to or in violation of this Contract, will be deemed to be the sole property of MHP and fully subject to the obligations of confidence set forth herein.

g. **REPORTS OF MISAPPROPRIATION/UNAUTHORIZED DISCLOSURE/SECURITY BREACH.** Contractor shall immediately report to MHP any attempt by any person of which Contractor has knowledge or becomes aware to use, disclose or copy Confidential Information without authorization by MHP and the nature, circumstances and details of any such attempts and incidents, including at a minimum, the nature of the breach of security or unauthorized acquisition or use of Confidential Information; the number of individuals affected (if applicable); actions taken to address the security issues; measures taken to prevent similar security issues; and contact information for an individual at Contractor concerning the security issue.

6. Ownership of Work Product.

All Contractor's interim and final work product, including but not limited to all reports or other documents prepared pursuant to this Contract, shall be forwarded upon completion to MHP and shall become the exclusive property of MHP. MHP may duplicate, reproduce, publish, and distribute materials prepared pursuant to this Contract without providing additional compensation to Contractor.

7. Assignment / Delegation.

This Contract may not be assigned by Contractor without the prior written approval of MHP. The Services may not be subcontracted or delegated in whole or in part to any other person or entity without the prior written approval of MHP.

8. State Contract Certifications.

Contractor certifies, acknowledges and agrees that it shall observe and at all times material hereto be in compliance with the Contractor Certification annexed hereto and made a part hereof, and that Contractor's representations and covenant concerning observance and compliance with the contents of the Contractor Certification shall be re-acknowledged and confirmed without further action on the part of the Contractor in connection with each and every future contract for goods and/or services, consulting contract, services contract, and memorandum of understanding between Contractor and MHP.

9. Indemnification.

Contractor will indemnify and hold harmless MHP, including its officers, agents and employees, against any and all claims, liabilities, losses, damages, costs and expenses that MHP may sustain or incur in connection with this Contract or arising out of the Services, including, but not limited to, the negligent, reckless or intentional conduct of Contractor or Contractor's agents or employees.

10. Miscellaneous.

This Contract contains the entire agreement of the parties and may not be modified except by agreement in writing signed by the parties. If any portion of this Contract is found to be unenforceable, the remaining portions of this Contract will continue to be enforced to the fullest extent permitted by law. Time is of the essence of this Contract. Any notice required or permitted to be given under this Contract will be deemed to have been given if in writing and delivered by hand or sent certified mail, postage prepaid, to the party at the address set forth above. This Contract will be governed by the laws of the Commonwealth of Massachusetts.

Signatures next page

IN WITNESS WHEREOF, the parties have entered into this Contract under seal as of the date set forth above.

MASSACHUSETTS HOUSING
PARTNERSHIP FUND BOARD

BLATMAN, BOBROWSKI &
HAVERTY, LLC

By: _____
Laura F. Shufelt
Assistant Director of Community Assistance

By: _____
Paul J. Haverty
Partner Attorney
Hereunto duly authorized

Approved as to form:	_____	_____
	Legal Counsel	Date
Approved as to funds:	_____	_____
	Chief Financial & Administrative Officer	Date

Contractor's Tel. No. _____

Contractor's Fax No. _____

Contractor's Tax ID No. _____

Contractor is a minority business enterprise/sole proprietor ____

Contractor is a women's business enterprise/sole proprietor ____

Contractor is a MA Supplier Diversity Office (SDO) certified minority business enterprise ____

Contractor is a MA Supplier Diversity Office (SDO) certified women's business enterprise ____

CONTRACTOR CERTIFICATION

In connection with the engagement of **Blatman, Bobrowski & Haverty, LLC** ("Contractor") a consultant for the Massachusetts Housing Partnership Fund Board, its successors and assigns, ("MHP") with regard to **Medfield 40B – The Rosebay at Medfield**. Contractor hereby certifies to MHP, under the pains and penalties of perjury, as follows:

The Contractor is qualified to perform the engagement and possesses, or shall obtain, all requisite licenses and permits to complete performance under the engagement; the Contractor is in compliance with all federal and state tax laws, including M.G.L. c. 62C, sec. 49A; pursuant to M.G.L. c. 151A, sec. 19A and M.G.L. 152, the Contractor will comply with all laws and regulations relating to payments to the Employment Security System and required workers' compensation insurance policies; if consistent with accepted business practice in the area of the Contractor's expertise, the Contractor will carry professional and personal liability insurance sufficient to cover its performance under this engagement; the Contractor will comply with all relevant prevailing wage rate and employment laws; the Contractor is in compliance with the provisions of Section 7 of Chapter 521 of the Acts of 1990, as amended by Chapter 329 of the Acts of 1991, and 102 CMR 12.00, and the Contractor is either a "qualified employer" (the Contractor has fifty (50) or more full time employees and has established a dependent care assistance program, child care tuition assistance, or on-site or near-site child care placements) or an "exempt employer"; pursuant to M.G.L. c. 156B, sec. 109 (business corporations), c. 180, sec. 26A (non-profit corporations), and c. 12, sec. 8F (public charities), if applicable, the Contractor has filed all required certificates and reports with the Secretary of State and the Attorney General's Office; the Contractor is not currently debarred or suspended by the federal government or the State under any law or regulation, including Executive Order 147, M.G.L. c. 29, sec. 29F and M.G.L. c. 152, sec. 25C; the Contractor will comply with Executive Orders 130 (anti-boycott covenant), 346 (privatization and hiring state employees), M.G.L. c. 268A (the Conflict of Interest Law), M.G.L. c. 7, sec. 22C (companies with offices in Northern Ireland). Pursuant to Executive Order 481, that the Contractor shall not knowingly use undocumented workers in connection with the performance of this engagement; that pursuant to federal requirements, Contractor shall verify the immigration status of all workers assigned to such engagement without engaging in unlawful discrimination and that the Contractor shall not knowingly or recklessly alter, falsify or accept altered or falsified documents from any such worker(s). The Contractor understands and agrees that breach of any of these terms during the period of the engagement may be regarded as a material breach, subjecting the Contractor to sanctions, including but not limited to monetary penalties, withholding of payments, contract suspension or termination.

For all contracts involving the Contractor's access to personal information, as defined in M.G.L. c. 93H, and personal data, as defined in M.G.L. c. 66A, owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth of Massachusetts Information Technology Division's Security Policies available at www.mass.gov/ITD under Policies and Standards.

Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under the engagement, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall:

(1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards and policies;

(2) comply with all of the Commonwealth of Massachusetts Information Technology Division's Security Policies ("Security Policies") available at www.mass.gov/ITD under Policies and Standards;

(3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors;

(4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss;

(5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Agreement, and any breach of these terms may be regarded as a material breach of this Agreement;

(6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements.

Breach of these terms may be regarded as a material breach of the engagement, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification, withholding of payments, contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to M.G.L. c. 93H and under M.G.L. c. 214, § 3B for violations under M.G.L. c. 66A.

BLATMAN, BOBROWSKI & HAVERTY, LLC

By: _____

Name: _____

Its: _____

Date: _____

Hereunto duly authorized

This certification may be signed and photocopied to be attached to any Commonwealth Contract that does not already contain this Certification Language and shall be interpreted to be incorporated by reference into any applicable contract subject to Executive Order 504 for this Contractor.

Schedule A
Services

Contractor agrees to provide and oversee the following services:

1. Educate the Town of Medfield ("Town") boards about the comprehensive permit process as needed.
2. In conjunction with the Town, review the comprehensive permit application for completeness and appropriateness, with specific attention to specific issues depending on the Town needs and consultant expertise
3. Assist the Town and local ZBA to identify local concerns and issues that might require outside consultants and/or additional impact studies.
4. Facilitate productive discussion between the Town and the developer about the proposed development. Assist the Town with negotiations as appropriate.
5. Advise Zoning Board of Appeals as needed, with specific attention to drafting the decision.
6. Submit a written evaluation of your experience working with the ZBA and Town Boards. The evaluation is either attached to this contract or will be forwarded to you via email.

Schedule B
Compensation

Contractor shall bill MHP for Services at a rate of **\$200 per hour and 50% of the specified billing rate (and no mileage) for travel**. Maximum contract amount is \$5,000).

Contractor estimates s/he will spend **25** hours working on the project. Contractor will bill for hours worked after each phase of the project is complete. Contractor will bill only for actual hours worked. Contractor will not bill in excess of the billing limit of \$5,000 without prior agreement.

If it appears that the actual number of hours necessary to complete the Services is in excess of the contract amount, Contractor will notify MHP and the Town/ZBA in a timely manner. It is MHP's expectation that any costs above the contract amount will be negotiated with, and paid for by, the town. In extraordinary cases MHP may consider increasing the contract amount and will consult with the Town/ZBA and Contractor in determining its decision.

*The Commonwealth of Massachusetts is committed to providing citizens with open and transparent government. The legislature passed and the governor signed into law new transparency and accountability reforms as part of the FY 2011 Budget. Open Checkbook provides the public with easily accessible and understandable information to State Government spending. From the Open Checkbook website individuals can search details of state spending, see payroll and pension information and identify vendor payments. As a consultant to MHP, your company name and the amount you have been paid will be posted on Open Checkbook.



TOWN OF MEDFIELD

DEPARTMENT OF PUBLIC WORKS

Maurice Goulet
Director of Public Works

MEDFIELD, MASSACHUSETTS

TO: Board of Selectmen

FROM: Maurice Goulet, Director of Public Works *MG*

DATE: September 24, 2019

RE: Joint Purchase of Salt 2019-2020 Bid Results

It is hereby recommended that the following bids be awarded according to the low bid prices and the Town of Medfield bid specifications:

- CC (Rock) Salt – Primary Bidder : Champion Salt LLC
Secondary Bidder: Eastern Minerals, Inc.
- Solar Salt – Primary Bidder: Eastern Minerals, Inc.
Secondary Bidder: Mid-American Salt
- Treated Salt – Primary Bidder: Champion Salt LLC
Secondary Bidder: Eastern Minerals, Inc.

BID RESULTS:

<u>Joint Salt Bid</u>	<u>CC (Rock) Salt</u>	<u>Solar Salt</u>	<u>Treated Salt</u>
	<u>Delivered/Pickup</u>	<u>Delivered/Pickup</u>	<u>Delivered/Pickup</u>
Champion Salt, LLC	\$46.95/\$45.00	NO BID	\$61.95/\$60.00
Eastern Minerals, Inc.	\$47.00/\$47.00	\$47.00/\$47.00	\$62.00/\$62.00
Mid-American Salt	\$50.22/NO BID	\$50.22/NO BID	\$66.11/NO BID
Cargill Corp.	NO BID	NO BID	NO BID

Letter of Transmittal

To Town of Medfield
459 Main Street
Medfield, MA 02052

Date 9/23/19
Job No. R134-1804 Ph4
Attn. Maurice Goulet, Director of Public Works
Re: Nebo Tank Rehab Amendment No 1

We are sending you the following items:

- | | | | |
|----------------------------------|-----------------------------------|--|---|
| <input type="checkbox"/> Prints | <input type="checkbox"/> Invoices | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Specifications |
| <input type="checkbox"/> Reports | <input type="checkbox"/> Disk(s) | <input type="checkbox"/> Copy of Letter/Memo | <input type="checkbox"/> Other |

Copies	Date	Review	Description
2	9/23/19		Nebo Tank Rehab Amendment No 1

These are transmitted:

- For Approval
 For Your Use
 As Requested
 For Review & Comment

Notes: Dear Maurice,

Enclosed please find 2 signed original copies of the Agreement mentioned above. Please return one fully executed copy to us for our files. Thank you.

From Environmental Partners Group, Inc.

Copy to

Debbie Dunman for Paul Gabriel

Paul F. Gabriel, P.E., LSP
President
P: 617.657.0200
E: pfg@envpartners.com

Contract Amendment Form

EP Project Number: **134-1804**

Contract Number: **DPW 2018-08**

Amendment Number: **1**

Contract Amount: \$18,000.00

Net Change in Contract Price (This Amendment): \$51,200.00

Total Adjusted Contract Price: \$69,200.00

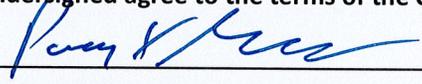
This Amendment extends the time to complete the work **365** calendar days.

The extended completion date is: **June 30, 2020**

This Amendment checked by: Paul Millett, P.E., Principal

This Amendment is recommended by: Maurice Goulet, Public Works Director

The undersigned agree to the terms of the Contract Amendment:



Environmental Partners

7-23-19

Date

Kristine Trierweiler, Town Administrator

Date

Mark Cerel, Town Attorney

Date

Board of Selectmen:

Certification of Appropriation under M.G.L. c.44, s.31C: Adequate funding in an amount sufficient to cover the total cost of this Contract Amendment is available:

Town of Medfield

Date

Contract Amendment Form (continued)

Public Entity: **Town of Medfield, Department of Public Works, Water Division**

EP Project Number: **134-1804**

Contract Number: **DPW 2018-08**

Amendment Number: **1**

Contract Title: **Mount Nebo Water Tank Assessment**

Owner's Name: **Town of Medfield**

Owner's Address: **459 Main Street, Medfield MA 02052**

Contractor's Name: **Environmental Partners Group Inc.**

Contractor's Address: **1900 Crown Colony Drive, Suite 402, Quincy, MA 02169**

Description of Amendment:

Furnish supplemental engineering services in connection with the construction phase services for the rehabilitation of the Mount Nebo water storage tank.

Reason for Amendment:

Environmental Partners Group, Inc. (Environmental Partners) was retained to perform professional design/engineering and planning services for the assessment and rehabilitation of the Mount Nebo water storage tank. The original contract provided for the interior and exterior condition assessment, preparation of plans and specifications, and bidding assistance.

This amendment is to complete construction phase services, specifically related to construction administration and resident project representative services for the rehabilitation of the Mount Nebo water storage tank. Refer to Environmental Partners proposal letter dated July 2, 2019 (Exhibit A) for detailed scope of services.

Costs for Amendment:

Compensation for construction administration (Task 4) and resident project representative (Task 5) services not to exceed \$51,200.00.

Exhibit A

***Environmental Partners Group, Inc.
Construction Phase Services Proposal
July 2, 2019***

July 2, 2019

Mr. Maurice Goulet
Superintendent of Public Works
Town House
459 Main Street
Medfield, MA 02052

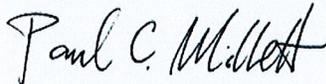
**RE: Mt. Nebo Tank Rehabilitation
Contract # DPW 2018-08
Proposed Amendment for Professional Engineering Services
Construction Phase Services**

Dear Mr. Goulet:

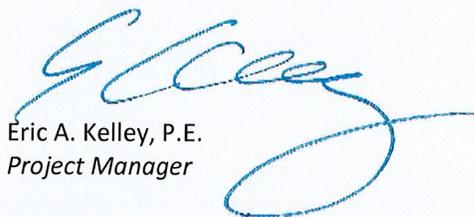
Environmental Partners (EP) is pleased to present this amendment to assist the Town of Medfield with the Construction Phase Services for the Mt. Nebo Tank Rehabilitation project. This proposal is based on the Bid Documents completed by EP in May 2019, the bidding results, and EP's recommendation to award memorandum. The proposed scope of work would serve as an amendment to Contract # DPW 2018-08 that was executed between the Town and EP on October 30, 2018.

If you have any questions or require additional information, please do not hesitate to contact me at pcm@envpartners.com or (617) 657 0276.

ENVIRONMENTAL PARTNERS GROUP, INC.



Paul C. Millett, P.E.
Principal



Eric A. Kelley, P.E.
Project Manager

Cc: Mr. William Harvey, Chair Board of Water and Sewerage
Mr. David O'Toole, Water Department
Ryan J. Paul, P.E., Environmental Partners

Encl: Professional Engineering Services Contract Amendment Proposal

Mount Nebo Water Tank Rehabilitation – Construction Phase Services Amendment

EP's proposes the following additional scope of work:

Task 4. Construction Administration

EP will provide construction administration services. Services will include the following:

- Coordination of a pre-construction conference call with the Town's Contractor including preparation of a meeting agenda and summary;
- Coordination of three project progress meetings during the course of construction including preparation of meeting agendas and summaries;
- Review of construction submittals and shop drawings for compliance with the specifications;
- Tracking bid item quantities, review and approval of payment requisitions and proposed change orders;
- Prepare responses to requests for information (RFI's) from the Contractor; and
- Perform contract closeout activities including performing a final inspection of the work near substantial completion, prepare a punch list, and complete project closeout documents.
- Prepare a monthly project summary memorandum for the Water Department and Board of Water and Sewerage Commissioners.

Task 5. Resident Project Representative

Resident Project Representative (RPR) services shall be provided on a part-time basis as construction work progresses. EP assumes part time inspection services during the fall of 2019 for a maximum of 220-hours. EP will also provide for weekly site visits by a project engineer or project manager to observe project progress. The RPR shall be a qualified project representative that is familiar with tank rehabilitation work. The RPR will not be responsible for operating valves or other Town-owned equipment, directing the Contractor's means and methods, or construction site safety. The scope of responsibilities of the RPR is provided in Attachment A. It is assumed that the Town will be responsible for draining the water tank, operating valves, equipment, and instruments, and providing access to the project site for the Contractor and EP personnel. The scope of responsibilities of the RPR is provided in Attachment A.

BUDGET

The budget for each task is as follows:

- A. Compensation for services under **Task 4** shall be made on the basis of a not to exceed fee of \$16,800.
- B. Compensation for services under **Task 5** shall be made on the basis of a not to exceed fee of \$34,400.

Original Contract Value:	\$18,000
<u>Proposed Contract Amendment:</u>	<u>\$51,200</u>
Revised Contract Value:	\$69,200

Attachment A – Resident Project Representative

ENVIRONMENTAL PARTNERS shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor(s), or the safety precautions and programs incident to the work of the Contractor(s), but ENVIRONMENTAL PARTNERS shall be responsible for notifying the Contractor and Town of any work that is cause for concern with respect to consistency with the requirements of the contract plans and specifications. ENVIRONMENTAL PARTNERS' efforts will be directed toward providing a greater degree of confidence for Town that the completed work of the Contractor(s) will conform to the Contract Documents, but ENVIRONMENTAL PARTNERS shall not be responsible for the failure of the Contractor(s) to perform the work in accordance with the Contract Documents. On the basis of on-site observations, ENVIRONMENTAL PARTNERS shall keep Town informed of the progress of the work, shall guard Town against defects and deficiencies in such work, and shall recommend the Town disapprove or reject work failing to conform to the Contract Documents.

1. The Resident Project Representative's duties, responsibilities, and limitations of authority are outlined below.

- a. **General:**

The Resident Project Representative is ENVIRONMENTAL PARTNERS' Agent, and shall act under the supervision of the ENVIRONMENTAL PARTNERS Project Manager. He shall confer with the ENVIRONMENTAL PARTNERS Project Manager regarding his actions. His dealings in matters pertaining to on-site work will be, in general, with the ENVIRONMENTAL PARTNERS Project Manager and the Contractor, keeping the Town advised as indicated below and as necessary. His dealings with subcontractors will only be through or with the full knowledge of Contractor or his on-site representative. He shall generally communicate with Town with the knowledge of the ENVIRONMENTAL PARTNERS Project Manager.

- b. **Duties and Responsibilities:**

Resident Project Representative shall:

1. **Schedules:** Review the progress schedule, schedule of shop drawing submissions, and schedule of values prepared by Contractor, and consult with the ENVIRONMENTAL PARTNERS Project Manager concerning their acceptability.
 2. **Conferences:** Attend progress meetings and other job conferences, as required, in consultation with the ENVIRONMENTAL PARTNERS Project Manager.
 3. **Liaison:**
 - i. Serve as ENVIRONMENTAL PARTNERS' liaison with the Contractor and the Town, working principally through Contractor's designated on-site representative, and assist them in understanding the intent of the Contract Documents. Assist the ENVIRONMENTAL PARTNERS Project Manager in serving as the Town's liaison with Contractor when the Contractor's operations affect Town's on-site operations.
 - ii. Assist in obtaining from the Town additional details of information required at the job site for proper execution of the work.
 4. **Shop Drawings and Samples:**
 - i. Receive samples from the Contractor's on-site representative and notify the ENVIRONMENTAL PARTNERS Project Manager of their availability for examination.
 - ii. Immediately advise the ENVIRONMENTAL PARTNERS Project Manager and the Contractor, or his on-site representative, of the commencement of any work requiring a shop drawing or

sample submission, if the submission has not been reviewed by ENVIRONMENTAL PARTNERS.

5. **Review of Work, Rejection of Defective Work, Inspections and Tests:**

i. Conduct periodic on-site reviews of construction in progress, or as otherwise necessary, to determine, to the best of his knowledge, (1) if work is proceeding in general accordance with the Contract Documents; and (2) that completed work is in substantial conformance with the Contract Documents. During such visits, and on the basis of on-site observations, ENVIRONMENTAL PARTNERS shall keep Town informed of the progress of the work, shall guard Town against defects and deficiencies in such work, and shall recommend the Town disapprove or reject work failing to conform to the Contract Documents.

ii. Report to the ENVIRONMENTAL PARTNERS Project Manager, who, in turn, will notify the Town whenever any work is, to the best of his knowledge and belief, unsatisfactory, faulty or defective, or is not in substantial conformance with the Contract Documents, or has been damaged, or does not meet the requirements of any inspections, tests, or approvals required to be made; and advise the ENVIRONMENTAL PARTNERS Project Manager when he believes work should be corrected or rejected or should be uncovered for observation, or requires special testing or inspection or approval. Record and advise the Contractor of work failing to meet the Contract requirements.

iii. Verify that tests, equipment, and systems start-up and operating and maintenance instructions and training are conducted, as required by the Contract Documents, and in the presence of the required personnel, and that the Contractor maintains adequate records thereof; observe, record, and report to the ENVIRONMENTAL PARTNERS Project Manager appropriate details relative to the test procedures and start-ups.

iv. Obtain records of all on-site testing and site visits from the Contractor's on-site representative, and report these to the ENVIRONMENTAL PARTNERS Project Manager.

v. Performance of the services outlined in Section 5., parts (i.) through (iv.) is to protect Town against defects and deficiencies in the work, and to verify compliance with the Contract Documents. Nothing in Section 5 relieves the Contractor of their independent obligations under their contract with Town.

6. **Interpretation of Contract Documents:** Transmit to the Contractor clarification and interpretation of the Contract Documents, as issued by the ENVIRONMENTAL PARTNERS Project Manager.

7. **Modifications:** Consider and evaluate the Contractor's suggestions for modifications in Drawings and Specifications, and report them, with recommendations, to the ENVIRONMENTAL PARTNERS Project Manager.

8. **Records:**

i. Maintain at the job site orderly files for correspondence; reports of job conferences and sample submissions; and reproductions of original Contract Documents, including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the Contract, ENVIRONMENTAL PARTNERS' clarifications and interpretations of the Contract, ENVIRONMENTAL PARTNERS' clarifications and interpretations of the Contract Documents, progress reports, and other project-related documents.

ii. Keep a diary or log book recording hours on the job site; weather conditions; data relative to questions of extras or deductions; list of principal visitors and representatives of fabricators, manufacturers, suppliers, and distributors; daily activities; decisions; and observations in general and specific observations in more detail, as in the case of observing test procedures. Send copies to the ENVIRONMENTAL PARTNERS Project Manager.

iii. Record names, addresses, and telephone numbers of all Contractors, subcontractors, and major suppliers of equipment and materials.

9. **Reports:**

i. Furnish periodic reports, as required, of progress of the work and of the Contractor's compliance with the progress schedule and schedule of shop drawing submissions.

ii. Prepare field memorandum, preliminary change orders and extra work orders, obtaining all back-up material. Recommend to the ENVIRONMENTAL PARTNERS Project Manager Field Memorandum, Change Orders, Extra Work Orders, and Field Changes.

10. **Payment Requisitions:** Review applications for payment with the Contractor for compliance with the established procedure for their submission, and forward them, with recommendations, to the ENVIRONMENTAL PARTNERS Project Manager, noting particularly their relation to the schedule of values, work completed, and materials and equipment delivered at the site but not incorporated in the work.

11. **Certificates, Maintenance and Operations Manuals:** During the course of the work, verify that certificates, maintenance and operation manuals, as appropriate, and other data required to be assembled and furnished by Contract are applicable to the items actually installed, and deliver this material to the ENVIRONMENTAL PARTNERS Project Manager for his review and forwarding to Town prior to final acceptance of the work.

12. **Completion:** Conduct a review to determine if the Project is substantially complete, and to determine if, to the best of ENVIRONMENTAL PARTNERS' knowledge, the work has been completed in substantial conformance with the Contract Documents and the intent of the design, and if Contractor has fulfilled all of his obligations there-under, so that ENVIRONMENTAL PARTNERS may recommend, in writing, final payment to Contractor(s), and may give written notice to Town and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendations and notice shall be subject to the limitations expressed in paragraph E above.

i. Before ENVIRONMENTAL PARTNERS issues a Certificate of Substantial Completion, assist the ENVIRONMENTAL PARTNERS Project Manager in developing a list of observed items requiring correction or completion.

ii. Conduct final review in the company of the ENVIRONMENTAL PARTNERS Project Manager, Town and Contractor, and assist in preparation of a final list of items to be corrected.

iii. Verify, to the best of his knowledge, that all items on final list have been completed or corrected, and make recommendations to the ENVIRONMENTAL PARTNERS Project Manager concerning acceptance.

c. **Limitations of Authority - Resident Project Representative:**

1. Shall not authorize any deviation from the Contract Documents, or approve any substitute materials or equipment, unless authorized by the ENVIRONMENTAL PARTNERS Project Manager.
2. Shall not undertake any of the responsibilities of Contractor, subcontractors, or Contractor's superintendent.
3. Shall not expedite work for the Contractor.
4. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction, unless such is specifically called for in the Contract Documents.
5. Shall not advise or issue directions as to safety precautions and programs in connection with the work.
6. Shall not authorize Town to occupy the project in whole or in part.
7. Shall not participate in specialized field or laboratory tests or inspections conducted by others, except as specifically authorized by ENVIRONMENTAL PARTNERS.
8. Shall not exceed limitations on ENVIRONMENTAL PARTNERS' authority as set forth in the Contract Documents.

Letter of Transmittal

To Town of Medfield
459 Main Street
Medfield, MA 02052

Date 9/23/19
Job No. P134-1903
Attn. Maurice Goulet, Director of Public Works
Re: Emergency Response Plan Update

We are sending you the following items:

- | | | | |
|----------------------------------|-----------------------------------|--|---|
| <input type="checkbox"/> Prints | <input type="checkbox"/> Invoices | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Specifications |
| <input type="checkbox"/> Reports | <input type="checkbox"/> Disk(s) | <input type="checkbox"/> Copy of Letter/Memo | <input type="checkbox"/> Other |

Copies	Date	Review	Description
2	9/23/19		Agreement for Professional Engineering Services
			Medfield Water System – Emergency Response Plan Update

These are transmitted:

- For Approval
 For Your Use
 As Requested
 For Review & Comment

Notes: Dear Maurice,

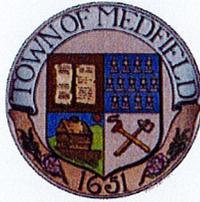
Enclosed please find 2 signed original copies of the Agreement mentioned above. Please return one fully executed copy to us for our files. Thank you.

From Environmental Partners Group, Inc.

Copy to

Debbie Duniraw for Paul Gabriel

Paul F. Gabriel, P.E., LSP
President
P: 617.657.0200
E: pfg@envpartners.com



TOWN OF MEDFIELD, MASSACHUSETTS

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES,
RE: MEDFIELD WATER SYSTEM – EMERGENCY RESPONSE PLAN UPDATE**

CONTRACT # DPW 2019-10

STATE CONTRACT # (if applicable) _____

This Contract is made this 1st day of October 2019 by and between the Town of Medfield, a Municipal Corporation, duly organized under the laws of the Commonwealth of Massachusetts and having a usual place of business at the Medfield Town House, 459 Main Street in said Medfield, MA 02052 (hereinafter referred to as the "Town") and Environmental Partners Group, Inc., of 1900 Crown Colony Drive, Suite 402, Quincy, MA 02169 (hereinafter referred to as the "Contractor").

WITNESSED:

Whereas, the Town solicited submission of proposal for Engineering Consulting Services for the Department of Public Works hereinafter referred to as "Program"; and

Whereas, the Contractor submitted a Proposal to perform the work required for the Program, and the Town has decided to award the contract therefore to the Contractor,

NOW, THEREFORE, the Town and the Contractor agree as follows:

1. Contract Documents: The Contract Documents consist of this Agreement together with the proposal for Scope of Work and Compensation only, (Attachment A). The Contract Documents constitute the entire Agreement between the parties concerning the services and all are as fully a part of this Agreement as if attached hereto. In the event of conflicting provisions, the language of this Agreement shall govern provided that if the conflict relates to quantity or quality of goods or services, the greater quantity or higher quality specified shall be required.
2. Scope of Services: The Contractor shall furnish services related to the Program in accordance with the Scope of Services provided in the work plan (Attachment A), as well as, all services necessary or incidental there to.
3. Performance of Work: The Contractor shall furnish all equipment, staffing, and materials to accomplish the Program in strict conformity with all applicable

Federal, State, and local laws, each of which is incorporated by reference and shall be responsible for obtaining all necessary approvals/permits as required for the performance of the Program.

4. Receivable: The Contractor shall deliver according to the proposal identified in Attachment A.
5. Contract Term: In accordance with the schedule provided by the Department of Public Works, October 1, 2019 to June 30, 2020. The project shall commence and be completed within the contract term dates.
6. Payment for Work: The Town shall pay \$9,700.00 for the Program in accordance with the pricing in Attachment A. The Contractor to Town shall submit monthly invoices for payment of the Program. The Town shall make payments within thirty (30) days after its receipt of the invoice. All additional service will require a contract amendment signed by the Board of Selectmen completed in advance of the authorization to proceed.
7. Indemnification of the Town: The Town's liability hereunder shall be limited to the amounts due the Contractor for services actually rendered. The Contractor shall defend, indemnify and hold harmless the Town, its officers, boards, agents and employees, to maximum extent permitted by law, from any liability loss, damage, cost, charge, or expense, but only to the extent, they result from any employees or third party contractor or supplier's claim for payment for wages, labor, materials, goods or services rendered to Contractor or from any claim for injury to person or property, which area result of any act, omission or default on the part of the Contractor, or any of its agents or employees. If any such claim is made, the Town may retain out of any payments, then or thereafter due to the Contractor a sufficient amount to protect the Town against such claims, costs and expenses.
8. Contractor's Standard of Care: The Contractor shall perform its services and obligations hereunder in conformity with the standard of professional skill and care applicable to established Engineering Consulting Applicants. Contractor warrants and represents that it is familiar with Federal, State, and local regulations for Building Projects.
9. Contractor's Personnel: The Consultant's employees and Consultant's consultants shall be those identified in Attachment A and no others without prior written approval of Town.
10. Liability Insurance Requirements: The Consultant shall at its own expense obtain and maintain a Professional Liability Policy covering negligent error, omissions and acts of the Consultant. The Town will require a Certificate of Insurance, indicating evidence of Professional Liability, General Liability, Automobile Liability with minimum limits of \$2,000,000.00, and of any person or business entity for whose performance the Consultant is legally liable, arising out of the performance of this

Agreement. The insurance shall be in force from the date of this Agreement until the expiration of the applicable period of limitations. The Consultant shall notify the Town should coverage become unavailable during that period. The Consultant shall obtain and provide a certificate of insurance for each consultant employed or engaged by Consultant, evidencing the existence of the same type of policy and coverage.

The Consultant shall also maintain liability insurance for all vehicles and equipment, which it owns or operates in connection with the project.

The Consultant shall also obtain and maintain in force worker compensation, as required by law.

Certificates evidencing that the required insurance coverage is in effect shall be submitted by the Consultant to Town prior to the signing of this Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to Town at least thirty (30) days prior to the intended effective date thereof, which date shall be stated in such notice.

12. Independent Contractor: The Contractor is an independent contractor and is not an agent or employee of the Town and is not authorized to act on behalf of the Town. The Town will not withhold Federal, State or payroll taxes of any kind, on behalf of the Contractor or the employees of the Contractor. The Contractor is not eligible for, and shall not participate in, any employee pension, health or other fringe benefit plan of the Town.
13. Successors and Assigns: This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Contractor shall assign or transfer any interest in the Agreement without the written consent of the other.
14. Inspection and Reports: The Town shall have the right at any time to inspect the records of the Contractor relative to the services provided to the Town pursuant to this Agreement. This shall include the right to enter upon any property owned or occupied by the Contractor, whether situated within or beyond the limits of the Town. Upon request the Contractor shall immediately furnish to the Town any and all written reports relative to such services arising out of its operations under this Contract during and/or after the termination of the contract.
15. Arbitration: Only if Mutually Agreed-Upon-Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof may be subject to and decided by arbitration only if the parties mutually agree in writing to do so.
16. Termination:

- a. For Cause - The Town shall have the right to terminate this Agreement if (i) the Contractor's neglects or fails to perform or observe any of its obligations hereunder and a cure is not effected by the Contractor within seven (7) days next following its receipt of a termination notice issued by the Town, (ii) if an order is entered against the Contractor approving a petition for an arrangement, liquidation, dissolution or similar relief relating to bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (iii) immediately if the Contractor shall file a voluntary petition in bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief for debtors or shall seek or consent or acquiesce in appointment of any trustee, receiver or liquidation of any of the Contractor's property.

The Town shall pay all reasonable and supportable costs incurred prior to termination, which payment shall not exceed the value of services provided.

- b. For Convenience - The Town may terminate this Agreement at any time for any reason upon submitting to the Contractor thirty (30) days prior a written notice of its intention to terminate. Upon receipt of such notice, the Contractor shall immediately cease to incur expenses pursuant to this Agreement unless otherwise directed in the Town's termination notice. The Contractor shall promptly notify the Town of costs incurred to date of termination and the Town shall pay all such reasonable and supportable costs which payment shall not exceed the unpaid balance due on this Agreement.
- c. Return of Property - Upon termination, the Contractor shall immediately return to the Town, without limitation, all documents and items of any nature whatever, supplied to Contractor by the Town or developed by the Contractor in accordance with this Agreement.

17. Notice: Any notice required to be given to Consultant under the terms of this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, to: Environmental Partners Group, Inc., of 1900 Crown Colony Drive, Suite 402, Quincy, MA 02169 or such other address as Consultant from time to time may have designated by written notice to the Town and shall be deemed to have been given when mailed by the Town. Any notice required to be given to the Town by the Consultant under the terms of the Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return-receipt requested to: Department of Public Works, 55 North Meadows Road, Medfield, Massachusetts 02052 or such other address as the Town from time to time may have designated by written notice to the Consultant and shall be deemed to have been given when mailed by the Town together with simultaneous copy to Mark G. Cerel, Town Counsel, at Medfield Professional Building, Post Office Box 9, Medfield, MA 02052.

18. Severability: If any term of this Contract or application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, legality, and enforceability of the remaining terms and conditions of the Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
19. Governing Law: The performance of this Contract shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts. Claims and Disputes and Resolution Procedure. Claims, disputes, or other matters in question with the Town and Contractor or any other party claiming rights under this agreement relating to or arising from the Project, the Work, or interpretation of any terms of the Contract or Contract Documents shall be resolved only by a civil action commenced in the Commonwealth of Massachusetts in either the Superior Court Department, Norfolk County, or the District Court Department, Dedham Division, of Massachusetts Trial Court; in the alternative, private arbitration or mediation may be employed if the parties mutually agree in writing to do so.
20. Entire Agreement: This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements; negotiations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this day and year first above written.

(Contractor)

Board of Selectmen

By: Paul Gabriel
Title: Paul Gabriel
President

Approved as to Form: _____

Town of Medfield, MA

Mark G. Cerel, Town Attorney

Kristine Trierweiler, Town Administrator

CERTIFICATION OF GOOD FAITH

The undersigned certifies under pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

The Contractor by:

Paul Gabriel
Print Name

President
Title/Authority

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

Paul Gabriel, authorized signatory for
name of signatory

Environmental Partners Group Inc, whose
name of contractor

principal place of business is at 1900 Crown Colony Dr Quincy MA 02169

Environmental Partners Group Inc does hereby certify under the pains and penalties of perjury that
name of contractor has paid all

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

Paul Gabriel 9-23-19
Signature Date

CERTIFICATE OF CORPORATE AUTHORITY

AT A DULY AUTHORIZED MEETING OF THE BOARD OF DIRECTORS OF THE Environmental Partners Group, Inc.
(name of corporation)

held on 12-5-06 Directors were present or waived notice, it was voted that Paul Gabriel, President
(date)

_____ of this company be and hereby is authorized to execute contracts and bonds
(name and Consultant)

in the name and behalf of said company, and affix its Corporate Seal thereto, and such execution
of any contract or bond of obligation in this company's name on its behalf of such President
(OFFICER)

under seal of the company shall be valid and binding upon this company.

A TRUE COPY,

ATTEST:

Paul & Jules

Place of Business:

1900 Crown Colony Drive, Ste 402

Quincy, MA 02169

I hereby certify that I am the Clerk of the Environmental Partners Group, Inc.
(Consultants) (Name of Corporation)

that Paul Gabriel is the duly elected President of said
(Name of Officer)

company, and the above vote has not been amended or rescinded and remains in full force and effect as of the
date of this contract.

Signature:

Paul & Jules

Name/ Consultant: Environmental Partners Group, Inc.

Date:

9-23-19

(Corporate Seal)

Sate of MA, SS. 9-23, 2019

Then personally appeared the above named Paul Gabriel and acknowledged the foregoing
instrument to be his/her free act and deed before me. Drivers License

NOTARY PUBLIC

Deborah B. Dunivan

My commission expires: 5/7/21

ATTACHMENT

A

August 27, 2019

Mr. Maurice Goulet
Superintendent of Public Works
Town House
459 Main Street
Medfield, MA 02052

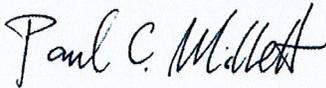
**RE: Medfield Water System – Emergency Response Plan Update
Proposal for Professional Engineering Services**

Dear Mr. Goulet:

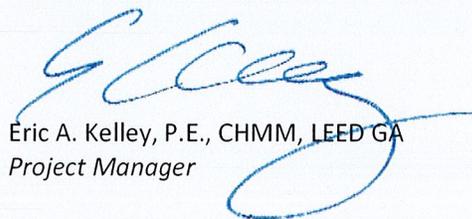
As requested, Environmental Partners Group Inc. (EP) has prepared a proposed scope of services for updating the Town's Emergency Response Plan (ERP) for the public water system. The scope is based on our discussion and the information provided by the Town including a copy of the 2004 ERP.

If you have any questions or require additional information, please do not hesitate to contact me at pcm@envpartners.com, (617) 657-0276, or Eric at eak@envpartners.com, (617) 657-0282.

ENVIRONMENTAL PARTNERS GROUP, INC.



Paul C. Millett, P.E.
Principal



Eric A. Kelley, P.E., CHMM, LEED GA
Project Manager

Cc: Mr. David O'Toole, Water Dept.

Encl: Emergency Response Plan Update Proposal

Project Understanding

The Town's existing emergency response plan for the public water system was prepared in November 2004 by SEA Consultants, Inc. The Massachusetts Department of Environmental Protection (DEP) has issued guidance on emergency response planning in DEP Policy 87-05 *Declaration of a Public Water System Emergency (revised February 3, 1997)* and further in DEP's *Drinking Water Guidelines for Public Water Systems Chapter 12 Emergency Response Planning Requirements (revised August 27, 2017)*. The Town is interested in updating their emergency response plan in accordance with current DEP guidelines and also reflect the capital, staff, and operational improvements to the water system since 2004.

Scope of Services

Task 1 – Emergency Response Workshop

Under this task, EP will do the following:

- Review the Town's 2004 Emergency Response Plan and 2016 Water System Master Plan.
- Prepare a request for information related to public water system information that needs to be confirmed and/or updated.
- Meet with the Town's Water Department staff to discuss water system improvements completed since 2004, current organizational structure of the Water Department, current instrumentation and control system, and current DEP guidelines related to emergency response planning.
- Prepare a agenda and meeting summary for the emergency response workshop.

Task 2 – Update Emergency Response Plan

Under the task, EP do the following:

- Prepare a draft emergency response plan for the Town's review and comment. The draft plan will be provided in both hard copy and electronically (PDF format).
- Meet with the Town's Water Department staff to discuss the draft emergency response plan.
- Prepare the final emergency response that reflects the Town's feedback on the draft plan. The final plan will be provided in both hard copy and electronically (PDF format).

PROJECT TEAM

Environmental Partners' project team will be led by Paul Millett, P.E., and Eric Kelley, P.E. with support technical staff from EP.

SCHEDULE

EP is prepared to proceed with the project upon receiving formal notice to proceed. The proposed project schedule assumes a start date of October 1, 2019.

Task	Propose Start	Estimated Completion
Task 1 – Emergency Response Workshop	October 1, 2019	October 31, 2019
Task 2 – Update Emergency Response Plan	November 1, 2019	November 30, 2019

FEE

EP proposes to complete the scope of services outlined herein for the not to exceed amount of \$9,700.

Task	Budget
Task 1 – Emergency Response Workshop	\$3,800
Task 2 – Update Emergency Response Plan	\$5,900
Project Totals	\$9,700

ASSUMPTIONS

- The project schedule assumes that the Town issues Environmental Partners a notice to proceed by October 1, 2019.
- The project meetings specified will be scheduled with the Town and include representatives from the Department of Public Works' Water Department.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/23/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poole Professional Ltd. 107 Audubon Rd. #2, Ste. 305 Wakefield, MA 01880 Christopher A. Poole	CONTACT NAME:	
	PHONE (A/C, No, Ext):	781-245-5400
	FAX (A/C, No):	781-245-5463
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Travelers Indemnity Co of CT	25682
	INSURER B : Travelers Indemnity Co America	25666
	INSURER C : Travelers Indemnity Co.	25658
	INSURER D : XL Specialty Insurance Company	37885
	INSURER E :	
	INSURER F :	

INSURED
Environmental Partners
Group, Inc.
1900 Crown Colony Dr.Suite 402
Quincy, MA 02169

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVP	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	6802J049788	06/13/2019	06/13/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/POP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		BA3G197927	06/13/2019	06/13/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUP6572Y321	06/13/2019	06/13/2020	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	UB-6K138549	06/13/2019	06/13/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Arch/Eng.Prof.Liab Incl.PollutionLiab		DPR9943746	06/18/2019	06/18/2020	Per Claim 5,000,000 Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project Name: Professional Engineering Services: RE: Medfield Water System
- Emergency Response Plan Update
See Attached

CERTIFICATE HOLDER

CANCELLATION

TOWNM15 Town of Medfield Attn: Maurice Goulet Director of Public Works 459 Main Street Medfield, MA 02052	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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NOTEPAD:HOLDER CODE **TOWNM15**
INSURED'S NAME **Environmental Partners**ENVI-15
OP ID: CLPAGE 2
Date **09/23/2019**

Project Name: Professional Engineering Services: RE: Medfield Water System - Emergency Response Plan Update

The Town of Medfield included as additional insured per written contract under the general liability policy subject to same terms and conditions. Coverage is primary and non-contributory. Waiver of subrogation applies to indicated policies in favor of additional insured. 30 day notice of cancellation except 10 day notice for non-payment of premium.

Letter of Transmittal

To Town of Medfield
459 Main Street
Medfield, MA 02052

Date 9/23/19
Job No. P134-1901
Attn. Maurice Goulet, Director of Public Works
Re: Wells 3 and 4

We are sending you the following items:

- Prints
- Invoices
- Shop Drawings
- Specifications
- Reports
- Disk(s)
- Copy of Letter/Memo
- Other

Copies	Date	Review	Description
2	9/23/19		Agreement for Professional Engineering Services
			Medfield Water System – Preliminary Design Wells 3 and 4 and Permitting For
			Iron and Manganese Treatment Facility

These are transmitted:

- For Approval
- For Your Use
- As Requested
- For Review & Comment

Notes: Dear Maurice,

Enclosed please find 2 signed original copies of the Agreement mentioned above. Please return one fully executed copy to us for our files. Thank you.

From Environmental Partners Group, Inc.

Copy to

Debbie Dunivan for Paul Gabriel

Paul F. Gabriel, P.E., LSP
President
P: 617.657.0200
E: pfg@envpartners.com



TOWN OF MEDFIELD, MASSACHUSETTS

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES,
RE: MEDFIELD WATER SYSTEM – PRELIMINARY DESIGN WELLS 3 AND 4 AND
PERMITTING SUPPORT FOR IRON AND MANGANESE TREATMENT FACILITY**

CONTRACT # DPW 2019-09

STATE CONTRACT # (if applicable) _____

This Contract is made this 1st day of October 2019 by and between the Town of Medfield, a Municipal Corporation, duly organized under the laws of the Commonwealth of Massachusetts and having a usual place of business at the Medfield Town House, 459 Main Street in said Medfield, MA 02052 (hereinafter referred to as the "Town") and Environmental Partners Group, Inc., of 1900 Crown Colony Drive, Suite 402, Quincy, MA 02169 (hereinafter referred to as the "Contractor").

WITNESSED:

Whereas, the Town solicited submission of proposal for Engineering Consulting Services for the Department of Public Works hereinafter referred to as "Program"; and

Whereas, the Contractor submitted a Proposal to perform the work required for the Program, and the Town has decided to award the contract therefore to the Contractor,

NOW, THEREFORE, the Town and the Contractor agree as follows:

1. Contract Documents: The Contract Documents consist of this Agreement together with the proposal for Scope of Work and Compensation only, (Attachment A). The Contract Documents constitute the entire Agreement between the parties concerning the services and all are as fully a part of this Agreement as if attached hereto. In the event of conflicting provisions, the language of this Agreement shall govern provided that if the conflict relates to quantity or quality of goods or services, the greater quantity or higher quality specified shall be required.
2. Scope of Services: The Contractor shall furnish services related to the Program in accordance with the Scope of Services provided in the work plan (Attachment A), as well as, all services necessary or incidental there to.

3. Performance of Work: The Contractor shall furnish all equipment, staffing, and materials to accomplish the Program in strict conformity with all applicable Federal, State, and local laws, each of which is incorporated by reference and shall be responsible for obtaining all necessary approvals/permits as required for the performance of the Program.
4. Receivable: The Contractor shall deliver according to the proposal identified in Attachment A.
5. Contract Term: In accordance with the schedule provided by the Department of Public Works, October 1, 2019 to June 30, 2020. The project shall commence and be completed within the contract term dates.
6. Payment for Work: The Town shall pay \$171,500.00 for the Program in accordance with the pricing in Attachment A. The Contractor to Town shall submit monthly invoices for payment of the Program. The Town shall make payments within thirty (30) days after its receipt of the invoice. All additional service will require a contract amendment signed by the Board of Selectmen completed in advance of the authorization to proceed.
7. Indemnification of the Town: The Town's liability hereunder shall be limited to the amounts due the Contractor for services actually rendered. The Contractor shall defend, indemnify and hold harmless the Town, its officers, boards, agents and employees, to maximum extent permitted by law, from any liability loss, damage, cost, charge, or expense, but only to the extent, they result from any employees or third party contractor or supplier's claim for payment for wages, labor, materials, goods or services rendered to Contractor or from any claim for injury to person or property, which area result of any act, omission or default on the part of the Contractor, or any of its agents or employees. If any such claim is made, the Town may retain out of any payments, then or thereafter due to the Contractor a sufficient amount to protect the Town against such claims, costs and expenses.
8. Contractor's Standard of Care: The Contractor shall perform its services and obligations hereunder in conformity with the standard of professional skill and care applicable to established Engineering Consulting Applicants. Contractor warrants and represents that it is familiar with Federal, State, and local regulations for Building Projects.
9. Contractor's Personnel: The Consultant's employees and Consultant's consultants shall be those identified in Attachment A and no others without prior written approval of Town.
10. Liability Insurance Requirements: The Consultant shall at its own expense obtain and maintain a Professional Liability Policy covering negligent error, omissions and acts of the Consultant. The Town will require a Certificate of Insurance, indicating evidence of Professional Liability, General Liability, Automobile Liability with

minimum limits of \$2,000,000.00, and of any person or business entity for whose performance the Consultant is legally liable, arising out of the performance of this Agreement. The insurance shall be in force from the date of this Agreement until the expiration of the applicable period of limitations. The Consultant shall notify the Town should coverage become unavailable during that period. The Consultant shall obtain and provide a certificate of insurance for each consultant employed or engaged by Consultant, evidencing the existence of the same type of policy and coverage.

The Consultant shall also maintain liability insurance for all vehicles and equipment, which it owns or operates in connection with the project.

The Consultant shall also obtain and maintain in force worker compensation, as required by law.

Certificates evidencing that the required insurance coverage is in effect shall be submitted by the Consultant to Town prior to the signing of this Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to Town at least thirty (30) days prior to the intended effective date thereof, which date shall be stated in such notice.

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13. Successors and Assigns: This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Contractor shall assign or transfer any interest in the Agreement without the written consent of the other.
14. Inspection and Reports: The Town shall have the right at any time to inspect the records of the Contractor relative to the services provided to the Town pursuant to this Agreement. This shall include the right to enter upon any property owned or occupied by the Contractor, whether situated within or beyond the limits of the Town. Upon request the Contractor shall immediately furnish to the Town any and all written reports relative to such services arising out of its operations under this Contract during and/or after the termination of the contract.
15. Arbitration: Only if Mutually Agreed-Upon-Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof may be subject to and decided by arbitration only if the parties mutually agree in writing to do so.

16. Termination:

- a. For Cause - The Town shall have the right to terminate this Agreement if (i) the Contractor's neglects or fails to perform or observe any of its obligations hereunder and a cure is not effected by the Contractor within seven (7) days next following its receipt of a termination notice issued by the Town, (ii) if an order is entered against the Contractor approving a petition for an arrangement, liquidation, dissolution or similar relief relating to bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (iii) immediately if the Contractor shall file a voluntary petition in bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief for debtors or shall seek or consent or acquiesce in appointment of any trustee, receiver or liquidation of any of the Contractor's property.

The Town shall pay all reasonable and supportable costs incurred prior to termination, which payment shall not exceed the value of services provided.

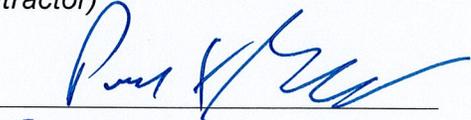
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- c. Return of Property - Upon termination, the Contractor shall immediately return to the Town, without limitation, all documents and items of any nature whatever, supplied to Contractor by the Town or developed by the Contractor in accordance with this Agreement.

17. Notice: Any notice required to be given to Consultant under the terms of this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, to: Environmental Partners Group, Inc., of 1900 Crown Colony Drive, Suite 402, Quincy, MA 02169 or such other address as Consultant from time to time may have designated by written notice to the Town and shall be deemed to have been given when mailed by the Town. Any notice required to be given to the Town by the Consultant under the terms of the Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return-receipt requested to: Department of Public Works, 55 North Meadows Road, Medfield, Massachusetts 02052 or such other address as the Town from time to time may have designated by written notice to the Consultant and shall be deemed to have been given when mailed by the Town together with simultaneous copy to Mark G. Cerel, Town Counsel, at Medfield Professional Building, Post Office Box 9, Medfield, MA 02052.

18. Severability: If any term of this Contract or application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, legality, and enforceability of the remaining terms and conditions of the Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
19. Governing Law: The performance of this Contract shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts. Claims and Disputes and Resolution Procedure. Claims, disputes, or other matters in question with the Town and Contractor or any other party claiming rights under this agreement relating to or arising from the Project, the Work, or interpretation of any terms of the Contract or Contract Documents shall be resolved only by a civil action commenced in the Commonwealth of Massachusetts in either the Superior Court Department, Norfolk County, or the District Court Department, Dedham Division, of Massachusetts Trial Court; in the alternative, private arbitration or mediation may be employed if the parties mutually agree in writing to do so.
20. Entire Agreement: This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements; negotiations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this day and year first above written.

(Contractor)

By: 

Title: President

Board of Selectmen

Approved as to Form: _____

Town of Medfield, MA

Mark G. Cerel, Town Attorney

Kristine Trierweiler, Town Administrator

CERTIFICATION OF GOOD FAITH

The undersigned certifies under pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

The Contractor by:

Paul Gabriel
Print Name

President
Title/Authority

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

Paul Gabriel, authorized signatory for
name of signatory

Environmental Partners Group Inc, whose
name of contractor

principal place of business is at 1900 Crown Colony Dr, Quincy MA 02169

_____ does hereby certify under the pains and penalties of perjury that
Environmental Partners Group Inc has paid all
name of contractor

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

Paul Gabriel 7-23-19
Signature Date

CERTIFICATE OF CORPORATE AUTHORITY

AT A DULY AUTHORIZED MEETING OF THE BOARD OF DIRECTORS OF THE Environmental Partners Group, Inc.
(name of corporation)

held on 12-5-06 Directors were present or waived notice, it was voted that Paul Gabriel, President
(date)

_____ of this company be and hereby is authorized to execute contracts and bonds
(name and Consultant)

in the name and behalf of said company, and affix its Corporate Seal thereto, and such execution
of any contract or bond of obligation in this company's name on its behalf of such President
(OFFICER)

under seal of the company shall be valid and binding upon this company.

A TRUE COPY,

ATTEST: *Paul Gabriel*

Place of Business:

1900 Crown Colony Drive, Ste 402

Quincy, MA 02169

I hereby certify that I am the Clerk of the Environmental Partners Group, Inc.
(Consultants) (Name of Corporation)

that Paul Gabriel is the duly elected President of said
(Name of Officer)

company, and the above vote has not been amended or rescinded and remains in full force and effect as of the
date of this contract.

Signature: *Paul Gabriel*

Name/ Consultant: Environmental Partners Group, Inc.

Date: 9-23-19

(Corporate Seal)

Sate of MA, SS. 9-23, 2019

Then personally appeared the above named Paul Gabriel and acknowledged the foregoing
instrument to be his/her free act and deed before me. Drivers License

NOTARY PUBLIC Deborah B. Dunivan

My commission expires: 5-7-21



ATTACHMENT

A

July 2, 2019

Mr. Maurice Goulet
Superintendent of Public Works
Town House
459 Main Street
Medfield, MA 02052

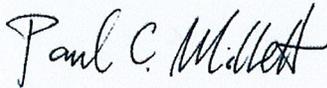
**RE: Medfield Water System – Wells 3 and 4 Preliminary Design and Permitting Support
Proposal for Professional Engineering Services**

Dear Mr. Goulet:

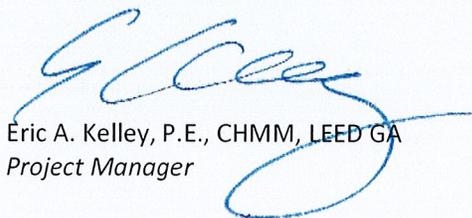
As requested, Environmental Partners Group Inc. (EP) has prepared a revised scope of services for additional preliminary design and permitting support associated with Wells 3 and 4. The scope is based on our meetings on April 26th and the Board of Water and Sewerage Meeting on May 28th.

If you have any questions or require additional information, please do not hesitate to contact me at pcm@envpartners.com, (617) 657-0276, or Eric at eak@envpartners.com, (617) 657-0282.

ENVIRONMENTAL PARTNERS GROUP, INC.



Paul C. Millett, P.E.
Senior Project Manager



Eric A. Kelley, P.E., CHMM, LEED GA
Project Manager

Cc: William Harvey, Chair of Board of Water and Sewerage
David O'Toole, Water Department

Encl: Professional Engineering Services Proposal
Figure 1 – Well 3 Site Locus

Project Understanding

The Town received approval of the Well 3 Pilot Study from the Massachusetts Department of Environmental Protection (DEP) in April 2019. The DEP approved the iron and manganese treatment system for use of sodium hypochlorite for iron/manganese treatment and disinfection, sodium hydroxide for pH adjustment, and iron/manganese treatment using pressure filtration at filter loading rates up to 9 gallons per minute per square foot. Well 4 was not included within the scope of the pilot study.

Wells 3 and 4 are registered public water sources with a DEP issued registered withdrawal rate of 0.92 million gallons per day (MGD). Well 3 has a reported safe yield of 1.2 MGD and Well 4 has a safe yield of 1.01 MGD. The Town has not been utilizing Well 4 for several decades due to water quality concerns and DEP has requested that Well 4 be evaluated for potential groundwater under direct influence of surface water due to the proximity of Mine Brook before it is returned to service.

Based upon discussions with DEP, Well 3 is located within a non-conforming Zone I wellhead protection area due to the presence of the active railroad within 400 feet of the well. Well 3 has been operating at diminished capacity (approximately 0.54 MGD maximum) due to hydraulic restrictions of the replacement well screen installed in the early 2000s. Under the terms of the new source approval process, the approval process for replacing Well 3 can be streamlined if it is replaced within 50-feet of its current location. Environmental Partners new source testing completed in 2017 found that a replacement well could be sited within 50-feet of the existing well and preliminary testing indicated the aquifer capacity met the existing 1.2 MGD withdrawal capacity of Well 3 and the potential for additional withdrawal capacity. DEP has reported that requesting any additional withdrawal capacity from a replacement Well 3 would be unlikely due to the non-conforming Zone I.

Based on these recent findings regarding the Pilot Study and Well 3 replacement well, the Town would like to evaluate Well 4 for potential surface water influence, identify potential areas at the wellfield for further new source testing within a conforming Zone I area, and update the preliminary treatment system requirements and opinion of probable construction cost for the Well 3 treatment facility to reflect the DEP approved treatment criteria and Town's capital planning schedule.

Scope of Services

Task 1 – Preliminary Design of Well 3 Water Treatment Facility

Under this task, EP will provide the following services:

- Update basis of design for the pressure filter system based upon DEP pilot study approval and request updated scopes of supply and costs from pressure filter system manufacturers.
- Identify space requirements for water treatment systems (e.g. filters, chemical feed systems, piping, etc.) based upon updated filter system information.
- Coordinate a preliminary design workshop with the Town to identify facility goals and objectives for space requirements, facility siting, architectural style (e.g. engineered steel building vs. masonry block), site utilities, site security and access, and facility appurtenances. Prepare workshop agenda and minutes.
- Identify and flag wetland resource areas in the vicinity of the proposed facility, the well stations, and the selected transmission main routes.
- Complete an existing conditions survey through a professional land surveyor subconsultant, who will provide the topographic survey of the selected water treatment facility site including:

Hyannis:

297 North Street, Suite 311, Hyannis, MA 02601
TL 508.568.5103 • FX 508.568.5125

Headquarters:

1900 Crown Colony Drive, Suite 402, Quincy, MA 02169
TL 617.657.0200 • FX 617.657.0201

Woburn:

18 Commerce Way, Suite 2000, Woburn, MA 01801
TL 781.281.2542 • FX 781.281.2543

- Well 3 Access Road – centerline, edges of pavement, and ground surface within 3 feet of edge of pavement. The access road survey will begin at Elm Street and continue to Well 3 as shown in the attached locus, Figure 1.
 - Right-of-way, property lines, easements and ownership, and existing wetland flags within the limits of the survey.
 - Underground utilities and corresponding roadway/surface features (valves, catch basins, hydrants, utility poles, etc.).
 - Additional ground survey points to establish topography, spot grades and 2-foot contours
 - Significant ledge outcrops
 - Field-location of all trees 12-inch diameter and larger within the limits of the survey.
 - Well 3 Pump Station including building corners, site fencing, gates, and appurtenances (e.g. equipment pads, generators, hydrants)
 - The survey will not include topographic survey of the abutting Wheelock School parcel and the recreational fields beyond the limits of the existing access road as shown in Figure 1.
 - Deliverable: Digital base plan in AutoCAD (version 2012 or more recent) DWG format using Massachusetts State Plan (Horizontal Datum) and NAVD 1988 (Vertical Datum), Electronic (PDF format) and hard copy of final plan, and the final plan will be stamped by a Massachusetts Professional Land Surveyor.
-
- Complete geotechnical investigations to establish the foundation design requirements and subsurface conditions for the proposed facility and the selected transmission main routes. Two days of geotechnical drilling is assumed and would be coordinated with the drilling schedule for Task 2. Prepare Geotechnical Report detailing investigation completed and recommendations for building foundations.
 - Evaluate the need for any utilities modifications to the existing well sites and the proposed WTP site, including natural gas, electrical and future septic system disposal requirements and provide a memorandum summarizing the evaluation.
 - Identify anticipated staffing and licensing requirements for the new facility based on 310 CMR 22 requirements.
 - Identify required permit applications or approvals necessary for completion of the project, including but not limited to the Town of Medfield and State of Massachusetts (e.g. MEPA and DEP). Coordinate a meeting with local departments (Conservation, Building, and Planning) to identify local permitting requirements. Provide a memorandum summarizing the permitting requirements.
 - Develop an updated opinion of probable construction cost based on the Preliminary Design plans.
 - Update the Basis of Design Report (BDR) for the treatment facility. The updated BDR shall include the recommended transmission main routes and Well #3 replacement well, design criteria, preliminary drawings, and written descriptions of the project including the various chemical feed and unit treatment processes to be employed and how the facility will achieve regulatory compliance with current and known future regulatory requirements.
 - The BDR shall also include an Existing Conditions Site Plan, a Proposed Conditions Site Plan, Building Floorplan, Process Flow Diagram, Process Equipment List, Process-Mechanical System Layout, List of Specifications, Drawing List, Codes and Design Standards to be employed, and a list of permit submissions.

- The BDR will include technical memoranda for the architectural, structural, electrical, and mechanical/plumbing design criteria for the facility. The architectural technical memorandum will include a building code review.
- Submit a draft BDR to the Town for review and comment. Respond/Incorporate any comments received from the Town into the final BDR.
- Coordinate a second preliminary design workshop upon the completion of the BDR. Prepare workshop agenda and minutes.
- Prepare for and attend two meetings with the Board of Water and Sewerage. Prepare project status updates for Board meetings.

Task 2 – New Source Evaluation for Wells 3 and 4

Under this task, EP will provide the following services:

- Complete a desktop site screening analysis to identify potential locations for a new water supply well that would be more than 400-feet from the existing private railroad, 150-feet from Mine Brook, and within high or medium yield aquifers.
- Develop a test well exploration program based upon the results of the desktop study to provide lithologic and specific capacity data to support the location and design of a future production well.
- Coordinate and oversee subsurface drilling of test borings and installation of two test wells. The borings will be completed to depths approximately 65 feet below grade and continuous soil samples would be collected from the test borings. One boring will be completed as a 2-inch test well (PVC riser, 10-foot section of stainless steel screen, gravel pack well screen, and bentonite seal) and one 2-foot offset observation (PVC riser and screen) will be installed for monitoring groundwater levels during the pump test. Both wells will be developed following installation.
- Complete a constant rate 2-hour pump test on the installed test well after it has been developed. It is assumed three days will be necessary to complete the drilling and pump test.
- Collect water quality samples upon completion of the pump test. Water quality samples will be analyzed for specific conductance, pH, temperature, VOCs, iron, manganese, color, nitrate, and nitrite.
- Prepare a test well memorandum documenting the results of the desktop analysis, test borings, pump test, and water quality testing. The specific capacity of the test well will be calculated from the pumping rate and drawdown. The data will be incorporated into the updated basis of design report prepared in Task 1.

Task 3 – Well 4 Micro-Particulate Analysis

Under this task, EP will provide the following services:

- Prepare a memorandum outlining the proposed pumping schedule and water quality testing plan for Well 4 in accordance with the DEP guidelines for Micro-Particulate Analysis (MPA) and meet with the Town to discuss the MPA testing plan.
- Collect the necessary water quality samples from Well 4 and submit them for laboratory analysis in accordance with the DEP guidelines for MPA testing.

PROJECT TEAM

Environmental Partners' project team will be led by Paul Millett, P.E., and Eric Kelley, P.E. with support technical staff from EP.

SCHEDULE

EP is prepared to proceed with the project upon receiving formal notice to proceed. The proposed project schedule assumes a start date of August 1, 2019.

Task	Propose Start	Estimated Completion
Task 1 – Updated Preliminary Design	August 1, 2019	October 31, 2019
Task 2 – New Source Exploration	August 1, 2019	September 30, 2019
Task 3 – Well 4 MPA Analysis	September 1, 2019	October 31, 2019

FEE

EP proposes to complete the scope of services outlined herein for the not to exceed amount of \$171,500.

Task	Budget
Task 1 – Updated Preliminary Design	\$135,000
Task 2 – New Source Exploration	\$32,400
Task 3 – Well 4 MPA Analysis	\$4,100
Project Totals	\$171,500

ASSUMPTIONS

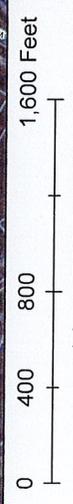
- The project schedule assumes that the Town issues Environmental Partners a notice to proceed by August 1, 2019.
- The proposed schedule assumes that Well 4 can be pumped to waste for at least 2 weeks prior to conducting MPA testing. The DEP guidance requires fall seasonal MPA testing to be completed between August 15th and October 15th.
- The project meetings specified will be scheduled with the Town and include representatives from the Department of Public Works' Water Department.



Legend

- Well
- Survey Limits: Well #3
- Survey Limits: Access Road
- Parcel Lines
- Town Line
- Railroad
- Perennial Stream
- Intermittent Stream
- Shoreline

**Well 3 Survey Limits
Medfield, Massachusetts
Site Locus**



1 in = 500 feet





CERTIFICATE OF LIABILITY INSURANCE

ENVI-15 OP ID: CL

DATE (MM/DD/YYYY)

09/23/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poole Professional Ltd. 107 Audubon Rd. #2, Ste. 305 Wakefield, MA 01880 Christopher A. Poole	CONTACT NAME:		
	PHONE (A/C, No, Ext):	781-245-5400	FAX (A/C, No): 781-245-5463
E-MAIL ADDRESS:			
		INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Environmental Partners Group, Inc. 1900 Crown Colony Dr. Suite 402 Quincy, MA 02169		INSURER A : Travelers Indemnity Co of CT	25682
		INSURER B : Travelers Indemnity Co America	25666
		INSURER C : Travelers Indemnity Co.	25658
		INSURER D : XL Specialty Insurance Company	37885
		INSURER E :	
		INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			6802J049788	06/13/2019	06/13/2020	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
							MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BA3G197927	06/13/2019	06/13/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP6572Y321	06/13/2019	06/13/2020	EACH OCCURRENCE \$ 6,000,000
							AGGREGATE \$ 6,000,000
							\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB-6K138549	06/13/2019	06/13/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	<input checked="" type="checkbox"/> Arch/Eng.Prof.Liab <input checked="" type="checkbox"/> Incl.PollutionLiab			DPR9943746	06/18/2019	06/18/2020	Per Claim 5,000,000
							Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project Name: Professional Engineering Services: RE: Medfield Water System - Preliminary Design Wells 3 & 4 and Permitting Support for Iron and Manganese Treatment Facility

See Attached

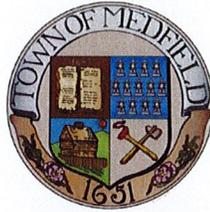
CERTIFICATE HOLDER	CANCELLATION
TOWNM15 Town of Medfield Attn: Maurice Goulet Director of Public Works 459 Main Street Medfield, MA 02052	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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NOTEPAD:HOLDER CODE **TOWNM15**
INSURED'S NAME **Environmental Partners****ENVI-15**
OP ID: CLPAGE 2
Date **09/23/2019**

Project Name: Professional Engineering Services: RE: Medfield Water System - Preliminary Design Wells 3 & 4 and Permitting Support for Iron and Manganese Treatment Facility

The Town of Medfield is included as additional insured per written contract under the general liability policy subject to same terms and conditions. Coverage is primary and non-contributory. Waiver of subrogation applies to indicated policies in favor of additional insured. 30 day notice of cancellation except 10 day notice for non-payment of premium.



TOWN OF MEDFIELD, MASSACHUSETTS

**AGREEMENT FOR FACILITATION CONSULTING SERVICES,
RE: INFLOW AND INFILTRATION INVESTIGATIONS AND MONITORING**

CONTRACT # DPW 2019-08

STATE CONTRACT # (if applicable) _____

This Contract is made this 1st day of October 2019 by and between the Town of Medfield, a Municipal Corporation, duly organized under the laws of the Commonwealth of Massachusetts and having a usual place of business at the Medfield Town House, 459 Main Street in said Medfield, MA 02052 (hereinafter referred to as the "Town") and Woodard & Curran Inc., of 980 Washington Street #325, Dedham, MA 02026 (hereinafter referred to as the "Contractor").

WITNESSED:

Whereas, the Town solicited submission of proposal for Engineering Consulting Services for the Department of Public Works hereinafter referred to as "Program"; and

Whereas, the Contractor submitted a Proposal to perform the work required for the Program, and the Town has decided to award the contract therefore to the Contractor,

NOW, THEREFORE, the Town and the Contractor agree as follows:

1. Contract Documents: The Contract Documents consist of this Agreement together with the proposal for Scope of Work and Compensation only, (Attachment A). The Contract Documents constitute the entire Agreement between the parties concerning the services and all are as fully a part of this Agreement as if attached hereto. In the event of conflicting provisions, the language of this Agreement shall govern provided that if the conflict relates to quantity or quality of goods or services, the greater quantity or higher quality specified shall be required. "Terms and Conditions" reference in Attachment A is expressly excluded.
2. Scope of Services: The Contractor shall furnish services related to the Program in accordance with the Scope of Services provided in the work plan (Attachment A), as well as, all services necessary or incidental there to.

3. Performance of Work: The Contractor shall furnish all equipment, staffing, and materials to accomplish the Program in strict conformity with all applicable Federal, State, and local laws, each of which is incorporated by reference and shall be responsible for obtaining all necessary approvals/permits as required for the performance of the Program.
4. Receivable: The Contractor shall deliver according to the proposal identified in Attachment A.
5. Contract Term: In accordance with the schedule provided by the Department of Public Works, October 1, 2019 to June 30, 2020. The project shall commence and be completed within the contract term dates.
6. Payment for Work: The Town shall pay \$115,500.00 for the Program in accordance with the pricing in Attachment A. The Contractor to Town shall submit monthly invoices for payment of the Program. The Town shall make payments within thirty (30) days after its receipt of the invoice. All additional service will require a contract amendment signed by the Board of Selectmen completed in advance of the authorization to proceed.
7. Indemnification of the Town: The Town's liability hereunder shall be limited to the amounts due the Contractor for services actually rendered. The Contractor shall indemnify and hold harmless the Town, its officers, boards, agents and employees, to maximum extent permitted by law, from any liability loss, damage, cost, charge, or expense, but only to the extent, they result from any employees or third party contractor or supplier's claim for payment for wages, labor, materials, goods or services rendered to Contractor or from any claim for injury to person or property, which area result of any negligent act or omission on the part of the Contractor, or any of its agents or employees. If any such claim is made, the Town may retain out of any payments, then or thereafter due to the Contractor a sufficient amount to protect the Town against such claims, costs and expenses. Neither party shall be responsible or liable to the other for special, indirect or consequential damages.
8. Contractor's Standard of Care: The Contractor shall provide I&I investigation and remediation services and obligations hereunder in conformity with the standard of professional skill and care applicable to other professionals performing similar services in the same geographic area at the time services are rendered. Contractor warrants and represents that it is familiar with Federal, State, and local regulations for public sewer systems.
9. Contractor's Personnel: The Consultant's employees and Consultant's consultants shall be those identified in Attachment A and no others without prior written approval of Town.
10. Liability Insurance Requirements: The Consultant shall at its own expense obtain

and maintain a Professional Liability Policy covering negligent error, omissions and acts of the Consultant. The Town will require a Certificate of Insurance, indicating evidence of Professional Liability, General Liability, Automobile Liability with minimum limits of \$2,000,000.00, and of any person or business entity for whose performance the Consultant is legally liable, arising out of the performance of this Agreement. The insurance shall be in force from the date of this Agreement until the expiration of the applicable period of limitations. The Consultant shall notify the Town should coverage become unavailable during that period. The Consultant shall obtain and provide a certificate of insurance for each consultant employed or engaged by Consultant, evidencing the existence of the same type of policy and coverage.

The Consultant shall also maintain liability insurance for all vehicles and equipment, which it owns or operates in connection with the project.

The Consultant shall also obtain and maintain in force worker compensation, as required by law.

Certificates evidencing that the required insurance coverage is in effect shall be submitted by the Consultant to Town prior to the signing of this Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to Town at least thirty (30) days prior to the intended effective date thereof, which date shall be stated in such notice.

12. Independent Contractor: The Contractor is an independent contractor and is not an agent or employee of the Town and is not authorized to act on behalf of the Town. The Town will not withhold Federal, State or payroll taxes of any kind, on behalf of the Contractor or the employees of the Contractor. The Contractor is not eligible for, and shall not participate in, any employee pension, health or other fringe benefit plan of the Town.
13. Successors and Assigns: This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Contractor shall assign or transfer any interest in the Agreement without the written consent of the other.
14. Inspection and Reports: The Town shall have the right at any time to inspect the records of the Contractor relative to the services provided to the Town pursuant to this Agreement. This shall include the right to enter upon any property owned or occupied by the Contractor, whether situated within or beyond the limits of the Town. Upon request the Contractor shall immediately furnish to the Town any and all written reports relative to such services arising out of its operations under this Contract during and/or after the termination of the contract.

15. Arbitration: Only if Mutually Agreed-Upon-Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof may be subject to and decided by arbitration only if the parties mutually agree in writing to do so.

16. Termination:

- a. For Cause - The Town shall have the right to terminate this Agreement if (i) the Contractor's neglects or fails to perform or observe any of its obligations hereunder and a cure is not effected by the Contractor within seven (7) days next following its receipt of a termination notice issued by the Town, (ii) if an order is entered against the Contractor approving a petition for an arrangement, liquidation, dissolution or similar relief relating to bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (iii) immediately if the Contractor shall file a voluntary petition in bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief for debtors or shall seek or consent or acquiesce in appointment of any trustee, receiver or liquidation of any of the Contractor's property.

The Town shall pay all reasonable and supportable costs incurred prior to termination, which payment shall not exceed the value of services provided.

- b. For Convenience - The Town may terminate this Agreement at any time for any reason upon submitting to the Contractor thirty (30) days prior a written notice of its intention to terminate. Upon receipt of such notice, the Contractor shall immediately cease to incur expenses pursuant to this Agreement unless otherwise directed in the Town's termination notice. The Contractor shall promptly notify the Town of costs incurred to date of termination and the Town shall pay all such reasonable and supportable costs which payment shall not exceed the unpaid balance due on this Agreement.
- c. Return of Property - Upon termination, the Contractor shall immediately return to the Town, without limitation, all documents and items of any nature whatever, supplied to Contractor by the Town or developed by the Contractor in accordance with this Agreement.

17. Notice: Any notice required to be given to Consultant under the terms of this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, to: Woodard & Curran Inc., of 980 Washington Street #325, Dedham, MA 02026 or such other address as Consultant from time to time may have designated by written notice to the Town and shall be deemed to have been given when mailed by the Town. Any notice required to be given to the Town by the Consultant under the terms of the Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return-receipt requested to: Department of Public Works, 55 North Meadow Road, Medfield, Massachusetts

02052 or such other address as the Town from time to time may have designated by written notice to the Consultant and shall be deemed to have been given when mailed by the Town together with simultaneous copy to Mark G. Cerel, Town Counsel, at Medfield Professional Building, Post Office Box 9, Medfield, MA 02052.

18. Severability: If any term of this Contract or application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, legality, and enforceability of the remaining terms and conditions of the Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
19. Governing Law: The performance of this Contract shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts. Claims and Disputes and Resolution Procedure. Claims, disputes, or other matters in question with the Town and Contractor or any other party claiming rights under this agreement relating to or arising from the Project, the Work, or interpretation of any terms of the Contract or Contract Documents shall be resolved only by a civil action commenced in the Commonwealth of Massachusetts in either the Superior Court Department, Norfolk County, or the District Court Department, Dedham Division, of Massachusetts Trial Court; in the alternative, private arbitration or mediation may be employed if the parties mutually agree in writing to do so.
20. Entire Agreement: This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements; negotiations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this day and year first above written.

(Contractor)

Board of Selectmen

By: Joseph D Shea
Title: Vice President

Approved as to Form: _____

Town of Medfield, MA

Mark G. Cerel, Town Attorney

Kristine Trierweiler, Town Administrator

CERTIFICATION OF GOOD FAITH

The undersigned certifies under pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

The Contractor by:

Joseph D. Shea
Print Name

Vice President / Senior Principal
Title/Authority

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

Joseph D. Shea, authorized signatory for
name of signatory

Woodard & Curran Inc., whose
name of contractor

principal place of business is at 980 Washington St., Suite 325,

Dedham, MA 02026 does hereby certify under the pains and penalties of perjury that
Woodard & Curran Inc. has paid all
name of contractor

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

Joseph D. Shea 9/24/19
Signature Date

EXAMPLE CLERK'S CERTIFICATE

Action of Shareholders
Written Consent
(Date)

The undersigned, being the Shareholders of _____, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, _____ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on _____, 20__.

Clerk of Corporation
SEAL



CERTIFICATION OF CORPORATE AUTHORITY WOODARD & CURRAN, INC.

The undersigned, Bruce S. Nicholson, Secretary of Woodard & Curran, Inc. (the "Company"), HEREBY CERTIFIES as follows:

He is the duly elected Secretary of the Company, a Maine corporation.

At a meeting of the Board of Directors of the Company on April 24, 2019, the following resolution was adopted:

RESOLVED: That any Officer of this corporation, acting singly, be and hereby is authorized at any time and from time to time, to enter into contracts for the provision of services by the Company, as well as subcontracts with the Company for the provision of services and/or the procurement of equipment, materials and goods, as follows:

1. Senior Principals are authorized up to the amount of \$250,000, or as delegated.
2. Vice Presidents are authorized up to the amount of \$250,000, or as delegated.
3. Senior Vice Presidents are authorized up to the amount of \$1,000,000, or as delegated.
4. Executive Vice Presidents are authorized up to the amount of \$3,000,000, or as delegated.
5. Chief Executive Officer is authorized up to the amount of \$10,000,000.
6. The Company's Board of Directors must authorize contracts over the amount of \$10,000,000.

The dollar thresholds above are established for the contract value and applies to the annual value of a multi-year agreement.

RESOLVED: That the Chief Executive Officer is authorized at any time to execute surety bonds in connection with the conduct of the Company's business, whether alone, or in joint venture with others not named herein. Furthermore, that the Chief Executive Officer is also authorized any time prior or subsequent to the execution of any such bonds, to execute any and all indemnity agreements, subordination agreements or any other associated agreements relating to such bonds or to any collateral that may have been or may be required to be deposited with the surety in connection with said bonds. The Chief Executive Officer's signing authority with respect to surety bonds is limited to the current levels of bonding as set forth in the Company's approved bonding agreement. Bonds above this approved amount must be authorized by the Board of Directors.

According to the records of the Company in my possession as of this date, the above is a true and correct copy of said resolution, said resolution has not been amended or repealed, and is in full force and effect. According to the records of the Company in my possession as of this date, the following is a list of the duly appointed Officers of the Company and their respective management positions in the Company.

<u>Name</u>	<u>Title</u>
Douglas J. McKeown	Chief Executive Officer and President
David W. Remick	Treasurer and Chief Financial Officer
Bruce S. Nicholson	Secretary



CERTIFICATION OF CORPORATE AUTHORITY WOODARD & CURRAN, INC.

CHIEF EXECUTIVE OFFICER (up to \$10,000,000)

Douglas J. McKeown

EXECUTIVE VICE PRESIDENTS (up to \$3,000,000, or as delegated)

Chief Financial Officer

David W. Remick

Strategic Business Unit Leaders

Joseph C. Barbagallo

R. Duff Collins

Peter E. Nangeroni

Steven F. Niro

Alyson Watson

President of Consulting

Phyllis Brunner

SENIOR VICE PRESIDENTS (up to \$1,000,000, or as delegated)

Operations Leaders

Andrew Neal

Paul P. Roux

Jeffery C. Stearns

Patricia A. Thomes

Marc G. Thomas

Senior Area Managers

Frank J. Cavaleri

David W. Dedian

Randolph S. Jones

Director of Innovations and

New Ventures

Eric T. Carlson

Director of Technical Practices

Robert C. Amaral

Alan A. Benevides

James Bryant

Thomas F. Hazlett III

Karl D. Kasper

Michael Matson

Thomas E. Stoughton

Business Development Leaders

Brian E. Bzdawka

David R. MacDonald

Jay G. Sheehan

Christy Kennedy

National Practice Leaders

Sergio Bazarevitsch

Pietro A. Catizone

Lyndel Melton

Randall Raines

David Richardson

Thomas Richardson

Adam H. Steinman

Hugh G. Tozer



VICE PRESIDENTS (up to \$250,000, or as delegated)

Senior Client Managers

Glenn T. Almquist
Jennifer L. Anders
Kevin R. Bethke
Kenneth J. Bird
John F. Bolakas
Brent M. Bridges
Kenneth W. Carlson
Anthony C. Catalano
Craig B. Deeney
Susan Ferris
Daniel Garson
Scott Goldman
James Graydon
Michael Greenberg
Carol A. Harris
Nicholas A. Hastings
Michael Headd
Michael J. van der Heijden
Kathleen Higgins
Stephen B. Holtman
Mary E. House
Brendan McLaughlin
Scott J. Medeiros
Paul Norian
Patrick F. O'Hara
Susan Pilgram
James J. Rivard
Joseph D. Shea ✓
Barry S. Sheff
Lloyd K. Snyder
Donald J. Wuerdeman

Area Managers

Glenn D. Burden
Gregory Frieden
Michael J. Geary
David Kitzmiller
Jason Muche
Robert Scott
Michael S. Thompson

Senior Technical Practice

Leaders

Robin Cort
Leslie Dumas
Jennifer Glynn
Glenn Hermanson
Gisa Ju
Enrique Lopezcalva
Saqub Najmus
Persephene St. Charles
Ali Taghavi
Kyle E. Tracy
Anthony Valdivia

Practice Leaders

Kelley C. Begin
Lisa J. Campe
Susan E. Guswa
Jason R. House
Joseph A. Hurley
Robert S. Little
Douglas E. Spicuzza
Bert J. Wesley
David A. White

Regional Managers

Michael L. Battistelli
Denise L. Cameron
Kelly V. Camp
Maggie Connolly
Jeffrey A. Hamel
Kenneth Kohlbrenner
Steven Lauria
Nathan T. McLaughlin
Brian Pile
Douglas L. Tirrell
Matthew J. Valentine
Gillian J. Wood

Corporate Vice Presidents

Bruce S. Nicholson
Rebecca G. Talbert
Kathleen Welter

Corporate Service Directors

Jennifer Andrews
Kenneth Danila
Shannon J. Eyler
Andrew L. Stanhope

Technical Delivery Group Leader

Peter J. Martin

Chief Technologist

Paul Dombrowski

SENIOR PRINCIPALS (up to \$250,000, or as delegated)

Randy Tome
James D. Wilson
Donald J. Weeks
Daniel M. Wolfram

Miles L. Walker
Rebecca A. Corbin
Richard P. Fedder
Andrew J. Fitzpatrick

James Blanke
David G. Krochko
Catharine M. Rockwell
Brent R. Sutter

DATED May 15, 2019

Bruce S. Nicholson, Secretary



ATTACHMENT

A

July 8, 2019



Mr. Maurice Goulet
Town of Medfield
Department of Public Works Director
55 North Meadow Road
Medfield, MA 02052

Re: Proposal for Professional Engineering Services
Fiscal Year 2020 Infiltration and Inflow Data Collection

Dear Mr. Goulet:

Woodard & Curran appreciates the opportunity to submit this proposal to the Town of Medfield, Massachusetts (the Town) for engineering services associated with developing a plan to address excessive infiltration and inflow (I/I) in the Town's wastewater collection system. The plan will be developed in conjunction with the Town of Medfield Department of Public Works to focus on an action-oriented program to identify and eliminate select sources of I/I. We have assisted many similar communities with flow monitoring and data collection aimed at compliance with the infiltration/inflow requirements of 314 CMR 12.

The project will be completed in accordance with the Scope of Services, Compensation, Schedule, Clarifications and Assumptions, and Standard Terms and Conditions as defined herein.

SCOPE OF SERVICES

Phase 1 – Flow Monitoring & Data Collection

Woodard & Curran will provide the following scope of services to perform I/I flow monitoring and data collection:

- Meet with the Town Department of Public Works (DPW) and wastewater treatment plant (WWTP) staff to discuss the 6 existing flow monitoring locations (3 locations having 2 meters, total of 9 meters), equipment and functionality, and discuss the existing 9 I/I investigation target subcatchment areas.
- Subcontract with pipeline service technicians, EST Associates, Inc. (EST), to install continuous flow monitoring equipment at the existing 6 locations. EST will replace the existing 9 ultra-sonic sensors with 9 new area-velocity sensors. The area-velocity sensors will be connected to flow modules that interface with existing SCADA equipment at each of the monitoring locations. EST will provide quarterly sensor maintenance during the first year (4 services), with additional service to be provided in subsequent contracts or as an amendment to this contract, if determined to be needed and agreed to by the DPW.
- Provide SCADA programming services to connect and integrate the new flow meters with the Town's existing SCADA system.
- Provide SCADA programming services to calculate flow rates at the Town's existing 9 sewer pump stations using pump cycles and wet well volumes. Wet well volumes shall be provided to Woodard & Curran by the DPW.



Phase 2 – Control Plan

Woodard & Curran will provide the following scope of services to prepare the action-oriented Control Plan with recommendations for rehabilitation implementation:

- Review the previous Spring 2017 CCTV Inspection Report prepared by EST to identify pipeline structural defects indicative of I/I. CCTV footage shall be provided to Woodard & Curran by the DPW.
- Meet with the DPW staff to review the flow monitoring and data collection findings. Prepare recommended areas for sewer system rehabilitation based on flow monitoring and previous study findings. Rehabilitation recommendations shall include, but not be limited to:
 - Chemical grouting of sewer manholes and connections
 - Repair to sewer manhole corbels and/ or frame seals
 - Cured-in-place pipe (CIPP) and short liners
 - Sump pump and yard drain disconnection
- Prioritize the action-oriented recommendations for rehabilitation implementation, based on anticipated I/I removal efficiency and construction feasibility.

COMPENSATION

The following table presents our fee and billing method for the professional services for the Phases listed herein. This fee will not be exceeded without prior written authorization. Monthly invoices will be submitted to the Town.

Phase	Labor Fee	Subcontractor & Expenses	Total Fee	Billing Method
1 – Flow Monitoring & Data Collection	\$9,500	\$95,000	\$104,500	Lump Sum
2 – Control Plan	\$11,000	-	\$11,000	Lump Sum
TOTAL	\$20,500	\$95,000	\$115,500	

The parties may agree to expand the Scope of Services provided by Woodard & Curran upon completion of the Scope as herein outlined. Any additions or extensions of the contract will be the subject of future negotiations.

PROJECT SCHEDULE

Woodard & Curran is available to commence work within 30 days upon a signed contract, and we anticipate the project can be completed within 120 days thereafter, pending availability to install flow monitoring equipment.

CLARIFICATIONS AND ASSUMPTIONS

Exclusions from the scope of work and costs presented above include the following:

- The cost of police details to safely complete above referenced scope of work.
- The cost of heavy sewer cleaning and debris removal if required.



TERMS AND CONDITIONS

All services will be performed in accordance with the Term and Conditions agreed to between the Town of Medfield and Woodard & Curran, attached. If this proposal is acceptable to the Town, it can be executed as a contract for the work by completing the signature page included with the Terms and Conditions.

We appreciate the opportunity to support the Town of Medfield DPW. If this Scope of Services meets your approval, please execute and return copy of the agreement to our office. If necessary, please reference a purchase order number if required for billing purposes.

Sincerely,

WOODARD & CURRAN, INC.

A handwritten signature in black ink that reads 'Joseph D. Shea'.

Joseph D. Shea, P.E.
Senior Principal

cc: Scott C. Salvucci, P.E., Woodard & Curran



WOODARD & CURRAN

Date: July 8, 2019

By: *Joseph D. Shea*

Title: Joseph D. Shea, Senior Principal

ACCEPTED:

The undersigned hereby states that they are the person or duly authorized agent of the person or organization contracting for the above services on the above described project; and that the terms and conditions stated are understood and herewith agreed to and accepted. Woodard & Curran is hereby authorized to proceed with the services outlined above.

Date: _____

By: _____

Title: _____



TOWN OF MEDFIELD

Office of

BOARD OF SELECTMEN

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-0315

(508) 359-8505

KRISTINE TRIERWEILER
Town Administrator

PUBLIC NOTICE

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Medfield will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: The Town of Medfield does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: The Town of Medfield will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Town of Medfield programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: The Town of Medfield will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Town of Medfield offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the Town of Medfield should contact the office of Kristine Trierweiler (Town Administrator and ADA Coordinator) as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the Town of Medfield to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the Town of Medfield is not accessible to persons with disabilities should be directed to Kristine Trierweiler (Town Administrator and ADA Coordinator), 508-359-3011, ktrierweiler@medfield.net.

The Town of Medfield will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.



TOWN OF MEDFIELD

Office of

BOARD OF SELECTMEN

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-0315

(508) 359-8505

KRISTINE TRIERWEILER
Town Administrator

GRIEVANCE PROCEDURE UNDER THE AMERICANS WITH DISABILITIES ACT

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). This may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Town of Medfield.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to: Kristine Trierweiler (Town Administrator and ADA Coordinator), 508-359-3011, ktrierweiler@medfield.net.

Within 15 calendar days after receipt of the complaint, Ms. Trierweiler or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Ms. Trierweiler or her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Medfield and offer options for substantive resolution of the complaint.

If the response by Ms. Trierweiler or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Board of Selectmen or its designee.

Within 15 calendar days after receipt of the appeal, the Board of Selectmen or its designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Board of Selectmen or its designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Ms. Trierweiler or her designee, appeals to the Board of Selectmen or its designee, and responses from these two offices will be retained by the Town of Medfield for at least three years.



TOWN OF MEDFIELD

Office of

BOARD OF SELECTMEN

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-0315

(508) 359-8505

KRISTINE TRIERWEILER
Town Administrator

ADA Coordinator Designation Form

ADA Coordinator Name: Kristine Trierweiler

Name of Town Department that ADA Coordinator Works: Town Administrator's office

Job Title: Town Administrator

E-mail: ktrierweiler@medfield.net

Phone: 508-906-3011

Address: 459 Main Street, Medfield, MA 02052

Date Appointed:

Is This Appointment: Permanent

Does this ADA Coordinator report directly to the appointing authority? Yes

Are the ADA Coordinator Duties: Full-Time

Direct Supervisor (Name and Title):

Appointing Authority Signature:

Date:

ADA Coordinator Signature:

Date:

***Please send copy of completed form to:
The Massachusetts Office On Disability, 1 Ashburton Place, Room
1305 or email to mod-info@state.ma.us, or fax to 617 727-0965***



Evelyn Clarke <eclarke@medfield.net>

BoS Permission for Signage

1 message

Sarah Raposa <sraposa@medfield.net>

To: "eclarke@medfield.net" <eclarke@medfield.net>, "ktrierweiler@medfield.net" <ktrierweiler@medfield.net>, Nicholas Milano <nmilano@medfield.net>

Wed, Sep 25, 2019 at 10:00 AM

Hi Evelyn - For the next BoS agenda, please.

We are seeking permission for A-frame signs at the Main Street and North Street intersection, Transfer Station, Corner of Rt 109 and Hartford Street, and

Northeast corner of Rt 27 and South Street for:

- Townwide Master Plan Public Forum #1 (Visioning Session) on Sunday, October 20, 2019 (from 5 - 7:30 pm at Blake Middle School)
- MSH Rezoning STM Events:
 - 10/3 PB Hearing (8 pm at Town Hall)
 - 10/7 Public Forum (7 pm at High School)
 - 11/18 STM (7 pm at High School)
 - Signage also being placed at MSH grounds

Many thanks!

Sarah

Sarah Raposa, AICP
 Town Planner
 459 Main Street
 Medfield, MA 02052
 (508) 906-3027
sraposa@medfield.net
www.town.medfield.net



This email is intended for municipal use only and must comply with the Town of Medfield's policies and state/federal laws. Under Massachusetts Law, any email created or received by an employee of The Town of Medfield is considered a public record. All email correspondence is subject to the requirements of M.G.L. Chapter 66. This email may contain confidential and privileged material for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you are not the intended recipient please contact the sender and delete all copies.

The CENTER at Medfield
Medfield Council on Aging
One Ice House Road
Medfield MA 02052
508-359-3665

September 25, 2019

Dear Board of Selectmen,

The Council on Aging requests permission to serve wine and beer at the following events:

- October Supper Club Wednesday, October 23 from 4-7pm
- November Supper Club Wednesday, November 20 from 4-7pm
- December Supper Club Wednesday, December 18 from 4-7 pm

Thank you,

Roberta Lynch, Director
Medfield Council on Aging

INFORMATIONAL



TOWN OF MEDFIELD

BOARD OF APPEALS ON ZONING

459 Main Street
Medfield, MA 02

EASTMOUNT RD

38-015

LUC: 930

TOWN OF MEDFIELD
459 MAIN ST
MEDFIELD, MA 02052

ABUTTERS NOTICE

Note: Applications may be heard out of order at the Board's discretion

The Zoning Board of Appeals will hold a public hearing starting at 7:00 p.m. on Wednesday, October 9, 2019, at the Medfield Town House, 459 Main Street, to hear the following petitions:

- **Geoffrey Pedder (applicant)** and Marval Realty Corporation (building owner) seek a Modification of Decision # 1355 to amend hours of operation, clarification on food preparation and serving of food, and live music for the business known as Zelus Beer Company at 1 Green St; Assessor's Map 43, Lot 014; B Zoning District.
- **John Macropoulos (applicant/owner)** seeks a variance under MGL Chpt. 40A §10 for the extension of pre-existing rear balcony into the rear setback, not to exceed 8' (Medfield Zoning Bylaw §300 Attachment 3 (setback table) and from §300-9.2.F). The property is located at 35 Hillcrest Road; Assessors' Map 44 Lot 024; RS Zoning District.

The applications and plans may be viewed during regular business hours. All town boards and other interested parties wishing to be heard should appear at the time and place designated.

John J. McNicholas, Chairman
Board of Appeals on Zoning

THE PRESS

September 20, 2019

September 27, 2019

Most applications and plans are available on the Town's website:
www.town.medfield.net > Boards and Committee > Zoning Board of Appeals
Questions? Comments? Contact Sarah Raposa, Town Planner: (508) 906-3027 or
sraposa@medfield.net



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

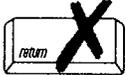
WPA Form 7 – Extension Permit for Orders of Conditions

214-0649
100 Harding St.
Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Medfield Wetlands Bylaw, Chapter 290

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:
Alexander Webb III
Name
91 Pinkney Street
Mailing Address
Boston MA 02114
City/Town State Zip Code

2. Property Owner (if different):

Name

Mailing Address

City/Town State Zip Code

B. Authorization

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:

Sept. 15, 2016 Issued by: Medfield Conservation Commission
Date Conservation Commission

for work at: 100 Harding Street 64 19
Street Address Assessor's Map/Plat Number Parcel/Lot Number

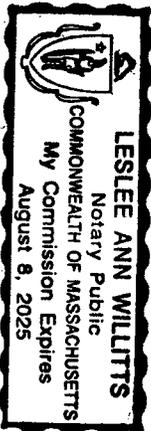
recorded at the Registry of Deeds for:
Norfolk County
County Book Page

Certificate (if registered land) _____

is hereby extended until: Sept. 15, 2020
Date Date the Order was last extended (if applicable)

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

This Extension Permit must be signed by a majority of the Conservation Commission and a copy sent to the applicant and the appropriate DEP Regional Office (<http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).



Signatures: _____ Date: Sept. 12, 2019
* Mary McCarthy
Robert Angier
Michael Perloff
Greg Russell
Pat [unclear]
[unclear]
[unclear]



WPA Form 7 – Extension Permit for Orders of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Recording Confirmation

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Conservation Commission.

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach this page and submit it to the Conservation Commission prior to the expiration of the Order of Conditions subject to this Extension Permit.

To:

Medfield Conservation Commission
Conservation Commission

Please be advised that the Extension Permit to the Order of Conditions for the project at:

100 Harding Street
Project Location

214-0649
DEP File Number

has been recorded at the Registry of Deeds of:

Norfolk
County

for:

Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

Date

Book

Page

If recorded land the instrument number which identifies this transaction is:

Instrument Number

If registered land, the document number which identifies this transaction is:

Document Number

Signature of Applicant



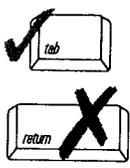
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Medfield Wetlands Bylaw, Chapter 290

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



From: Medfield Conservation Commission
Conservation Commission

To: Applicant	Property Owner (if different from applicant):
<u>Town of Medfield - DPW</u>	<u>Town of Medfield - Conservation Commission</u>
Name	Name
<u>459 Main Street</u>	<u></u>
Mailing Address	Mailing Address
<u>Medfield</u> <u>MA</u> <u>02052</u>	<u></u> <u></u> <u></u>
City/Town State Zip Code	City/Town State Zip Code

- Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

<u>Request for Determination of Applicability</u>	<u>July 18, 2019</u>
Title	Date
<u></u>	<u></u>
Title	Date
<u></u>	<u></u>
Title	Date
<u></u>	<u></u>
- Date Request Filed:

July 18, 2019

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

The applicant proposes to do maintenance work at the sluice way and control boards at the Gristmill at Kingsbury Pond. This includes masonry work on the sluice way.

Project Location:

<u>Spring Street</u>	<u>Medfield</u>
Street Address	City/Town
<u>32</u>	<u>033</u>
Assessors Map/Plat Number	Parcel/Lot Number



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
-

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
See Attached.
-

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to review and approval by:

Medfield

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Medfield Wetlands Bylaw

Name

Chapter 290

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

by hand delivery on

by certified mail, return receipt requested on

September 5, 2019

Date

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>) and the property owner (if different from the applicant).

Signatures:

Mary Mc Carthy
Robert Ayles
Joseph D'Amico
Deborah

Michael Perloff
B. Hook

September 5, 2019

Date



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



WPA Emergency Certification Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Medfield Wetlands Bylaw, Chapter 290

A. Emergency Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Issuance From: Medfield Conservation Commission
Issuing Authority

1. Site Location: Upham Road, Map 42, Parcel 001 - Baker's (Meetinghouse) Pond.

2. Reason for Emergency:
- partial collapse of granite stone wall catchment area near the outfall sluiceway

3. Applicant to perform work: Medfield Department of Public Works

4. Public agency to perform work or public agency ordering the work to be performed:
Medfield Department of Public Works

5. Date of Site Visit: August 22, 2019 Start Date: August 22, 2019 End Date*: August 31, 2019

* no later than 30 days from start date or 60 days in the case of an Immediate Response Action approved by DEP to address an oil/hazardous material release.

6. Work to be allowed*:
A) Removal, replacement and pointing of existing stones at the western end of Baker's Pond at and near the Vine Brook culvert area for the immediate repair of the partially collapsed section of the wall.
B) The Medfield Public Works Department had submitted a Request for a Determination of Applicability for said work on July 18, 2019 and public hearing was held on August 1, 2019.
C) The Medfield Conservation Commission voted to issue a negative Determination of Applicability for the work with conditions: All work for the wall shall be completed from the upland side of the impoundment; Baker's Pond shall be lowered below the work area leaving a minimum depth of nine inches in the pond at all times.

* May not include work beyond that necessary to abate the emergency.

B. Signatures

Certified to be an Emergency by this Issuing Authority.

Signatures:

Suzee A. Willett's
Chairman (or designee) Conservation Agent

August 22, 2019
Date

Mary McCarthy
Robert Aigner
[Signature]

[Signature]
[Signature]

A copy of this form must be provided to the appropriate DEP Regional Office.



WPA Emergency Certification Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Emergency Certification or subject to enforcement action.
 2. This Emergency Certification does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.
 3. This Emergency Certification does not relieve the applicant or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
 4. Any work conducted beyond that described above, and any work conducted beyond that necessary to abate the emergency, shall require the filing of a Notice of Intent.
 5. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Emergency Certification at reasonable hours to evaluate compliance with this Certification, and may require the submittal of any data deemed necessary by the Conservation Commission or the Department for that evaluation.
 6. This Emergency Certification shall apply to any contractor or any other person performing work authorized under this Certification.
 7. No work may be authorized beyond 30 days from the date of this certification without written approval of the Department.
-

D. Special Conditions

See conditions in Section A-6.

The Medfield Department of Public Works representative shall appear before the Conservation Commission on September 5, 2019 for a final report of the emergency work as completed.

E. Appeals

The Department may, on its own motion or at the request of any person, review: an emergency certification issued by a conservation commission and any work permitted thereunder; a denial by a conservation commission of a request for emergency certification; or the failure by a conservation commission to act within 24 hours of a request for emergency certification. Such review shall not operate to stay the work permitted by the emergency certification unless the Department specifically so orders. The Department's review shall be conducted within seven days of: issuance by a conservation commission of the emergency certification; denial by a conservation commission of the emergency certification; or failure by a conservation commission to act within 24 hours of a request for emergency certification. If certification was improperly granted, or the work allowed thereunder is excessive or not required to protect the health and safety of citizens of the Commonwealth, the Department may revoke the emergency certification, condition the work permitted thereunder, or take such other action as it deems appropriate.



WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Medfield Wetlands Bylaw, Chapter 290

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Town of Medfield

Name

457 Main St

Mailing Address

Medfield

City/Town

508 889 3956

Phone Number

RKennedy@medfield.net

E-Mail Address

MA

State

02052

Zip Code

Fax Number (if applicable)

2. Representative (if any):

Department of Public Works

Firm

Robert Kennedy

Contact Name

55 North meadows Rd

Mailing Address

Medfield

City/Town

Phone Number

RKennedy@medfield.net

E-Mail Address

MA

State

02052

Zip Code

Fax Number (if applicable)

B. Determinations

1. I request the Medfield Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).

RECEIVED

JUL 18 2019

BY:



WPA Form 1- Request for Determination of Applicability

City/Town

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

Upham Rd
Street Address

Medfield
City/Town

43-001
Assessors Map/Plat Number

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

Stone masonry Catchment known as
Bakers Pond

- c. Plan and/or Map Reference(s):

Title

Date

Title

Date

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

The Department of Public Works
is proposing to perform maintenance
on stone wall. The work would involve
removal and replace of existing stones
and pointing cracks before they grow.



WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Town of Medfield
 Name
459 Main St
 Mailing Address
Medfield
 City/Town
MA 02052
 State Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

 Signature of Applicant Date

Pat Kennedy
 Signature of Representative (if any) Date 7/12/19



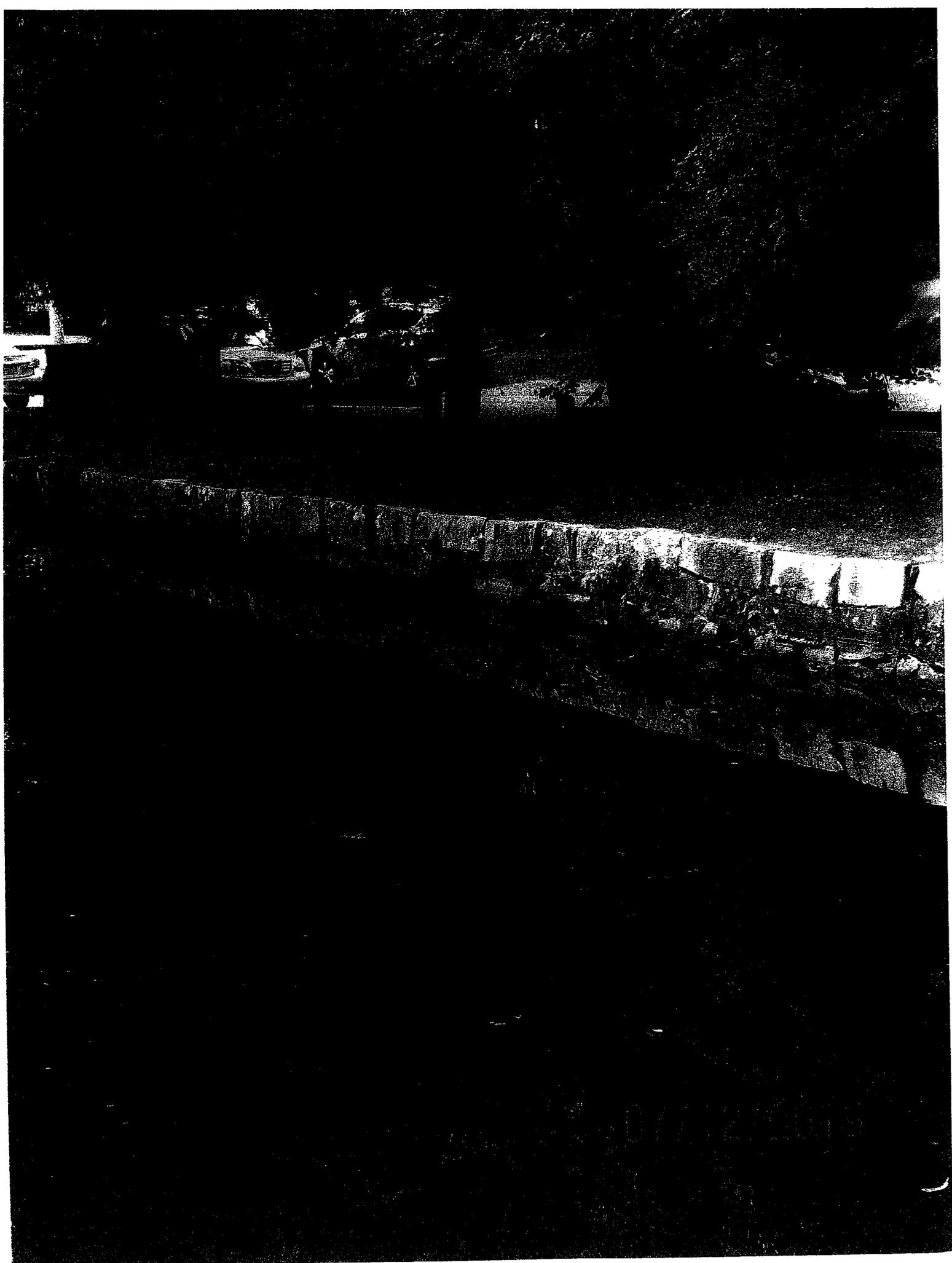
Parcels for Orithos
 MA Highways
 Interstate
 US Highway
 Numbered Routes
 Town Boundary
 Abutting Towns



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 08/01/2019 at 03:25 PM





Medfield Conservation Commission
459 Main Street, Town House
Medfield, Massachusetts 02052

Wetlands, Chapter 290



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

214-0668
7 Maplewood
Provided by DEP

A. Project Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. This Certificate of Compliance is issued to:

Jennifer Menard
Name
7 Maplewood Road
Mailing Address
Medfield MA 02052
City/Town State Zip Code

2. This Certificate of Compliance is issued for work regulated by a final Order of Conditions issued to:

Jennifer Menard
Name
4/18/2019 214-0668
Dated DEP File Number

3. The project site is located at:

7 Maplewood Road Medfield
Street Address City/Town
58 043
Assessors Map/Plat Number Parcel/Lot Number

the final Order of Condition was recorded at the Registry of Deeds for:

Norfolk - May 6, 2019
Property Owner (if different) County Book Page
Document Number 1,420,928
Certificate

4. A site inspection was made in the presence of the applicant, or the applicant's agent, on:

September 5, 2019 - applicant was present
Date



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 214-0668
 7 Maplewood
 Provided by DEP

B. Certification

Check all that apply:

- Complete Certification:** It is hereby certified that the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

- Partial Certification:** It is hereby certified that only the following portions of work regulated by the above-referenced Order of Conditions have been satisfactorily completed. The project areas or work subject to this partial certification that have been completed and are released from this Order are:

- Invalid Order of Conditions:** It is hereby certified that the work regulated by the above-referenced Order of Conditions never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act may commence without filing a new Notice of Intent and receiving a new Order of Conditions.

- Ongoing Conditions:** The following conditions of the Order shall continue: (Include any conditions contained in the Final Order, such as maintenance or monitoring, that should continue for a longer period).

Condition Numbers:

As per Condition 65, Conditions 55, 56, 59, 60, 61, 62, 63, and 65 shall run with the Land and be binding in perpetuity on all successors in title and assigns.

C. Authorization

Issued by:

Medfield Conservation Commission
 Conservation Commission

May 16, 2019
 Date of Issuance

This Certificate must be signed by a majority of the Conservation Commission and a copy sent to the applicant and appropriate DEP Regional Office (See <http://www.mass.gov/dep/about/region/findyour.htm>).

Signatures:

**Nancy McCarthy*, *Mary McCarthy*, *Robert Angler*, *John Perry*, *J. Harker*





Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

214-0668
 7 Maplewood
 Provided by DEP

D. Recording Confirmation

The applicant is responsible for ensuring that this Certificate of Compliance is recorded in the Registry of Deeds or the Land Court for the district in which the land is located.

Detach on dotted line and submit to the Conservation Commission.

To:

Medfield Conservation Commission
 Conservation Commission

Please be advised that the Certificate of Compliance for the project at:

7 Maplewood Road
 Project Location

214-0668
 DEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk
 County

for:

Property Owner

and has been noted in the chain of title of the affected property on:

Date

Book

Page

If recorded land, the instrument number which identifies this transaction is:

If registered land, the document number which identifies this transaction is:

Document Number

Signature of Applicant

Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

and the Medfield Wetlands Bylaw - Chapter 290

Provided by MassDEP:

MassDEP File #:214-0668

eDEP Transaction #:1100314

City/Town: MEDFIELD

A. General Information

1. Conservation Commission MEDFIELD
2. Issuance a. OOC b. Amended OOC
3. Applicant Details
 a. First Name JENNIFER b. Last Name MENARD
 c. Organization
 d. Mailing Address 7 MAPLEWOOD ROAD
 e. City/Town MEDFIELD f. State MA g. Zip Code 02052
4. Property Owner
 a. First Name JENNIFER b. Last Name MENARD
 c. Organization
 d. Mailing Address 7 MAPLEWOOD ROAD
 e. City/Town MEDFIELD f. State MA g. Zip Code 02052
5. Project Location
 a. Street Address 7 MAPLEWOOD ROAD
 b. City/Town MEDFIELD c. Zip Code 02052
 d. Assessors 58 e. Parcel/Lot# 043
 Map/Plat#
 f. Latitude 42.20137N g. Longitude 71.3072W
6. Property recorded at the Registry of Deed for:
 a. County NORFOLK b. Certificate 28988 c. Book 810 d. Page 154
7. Dates
 a. Date NOI Filed : 7/19/2018 b. Date Public Hearing Closed: 8/2/2018 c. Date Of Issuance: 4/18/2019
8. Final Approved Plans and Other Documents

a. Plan Title: CERTIFIED PLOT
 PLAN 7
 MAPLEWOOD ROAD MEDFIELD,
 MASSACHUSETTS

b. Plan Prepared by: O'DRISCOLL LAND SURVEYING CO.

c. Plan Signed/Stamped by: DANIEL A. O'DRISCOLL, #39050

d. Revised Final Date: July 10, 2018

e. Scale: 1"=40'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |

Ground Water Supply Storm Damage Prevention Flood Control

2. Commission hereby finds the project, as proposed, is:

Approved subject to:

a. The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). 75
a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	Cubic Feet Flood Storage <u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		

Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #:214-0668

eDEP Transaction #:1100314

City/Town: MEDFIELD

22.

Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..

Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #:214-0668

eDEP Transaction #:1100314

City/Town: MEDFIELD

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"

[or "MassDEP"]

File Number : "214-0668"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all

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- construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.* the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.* the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the

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prior written approval of the issuing authority.

- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

N/A - SINGLE FAMILY HOUSE

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw WETLANDS

2. Citation CHAPTER 290

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED.

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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

4/18/2019

1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

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2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Michael Pueloff
Robert A. ...
Debra ...

Nancy McCarthy
[Signature]
George Donnelly

by hand delivery on

by certified mail, return receipt requested, on

Date April 22, 2019

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

ORDER OF CONDITIONS
with Findings of Fact

DEP File No. 214-0668

Applicant: Jennifer Menard
Owner: Same
Location of Land: **7 Maplewood Road, Medfield, MA 02052**
Assessor Map 58, Parcel 043

The following conditions supplement those on the attached Form 5 and apply to both the Massachusetts Wetlands Protection Act, Chapter 131, Sec. 40, its associated Rules and Regulations, 310 CMR 10.00 and the Medfield Wetlands Bylaw, Chapter 290 and its associated Rules and Regulations:

GENERAL CONDITIONS OF THE COMMISSION

19. This Order of Conditions (Order) applies to the applicant, the owner of the lot described in the Notice of Intent (Land), and the successors and assigns of each. Accordingly, applicant means the applicant, the owner, and the agents, successors, and assigns of each.

20. The work authorized hereunder shall be completed within one year from the date of issue. This Order may be extended by the issuing authority for one or more periods of one year intervals upon written request at least 30 days prior to the expiration date of the Order. [Bylaw]

21. Before altering any part of the Land, the applicant shall provide the Commission, in writing, with the name, work and home address, and work and home telephone number of each person responsible for supervising the project and complying with this Order; notify the Commission in writing of the date work will begin at least seven (7) days before it will begin; if the Commission so requests, meet on the site with the Commission, the project supervisor identified above, and other persons the Commission specifies to review the project and this Order, including siltation controls; and explain the requirements of this Order to the developer or contractor responsible for carrying out the project so that he understands them.

22. This Order shall be included by reference in all contracts, plans and specifications with contractors and subcontractors dealing with the activity proposed in this Order and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications or requirements.

~~23. The applicant shall notify the Commission in writing within 30 days of any transfer in the title to the Land or any change in contractor or developers before the Certificate of Compliance is issued. The notice shall include the name, address, and telephone numbers of the new owner or new contractor or developer, as well as a statement made under the penalties of perjury that the new owner or new contractor or developer has been provided with a copy of this Order.~~

24. A copy of this Order shall be available on the Land at all times during the course of the activities described in the Notice of Intent for contractors and subcontractors to review and adhere to and for the Commission, the DEP, or the agents of either to review to check compliance.

25. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.

26. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 and the Medfield Wetland Bylaw and Wetland Bylaw Regulations.

27. All work shall conform to the Notice of Intent, all plans, and all other documents, records, correspondence, and representations of the applicant as presented to and approved by the Commission.

28. If the applicant changes any aspect of the Notice of Intent, including the plans submitted with it, he shall notify the Commission in writing and shall cease work on the project until receiving a decision from the Commission. If the Commission deems the change significant, the applicant shall submit a new or Amended Notice of Intent, at the discretion of the Commission, with any necessary documentation, and obtain a new or amended Order. If the applicant, the owner, the Commission, or the agents of any of them find any error in the plans or information submitted by the applicant, the error shall be considered a change, and the applicant shall follow the procedures outlined above.

29. The Commission, the DEP, and the agents of either shall have the right to enter and inspect the Land to determine compliance with this Order and the right to require the submission of any data the Commission or DEP deems necessary for that determination. If the Commission or DEP determines, in its sole discretion, that a violation has occurred or is likely to occur, it shall notify the applicant and may order that work shall stop until the Commission or DEP

approves measures to correct the violation.

30. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order, and to procure all required permits or approvals.

31. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a double-staked row of straw bales to prevent contact with rain water.

32. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order, except as are expressly permitted by this Order or the plans approved herein.

33. There shall be no pumping of water from wetland resource areas.

34. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

35. If any unforeseen problem occurs during the work activity which affects or may affect any of the interests of the Massachusetts Wetlands Protection Act, ch. 131, sec. 40, or the Medfield Wetlands By-Law, Chapter 290, including but not limited to plans to conduct substantial blasting of bedrock or large rock formations or discovery of unanticipated soil conditions, the applicant shall notify the Commission immediately in writing (or if the Commission discovers the problem, the Commission shall notify the applicant), and the Commission may require an immediate meeting between the Commission, applicant, engineer, and contractor to determine whether any measures should be taken to protect the interests of the Act and, if so, the precise measures. The applicant shall then correct the problem or prevent a possible problem by using the measures that the Commission requires.

36. All biodegradable erosion control barriers (ECB) shall be installed according to the manufacturer's specifications. Any ECB installed as a tube (sock, log, etc.) shall include the installation of an orange construction fence or other highly visible device, on the upland side of the tube.

Any silt fence used on a project site shall be entrenched 6 inches into the ground.

Any bales used as an ECB shall be straw bales. The applicant shall provide the Commission

with verification that bales are composed of straw. All straw bales shall be double-staked, with one stake angled through the top of a bale into the bottom of the bale next to it to ensure that the bales remain tight against each other. Straw bales shall be entrenched into the ground at least three (3) inches. Where the straw bales are required to be backed by silt fencing, the silt fencing shall be placed immediately on the edge of the bales closer to the resource areas and shall be entrenched six (6) inches into the ground. Grading towards straw bales shall be tapered so that it ends at the base of the bales; the straw bales shall not serve as temporary retaining walls. **Hay bales shall not be used.**

37. Loaming and seeding of all disturbed areas shall occur within 15 days of final grading. Barren areas shall be stabilized by temporary seeding if work on the project is interrupted by more than 30 days, unless the 30 days are in the winter. If the interruption occurs during winter, the applicant shall request, in writing, that the Commission determine whether temporary seeding should be done. Where necessary, the loaming and seeding shall be held in place with jute netting, cheesecloth, or straw. Because of the danger of introducing nutrients into resource areas, an applicant who proposes to use hydroseeding shall notify the Commission in writing and must obtain the written consent of the Commission.

38. Ground disturbed by work activity shall be stabilized with straw of at least three (3) inches in depth, seeding, loaming, suitable stone or other material.

39. All fill and excavated material shall be stockpiled in such a manner or far enough away from the resource area, under cover and surrounded by a double-staked row of straw bales to prevent contact with rain water and at a suitable location to prevent sediment from runoff from entering the resource area.

40. All stumps, brush, solid waste, and other debris shall be removed from the Land, including any found on the Land before the proposed activity begins and any debris specified by the Commission.

41. The applicant shall maintain construction debris and waste materials in compliance with all applicable laws, and shall keep the Land in a clean condition. He shall place refuse in containers at the end of every workday and shall empty them promptly when filled. He shall maintain records of the destination of all materials to be removed from the Land, including stumps, brush, debris, construction waste, excess fill, loam, and peat, and shall make them available to the Commission upon request. The Commission may require that it must approve in advance the disposal of such materials. Refuse, debris, and waste materials shall not be placed or left within any resource area or within any part of the buffer zone if they may alter the adjacent resource area.

42. During and after work on the project, there shall be no discharge or spillage of fuel, oil, or other pollutants onto any part of the Land. If stored on the Land, toxic materials (e.g., petroleum

products, paints, thinners, etc.) shall be locked up at the end of each work day. The applicant shall notify the Commission immediately if any discharge or spillage occurs.

43. In conjunction with the sale or other transfer of the Land or any part of it, the applicant shall submit to the Commission a signed and dated statement by the buyer or transferee that he is ~~aware of resource areas and buffer zones in the vicinity of the property and this Order of~~ Conditions and has received a copy of it.

44. This Order in no way implies, certifies, or guarantees that the property or adjacent or downstream areas will not be subject to flooding, storm damage, or any other form of damage from run-off, ground water, or other water. By accepting this Order, the applicant and owner agree on behalf of themselves and their successors and assigns to indemnify and hold harmless the Town of Medfield, its agents, employees, and residents, and the Commission, the DEP, and the employees, members, and agents of either for any damage caused by alterations undertaken on the Land pursuant to this Order; that the Town of Medfield, its agents, employees, and residents, and the agents, employees, or members of the Commission and the DEP shall not be responsible for maintaining any drainage system or detention or retention basins proposed in the Notice of Intent or required by this Order; and that the Town, its agents, employees, and residents, and the agents, employees and members of the DEP and the Commission shall not be liable for any damage if such systems or basins fail.

45. Every request for waiver or modification of a condition must be made in writing to the Commission, which may require a hearing on the request. No waiver or modification of any condition or any part of one shall be implied from the Commission's failure to discover or to take any action with respect to the applicant's non-compliance with any condition or with any part of one. The Commission's waiver of the applicant's compliance with any part of any condition shall affect only that part of the condition, and in all other respects the condition shall stand as though the waiver had not been made. Similarly, the Commission's waiver of the applicant's compliance with any entire condition shall affect only that condition, and in all other respects this Order shall stand as though the waiver had not been granted.

46. If a court or administrative agency declares any of these conditions or any part of one invalid for any reason, the invalidity shall affect only that condition or part of one declared invalid, and in all other respects the provision shall stand as though the invalid part of the condition had not been made, and no other portion of the condition, no other conditions, nor this Order as a whole shall be affected.

FINDINGS OF FACTS AND SPECIAL CONDITIONS**I. FINDINGS OF FACTS:**

The proposed project approved under this Order of Conditions (Order) is the construction of an addition to an existing single-family house at 7 Maplewood Road, Medfield, MA, Assessor Map 58, Parcel 043. This Notice of Intent was required by the Enforcement Order issued July 18, 2018 for working within wetlands jurisdiction without a valid Order of Conditions.

The Notice of Intent was received on July 19, 2018. The site plan, dated July 10, 2018, was received on July 19, 2018. Notice of the public hearing was published in the Medfield Press on July 27, 2018. The public hearing was held on August 2, 2018. The public hearing was closed on August 2, 2018. No one was in attendance to speak for or against the proposed project.

The applicant proposes the construction of an addition to a single-family dwelling located within the 100-foot buffer zone of a Bordering Vegetated Wetlands (BVW). The construction was under way at the time of the filing of the Notice of Intent. This Order of Condition is for work of the addition within the 100-foot Bordering Vegetated Wetlands buffer zone. All work for the project is located in a previously lawn area of the property. Erosion controls are waived for the project.

The Commission finds that the work is significant to the following interests of the MA Wetlands Protection Act and the Medfield Wetland Bylaw: protection of 1) public and private water supplies, 2) groundwater supply, 3) flood control, 4) storm damage prevention, 5) prevention of pollution, 6) protection of fisheries, and 7) protection of wildlife habitat. The site is hydrologically linked to the Medfield Watershed Protection District and is within the watershed of the Charles or Neponset Rivers. All of the town's water supply wells are located within these watersheds.

The Bordering Vegetated Wetlands on this property and the other resource areas in this area form an important part of a rich, extensive and beautiful wetland system that comprises other significant wetlands, marshes, and swamps. Subsequently the Commission finds that the resource - Bordering Vegetated Wetlands and 50-Foot No-Disturb Resource Area - are significant to the following interests under the Act and the Medfield Wetland Bylaw: protection of public and private water supplies, groundwater supply, drainage and flood control, prevention of storm damage, prevention of pollution and protection of fisheries and wildlife habitat. See 310 CMR Sec. 10:55 and the Medfield Wetlands Bylaw, Chapter 290.

The Commission's preeminent concerns are protecting Medfield's public water supply and groundwater supply by protecting the Charles and Neponset River, their tributaries, their

aquifer areas and the associated wetlands--all hydraulically connected with the Sub-Watershed Areas and eventually the Charles and Neponset River watersheds and the Town wellfields--by keeping silt and nutrients out of them; and preserving the flood storage capacity of the rivers, their tributaries, and the wetlands and floodplains associated with them.

~~The Commission also finds that an undisturbed forest buffer of at least fifty (50) feet~~ between the edge of the area to be disturbed and the resource area (except riverfront area) is necessary to protect the resource areas. Undisturbed buffer zones reduce harm to wetlands / resource areas caused by adjacent development and other activities and provide essential habitat for wetlands species. The effectiveness of buffers increases with width, and buffers less than fifty (50) feet wide are generally ineffective in protecting wetlands. See "The Role and Function of Forest Buffers in the Chesapeake Bay Basin for Nonpoint Source Management," by Forestry Work Group of the Nonpoint Source Subcommittee, Chesapeake Bay Program, EPA Contract No. 68-WO-0043 (Feb. 1993); and the publications cited in the bibliography entitled "General References on Buffers," compiled by Robert Buchsbaum, Massachusetts Audubon Society: North Shore, including without limitation, "Vegetated Buffers in the Coastal Zone: A Summary and Bibliography," by A. Desbonnet *et al.*, Coastal Resources Center Tech. Rep. No. 2064 (Univ. of R.I. Graduate School of Oceanography, Narragansett, R.I., 1994) (concluding that even buffer zones 20 and 30 meters wide remove as little as 70 percent of sediments and pollutants), and "Wetland Buffers: Use and Effectiveness," by A.J. Castelle *et al.*, Washington State Univ. Dep't of Ecology, Pub. No. 92-10 (Olympia, Wash., Feb. 1992).

The Commission finds that the resource areas are a Bordering Vegetated Wetlands and the 50-foot No-Disturb Resource Area (Medfield Wetlands Bylaw, Chapter 290) and the 100-foot buffer zone are significant for protecting ground water, preventing pollution, preventing damage from storms, storing flood waters, protecting fisheries and providing wildlife habitat. See 310 Code Mass. Regs. §10:55 and the Medfield Wetland Bylaw, Chapter 290.

Based on these Findings of Fact, the Commission imposes the following Special Conditions, which supersede any general conditions that conflict with them or that impose lesser requirements:

II. SPECIAL CONDITIONS:

47. General Condition 10, Page 4 of 10 * ELECTRONIC COPY, requires that a sign shall be displayed at the site not less than two square feet or more than three square feet in size, and that it shall read, "**Massachusetts Department of Environmental Protection (or MA DEP) File No. 214-0668.**" That sign shall be located and the lettering made clear enough so that the sign can be read from the street in front of the proposed project. The sign shall not be attached to a live tree. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.

48. The erosion control barrier (ECB) is waived for this project as the project was substantially completed and stabilized when the Enforcement Order was issued.

49. At any time before, during or after construction, and until the issuance of a Certificate of Compliance, ~~the Commission or its agent may require the applicant to install an erosion control~~ measures associated with the activity that is the subject of this Order.

50. The applicant shall provide the name(s) and telephone number(s) of all person(s) responsible for compliance with this Order.

51. Unless otherwise specified in this Order, all work shall conform to the following:

PLANS:

- A) Title: Notice of Intent
Dated: Received: July 19, 2018
Signed by: Jennifer Menard, owner and Daniel D. McQuillan, Jr, the applicant's representative
on file with: Medfield Conservation Commission (MCC)
- B) Title: "Certified Plot Plan, 7 Maplewood Road, Medfield, Massachusetts
Dated: July 10, 2018 (final revision)
Prepared by: O'Driscoll Land Surveying Co.
Stamped by Daniel A. O'Driscoll, Civil # 39050
on file with: MCC

52. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.

53. The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls shall be installed at this time as necessary.

54. Refueling, oil changes, and lubrication of all equipment used in construction shall take place outside all areas within the jurisdiction of the Commission unless otherwise indicated on the plan of record.

55. No yard waste, including without limitation grass clippings, branches, leaves, bark mulch, and stones, shall be disposed of or placed in the resource area shown on the Plan and described in the Notice of Intent. This condition shall be referenced in any Certificate of Compliance issued for **7 Maplewood Road, Medfield.**

56. To prevent contamination of the aquifer supplying water to the Town, no herbicides, pesticides (except on the person), or any other harmful chemicals shall be used on that part of the lawn that is within the buffer zone, and any fertilizers used on that part of the lawn shall be of the slow-release organic granular type, low-nitrogen variety. This condition shall be referenced in any Certificate of Compliance issued for ~~7 Maplewood Road, Medfield~~

57. The "Findings of Facts" are incorporated as special condition #56 and given equal status as such.

58. Within thirty (30) days upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):

- (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A) or a written request to the Commission for a Certificate of Compliance.
- (2) A letter, signed under the penalties of perjury, from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
- (3) Two "As-Built" plans signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Massachusetts Wetlands Protection Act and the Medfield Wetlands Protection Bylaw. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this Order of Conditions and at the same scale as the proposed plan of record;
 - (b) Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, dry wells, and raised bounds, constructed under this Order within any wetland resource area or buffer zone;
 - (c) Distances from any structures constructed under this Order to wetland resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
 - (d) A line delineating the limit of work, ECB location and wetlands line with flag numbers, - "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this Order;

- (e) Final grading elevations shown at 2-foot intervals;
- (f) Any other items, elevations, raised bounds or distances the Commission may specify to ensure compliance with this Order.

59. Pesticides, herbicides, fungicides, and fertilizers **shall not be used** within 100 feet of the wetlands. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the Certificate of Compliance and shall be an ongoing condition.

60. De-icing chemicals (e.g. sodium, potassium, and calcium chloride) are prohibited on driveways located in wetland resource areas and buffer zones. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

61. Only slow-release organic granular type, low-nitrogen fertilizers shall be used within the wetland buffer zone. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

62. Dumping Prohibited: There shall be no dumping of leaves, grass clippings, brush, or other debris into the wetland resource area. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

63. Additional Alteration Prohibited: There shall be no additional alterations of areas under Conservation Commission jurisdiction without the required review and permit(s). This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

64. Prior to the issuance of a Certificate of Compliance and/or upon the sale of the property to subsequent owners, the new owner shall provide a letter to the Conservation Commission acknowledging that he/she understands the wetland restrictions bound to this property. A copy of this letter shall accompany the written request for a Certificate of Compliance. This condition shall be an ongoing condition and **shall be recorded in the deed and on subsequent deeds.**

65. The following conditions: 55, 56, 59, 60, 61, 62, 63 and 65 shall run with the Land and be binding in perpetuity on all successors in title and assigns of the applicant. This Condition shall be noted on any Certificates of Compliance issued for this Order.



Medfield Conservation Commission
459 Main Street, Town House
Medfield, Massachusetts 02052

Wetlands, Chapter 290

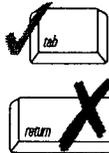


Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
214-0587
20 Pine Street
Provided by DEP

A. Project Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



- This Certificate of Compliance is issued to:
 Tanya Boylan
 Name
 20 Pine Street
 Mailing Address
 Medfield MA 02052
 City/Town State Zip Code
- This Certificate of Compliance is issued for work regulated by a final Order of Conditions issued to:
 Tanya Boylan
 Name
 11/3/2011 214-0587
 Dated DEP File Number
- The project site is located at:
 20 Pine Street Medfield
 Street Address City/Town
 49 49
 Assessors Map/Plat Number Parcel/Lot Number
 the final Order of Condition was recorded at the Registry of Deeds for:
 Property Owner (if different)
 Norfolk - February 15, 2012 29656 300
 County Book Page
 Certificate
- A site inspection was made in the presence of the applicant, or the applicant's agent, on:
 August 14, 2019 - applicant was present.
 Date



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 214-0587
 20 Pine Street
 Provided by DEP

B. Certification

Check all that apply:

- Complete Certification:** It is hereby certified that the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

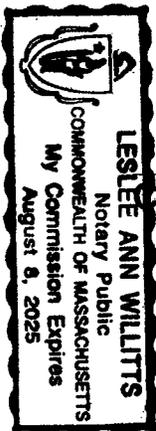
- Partial Certification:** It is hereby certified that only the following portions of work regulated by the above-referenced Order of Conditions have been satisfactorily completed. The project areas or work subject to this partial certification that have been completed and are released from this Order are:

- Invalid Order of Conditions:** It is hereby certified that the work regulated by the above-referenced Order of Conditions never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act may commence without filing a new Notice of Intent and receiving a new Order of Conditions.

- Ongoing Conditions:** The following conditions of the Order shall continue: (Include any conditions contained in the Final Order, such as maintenance or monitoring, that should continue for a longer period).

Condition Numbers:

As per Condition 81, Conditions 71, 72,76, 77, 78, 79 and 80 shall run with the Land and be binding in perpetuity on all successors in title and assigns.



Authorization

Issued by:

Medfield Conservation Commission
 Conservation Commission

Sept. 12, 2019
 Date of Issuance

This Certificate must be signed by a majority of the Conservation Commission and a copy sent to the applicant and appropriate DEP Regional Office (See <http://www.mass.gov/dep/about/region/findyour.htm>).

Signatures:

E. Hoke

 * *Mary Mc Carthy*

Robert Aigner



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 214-0587
 20 Pine Street
 Provided by DEP

D. Recording Confirmation

The applicant is responsible for ensuring that this Certificate of Compliance is recorded in the Registry of Deeds or the Land Court for the district in which the land is located.

Detach on dotted line and submit to the Conservation Commission.

To:

Medfield Conservation Commission
 Conservation Commission

Please be advised that the Certificate of Compliance for the project at:

20 Pine Street
 Project Location

214-0587
 DEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk
 County

for:

Property Owner

and has been noted in the chain of title of the affected property on:

Date

Book

Page

If recorded land, the instrument number which identifies this transaction is:

If registered land, the document number which identifies this transaction is:

Document Number

Signature of Applicant



Medfield Conservation Commission
 459 Main Street, Town Hall
 Medfield, MA 02052

MEDFIELD WETLANDS BYLAW
 Article IX



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:214-0587
 eDEP Transaction #:429323
 City/Town: MEDFIELD

A. General Information

1. Conservation Commission MEDFIELD
2. Issuance a. OOC b. Amended OOC
3. Applicant Details
 - a. First Name TANYA b. Last Name BOYLAN
 - c. Organization
 - d. Mailing Address 20 PINE ST
 - e. City/Town MEDFIELD f. State MA g. Zip Code 02052
4. Property Owner
 - a. First Name
 - b. Last Name
 - c. Organization
 - d. Mailing Address
 - e. City/Town f. State g. Zip Code
5. Project Location
 - a. Street Address 20 PINE ST
 - b. City/Town MEDFIELD c. Zip Code 02052
 - d. Assessors Map/Plat# 49 e. Parcel/Lot# 49
 - f. Latitude 42.1154N g. Longitude 71.1839W
6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
NORFOLK		18598	391
7. Dates

a. Date NOI Filed : 9/28/2011	b. Date Public Hearing Closed: 10/20/2011	c. Date Of Issuance: 11/3/2011
-------------------------------	---	--------------------------------
8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
SEE ATTACHED	LANDMARK ENGINEERING OF NEW ENGLAND, INC.	PAUL N. CUTLER; #33151	09/22/2011	1" = 20'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Public Water Supply | <input type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input checked="" type="checkbox"/> Fisheries | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Ground Water Supply | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control |

2. Commission hereby finds the project, as proposed, is:

Approved subject to:

- The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

- Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). 50
 a. linear feet

Inland Resource Area Impacts: (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet



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Cubic Feet Flood Storage

 e. cubic feet f. cubic feet g. cubic feet h. cubic feet

8. Isolated Land Subject to Flooding

 a. square feet b. square feet

Cubic Feet Flood Storage

 c. cubic feet d. cubic feet e. cubic feet f. cubic feet

9. Riverfront Area

 a. total sq. feet b. total sq. feet

Sq ft within 100 ft

 c. square feet d. square feet e. square feet f. square feet

Sq ft between 100-200 ft

 g. square feet h. square feet i. square feet j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
---------------	---------------------	----------------------	----------------------	-----------------------

10. Designated Port Areas

Indicate size under Land Under the Ocean, below

11. Land Under the Ocean

 a. square feet b. square feet

 c. c/y dredged d. c/y dredged

12. Barrier Beaches

Indicate size under Coastal Beaches and/or Coastal Dunes below

13. Coastal Beaches

 a. square feet b. square feet c. c/y nourishment d. c/y nourishment

14. Coastal Dunes

 a. square feet b. square feet c. c/y nourishment d. c/y nourishment

15. Coastal Banks

 a. linear feet b. linear feet

16. Rocky Intertidal Shores

 a. square feet b. square feet

17. Salt Marshes

 a. square feet b. square feet c. square feet d. square feet

18. Land Under Salt Ponds

 a. square feet b. square feet

 c. c/y dredged d. c/y dredged

19. Land Containing Shellfish

 a. square feet b. square feet c. square feet d. square feet



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20. Fish Rins

Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

 c. c/y dredged d. c/y dredged

21. Land Subject to Coastal Storm Flowage

 a. square feet b. square feet

22.

Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

 a. square feet of BVW

 b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

 a. number of new stream crossings

 b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land,



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the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "214-0587"
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater



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- Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
 - d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
 - e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
 - f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
 - g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
 - h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
 - i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
 - j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
 - k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
 - l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:



D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw MEDFIELD
WETLANDS BYLAW

2. Citation ARTICLE IX

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED.



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Provided by MassDEP:
 MassDEP File #:214-0587
 eDEP Transaction #:429323
 City/Town:MEDFIELD

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

11/3/2011
 1. Date of Original Order
4
 2. Number of Signers

Signatures:

Ralph A. Perricone
Cheryl Green

Michael Kelly
Pat Kennedy

by hand delivery on

by certified mail, return receipt requested, on

November 3, 2011
 Date

 Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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Provided by MassDEP:
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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

11/3/2011
 1. Date of Original Order

 4
 2. Number of Signers

Signatures: _____ Robert Kennedy

_____ Ralph A. Parmigiane

_____ Philip J. Burr

_____ Michael Perloff
 by hand delivery on _____
 by certified mail, return receipt requested, on _____

November 3, 2011

 Date Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

MEDFIELD
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To: MEDFIELD
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

20 PINE ST 214-0587
 Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

County	Book	Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

ORDER OF CONDITIONS
with Findings of Fact

DEP File No.

214-0587

Applicant: Tanya Boylan
Owner: Same
Location of Land: **20 Pine Street, Medfield, MA 02052**
Assessor Map 49, Parcel 49

The following conditions supplement those on the attached Form 5 and apply to both the Massachusetts Wetlands Protection Act, Chapter 131, Sec. 40, its associated Rules and Regulations, 310 CMR 10.00 and the Medfield Wetlands Bylaw, Article IX and its associated Rules and Regulations:

GENERAL CONDITIONS OF THE COMMISSION

20. This Order of Conditions (Order) applies to the applicant, the owner of the lot described in the Notice of Intent (Land), and the successors and assigns of each. Accordingly, applicant means the applicant, the owner, and the agents, successors, and assigns of each.
21. The work authorized hereunder shall be completed **within one year** from the date of issue. This Order may be extended by the issuing authority for one or more periods of one year intervals upon written request at least 30 days prior to the expiration date of the Order. [Bylaw]
22. Before altering any part of the Land, the applicant shall provide the Commission, in writing, with the name, work and home address, and work and home telephone number of each person responsible for supervising the project and complying with this Order; notify the Commission in writing of the date work will begin at least seven (7) days before it will begin; if the Commission so requests, meet on the site with the Commission, the project supervisor identified above, and other persons the Commission specifies to review the project and this Order, including siltation controls; and explain the requirements of this Order to the developer or contractor responsible for carrying out the project so that he understands them.

23. This Order shall be included by reference in all contracts, plans and specifications with contractors and subcontractors dealing with the activity proposed in this Order and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications or requirements.
24. The applicant shall notify the Commission in writing within 30 days of any transfer in the title to the Land or any change in contractor or developers before the Certificate of Compliance is issued. The notice shall include the name, address, and telephone numbers of the new owner or new contractor or developer, as well as a statement made under the penalties of perjury that the new owner or new contractor or developer has been provided with a copy of this Order.
25. A copy of this Order shall be available on the Land at all times during the course of the activities described in the Notice of Intent for contractors and subcontractors to review and adhere to and for the Commission, the DEP, or the agents of either to review to check compliance.
26. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
27. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 and the Medfield Wetland Bylaw and Wetland Bylaw Regulations.
28. All work shall conform to the Notice of Intent, all plans, and all other documents, records, correspondence, and representations of the applicant as presented to and approved by the Commission.
29. If the applicant changes any aspect of the Notice of Intent, including the plans submitted with it, he shall notify the Commission in writing and shall cease work on the project until receiving a decision from the Commission. If the Commission deems the change significant, the applicant shall submit a new or Amended Notice of Intent, at the discretion of the Commission, with any necessary documentation, and obtain a new or amended Order. If the applicant, the owner, the Commission, or the agents of any of them find any error in the plans or information submitted by the applicant, the error shall be considered a change, and the applicant shall follow the procedures outlined above.
30. The Commission, the DEP, and the agents of either shall have the right to enter and inspect the Land to determine compliance with this Order and the right to require the submission of any data the Commission or DEP deems necessary for that determination. If the Commission or DEP determines, in its sole discretion, that a violation has occurred or is likely to occur, it shall notify the applicant and may order that work shall stop until the Commission or DEP

approves measures to correct the violation.

31. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order, and to procure all required permits or approvals.

32. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a double-staked row of straw bales to prevent contact with rain water.

33. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order, except as are expressly permitted by this Order or the plans approved herein.

34. There shall be no pumping of water from wetland resource areas.

35. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

36. If any unforeseen problem occurs during the work activity which affects or may affect any of the interests of the Massachusetts Wetlands Protection Act, ch. 131, sec. 40, or the Medfield Wetlands By-Law, Article IX, including but not limited to plans to conduct substantial blasting of bedrock or large rock formations or discovery of unanticipated soil conditions, the applicant shall notify the Commission immediately in writing (or if the Commission discovers the problem, the Commission shall notify the applicant), and the Commission may require an immediate meeting between the Commission, applicant, engineer, and contractor to determine whether any measures should be taken to protect the interests of the Act and, if so, the precise measures. The applicant shall then correct the problem or prevent a possible problem by using the measures that the Commission requires.

37. All biodegradable erosion control barriers (ECB) shall be installed according to the manufacturer's specifications. Any ECB installed as a tube (sock, log, etc.) shall include the installation of an orange construction fence, wooden snow fence or other highly visible devise, on the upland side of the tube.

Any silt fence used on a project site shall be entrenched 6 inches into the ground.

Any bales used as an ECB shall be straw bales. The applicant shall provide the Commission

with verification that bales are composed of straw. All straw bales shall be double-staked, with one stake angled through the top of a bale into the bottom of the bale next to it to ensure that the bales remain tight against each other. Straw bales shall be entrenched into the ground at least three (3) inches. Where the straw bales are required to be backed by silt fencing, the silt fencing shall be placed immediately on the edge of the bales closer to the resource areas and shall be entrenched six (6) inches into the ground. Grading towards straw bales shall be tapered so that it ends at the base of the bales; the straw bales shall not serve as temporary retaining walls. **Hay bales shall not be used.**

38. Loaming and seeding of all disturbed areas shall occur within 15 days of final grading. Barren areas shall be stabilized by temporary seeding if work on the project is interrupted by more than 30 days, unless the 30 days are in the winter. If the interruption occurs during winter, the applicant shall request, in writing, that the Commission determine whether temporary seeding should be done. Where necessary, the loaming and seeding shall be held in place with jute netting, cheesecloth, or straw. Because of the danger of introducing nutrients into resource areas, an applicant who proposes to use hydroseeding shall notify the Commission in writing and must obtain the written consent of the Commission.

39. Ground disturbed by work activity shall be stabilized with straw of at least three (3) inches in depth, seeding, loaming, suitable stone or other material.

40. All fill and excavated material shall be stockpiled in such a manner or far enough away from the resource area, under cover and surrounded by a double-staked row of straw bales to prevent contact with rain water and at a suitable location to prevent sediment from runoff from entering the resource area.

41. All stumps, brush, solid waste, and other debris shall be removed from the Land, including any found on the Land before the proposed activity begins and any debris specified by the Commission.

42. The applicant shall maintain construction debris and waste materials in compliance with all applicable laws, and shall keep the Land in a clean condition. He shall place refuse in containers at the end of every workday and shall empty them promptly when filled. He shall maintain records of the destination of all materials to be removed from the Land, including stumps, brush, debris, construction waste, excess fill, loam, and peat, and shall make them available to the Commission upon request. The Commission may require that it must approve in advance the disposal of such materials. Refuse, debris, and waste materials shall not be placed or left within any resource area or within any part of the buffer zone if they may alter the adjacent resource area.

43. During and after work on the project, there shall be no discharge or spillage of fuel, oil, or other pollutants onto any part of the Land. If stored on the Land, toxic materials (e.g., petroleum

products, paints, thinners, etc.) shall be locked up at the end of each work day. The applicant shall notify the Commission immediately if any discharge or spillage occurs.

44. In conjunction with the sale or other transfer of the Land or any part of it, the applicant shall submit to the Commission a signed and dated statement by the buyer or transferee that he is aware of resource areas and buffer zones in the vicinity of the property and this Order of Conditions and has received a copy of it.

45. This Order in no way implies, certifies, or guarantees that the property or adjacent or downstream areas will not be subject to flooding, storm damage, or any other form of damage from run-off, ground water, or other water. By accepting this Order, the applicant and owner agree on behalf of themselves and their successors and assigns to indemnify and hold harmless the Town of Medfield, its agents, employees, and residents, and the Commission, the DEP, and the employees, members, and agents of either for any damage caused by alterations undertaken on the Land pursuant to this Order; that the Town of Medfield, its agents, employees, and residents, and the agents, employees, or members of the Commission and the DEP shall not be responsible for maintaining any drainage system or detention or retention basins proposed in the Notice of Intent or required by this Order; and that the Town, its agents, employees, and residents, and the agents, employees and members of the DEP and the Commission shall not be liable for any damage if such systems or basins fail.

46. Every request for waiver or modification of a condition must be made in writing to the Commission, which may require a hearing on the request. No waiver or modification of any condition or any part of one shall be implied from the Commission's failure to discover or to take any action with respect to the applicant's non-compliance with any condition or with any part of one. The Commission's waiver of the applicant's compliance with any part of any condition shall affect only that part of the condition, and in all other respects the condition shall stand as though the waiver had not been made. Similarly, the Commission's waiver of the applicant's compliance with any entire condition shall affect only that condition, and in all other respects this Order shall stand as though the waiver had not been granted.

47. If a court or administrative agency declares any of these conditions or any part of one invalid for any reason, the invalidity shall affect only that condition or part of one declared invalid, and in all other respects the provision shall stand as though the invalid part of the condition had not been made, and no other portion of the condition, no other conditions, nor this Order as a whole shall be affected.

FINDINGS OF FACTS AND SPECIAL CONDITIONS

I. FINDINGS OF FACTS:

The propose project approved under this Order of Conditions (Order) is the installation of an inground swimming pool, patio, landscaping and fence at 20 Pine Street, Medfield, MA, Assessor Map 49, parcel 49. The project is located within the 100-foot buffer zone of the bordering vegetated wetlands. All work is located outside of the 50-foot no-disturb area under the Medfield Wetlands Bylaw.

The Notice of Intent was received on September 28, 2011. Notice of the public hearing was published in the Medfield Press on October 14, 2011. The public hearing was held on October 20, 2011. The public hearing was closed on October 20, 2011. Any substantial changes to the plan that impact the jurisdictional areas of the Commission will warrant a reopening of the public hearing and/or a new filing. No residents of Medfield were present to speak for or against the project.

The Commission finds that the work is significant to the following interests of the MA Wetlands Protection Act and the Medfield Wetland Bylaw: protection of 1) public and private water supplies, 2) groundwater supply, 3) flood control, 4) storm damage prevention, 5) prevention of pollution, 6) protection of fisheries, and 7) protection of wildlife habitat. The site is hydrologically linked to the Medfield Watershed Protection District and is within the watershed of the Charles River and three of the town's water supply wells.

The bordering vegetated wetlands (BVW) on this property and the other resource areas in this area form an important part of a rich, extensive and beautiful wetland system that comprises other significant wetlands, marshes, and swamps. Subsequently the Commission finds that the resource area - bordering vegetated wetlands - is significant to the following interests under the Act and the Medfield Wetland Bylaw: protection of public and private water supplies, groundwater supply, drainage and flood control, prevention of storm damage, prevention of pollution and protection of fisheries and wildlife habitat. See 310 CMR Sec. 10.55 and the Medfield Wetlands Bylaw, Article IX.

The Commission's preeminent concerns are protecting Medfield's public water supply and groundwater supply by protecting the Charles River, its tributaries, its aquifer areas and the associated wetlands--all hydraulically connected with the Sub-Watershed Areas and eventually the Charles River watershed and the Town wellfields--by keeping silt and nutrients out of them; and preserving the flood storage capacity of the Charles, its tributaries, and the wetlands and floodplains associated with them.

The Commission also finds that an undisturbed forest buffer of at least fifty (50) feet between the edge of the area to be disturbed and the resource area (except riverfront area) is

necessary to protect the resource areas. Undisturbed buffer zones reduce harm to wetlands / resource areas caused by adjacent development and other activities and provide essential habitat for wetlands species. The effectiveness of buffers increases with width, and buffers less than fifty (50) feet wide are generally ineffective in protecting wetlands. See "The Role and Function of Forest Buffers in the Chesapeake Bay Basin for Nonpoint Source Management," by Forestry Work Group of the Nonpoint Source Subcommittee, Chesapeake Bay Program, EPA Contract No. 68-WO-0043 (Feb. 1993); and the publications cited in the bibliography entitled "General References on Buffers," compiled by Robert Buchsbaum, Massachusetts Audubon Society: North Shore, including without limitation, "Vegetated Buffers in the Coastal Zone: A Summary and Bibliography," by A. Desbonnet *et al.*, Coastal Resources Center Tech. Rep. No. 2064 (Univ. of R.I. Graduate School of Oceanography, Narragansett, R.I., 1994) (concluding that even buffer zones 20 and 30 meters wide remove as little as 70 percent of sediments and pollutants), and "Wetland Buffers: Use and Effectiveness," by A.J. Castelle *et al.*, Washington State Univ. Dep't of Ecology, Pub. No. 92-10 (Olympia, Wash., Feb. 1992).

The Commission finds that the resource area, a bordering vegetated wetlands is significant for protecting ground water, preventing pollution, preventing damage from storms, storing flood waters, protecting fisheries and providing wildlife habitat. See 310 Code Mass. Regs. §§ 10.55 and the Medfield Wetland Bylaw.

No work as proposed in the plan of record is within the 50-foot no-disturb resource area under the Medfield Wetlands Bylaw, Article IX.

Based on these Findings of Fact, the Commission imposes the following Special Conditions, which supersede any general conditions that conflict with them or that impose lesser requirements:

II. SPECIAL CONDITIONS:

48. General Condition 10 above requires that a sign shall be displayed at the site not less than two square feet or more than three square feet in size, and that it shall read, "**Massachusetts Department of Environmental Protection (or MA DEP) File No. 214-0587.**" That sign shall be located and the lettering made clear enough so that the sign can be read from the street in front of the proposed project. The sign shall not be attached to a live tree. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.

49. A continuous line of an erosion control barrier shall be installed along the lines marked "Siltation Barrier" on the Plan of Record. Only straw bales may be used or other biodegradable barriers such as a mulch sock (log). If the latter is used, an orange construction fence, snow fence or other high visibility fencing shall be installed along the upland side (work) of the

erosion control sock. The erosion control barrier (ECB) shall be installed according to the manufacturer's specifications.

50. The erosion control barrier will be inspected by the Commission or its agent **prior to** any site preparation and/or construction activities including demolition of the existing houses and removal of the concrete foundation and other construction and farm debris.

51. The erosion control barrier mentioned in General Condition #37, 49 and 50 shall mark the limit of regrading, disturbance of the surface, cutting or removal of vegetation, and any other work activity associated with the proposed site work approved in the Order.

52. At any time before, during or after construction, and until the issuance of a Certificate of Compliance, the Commission or its agent may require the applicant to modify, augment, restore or maintain erosion control measures associated with the activity that is the subject of this Order.

53. Prior to any activity on site, the limits of wetland resource areas shall be flagged with surveyor's tape and the flags shall be maintained and remain in place until a Certificate of Compliance is issued.

54. The applicant shall notify the Conservation Commission at least 48 hours prior to any activity on the site and shall provide the name(s) and telephone number(s) of all person(s) responsible for compliance with this Order.

55. Unless otherwise specified in this Order, all work shall conform to the following:

PLANS:

- A) Title: Notice of Intent
Dated: September 28, 2011; received September 28, 2011
Signed by: Tanya Quigley-Boylan, applicant and owner and Paul A. Cutler, Representative
on file with: Medfield Conservation Commission (MCC)
- B) Title: "Plan for Proposed Pool, 20 Pine Street in Medfield, Mass."
One (1) sheet.
Dated: September 22, 2011; final Revision: none
Prepared by: Landmark Engineering of New England, Inc., Stamped by Paul N. Cutler, PE; # 33151
on file with: MCC

56. For projects involving the construction of a house, an addition to a house or **an inground swimming pool**, once the foundation/pool location has been designated on site but **before**

excavation, the applicant shall have the location verified by the Commission; and upon completion of the foundation/pool submit to the Commission an as-built interim plan, at the same scale as the proposed plan of record and stamped and signed by a registered professional engineer, surveyor, or landscape architect, showing, in a solid line, the location and dimensions of the foundation as built; in a broken line, the location and dimensions of the foundation as shown on the plan approved by the Commission and specified above in Special Condition # 1b; the limits of all resource areas; the edge of the 100-foot buffer zone bordering each resource area; the limits of any floodplain; the distance in feet between the foundation and the nearest part of a resource area; the location and type of sediment controls; the limits of disturbed area; and contours in two-foot intervals.

57. The applicant shall submit with the foundation/pool as-built interim plan a letter stamped and signed by a registered professional engineer, surveyor, or landscape architect stating whether the foundation as constructed differs from the foundation as shown on the plan approved by the Commission and specified above in During Construction Condition #1b, and, if so, how it differs, whether in location, dimension, distance to the nearest resource area, or otherwise, from the Notice of Intent, all plans, and all other documents, records, correspondence, and representations of the applicant as presented to and approved by the Commission. The letter shall also explain the reason for each change from the approved plan.

58. The applicant shall not proceed with performing finishing pool appurtenances until he has received the written authorization of the Commission. In its discretion, the Commission may choose to review the foundation plan and letter at a meeting and may require the applicant to attend the meeting.

59. The applicant shall monitor daily, maintain properly, and reinforce or replace as necessary all erosion controls, including without limitation all straw bales, silt fences, and riprap, so that they serve their intended purpose until all adjacent disturbed areas have been stabilized and until the Commission determines that they can or must be removed.

60. The applicant shall notify the Commission promptly and in writing of any deficiencies in erosion controls and of any actions that it has taken or proposes to take to correct the problem, and shall implement all additional erosion and sedimentation controls that it, the Commission, or the DEP finds necessary. The applicant shall remove immediately and by hand any silt or other materials that have entered any resource area.

61. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.

62. The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or

replaced as necessary.

63. Erosion control devices may be modified based upon experience at the site. All such devices shall be inspected, cleaned or replaced during construction and shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent.
64. Refueling, oil changes, and lubrication of all equipment used in construction shall take place outside all areas within the jurisdiction of the Commission unless otherwise indicated on the plan of record.
65. Cement trucks shall not be washed out in any wetland resource or buffer zone area, or into any drainage system. Any deposit of cement or concrete products into a buffer zone or wetland resource area shall be immediately removed.
66. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any accumulated silt adjacent to the barriers shall be removed.
67. All stockpiles of soils existing for more than one day shall be surrounded by a row of entrenched silt fence, and shall be covered.
68. Erosion control devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Conservation Commission and/or its Administrator has authorized their removal.
69. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
70. Grading shall be accomplished so that runoff shall not be directed to the property of others, except as indicated on the approved plan.
71. No yard waste, including without limitation grass clippings, branches, leaves, bark mulch, and stones, shall be disposed of or placed in the resource area shown on the Plan and described in the Notice of Intent. This condition shall be referenced in any Certificate of Compliance issued for 20 Pine Street.
72. To prevent contamination of the aquifer supplying water to the Town, no herbicides, pesticides (except on the person), or any other harmful chemicals shall be used on that part of the lawn that is within the buffer zone, and any fertilizers used on that part of the lawn shall be of the slow-release organic granular type, low-nitrogen variety. This condition shall be referenced in any Certificate of Compliance issued for 20 Pine Street.

73. The "Findings of Facts" are incorporated as special condition #73 and given equal status as such.
74. Within thirty (30) days upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
- (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A) or a written request to the Commission for a Certificate of Compliance.
 - (2) A letter, signed under the penalties of perjury, from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
 - (3) Two "As-Built" plans signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Massachusetts Wetlands Protection Act and the Medfield Wetlands Protection Bylaw. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this Order of Conditions and at the same scale as the proposed plan of record;
 - (b) Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains and dry wells constructed under this Order within any wetland resource area or buffer zone;
 - (c) Distances from any structures constructed under this Order to wetland resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
 - (d) A line delineating the limit of work, ECB location and wetlands line with flag numbers, - "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this Order;
 - (e) Final grading elevations shown at 2-foot intervals;
 - (f) Any other items, elevations or distances the Commission may specify to ensure compliance with this Order.
75. After inspection and approval by the Commission or its agent, the applicant shall promptly remove any erosion controls, including without limitation straw bales or silt fencing, that the Commission deems no longer necessary for protecting the resource areas, and shall

properly dispose of them, as well as all silt, debris, or other run-off that they have retained, outside the resource areas and 100-foot buffer zone.

76. Pesticides, herbicides, fungicides, and fertilizers **shall not be used** within 100 feet of the wetlands. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the Certificate of Compliance and shall be an ongoing condition.

77. Only slow-release organic granular type, low-nitrogen fertilizers shall be used within the wetland buffer zone. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

78. Dumping Prohibited: There shall be no dumping of leaves, grass clippings, brush, or other debris into the wetland or stream/body of water. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

79. Additional Alteration Prohibited: There shall be no additional alterations of areas under Conservation Commission jurisdiction without the required review and permit(s). This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

80. Prior to the issuance of a Certificate of Compliance and upon the sale of the property to subsequent owners, the new owner shall provide a letter to the Conservation Commission acknowledging that he/she understands the wetland restrictions bound to this property. A copy of this letter shall accompany the written request for a Certificate of Compliance. This shall be an ongoing condition.

81. The above conditions 71, 72, 76, 77, 78, 79 and 80, shall run with the Land and be binding in perpetuity on all successors in title and assigns of the applicant. This Condition shall be noted on any Certificates of Compliance issued for this Order and in any Homeowner Association documents issued to unit owners.

COVER SHEET

OPTION AND LEASE AGREEMENT

Effective Date	Thursday, March 21, 2019	
Lease Commencement Date ¹		
Lessor	Kingsbury Club Medfield, INC	
Lessee	Sunspire Solar LLC	
Property address	2 Ice House Road, Medfield, MA, 02052	
Premises	The Premises consists of approximately 44,000 square feet of parking lot space located at the Property controlled by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052. The Property is more particularly described in Exhibit A attached hereto.	
Option Term	540 Days	
Option Expiration	September 11, 2020	
Rent	Annual rent shall be determined in accordance with Section 4 and Exhibit G.	
Lease Term	Twenty (20) years subject to extension per Section 6.	
Expiration Date ²		
Extension Exercise Notice Deadline ³		
Addresses for Notices	Lessee: Sunspire Solar LLC PO Box 1673 Andover, MA 01810 Attn: John Porter	Lessor: Kingsbury Club Medfield, INC 2 Ice House Road Medfield, MA, 02052 Attn: Robert Janjigian

¹ Parties agree to write in once Exercise Notice is delivered.

² Parties agree to write in once Exercise Notice is delivered.

³ Parties agree to write in once Extension Exercise Notice is delivered.

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement ("*Lease*") is dated as of the Effective Date and is entered into by and between Lessor and Lessee (each a "*Party*" and together, the "*Parties*").

A. The approximately 44,000 square feet of canopy space above the parking lot space including access rights and Easements necessary to access the parking lot space ("*Premises*") located on the real property owned by the Town of Medfield and leased to Lessor under that Ground Lease dated September 1, 2007 and commonly known as 2 Ice House Road, Medfield, MA, 02052 ("*Property*"), are each more particularly described in the attached Exhibit A.

B. Lessee desires to obtain the exclusive right to occupy the Premises subject to the Concurrent Use as set forth herein and to enjoy all the rights necessary for Lessee to occupy, develop, design, engineer, access, construct, monitor, install, own, maintain and operate the System to be located upon, on and within the Premises as well as all the rights necessary or desirable for Lessee to sell the energy generated by such System and any and all other credits, solar renewable energy credits, and any other environmental financial attributes created as a result of such energy generation.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is acknowledged, and intending to be legally bound hereby, Lessee and Lessor hereby agree to the foregoing recitals and as follows:

1. **Definitions.** Capitalized terms not otherwise defined in this Lease or on the Cover Sheet have the meanings assigned to them in Exhibit C.

2. **Option to Lease the Premises.**

(a) **Grant of Option.** Lessor hereby grants to Lessee an option to Lease the Premises on the terms and conditions set forth in this Lease (the "*Option*").

(b) **Time and Manner of Exercise of the Option.** The Option shall be for an initial term of Five Hundred Forty (540) days after the Effective Date (as it may be extended, the "*Option Term*"). The Option Term may be extended by Lessee for an additional Five Hundred Forty (540) days upon notice to Lessor at any time prior to the end of the initial Option Term.

(c) **Grant of Access License.** Commencing on the Effective Date and throughout the Option Term, Lessor grants to Lessee and any Lessee Party, an irrevocable, exclusive license ("*License*") to enter upon the Property at any time and from time to time to conduct, at Lessee's expense, such tests, inspections, surveys and investigations ("*Tests*") as Lessee deems reasonably necessary or appropriate to evaluate the suitability of the Premises for the uses contemplated under this Lease provided said access does not materially interfere with Lessor's and/or Lessor's agents, invitees and guests use of the Property. During the Option Term, no Lessee Party shall place, or permit to be placed, or use, or permit to be used, any permanent improvements or structures on the Premises. If Lessee does not exercise the Option within the Option Term, Lessee shall, at Lessee's sole cost and expense, promptly remove any and all liens, improvements, personal property, equipment, goods, and other property, and all trash, debris, and other refuse from the Premises that is the result of such Tests, and shall have no other rights in and to the Premises or Property and shall return the Property and/or Premises to their former condition, reasonable wear and tear excepted. Lessee agrees to act expeditiously to complete the Tests and other due diligence during the Option Term.

(d) **Lessor Cooperation.** Lessor shall cooperate, at no additional cost to the Lessor, with (i) the performance of Tests, (ii) the obtaining by Lessee, at Lessee's sole cost and expense, of all licenses and Permits or authorizations required for Lessee's use of the Premises from all applicable government and/or regulatory entities (collectively, "***Governmental Approvals***") and (iii) the securing by Lessee at Lessee's expense of all other leases, agreements, licenses and Permits or authorizations that relate to the Property or Premises. Lessor agrees to use reasonable efforts in assisting Lessee to acquire necessary utility service at the Premises but it shall be the sole cost and expense of Lessee for any hook-up or tie-in to any utility services currently servicing the Property or otherwise. In the event that a utility company requires an easement in connection with Lessee's use of the Premises, Lessor shall use reasonable efforts in obtaining such necessary easements from the Town of Medfield to the utility company, provided that such easement is in a commercially reasonable and recordable form, understanding that Lessor's title to the Property is a leasehold interest and not a fee simple interest therefore any and all easements, rights, restrictions, encumbrances, liens etc. shall require the Town of Medfield's approval of which Lessor agrees to reasonably pursue when requested by the Lessee.

3. **Exercise of Option; Leased Premises and Related Rights.**

(a) In order to exercise the Option, Lessee must deliver to Lessor a notice of exercise (the "***Exercise Notice***"), accompanied by the first Rent payment, prior to the expiration of the Option Term. The date of the Exercise Notice shall be the commencement of the Lease Term (the "***Lease Commencement Date***"). Subject to receipt of the Exercise Notice and first Rent payment, Lessor hereby leases the Premises to Lessee to occupy, develop, design, engineer, construct, access, monitor, install, own, operate and maintain the System for the generation and distribution of electrical power. Lessor hereby also grants to Lessee and the applicable utility company, at all times on a 24-hours-a-day, 7-days-a-week basis, for any purposes reasonably connected with this Lease for a period co-terminus with the Lease, an easement which is irrevocable during the Lease Term for access, ingress, egress, utilities and related rights to the Premises and/or any surrounding or nearby property owned or leased by Lessor, passage through which is necessary or convenient to install, operate or gain access to the System or the Premises (the "***Easements***"). The Easements are generally depicted on **Exhibit A** attached hereto and incorporated herein. In the event that Lessee or the utility company desires to make such Easements a public record, Lessee shall require the Town of Medfield and Lessor's approval of the same. Only upon approval from the Town of Medfield and Lessor may the Lessee record said easement(s) in the office where real estate records are customarily filed in the jurisdiction of the Premises.

(b) Lessee shall have the right to install utilities on the Property, at Lessee's sole cost and expense, and at locations to be mutually agreed to by Lessee and Lessor to improve the present utilities on the Property (including, but not limited to, the installation of battery storage systems, transformers, switchgear and utility poles).

4. **Rents.** Lessee shall pay the Rent (in accordance with Exhibit G) to Lessor for rental of the Premises ("***Rent***") which shall be due annually beginning on the Lease Commencement Date and on every one (1) year anniversary thereof during the Lease Term. In the event this Lease is terminated by Lessee in accordance with this Lease prior to the Expiration Date, Lessor shall refund to Lessee the pre-paid but unearned annual Rent (pro-rated on a daily basis) within thirty (30) days after Lessee removes the System pursuant to the terms of Section 5. Lessor, its successors, assigns and/or designee, if any, shall submit to Lessee any documents reasonably required by Lessee in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

5. **Term and Termination; Removal.**

(a) The Lease Term shall commence on the Lease Commencement Date and terminate on the Expiration Date, as it may be extended pursuant to the terms herein.

(b) If this Lease expires in accordance with Section 5(a) or is terminated by Lessee in accordance with the terms herein, Lessee shall complete the removal of the System and repair of any damage caused to the Premises by the installation or removal of the System on or before the Removal and Restoration Date leaving the Premises and/or Property in the same condition they were in prior to the installation of the System, reasonable wear and tear excepted. The removal and restoration shall be at Lessee's sole cost and expense. In connection with such removal and restoration, Lessor shall continue to provide Lessee and its Affiliates and subcontractors with reasonable access to the Premises until the Removal and Restoration Date so long as Lessee and/or its Affiliates and subcontractors do not materially interfere with Lessor's use of the Property and/or Premises.

(c) Removal of System at Expiration/Termination. In the event Lessee fails to complete the removal of the System and restoration of the Premises by the Removal and Restoration Date, Lessor may provide notice to Lessee stating that Lessee has failed to remove the System (the "*Abandonment Notice*"). If Lessee fails to remove the System within sixty (60) days after receipt of the Abandonment Notice, Lessor shall have the right, at its option, in its sole discretion, to cause the removal of the System by a qualified contractor and the restoration of the Premises in accordance with Section 5(b), said removal and restoration shall be at Lessee's sole cost and expense and in addition to any other rights and/or remedies provided to the Lessor herein or by operation of law.

6. Extension Option. Lessee may extend the Lease Term for two (2) additional and successive periods of five (5) years (each an "*Extension Option*"), at an annual rental rate equal to that during the initial Lease Term, beginning on the day following the expiration of the then-current Term (each an "*Extension Term*"), by giving notice (the "*Extension Exercise Notice*") to Lessor not less than one hundred eighty (180) days prior to the Expiration Date.

7. System Construction; Lessor Acknowledgment.

(a) Prior to commencement of construction of the System by Lessee, Lessee shall obtain the necessary Permits. Throughout the Lease Term, Lessee shall have the right to clean, repair, replace and dispose of part or all of the System as Lessee in its discretion determines to be reasonably necessary provided the same does not enlarge the Premises or unreasonably interfere with Lessor's use of the Property. Lessor acknowledges and understands that the System shall consist of a solar photovoltaic electric generating system, designed to produce electricity and deliver such electricity to the electric interconnection point, including without limitation all of the following: installation equipment; generation facilities, including inverters, fuses, transformers, wiring and output breakers; facilities necessary to connect to the electric interconnection point; protective and associated equipment; and other improvements reasonably necessary for the construction, operation, monitoring and maintenance of the system. Lessee acknowledges that Lessor is undertaking construction on the Property and may need access to the Premises for the same. This shall not constitute a violation of the terms of the Lease provided Lessor does not materially interfere with Lessee's rights and access to the Premises as set forth herein, including those of Section 12(d) below. The Parties acknowledge that the impact of construction is of particular concern to Lessee after the System is operational. At no time shall the System reduce the amount of available parking spaces below what may be required by local, municipal or state law to service the Property as it is currently used or may be expanded.

(b) The Parties acknowledge that the Lessee shall solely be responsible for and shall promptly repair any damage to the parking lot surface of the Premises that is caused by the installation, repair and/or maintenance of the Systems on the Premises. Any such repair work shall be performed promptly and at Lessee's sole cost and expense by a reputable subcontractor, selected by Lessee (and reasonably acceptable to Lessor via Lessor's prior written approval). Lessor shall not delay or interfere with such repair, rehabilitation and/or replacement work and Lessor shall cooperate with Lessee in the obtaining of all applicable Permits required

for any such repair work. Said repair and/or maintenance work shall not unreasonably interfere with Lessor's use of the Property.

(c) Except as provided in Section 7(b), the Parties agree and acknowledge that Lessor shall be responsible for the repair and maintenance of the parking lot areas of the Premises, at the sole cost and expense of Lessor. The Parties further agree and acknowledge that during the Term, Lessor shall be afforded up to an aggregate of sixty (60) days (the "Aggregate Repair Time"), provided that no single such disruption is more than thirty (30) days (each an "Individual Repair Time"), during which the Lessor may repair or perform incidental maintenance on the parking lot and during which all or a portion of the Systems may be removed or rendered non-operational as may be required in order for Lessor to complete such repair or maintenance. In the event the System or a portion thereof must be removed to allow Lessor to complete such repair or maintenance, Lessor shall provide Lessee with written notice and Lessee shall remove the portion of the System within fifteen (15) business days of receipt of such notice. Lessor shall reimburse or pay Lessee for any work reasonably required by Lessee to disassemble or move any portion of the Systems for parking lot repairs and replacement work undertaken by Lessee during any such repair or maintenance of the parking lot. Lessor shall not be required to reimburse Lessee for any other lost revenue during the Aggregate Repair Time or Individual Repair Time, including any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period nor shall there be any rent abatement. In the event that the Lessor requires more aggregate time beyond the Aggregate Repair Time or more time beyond the Individual Repair Time in connection with any single repair or maintenance of the parking lot, Lessor shall be required to reimburse Lessee for any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period within thirty (30) days after Lessee provides to Lessor invoices and reasonable back-up data evidencing the lost revenue..

(d) Except as may otherwise be specifically agreed upon by the Parties or as expressly set forth herein, Lessee shall be responsible for all costs of design, permitting, construction, installation, operation, maintenance and removal of the System. Lessee shall maintain the System in good working order at its sole cost and expense. Lessor shall maintain the Property and Premises in good repair at its sole cost and expense. In the event of an emergency condition involving the System that poses an immediate threat of harm to individuals or the environment, Lessee shall take immediate action to cure the condition. If Lessee is unable to do so, Lessor shall be entitled to take actions reasonably necessary to remove the immediate threat of harm.

(e) Lessee represents that the installation of the System shall be done in increments so as to use best efforts to minimally disrupt the business of Lessor.

8. Access to Premises.

(a) Commencing on the Effective Date and throughout the Option Term and Lease Term, Lessee shall have the right to enter upon the Property to perform all effort and labor necessary to carry out Tests, design, engineer, construct, install, inspect, test, operate, upgrade, repair and maintain the System on the Premises provided said access does not unreasonably interfere with Lessor's use of the Property. The Parties agree to the Temporary Construction Area designated on Exhibit B as space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling, and including a temporary, reasonable area for construction laydown. Changes to the Temporary Construction Area may be reasonably designated by Lessor from time to time. Lessor and its authorized representatives shall at all times have access to and the right to observe the installation of the System, subject to compliance with Lessee's safety rules and Applicable Laws, and subject at all times to the sole and absolute discretion of Lessee's construction manager; provided, however, that Lessor shall not interfere with the installation of the System or enter onto, move, adjust, alter, tamper with or otherwise handle any Lessee equipment or any component of the System.

(b) Lessee and Lessee Parties shall at all times conduct themselves in a professional manner at the Premises and shall observe the reasonable requests of Lessor. Lessee shall use reasonable care in entering and exiting the Premises, and in its storage of equipment and materials at the Premises or Property. All equipment and materials stored at the Premises or Property shall be insured, as is required herein, and stored at the sole risk of loss of the Lessee.

9. **Statutory and Regulatory Compliance.** Lessee, Lessee Parties, Lessor and the Lessor Parties shall, pursuant to the terms set forth herein, each comply with all applicable provisions of all Applicable Laws of the locality in which the Property is located.

10. **Lessee's Ownership of System and Output.** The System is personal property, whether or not the same is deemed real or personal property under Applicable Law, and shall not attach to or be deemed a part of, or a fixture to, the Premises or Property. Lessee shall be the legal and beneficial owner of the System at all times and Lessor shall have no right, title or interest in the System or any component thereof, notwithstanding that any such System may be physically mounted or adhered to the Premises or Property. Lessor covenants that it will use commercially reasonable efforts to place all parties having an interest in or lien upon the Property on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Property or Premises, which could reasonably be construed as attaching to the System as a fixture of the Property or Premises, Lessor shall use reasonable efforts to provide a disclaimer or release from such lien holder, any expense or cost thereof shall be borne by the Lessee. Lessor, consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the System as a fixture of the Property or Premises in the office where real estate records are customarily filed in the jurisdiction of the Property, provided the same has been approved in advance by both the Town of Medfield and Lessor's current lien holder. Further, Lessor acknowledges and agrees that Lessee is the exclusive owner of all electricity and all utility credits generated by the System and owner of all Environmental Attributes and Incentives attributable to the System. In the absence of an additional agreement to the contrary, all electricity generated by the System will be connected to the distribution grid and sold by Lessee to third parties. Electricity generated will not be available to Lessor or any other occupant at the Property. Without the express consent of Lessee, Lessor shall not make or publish any public statement or notice regarding any Environmental Attribute or Incentive relating to the System or the electricity generated by the System. The Parties acknowledge and agree that the System shall not be considered an electric public utility, an investor owned utility, a municipal utility, or a merchant power plant otherwise known as an exempt wholesale generator.

11. **Representation and Warranties of the Parties as to Authorization and Enforceability**

Each Party represents and warrants that the execution and delivery by such Party of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other Person, and do not contravene any provision of, or constitute a default under any indenture, mortgage or other material agreement binding on such Party or any valid order of any court, or regulatory agency or other body having authority to which such Party is subject. This Lease constitutes a legal and valid obligation of such Party, enforceable against it in accordance with its terms, except as may be limited by a Bankruptcy Event, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity where such enforceability is considered in a proceeding in equity or at law.

12. **Representations, Warranties and Covenants of the Lessor**

(a) **Lessor's Title to Premises.** Lessor represents, warrants and covenants that Lessor has a lawful long-term leasehold interest in the Property, including the Premises, under that ground lease dated September 1, 2007 between Lessor and the Town of Medfield ("Ground Lease"), and that Lessee shall have quiet and peaceful possession of the Premises free from any claim of any entity or Person of superior title thereto and without hindrance to or interference with or molestation of Lessee's quiet enjoyment thereof, throughout the Lease Term. Lessor shall secure all approvals necessary under the terms of the Ground Lease from the Town of Medfield

for this Agreement and the purposes included herein. If Lessor sells, leases, assigns, mortgages, pledges or otherwise encumbers the Property, Lessor shall provide notice thereof to Lessee within thirty (30) days, which notice shall identify the transferee, the area of the Property so transferred and the date of the transfer. Lessor agrees that this Lease and the Easements granted in this Lease shall run with the Property and survive any transfer of all or any portion of the Property. In furtherance of the foregoing, Lessor shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Premises or Property has been granted to execute and deliver to Lessee a commercially reasonable document pursuant to which such party acknowledges and consents to the Lessee's rights in the Premises as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the System, or any work related to such System, and shall not gain any interest in the System by virtue of the Lessor's transfer.

(b) No Interference With and Protection of System. Lessor will not conduct activities on, in or about the Property or Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or operation thereof. Lessor shall take all reasonable actions to limit access to the Premises to Lessee and Lessee Parties. The System shall be operated, maintained and repaired by Lessee at its sole cost and expense; provided, that any repair or maintenance costs incurred by Lessee as a result of Lessor's gross negligence, willful misconduct or uncured breach of its obligations hereunder shall be promptly reimbursed to Lessee by Lessor.

(c) Non-Disturbance Agreements. Lessee shall prepare, at Lessee's sole cost and expense and Lessor shall obtain a non-disturbance agreement ("NDA") in favor of Lessee from any third party who now has or may in the future obtain an interest in the Property or Premises, including, without limitation, any lenders to Lessor, which NDA shall: (i) acknowledge and consent to the Lessee's rights to the Premises and the System under this Lease; (ii) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties' performance or breach of this Lease; (iii) acknowledge that the third party's interest in the Premises (if any) is subject to Lessee's interest under this Lease; (iv) waives any lien the third party may have in and to the System; and (v) agrees not to disturb Lessee's possession of the Premises provided there is no uncured breach by Lessee under the terms herein.

(d) Insolation. Lessor acknowledges and agrees that access to sunlight ("insolation") is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Accordingly, Lessor shall not permit any material interference with insolation on and at the Premises. Without limiting the foregoing, Lessor shall not construct or permit to be constructed any structure on or adjacent to the Premises or on any adjacent property owned by any Affiliate of Lessor that would create or cause shade on all or a part of the System, permit the growth of foliage that could adversely affect insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to insolation. If Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Premises, Lessor shall promptly advise Lessee of such information and reasonably cooperate with Lessee in taking measures to preserve average levels of insolation at the Premises as they existed as of the Lease Commencement Date insofar as the same is within Lessor's reasonable control. Such measures may include, but not be limited to, obtaining a solar access easement. In the event any such obstruction occurs and is not removed within a reasonable amount of time given the nature of the obstruction, Lessee shall have the right to terminate this Lease without penalty or further liability, upon notice to Lessor. Notwithstanding any other provision of this Lease, the Parties agree that (i) Lessee would be irreparably harmed by a breach of the provisions of this Section 12(d), (ii) termination of the Lease might be inadequate to remedy such a breach, and (iii) Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 12(d). Lessor further represents and warrants that, to the best of its knowledge, there are no developments pending or in progress on adjacent or nearby properties that could diminish the insolation to the Premises.

(e) Hazardous Substances. Lessor represents and warrants that to the best of Lessor's knowledge and belief, without independent investigation, there are no Hazardous Substances present on, in or under the Property or Premises in violation of any Applicable Law.

(f) Condition of Premises. Except as otherwise expressly set forth herein Lessee accepts the Premises "as is" without benefit of any improvements or modifications to be made by Lessor.

(g) Notice of Damage or Emergency. Lessor shall immediately notify Lessee if Lessor becomes aware, through discovery or receipt of notice: (i) of any damage to or loss of the use of the System; (ii) of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises; or (iii) of any interruption or material alteration of the energy supply to or from the Premises or the System.

(h) Liens. Lessor 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 on or with respect to the System or any interest therein. Lessor shall provide Lessee with notice if it receives notice of any such claims. Lessor further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the System and to indemnify, defend and hold harmless Lessee from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessee's reasonable attorneys' fees and actual court costs. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof.

(i) Representations Regarding Security Interest in System. Lessor has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected personal property security interest under the Uniform Commercial Code (the "Security Interest") in the System to one or more Financing Parties and Lessor hereby consents to such Security Interest. In connection therewith, Lessor represents and warrants as follows: (i) the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Property or Premises; (ii) there is no existing lease, mortgage, security interest or other interest in or lien upon the Property or Premises that could attach to the System as an interest adverse to or senior to Lessee's Financing Parties' Security Interest therein; and (iii) there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under the Lease.

(j) Concurrent Use. Any concurrent use of the Premises by Lessor or any third parties during the Term shall not interfere with the Lessee's rights granted herein.

(k) Utilities. At Lessee's request, Lessor shall provide, at no additional cost to the Lessor, or cooperate with the provision of electric current and water to the perimeter of the Premises; provided, however, separate meters for such utilities shall be installed at Lessee's expense and Lessee shall be responsible for all utility expenses. Lessee shall be solely responsible for the payment and expense of any hookup or extension of existing utilities. Lessor makes no representation as to the availability of said utilities to the Premises.

13. Representations, Warranties and Covenants of Lessee.

(a) Regulatory Status. Lessee represents and warrants that it is not an electric public utility, investor owned utility, a municipal utility, a merchant power plant or electrical corporation as defined under the laws of Commonwealth of Massachusetts.

(b) Concurrent Use. Notwithstanding the Section 12(j) above, or any other terms of the Lease, the Lessee shall not interfere with Lessor's use of and rights to the existing parking areas. The System shall be mounted on a canopy over the existing parking area and shall not subtract or detract from the existing parking for the Property. Lessee shall not materially interfere with Lessor's or Lessor's guests, agents or invitees' access to said parking areas and the Property.

(c) Liens. Except for the Financing Party's Security Interest in or ownership of Lessee's interest in this Lease, Lessee's personal property or the System, Lessee 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 on or with respect to the Premises and agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Premises, to the extent that such encumbrance or interest arises from or is related to Lessee's performance or non-performance of its obligations hereunder. Lessee shall provide Lessor with notice if it receives notice of any such claims. Lessee further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Property and to indemnify, defend and hold harmless Lessor from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessor's reasonable attorneys' fees and actual court costs. Lessee waives any and all lien rights it may have, statutory or otherwise, concerning the Property or any portion thereof except for the System.

14. Hazardous Substances. Neither Party shall introduce or use any Hazardous Substances on, in or under the Premises or Property in violation of any Applicable Law. If a Party becomes aware of any such Hazardous Substances, it shall promptly notify the other Party of the type and location of such Hazardous Substances in writing. Each Party agrees to indemnify, defend and hold harmless the other Party from and against any and all Environmental Claims including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that such Parties may suffer or incur due to any actions, that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any Applicable Law, all spills or other releases of any Hazardous Substance not caused by Lessee, that have occurred or which may occur on the Property of which Lessor has actual knowledge. Lessor agrees to indemnify, defend and hold Lessee harmless from Environmental Claims resulting from actions on the Property not caused by Lessee. This Section 14 shall survive the termination or expiration of this Lease.

15. Maintenance. Throughout the Lease Term, any Extension Term and through the Removal and Restoration Date, Lessee shall have the right: (i) to add to, remove or modify the System or any part thereof, and (ii) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Lessee, to carry out the activities set forth in this Lease, including, but not limited to, the right to clean, repair, replace and dispose of all or a part of the System as Lessee in its sole discretion determines to be reasonably necessary, without prior notice to or consent of Lessor, and all at the sole cost and expense of Lessee. Lessee, at its expense, may use any and all appropriate means of restricting access to the System, subject to the Concurrent Use rights of Lessor in and to the parking areas servicing the Property.

16. Insurance.

(a) Generally. Lessor and Lessee shall each maintain the insurance coverages set forth in Exhibit D in full force and effect throughout the Lease Term either through insurance policies, or self-insured programs reasonably acceptable to the other Party. Each Party, upon request, but not more than twice in any twelve (12) month period, shall furnish current certificates evidencing that the coverage required is being maintained.

(b) Waiver of Subrogation. Each Party hereby waives any right of recovery against the other for injury or loss to personal property due to hazards covered by insurance obtained with respect to the Property or Premises, including the improvements and installations thereon.

(c) System Loss. In the event of any harm to the System that, in the reasonable judgment of Lessee, results in total damage, destruction or loss of the System ("**System Loss**"), Lessee shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Lessor whether Lessee is willing, notwithstanding such System Loss, to repair or replace the System and to continue the Lease. In the event that Lessee notifies Lessor that Lessee is not willing to repair or replace the System, the Lease will terminate

automatically effective upon the date of such System Loss, and Lessee shall be entitled to all proceeds of its insurance policies with respect to the System Loss and Lessor shall promptly return to Lessee any prepaid but unearned rent and Lessee shall remove any and all remaining above-ground level aspects of the System and restore the premises pursuant to the terms of the Removal and Restoration Date.

17. **Taxes.** Lessee shall pay any real estate or personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority which are directly attributable to Lessee's occupancy and use of the Premises (or any portion or component thereof, including, but not limited to the System) and ownership of the System. Lessor shall pay, when due, all (i) real and personal property taxes relating to the Property which are not the responsibility of Lessee hereunder, (ii) inheritance or estate taxes imposed upon or assessed against the Property, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Lessor or the owner of any interest therein, and (iv) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof, other than those attributable to Lessee, as specified herein. In the event that Lessor fails to pay any such taxes or other fees and assessments for which it is responsible under this Lease, Lessee shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. In the event Lessee fails to pay any uncontested taxes or other fees and assessments for which it is responsible under this Lease, Lessor shall have the right, but not the obligation, to pay such owed amounts and bill the Lessee for the same, which shall be due ten (10) days thereafter. If Lessor receives notice of any personal property or real property tax assessment against Lessor, which may affect Lessee and is directly attributable to Lessee's installation, Lessor shall provide notice of the assessment to Lessee. Should Lessee determine, in its reasonable and good faith discretion, that they will challenge such assessment, whether in a court, administrative proceeding, or other venue, on behalf of Lessor and/or Lessee, Lessee shall not be in default for the failure to timely pay said taxes or assessments provided Lessee is diligently pursuing said challenge or abatement, in their sole cost and expense. Further, Lessor shall provide to Lessee any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 17, at no additional cost to the Lessor.

18. **Liability and Indemnity.**

(a) Each Party as indemnitor shall indemnify, defend, and hold harmless the other Party and its Affiliates against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property arising out of or in connection with the negligent acts or omissions or willful misconduct of the indemnitor or a breach of any obligation of the indemnitor under this Lease, except to the extent caused by the negligent acts or omissions or willful misconduct of the indemnified party.

(b) Lessee shall not be responsible to Lessor or any third party, for any claims, costs or damages, including fines or penalties, attributable to any pre-existing violations of Applicable Laws by any party other than Lessee. This Section 18 shall survive the termination of this Lease.

19. **Casualty.** If no more than thirty-five percent (35%) of the Property, Building, Premises, and/or parking areas are destroyed from fire or any other cause (a "Partial Casualty") and such damage or destruction renders all or a portion of the Premises inaccessible, unusable or impractical as determined by Lessee in Lessee's sole and absolute discretion, Lessor shall promptly restore the Property, Building, Premises and/or parking areas to substantially the same condition as they were in immediately before the destruction within one hundred eighty (180) days after the date of such partial destruction. Rent shall be abated for the portion of the System which was rendered inoperable due to the Partial Casualty. Lessor shall not be required to

make any repairs or restorations that are prohibited by law and Lessor shall not be liable for any inconvenience or annoyance to Lessee or its visitors. Lessee shall be entitled to all proceeds of its insurance policies with respect to the System and Lessor shall promptly return to Lessee any prepaid but unearned rent.

19.1 If more than thirty five percent (35%) of the Property, Building, Premises and/or parking areas are destroyed from fire or any cause (a "Full Casualty"), such damage shall be deemed a complete destruction for purposes of this Lease. In such event, Lessor shall, within sixty (60) days after the date of the casualty, commence its reconstruction and shall complete reconstruction no later than three hundred sixty five (365) days from the date of casualty.

(a) Lessor and Lessee shall each have the right to terminate this Lease upon thirty (30) days written notice to the other party if Lessor's contractor's commercially reasonable estimate of time needed for reconstruction will exceed three hundred sixty five (365) days from the date of the Full Casualty. Lessor shall promptly return to Lessee any prepaid but unearned rent;

(b) Rent shall be fully abated during the period beginning on the date of the Full Casualty and ending on the date of completion of Lessor's restoration obligations as provided in this Section 19.1.

19.2. Notwithstanding any other provision of this Section 19 to the contrary, if any portion of the Property, Premises, Building, and/or parking areas are destroyed or damaged by a fire or other casualty during the last three (3) months of the Lease Term, Lessor and Lessee shall each have the option to terminate this Lease at the end of such year by giving written notice to the other party within thirty (30) business days of the date of the casualty of its intent to terminate at the end of such year.

19.3. If Lessor or Lessee elects to terminate under this Section 19 in connection with a casualty, Lessee shall pay Rent and all personal tangible property taxes apportioned up to the date of the casualty and Lessor shall return to Lessee any prepaid but unearned rent. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

20. **Condemnation.** In the event the Premises or Property are transferred to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Lessee's determination to render the Premises unsuitable for Lessee's use or to negatively impact the access to the Premises, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice to Lessor. Sale to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation. In the event of an award related to eminent domain or condemnation of all or part of the Premises, each Party shall be entitled to take from such an award that portion as allowed by law for its respective property interest appropriated as well as any damages suffered thereby.

21. **Assignment.** Lessee shall not assign any of its rights, duties or obligations under this Lease without the prior consent of Lessor and the Town of Medfield, which consent shall not be unreasonably withheld, conditioned or delayed. Lessor agrees to execute any consent, novation or other documentation that Lessee may request in connection with any assignment permitted by this Section 21, including without limitation entering into a consent to assignment agreement with Lessee's Financing Party substantially in the form attached hereto as Exhibit E to facilitate financing of the System. An assignment by either Party in accordance with this Section 21 shall relieve the assignor of its obligations hereunder, except with respect to undisputed payments due by the assignor as of the effective date of the assignment, which obligations shall be performed by assignor or assignee as a condition precedent to such assignment.

22. **Defaults and Remedies.**

(a) **Default.** If a Party (the "*Defaulting Party*") fails to perform any non-monetary covenant or obligations hereunder or commits a material breach of this Lease (each an "*Event of Default*"), then it shall not

be in default hereunder unless it fails to cure such Event of Default within thirty (30) Business Days after receiving notice from the other Party (the "*Non-Defaulting Party*") regarding the failure to perform such covenant or obligation set forth in this Lease or the material breach, stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "*Notice of Default*"); provided, however, that if the nature or extent of the obligation or obligations is such that more than thirty (30) Business Days are required to complete the cure, despite the exercise of commercially reasonable diligence, then the Defaulting Party shall not be in default if it commences such performance within such thirty (30) Business Day period and thereafter pursues the same to completion with commercially reasonable diligence.

(b) **Bankruptcy.** It shall also be an Event of Default by either Party if such Party becomes subject to a Bankruptcy Event.

(c) **Remedies.** If the Event of Default is not cured within the cure period provided for in this Lease, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including damages, specific performance and/or the right to terminate the Lease upon notice to the Defaulting Party without penalty or further liability, all of which remedies shall be cumulative.

23. **Notices.** All Notices under this Lease shall be made in writing to the Addresses and Persons specified on the Cover Sheet. Notices shall be delivered by hand delivery, regular overnight delivery service, sent by registered or certified mail, return receipt requested or email. Email notices shall require confirmation of receipt. Notices shall be deemed to have been received when delivered as shown on the records or manifest of such courier, delivery service or the U.S. Postal Service. Rejection or refusal to accept delivery of any notice shall be deemed to be the equivalent of receipt of any notice given hereunder. A Party may change its address by providing notice of the same in accordance with the provisions of this Section 23. Failure to comply strictly with the terms of this provision shall not be held against the Party claiming to have given notice so long as such Party substantially complied with this provision and can demonstrate that the notice in question was received.

24. **Waiver.** The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.

25. **Remedies Cumulative.** No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law or in equity or by statute provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

26. **Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.

27. **Choice of Law.** This Lease shall be construed in accordance with the laws of Commonwealth of Massachusetts, without regard to its conflict of law principles.

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

29. **Counterparts.** This Lease may be executed in any number of counterparts, which shall together constitute one and the same agreement. Each Party consents to the admission in evidence of a facsimile or photocopy of this Lease in any court or arbitration proceedings between the Parties.

30. **Entire Lease.** This Lease, including the Cover Sheet and all Exhibits, represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and therein and supersede all prior written or oral negotiations, representations, communications and agreements between said parties with respect to said subject matter. This Lease may be amended only in writing signed by both Lessee and

Lessor or their respective successors in interest. Lessor and Lessee each acknowledge that in executing this Lease that party has not relied on any verbal or written understanding, promise, or representation which does not appear in this document.

31. **Further Assurances.** Upon the receipt of a request from the other Party or a Financing Party, each Party shall execute such commercially reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof, including at the requesting Party's expense, entering into any consents, assignments, affidavits, estoppels and other documents as may be reasonably required by such Party's lender to create, perfect or preserve its collateral interest in such Party's property or such party's rights and obligations under this Lease. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.

32. **Dispute Resolution.** In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Lease, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, within a reasonable time after the claim, dispute or other matter in question has arisen, pursue all available legal and/or equitable remedies.

33. **Force Majeure.** Except as otherwise specifically provided in the Lease, neither Party shall be considered in breach of the Lease or liable for any delay or failure to comply with the Lease (other than the failure to pay amounts due hereunder), 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 under this Section 33 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. If a Force Majeure Event shall have occurred that has prevented either Party from performing any of its material obligations hereunder and that has continued for a continuous period of one hundred twenty (120) days, then either Party shall have the right, but not the obligation, to terminate the Lease upon ninety (90) days' prior notice to the other Party without penalty or further liability. If at the end of such ninety (90) day period such Force Majeure Event shall still continue and the material obligation has not been able to be resumed to the reasonable satisfaction of the affected Party, the Lease shall terminate. Upon such termination due to a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination or those which expressly survive the termination or expiration of the Lease pursuant to the terms hereof). If, at the end of such ninety (90) day period such Force Majeure Event is no longer continuing, the Lease shall remain in full force and effect, and the Party's termination notice shall be deemed to have been withdrawn. Rent shall abate for any period during which Lessee is not able to operate the System in the manner contemplated herein.

34. **Attorney's Fees.** In the event there is a lawsuit, action, or proceeding between Lessee and Lessor, which arises from or concerns this Lease, whether that lawsuit, action, or proceeding involves causes of action in contract or in tort, at law or in equity, the substantially prevailing party shall be entitled to recover all costs and expenses, including its reasonable attorneys' and expert or consultants' fees and court costs, in such lawsuit, action or proceeding.

35. **Notice of Lease.** Lessor agrees to cooperate with Lessee, or Lessee's assignee, in executing any documents necessary to protect Lessee's rights or Lessee's assignee's rights in or use of the Premises. A Notice of Option and a Notice of Lease in substantially the form attached hereto as Exhibit F may be recorded in place of this Lease by Lessee or by Lessee's assignee.

36. **No Brokers.** Lessor and Lessee hereby represent and warrant to the other that no real estate broker or agent is entitled to a commission in connection with this Lease. In the event any broker or other party claims a commission, the party responsible for the contact with that claimant shall indemnify, defend and hold the other party harmless from that claim, including, without limitation, the payment of any attorneys' fees and costs incurred.

37. **Interpretation.** This Lease shall not be construed against the Person or entity preparing it, but shall be construed as if all of the parties jointly prepared this Lease without any uncertainty or ambiguity being interpreted against any one of them.

38. **No Partnership.** This Lease is not intended and shall not be construed to create any partnership or joint venture or any other relationship other than one of 'lessor' and 'lessee', and neither Party shall be deemed the agent of the other Party nor have the authority to act as agent for the other Party.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year set forth on the *Effective Date*, set forth on the Cover Sheet.

LESSOR:

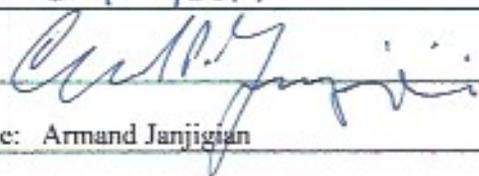
Kingsbury Club Medfield, INC

By: 

Name: Robert Janjigian

Title: President

Date: 03/21/2019

By: 

Name: Armand Janjigian

Title: Treasurer

Date: 03/21/2019

LESSEE:

Sunspire Solar LLC

By: 

Name: John Porter

Title: Manager

Date: 3/28/19

[SIGNATURE PAGE TO OPTION AND LEASE AGREEMENT]

COVER SHEET

OPTION AND LEASE AGREEMENT

Effective Date	Thursday, March 21, 2019	
Lease Commencement Date ¹		
Lessor	Kingsbury Club Medfield, INC	
Lessee	Sunspire Solar LLC	
Property address	2 Ice House Road, Medfield, MA, 02052	
Premises	The Premises consists of approximately 14,000 square feet of parking lot space located at the Property controlled by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052. The Property is more particularly described in Exhibit A attached hereto.	
Option Term	540 Days	
Option Expiration		
Rent	Annual rent shall be determined in accordance with Section 4 and Exhibit G.	
Lease Term	Twenty (20) years subject to extension per Section 6.	
Expiration Date ²	September 11, 2020	
Extension Exercise Notice Deadline ³		
Addresses for Notices	Lessee: Sunspire Solar LLC PO Box 1673 Andover, MA 01810 Attn: John Porter	Lessor: Kingsbury Club Medfield, INC 2 Ice House Road Medfield, MA, 02052 Attn: Robert Janjigian

¹ Parties agree to write in once Exercise Notice is delivered.

² Parties agree to write in once Exercise Notice is delivered.

³ Parties agree to write in once Extension Exercise Notice is delivered.

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement ("*Lease*") is dated as of the Effective Date and is entered into by and between Lessor and Lessee (each a "*Party*" and together, the "*Parties*").

A. The approximately 14,000 square feet of canopy space above the parking lot space including access rights and Easements necessary to access the parking lot space ("*Premises*") located on the real property owned by the Town of Medfield and leased to Lessor under that Ground Lease dated September 1, 2007 and commonly known as 2 Ice House Road, Medfield, MA, 02052 ("*Property*"), are each more particularly described in the attached Exhibit A.

B. Lessee desires to obtain the exclusive right to occupy the Premises subject to the Concurrent Use as set forth herein and to enjoy all the rights necessary for Lessee to occupy, develop, design, engineer, access, construct, monitor, install, own, maintain and operate the System to be located upon, on and within the Premises as well as all the rights necessary or desirable for Lessee to sell the energy generated by such System and any and all other credits, solar renewable energy credits, and any other environmental financial attributes created as a result of such energy generation.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is acknowledged, and intending to be legally bound hereby, Lessee and Lessor hereby agree to the foregoing recitals and as follows:

1. Definitions. Capitalized terms not otherwise defined in this Lease or on the Cover Sheet have the meanings assigned to them in Exhibit C.

2. Option to Lease the Premises.

(a) Grant of Option. Lessor hereby grants to Lessee an option to Lease the Premises on the terms and conditions set forth in this Lease (the "*Option*").

(b) Time and Manner of Exercise of the Option. The Option shall be for an initial term of Five Hundred Forty (540) days after the Effective Date (as it may be extended, the "*Option Term*"). The Option Term may be extended by Lessee for an additional Five Hundred Forty (540) days upon notice to Lessor at any time prior to the end of the initial Option Term.

(c) Grant of Access License. Commencing on the Effective Date and throughout the Option Term, Lessor grants to Lessee and any Lessee Party, an irrevocable, exclusive license ("*License*") to enter upon the Property at any time and from time to time to conduct, at Lessee's expense, such tests, inspections, surveys and investigations ("*Tests*") as Lessee deems reasonably necessary or appropriate to evaluate the suitability of the Premises for the uses contemplated under this Lease provided said access does not materially interfere with Lessor's and/or Lessor's agents, invitees and guests use of the Property. During the Option Term, no Lessee Party shall place, or permit to be placed, or use, or permit to be used, any permanent improvements or structures on the Premises. If Lessee does not exercise the Option within the Option Term, Lessee shall, at Lessee's sole cost and expense, promptly remove any and all liens, improvements, personal property, equipment, goods, and other property, and all trash, debris, and other refuse from the Premises that is the result of such Tests, and shall have no other rights in and to the Premises or Property and shall return the Property and/or Premises to their former condition, reasonable wear and tear excepted. Lessee agrees to act expeditiously to complete the Tests and other due diligence during the Option Term.

(d) Lessor Cooperation. Lessor shall cooperate, at no additional cost to the Lessor, with (i) the performance of Tests, (ii) the obtaining by Lessee, at Lessee's sole cost and expense, of all licenses and Permits

or authorizations required for Lessee's use of the Premises from all applicable government and/or regulatory entities (collectively, "**Governmental Approvals**") and (iii) the securing by Lessee at Lessee's expense of all other leases, agreements, licenses and Permits or authorizations that relate to the Property or Premises. Lessor agrees to use reasonable efforts in assisting Lessee to acquire necessary utility service at the Premises but it shall be the sole cost and expense of Lessee for any hook-up or tie-in to any utility services currently servicing the Property or otherwise. In the event that a utility company requires an easement in connection with Lessee's use of the Premises, Lessor shall use reasonable efforts in obtaining such necessary easements from the Town of Medfield to the utility company, provided that such easement is in a commercially reasonable and recordable form, understanding that Lessor's title to the Property is a leasehold interest and not a fee simple interest therefore any and all easements, rights, restrictions, encumbrances, liens etc. shall require the Town of Medfield's approval of which Lessor agrees to reasonably pursue when requested by the Lessee.

3. **Exercise of Option: Leased Premises and Related Rights.**

(a) In order to exercise the Option, Lessee must deliver to Lessor a notice of exercise (the "**Exercise Notice**"), accompanied by the first Rent payment, prior to the expiration of the Option Term. The date of the Exercise Notice shall be the commencement of the Lease Term (the "**Lease Commencement Date**"). Subject to receipt of the Exercise Notice and first Rent payment, Lessor hereby leases the Premises to Lessee to occupy, develop, design, engineer, construct, access, monitor, install, own, operate and maintain the System for the generation and distribution of electrical power. Lessor hereby also grants to Lessee and the applicable utility company, at all times on a 24-hours-a-day, 7-days-a-week basis, for any purposes reasonably connected with this Lease for a period co-terminus with the Lease, an easement which is irrevocable during the Lease Term for access, ingress, egress, utilities and related rights to the Premises and/or any surrounding or nearby property owned or leased by Lessor, passage through which is necessary or convenient to install, operate or gain access to the System or the Premises (the "**Easements**"). The Easements are generally depicted on Exhibit A attached hereto and incorporated herein. In the event that Lessee or the utility company desires to make such Easements a public record, Lessee shall require the Town of Medfield and Lessor's approval of the same. Only upon approval from the Town of Medfield and Lessor may the Lessee record said easement(s) in the office where real estate records are customarily filed in the jurisdiction of the Premises.

(b) Lessee shall have the right to install utilities on the Property, at Lessee's sole cost and expense, and at locations to be mutually agreed to by Lessee and Lessor to improve the present utilities on the Property (including, but not limited to, the installation of battery storage systems, transformers, switchgear and utility poles).

4. **Rents.** Lessee shall pay the Rent (in accordance with Exhibit G) to Lessor for rental of the Premises ("**Rent**") which shall be due annually beginning on the Lease Commencement Date and on every one (1) year anniversary thereof during the Lease Term. In the event this Lease is terminated by Lessee in accordance with this Lease prior to the Expiration Date, Lessor shall refund to Lessee the pre-paid but unearned annual Rent (pro-rated on a daily basis) within thirty (30) days after Lessee removes the System pursuant to the terms of Section 5. Lessor, its successors, assigns and/or designee, if any, shall submit to Lessee any documents reasonably required by Lessee in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

5. **Term and Termination; Removal.**

(a) The Lease Term shall commence on the Lease Commencement Date and terminate on the Expiration Date, as it may be extended pursuant to the terms herein.

(b) If this Lease expires in accordance with Section 5(a) or is terminated by Lessee in accordance with the terms herein, Lessee shall complete the removal of the System and repair of any damage caused to the Premises by the installation or removal of the System on or before the Removal and Restoration Date leaving the Premises and/or Property in the same condition they were in prior to the installation of the System, reasonable wear and tear excepted. The removal and restoration shall be at Lessee's sole cost and expense. In connection with such removal and restoration, Lessor shall continue to provide Lessee and its Affiliates and subcontractors with reasonable access to the Premises until the Removal and Restoration Date so long as Lessee and/or its Affiliates and subcontractors do not materially interfere with Lessor's use of the Property and/or Premises.

(c) Removal of System at Expiration/Termination. In the event Lessee fails to complete the removal of the System and restoration of the Premises by the Removal and Restoration Date, Lessor may provide notice to Lessee stating that Lessee has failed to remove the System (the "*Abandonment Notice*"). If Lessee fails to remove the System within sixty (60) days after receipt of the Abandonment Notice, Lessor shall have the right, at its option, in its sole discretion, to cause the removal of the System by a qualified contractor and the restoration of the Premises in accordance with Section 5(b), said removal and restoration shall be at Lessee's sole cost and expense and in addition to any other rights and/or remedies provided to the Lessor herein or by operation of law.

6. Extension Option. Lessee may extend the Lease Term for two (2) additional and successive periods of five (5) years (each an "*Extension Option*"), at an annual rental rate equal to that during the initial Lease Term, beginning on the day following the expiration of the then-current Term (each an "*Extension Term*"), by giving notice (the "*Extension Exercise Notice*") to Lessor not less than one hundred eighty (180) days prior to the Expiration Date.

7. System Construction; Lessor Acknowledgment.

(a) Prior to commencement of construction of the System by Lessee, Lessee shall obtain the necessary Permits. Throughout the Lease Term, Lessee shall have the right to clean, repair, replace and dispose of part or all of the System as Lessee in its discretion determines to be reasonably necessary provided the same does not enlarge the Premises or unreasonably interfere with Lessor's use of the Property. Lessor acknowledges and understands that the System shall consist of a solar photovoltaic electric generating system, designed to produce electricity and deliver such electricity to the electric interconnection point, including without limitation all of the following: installation equipment; generation facilities, including inverters, fuses, transformers, wiring and output breakers; facilities necessary to connect to the electric interconnection point; protective and associated equipment; and other improvements reasonably necessary for the construction, operation, monitoring and maintenance of the system. Lessee acknowledges that Lessor is undertaking construction on the Property and may need access to the Premises for the same. This shall not constitute a violation of the terms of the Lease provided Lessor does not materially interfere with Lessee's rights and access to the Premises as set forth herein, including those of Section 12(d) below. The Parties acknowledge that the impact of construction is of particular concern to Lessee after the System is operational. At no time shall the System reduce the amount of available parking spaces below what may be required by local, municipal or state law to service the Property as it is currently used or may be expanded.

(b) The Parties acknowledge that the Lessee shall solely be responsible for and shall promptly repair any damage to the parking lot surface of the Premises that is caused by the installation, repair and/or maintenance of the Systems on the Premises. Any such repair work shall be performed promptly and at Lessee's sole cost and expense by a reputable subcontractor, selected by Lessee (and reasonably acceptable to Lessor via Lessor's prior written approval). Lessor shall not delay or interfere with such repair, rehabilitation and/or replacement work and Lessor shall cooperate with Lessee in the obtaining of all applicable Permits required for any such repair work. Said repair and/or maintenance work shall not unreasonably interfere with Lessor's use of the Property.

(c) Except as provided in Section 7(b), the Parties agree and acknowledge that Lessor shall be responsible for the repair and maintenance of the parking lot areas of the Premises, at the sole cost and expense of Lessor. The Parties further agree and acknowledge that during the Term, Lessor shall be afforded up to an aggregate of sixty (60) days (the "Aggregate Repair Time"), provided that no single such disruption is more than thirty (30) days (each an "Individual Repair Time"), during which the Lessor may repair or perform incidental maintenance on the parking lot and during which all or a portion of the Systems may be removed or rendered non-operational as may be required in order for Lessor to complete such repair or maintenance. In the event the System or a portion thereof must be removed to allow Lessor to complete such repair or maintenance, Lessor shall provide Lessee with written notice and Lessee shall remove the portion of the System within fifteen (15) business days of receipt of such notice. Lessor shall reimburse or pay Lessee for any work reasonably required by Lessee to disassemble or move any portion of the Systems for parking lot repairs and replacement work undertaken by Lessee during any such repair or maintenance of the parking lot. Lessor shall not be required to reimburse Lessee for any other lost revenue during the Aggregate Repair Time or Individual Repair Time, including any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period nor shall there be any rent abatement. In the event that the Lessor requires more aggregate time beyond the Aggregate Repair Time or more time beyond the Individual Repair Time in connection with any single repair or maintenance of the parking lot, Lessor shall be required to reimburse Lessee for any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period within thirty (30) days after Lessee provides to Lessor invoices and reasonable back-up data evidencing the lost revenue.

(d) Except as may otherwise be specifically agreed upon by the Parties or as expressly set forth herein, Lessee shall be responsible for all costs of design, permitting, construction, installation, operation, maintenance and removal of the System. Lessee shall maintain the System in good working order at its sole cost and expense. Lessor shall maintain the Property and Premises in good repair at its sole cost and expense. In the event of an emergency condition involving the System that poses an immediate threat of harm to individuals or the environment, Lessee shall take immediate action to cure the condition. If Lessee is unable to do so, Lessor shall be entitled to take actions reasonably necessary to remove the immediate threat of harm.

(e) Lessee represents that the installation of the System shall be done in increments so as to use best efforts to minimally disrupt the business of Lessor.

8. Access to Premises.

(a) Commencing on the Effective Date and throughout the Option Term and Lease Term, Lessee shall have the right to enter upon the Property to perform all effort and labor necessary to carry out Tests, design, engineer, construct, install, inspect, test, operate, upgrade, repair and maintain the System on the Premises provided said access does not unreasonably interfere with Lessor's use of the Property. The Parties agree to the Temporary Construction Area designated on Exhibit B as space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling, and including a temporary, reasonable area for construction laydown. Changes to the Temporary Construction Area may be reasonably designated by Lessor from time to time. Lessor and its authorized representatives shall at all times have access to and the right to observe the installation of the System, subject to compliance with Lessee's safety rules and Applicable Laws, and subject at all times to the sole and absolute discretion of Lessee's construction manager; provided, however, that Lessor shall not interfere with the installation of the System or enter onto, move, adjust, alter, tamper with or otherwise handle any Lessee equipment or any component of the System.

(b) Lessee and Lessee Parties shall at all times conduct themselves in a professional manner at the Premises and shall observe the reasonable requests of Lessor. Lessee shall use reasonable care in entering and exiting the Premises, and in its storage of equipment and materials at the Premises or Property. All

equipment and materials stored at the Premises or Property shall be insured, as is required herein, and stored at the sole risk of loss of the Lessee.

9. **Statutory and Regulatory Compliance.** Lessee, Lessee Parties, Lessor and the Lessor Parties shall, pursuant to the terms set forth herein, each comply with all applicable provisions of all Applicable Laws of the locality in which the Property is located.

10. **Lessee's Ownership of System and Output.** The System is personal property, whether or not the same is deemed real or personal property under Applicable Law, and shall not attach to or be deemed a part of, or a fixture to, the Premises or Property. Lessee shall be the legal and beneficial owner of the System at all times and Lessor shall have no right, title or interest in the System or any component thereof, notwithstanding that any such System may be physically mounted or adhered to the Premises or Property. Lessor covenants that it will use commercially reasonable efforts to place all parties having an interest in or lien upon the Property on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Property or Premises, which could reasonably be construed as attaching to the System as a fixture of the Property or Premises, Lessor shall use reasonable efforts to provide a disclaimer or release from such lien holder, any expense or cost thereof shall be borne by the Lessee. Lessor, consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the System as a fixture of the Property or Premises in the office where real estate records are customarily filed in the jurisdiction of the Property, provided the same has been approved in advance by both the Town of Medfield and Lessor's current lien holder. Further, Lessor acknowledges and agrees that Lessee is the exclusive owner of all electricity and all utility credits generated by the System and owner of all Environmental Attributes and Incentives attributable to the System. In the absence of an additional agreement to the contrary, all electricity generated by the System will be connected to the distribution grid and sold by Lessee to third parties. Electricity generated will not be available to Lessor or any other occupant at the Property. Without the express consent of Lessee, Lessor shall not make or publish any public statement or notice regarding any Environmental Attribute or Incentive relating to the System or the electricity generated by the System. The Parties acknowledge and agree that the System shall not be considered an electric public utility, an investor owned utility, a municipal utility, or a merchant power plant otherwise known as an exempt wholesale generator.

11. **Representation and Warranties of the Parties as to Authorization and Enforceability**

Each Party represents and warrants that the execution and delivery by such Party of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other Person, and do not contravene any provision of, or constitute a default under any indenture, mortgage or other material agreement binding on such Party or any valid order of any court, or regulatory agency or other body having authority to which such Party is subject. This Lease constitutes a legal and valid obligation of such Party, enforceable against it in accordance with its terms, except as may be limited by a Bankruptcy Event, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity where such enforceability is considered in a proceeding in equity or at law.

12. **Representations, Warranties and Covenants of the Lessor**

(a) **Lessor's Title to Premises.** Lessor represents, warrants and covenants that Lessor has a lawful long-term leasehold interest in the Property, including the Premises, under that ground lease dated September 1, 2007 between Lessor and the Town of Medfield ("Ground Lease"), and that Lessee shall have quiet and peaceful possession of the Premises free from any claim of any entity or Person of superior title thereto and without hindrance to or interference with or molestation of Lessee's quiet enjoyment thereof, throughout the Lease Term. Lessor shall secure all approvals necessary under the terms of the Ground Lease from the Town of Medfield for this Agreement and the purposes included herein. If Lessor sells, leases, assigns, mortgages, pledges or otherwise encumbers the Property, Lessor shall provide notice thereof to Lessee within thirty (30) days, which notice shall identify the transferee, the area of the Property so transferred and the date of the transfer. Lessor

agrees that this Lease and the Easements granted in this Lease shall run with the Property and survive any transfer of all or any portion of the Property. In furtherance of the foregoing, Lessor shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Premises or Property has been granted to execute and deliver to Lessee a commercially reasonable document pursuant to which such party acknowledges and consents to the Lessee's rights in the Premises as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the System, or any work related to such System, and shall not gain any interest in the System by virtue of the Lessor's transfer.

(b) No Interference With and Protection of System. Lessor will not conduct activities on, in or about the Property or Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or operation thereof. Lessor shall take all reasonable actions to limit access to the Premises to Lessee and Lessee Parties. The System shall be operated, maintained and repaired by Lessee at its sole cost and expense; provided, that any repair or maintenance costs incurred by Lessee as a result of Lessor's gross negligence, willful misconduct or uncured breach of its obligations hereunder shall be promptly reimbursed to Lessee by Lessor.

(c) Non-Disturbance Agreements. Lessee shall prepare, at Lessee's sole cost and expense and Lessor shall obtain a non-disturbance agreement ("*NDA*") in favor of Lessee from any third party who now has or may in the future obtain an interest in the Property or Premises, including, without limitation, any lenders to Lessor, which NDA shall: (i) acknowledge and consent to the Lessee's rights to the Premises and the System under this Lease; (ii) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties' performance or breach of this Lease; (iii) acknowledge that the third party's interest in the Premises (if any) is subject to Lessee's interest under this Lease; (iv) waives any lien the third party may have in and to the System; and (v) agrees not to disturb Lessee's possession of the Premises provided there is no uncured breach by Lessee under the terms herein.

(d) Insolation. Lessor acknowledges and agrees that access to sunlight ("*insolation*") is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Accordingly, Lessor shall not permit any material interference with insolation on and at the Premises. Without limiting the foregoing, Lessor shall not construct or permit to be constructed any structure on or adjacent to the Premises or on any adjacent property owned by any Affiliate of Lessor that would create or cause shade on all or a part of the System, permit the growth of foliage that could adversely affect insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to insolation. If Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Premises, Lessor shall promptly advise Lessee of such information and reasonably cooperate with Lessee in taking measures to preserve average levels of insolation at the Premises as they existed as of the Lease Commencement Date insofar as the same is within Lessor's reasonable control. Such measures may include, but not be limited to, obtaining a solar access easement. In the event any such obstruction occurs and is not removed within a reasonable amount of time given the nature of the obstruction, Lessee shall have the right to terminate this Lease without penalty or further liability, upon notice to Lessor. Notwithstanding any other provision of this Lease, the Parties agree that (i) Lessee would be irreparably harmed by a breach of the provisions of this Section 12(d), (ii) termination of the Lease might be inadequate to remedy such a breach, and (iii) Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 12(d). Lessor further represents and warrants that, to the best of its knowledge, there are no developments pending or in progress on adjacent or nearby properties that could diminish the insolation to the Premises.

(e) Hazardous Substances. Lessor represents and warrants that to the best of Lessor's knowledge and belief, without independent investigation, there are no Hazardous Substances present on, in or under the Property or Premises in violation of any Applicable Law.

(f) Condition of Premises. Except as otherwise expressly set forth herein Lessee accepts the Premises "as is" without benefit of any improvements or modifications to be made by Lessor.

(g) Notice of Damage or Emergency. Lessor shall immediately notify Lessee if Lessor becomes aware, through discovery or receipt of notice: (i) of any damage to or loss of the use of the System; (ii) of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises; or (iii) of any interruption or material alteration of the energy supply to or from the Premises or the System.

(h) Liens. Lessor 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 on or with respect to the System or any interest therein. Lessor shall provide Lessee with notice if it receives notice of any such claims. Lessor further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the System and to indemnify, defend and hold harmless Lessee from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessee's reasonable attorneys' fees and actual court costs. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof.

(i) Representations Regarding Security Interest in System. Lessor has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected personal property security interest under the Uniform Commercial Code (the "Security Interest") in the System to one or more Financing Parties and Lessor hereby consents to such Security Interest. In connection therewith, Lessor represents and warrants as follows: (i) the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Property or Premises; (ii) there is no existing lease, mortgage, security interest or other interest in or lien upon the Property or Premises that could attach to the System as an interest adverse to or senior to Lessee's Financing Parties' Security Interest therein; and (iii) there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under the Lease.

(j) Concurrent Use. Any concurrent use of the Premises by Lessor or any third parties during the Term shall not interfere with the Lessee's rights granted herein.

(k) Utilities. At Lessee's request, Lessor shall provide, at no additional cost to the Lessor, or cooperate with the provision of electric current and water to the perimeter of the Premises; provided, however, separate meters for such utilities shall be installed at Lessee's expense and Lessee shall be responsible for all utility expenses. Lessee shall be solely responsible for the payment and expense of any hookup or extension of existing utilities. Lessor makes no representation as to the availability of said utilities to the Premises.

13. Representations, Warranties and Covenants of Lessee.

(a) Regulatory Status. Lessee represents and warrants that it is not an electric public utility, investor owned utility, a municipal utility, a merchant power plant or electrical corporation as defined under the laws of Commonwealth of Massachusetts.

(b) Concurrent Use. Notwithstanding the Section 12(j) above, or any other terms of the Lease, the Lessee shall not interfere with Lessor's use of and rights to the existing parking areas. The System shall be mounted on a canopy over the existing parking area and shall not subtract or detract from the existing parking for the Property. Lessee shall not materially interfere with Lessor's or Lessor's guests, agents or invitees' access to said parking areas and the Property.

(c) Liens. Except for the Financing Party's Security Interest in or ownership of Lessee's interest in this Lease, Lessee's personal property or the System, Lessee 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 on or with respect to the Premises and agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Premises, to the extent that such encumbrance or interest arises from or is related to Lessee's performance or non-performance of its obligations hereunder. Lessee shall provide Lessor with notice if it receives notice of any such claims. Lessee further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Property and to indemnify, defend and hold harmless Lessor from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessor's reasonable attorneys' fees and actual court costs. Lessee waives any and all lien rights it may have, statutory or otherwise, concerning the Property or any portion thereof except for the System.

14. **Hazardous Substances.** Neither Party shall introduce or use any Hazardous Substances on, in or under the Premises or Property in violation of any Applicable Law. If a Party becomes aware of any such Hazardous Substances, it shall promptly notify the other Party of the type and location of such Hazardous Substances in writing. Each Party agrees to indemnify, defend and hold harmless the other Party from and against any and all Environmental Claims including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that such Parties may suffer or incur due to any actions, that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any Applicable Law, all spills or other releases of any Hazardous Substance not caused by Lessee, that have occurred or which may occur on the Property of which Lessor has actual knowledge. Lessor agrees to indemnify, defend and hold Lessee harmless from Environmental Claims resulting from actions on the Property not caused by Lessee. This Section 14 shall survive the termination or expiration of this Lease.

15. **Maintenance.** Throughout the Lease Term, any Extension Term and through the Removal and Restoration Date, Lessee shall have the right: (i) to add to, remove or modify the System or any part thereof, and (ii) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Lessee, to carry out the activities set forth in this Lease, including, but not limited to, the right to clean, repair, replace and dispose of all or a part of the System as Lessee in its sole discretion determines to be reasonably necessary, without prior notice to or consent of Lessor, and all at the sole cost and expense of Lessee. Lessee, at its expense, may use any and all appropriate means of restricting access to the System, subject to the Concurrent Use rights of Lessor in and to the parking areas servicing the Property.

16. **Insurance.**

(a) **Generally.** Lessor and Lessee shall each maintain the insurance coverages set forth in Exhibit D in full force and effect throughout the Lease Term either through insurance policies, or self-insured programs reasonably acceptable to the other Party. Each Party, upon request, but not more than twice in any twelve (12) month period, shall furnish current certificates evidencing that the coverage required is being maintained.

(b) **Waiver of Subrogation.** Each Party hereby waives any right of recovery against the other for injury or loss to personal property due to hazards covered by insurance obtained with respect to the Property or Premises, including the improvements and installations thereon.

(c) **System Loss.** In the event of any harm to the System that, in the reasonable judgment of Lessee, results in total damage, destruction or loss of the System ("***System Loss***"), Lessee shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Lessor whether Lessee is willing, notwithstanding such System Loss, to repair or replace the System and to continue the Lease. In the event that Lessee notifies Lessor that Lessee is not willing to repair or replace the System, the Lease will terminate automatically effective upon the date of such System Loss, and Lessee shall be entitled to all proceeds of its insurance policies with respect to the System Loss and Lessor shall promptly return to Lessee any prepaid but

unearned rent and Lessee shall be remove any and all remaining above-ground level aspects of the System and restore the premises pursuant to the terms of the Removal and Restoration Date.

17. **Taxes.** Lessee shall pay any real estate or personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority which are directly attributable to Lessee's occupancy and use of the Premises (or any portion or component thereof, including, but not limited to the System) and ownership of the System. Lessor shall pay, when due, all (i) real and personal property taxes relating to the Property which are not the responsibility of Lessee hereunder, (ii) inheritance or estate taxes imposed upon or assessed against the Property, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Lessor or the owner of any interest therein, and (iv) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof, other than those attributable to Lessee, as specified herein. In the event that Lessor fails to pay any such taxes or other fees and assessments for which it is responsible under this Lease, Lessee shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. In the event Lessee fails to pay any uncontested taxes or other fees and assessments for which it is responsible under this Lease, Lessor shall have the right, but not the obligation, to pay such owed amounts and bill the Lessee for the same, which shall be due ten (10) days thereafter. If Lessor receives notice of any personal property or real property tax assessment against Lessor, which may affect Lessee and is directly attributable to Lessee's installation, Lessor shall provide notice of the assessment to Lessee. Should Lessee determine, in its reasonable and good faith discretion, that they will challenge such assessment, whether in a court, administrative proceeding, or other venue, on behalf of Lessor and/or Lessee, Lessee shall not be in default for the failure to timely pay said taxes or assessments provided Lessee is diligently pursuing said challenge or abatement, in their sole cost and expense. Further, Lessor shall provide to Lessee any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 17, at no additional cost to the Lessor.

18. **Liability and Indemnity.**

(a) Each Party as indemnitor shall indemnify, defend, and hold harmless the other Party and its Affiliates against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property arising out of or in connection with the negligent acts or omissions or willful misconduct of the indemnitor or a breach of any obligation of the indemnitor under this Lease, except to the extent caused by the negligent acts or omissions or willful misconduct of the indemnified party.

(b) Lessee shall not be responsible to Lessor or any third party, for any claims, costs or damages, including fines or penalties, attributable to any pre-existing violations of Applicable Laws by any party other than Lessee. This Section 18 shall survive the termination of this Lease.

19. **Casualty.** If no more than thirty-five percent (35%) of the Property, Building, Premises, and/or parking areas are destroyed from fire or any other cause (a "Partial Casualty") and such damage or destruction renders all or a portion of the Premises inaccessible, unusable or impractical as determined by Lessee in Lessee's sole and absolute discretion, Lessor shall promptly restore the Property, Building, Premises and/or parking areas to substantially the same condition as they were in immediately before the destruction within one hundred eighty (180) days after the date of such partial destruction. Rent shall be abated for the portion of the System which was rendered inoperable due to the Partial Casualty. Lessor shall not be required to make any repairs or restorations that are prohibited by law and Lessor shall not be liable for any inconvenience

or annoyance to Lessee or its visitors. Lessee shall be entitled to all proceeds of its insurance policies with respect to the System and Lessor shall promptly return to Lessee any prepaid but unearned rent.

19.1 If more than thirty five percent (35%) of the Property, Building, Premises and/or parking areas are destroyed from fire or any cause (a "Full Casualty"), such damage shall be deemed a complete destruction for purposes of this Lease. In such event, Lessor shall, within sixty (60) days after the date of the casualty, commence its reconstruction and shall complete reconstruction no later than three hundred sixty five (365) days from the date of casualty.

(a) Lessor and Lessee shall each have the right to terminate this Lease upon thirty (30) days written notice to the other party if Lessor's contractor's commercially reasonable estimate of time needed for reconstruction will exceed three hundred sixty five (365) days from the date of the Full Casualty. Lessor shall promptly return to Lessee any prepaid but unearned rent;

(b) Rent shall be fully abated during the period beginning on the date of the Full Casualty and ending on the date of completion of Lessor's restoration obligations as provided in this Section 19.1.

19.2. Notwithstanding any other provision of this Section 19 to the contrary, if any portion of the Property, Premises, Building, and/or parking areas are destroyed or damaged by a fire or other casualty during the last three (3) months of the Lease Term, Lessor and Lessee shall each have the option to terminate this Lease at the end of such year by giving written notice to the other party within thirty (30) business days of the date of the casualty of its intent to terminate at the end of such year.

19.3. If Lessor or Lessee elects to terminate under this Section 19 in connection with a casualty, Lessee shall pay Rent and all personal tangible property taxes apportioned up to the date of the casualty and Lessor shall return to Lessee any prepaid but unearned rent. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

20. **Condemnation.** In the event the Premises or Property are transferred to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Lessee's determination to render the Premises unsuitable for Lessee's use or to negatively impact the access to the Premises, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice to Lessor. Sale to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation. In the event of an award related to eminent domain or condemnation of all or part of the Premises, each Party shall be entitled to take from such an award that portion as allowed by law for its respective property interest appropriated as well as any damages suffered thereby.

21. **Assignment.** Lessee shall not assign any of its rights, duties or obligations under this Lease without the prior consent of Lessor and the Town of Medfield, which consent shall not be unreasonably withheld, conditioned or delayed. Lessor agrees to execute any consent, novation or other documentation that Lessee may request in connection with any assignment permitted by this Section 21, including without limitation entering into a consent to assignment agreement with Lessee's Financing Party substantially in the form attached hereto as Exhibit E to facilitate financing of the System. An assignment by either Party in accordance with this Section 21 shall relieve the assignor of its obligations hereunder, except with respect to undisputed payments due by the assignor as of the effective date of the assignment, which obligations shall be performed by assignor or assignee as a condition precedent to such assignment.

22. **Defaults and Remedies.**

(a) **Default.** If a Party (the "***Defaulting Party***") fails to perform any non-monetary covenant or obligations hereunder or commits a material breach of this Lease (each an "***Event of Default***"), then it shall not be in default hereunder unless it fails to cure such Event of Default within thirty (30) Business Days after receiving

notice from the other Party (the "*Non-Defaulting Party*") regarding the failure to perform such covenant or obligation set forth in this Lease or the material breach, stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "*Notice of Default*"); provided, however, that if the nature or extent of the obligation or obligations is such that more than thirty (30) Business Days are required to complete the cure, despite the exercise of commercially reasonable diligence, then the Defaulting Party shall not be in default if it commences such performance within such thirty (30) Business Day period and thereafter pursues the same to completion with commercially reasonable diligence.

(b) **Bankruptcy.** It shall also be an Event of Default by either Party if such Party becomes subject to a Bankruptcy Event.

(c) **Remedies.** If the Event of Default is not cured within the cure period provided for in this Lease, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including damages, specific performance and/or the right to terminate the Lease upon notice to the Defaulting Party without penalty or further liability, all of which remedies shall be cumulative.

23. **Notices.** All Notices under this Lease shall be made in writing to the Addresses and Persons specified on the Cover Sheet. Notices shall be delivered by hand delivery, regular overnight delivery service, sent by registered or certified mail, return receipt requested or email. Email notices shall require confirmation of receipt. Notices shall be deemed to have been received when delivered as shown on the records or manifest of such courier, delivery service or the U.S. Postal Service. Rejection or refusal to accept delivery of any notice shall be deemed to be the equivalent of receipt of any notice given hereunder. A Party may change its address by providing notice of the same in accordance with the provisions of this Section 23. Failure to comply strictly with the terms of this provision shall not be held against the Party claiming to have given notice so long as such Party substantially complied with this provision and can demonstrate that the notice in question was received.

24. **Waiver.** The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.

25. **Remedies Cumulative.** No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law or in equity or by statute provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

26. **Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.

27. **Choice of Law.** This Lease shall be construed in accordance with the laws of Commonwealth of Massachusetts, without regard to its conflict of law principles.

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

29. **Counterparts.** This Lease may be executed in any number of counterparts, which shall together constitute one and the same agreement. Each Party consents to the admission in evidence of a facsimile or photocopy of this Lease in any court or arbitration proceedings between the Parties.

30. **Entire Lease.** This Lease, including the Cover Sheet and all Exhibits, represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and therein and supersede all prior written or oral negotiations, representations, communications and agreements between said parties with respect to said subject matter. This Lease may be amended only in writing signed by both Lessee and Lessor or their respective successors in interest. Lessor and Lessee each acknowledge that in executing this Lease

that party has not relied on any verbal or written understanding, promise, or representation which does not appear in this document.

31. **Further Assurances.** Upon the receipt of a request from the other Party or a Financing Party, each Party shall execute such commercially reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof, including at the requesting Party's expense, entering into any consents, assignments, affidavits, estoppels and other documents as may be reasonably required by such Party's lender to create, perfect or preserve its collateral interest in such Party's property or such party's rights and obligations under this Lease. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.

32. **Dispute Resolution.** In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Lease, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, within a reasonable time after the claim, dispute or other matter in question has arisen, pursue all available legal and/or equitable remedies.

33. **Force Majeure.** Except as otherwise specifically provided in the Lease, neither Party shall be considered in breach of the Lease or liable for any delay or failure to comply with the Lease (other than the failure to pay amounts due hereunder), 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 under this Section 33 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. If a Force Majeure Event shall have occurred that has prevented either Party from performing any of its material obligations hereunder and that has continued for a continuous period of one hundred twenty (120) days, then either Party shall have the right, but not the obligation, to terminate the Lease upon ninety (90) days' prior notice to the other Party without penalty or further liability. If at the end of such ninety (90) day period such Force Majeure Event shall still continue and the material obligation has not been able to be resumed to the reasonable satisfaction of the affected Party, the Lease shall terminate. Upon such termination due to a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination or those which expressly survive the termination or expiration of the Lease pursuant to the terms hereof). If, at the end of such ninety (90) day period such Force Majeure Event is no longer continuing, the Lease shall remain in full force and effect, and the Party's termination notice shall be deemed to have been withdrawn. Rent shall abate for any period during which Lessee is not able to operate the System in the manner contemplated herein.

34. **Attorney's Fees.** In the event there is a lawsuit, action, or proceeding between Lessee and Lessor, which arises from or concerns this Lease, whether that lawsuit, action, or proceeding involves causes of action in contract or in tort, at law or in equity, the substantially prevailing party shall be entitled to recover all costs and expenses, including its reasonable attorneys' and expert or consultants' fees and court costs, in such lawsuit, action or proceeding.

35. **Notice of Lease.** Lessor agrees to cooperate with Lessee, or Lessee's assignee, in executing any documents necessary to protect Lessee's rights or Lessee's assignee's rights in or use of the Premises. A Notice of Option and a Notice of Lease in substantially the form attached hereto as Exhibit F may be recorded in place of this Lease by Lessee or by Lessee's assignee.

36. **No Brokers.** Lessor and Lessee hereby represent and warrant to the other that no real estate broker or agent is entitled to a commission in connection with this Lease. In the event any broker or other party claims a commission, the party responsible for the contact with that claimant shall indemnify, defend and hold the other party harmless from that claim, including, without limitation, the payment of any attorneys' fees and costs incurred.

37. **Interpretation.** This Lease shall not be construed against the Person or entity preparing it, but shall be construed as if all of the parties jointly prepared this Lease without any uncertainty or ambiguity being interpreted against any one of them.

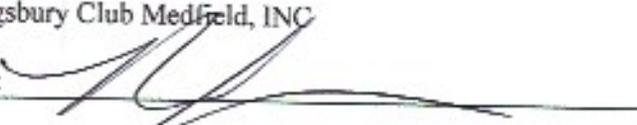
38. **No Partnership.** This Lease is not intended and shall not be construed to create any partnership or joint venture or any other relationship other than one of 'lessor' and 'lessee', and neither Party shall be deemed the agent of the other Party nor have the authority to act as agent for the other Party.

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IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year set forth on the *Effective Date*, set forth on the Cover Sheet.

LESSOR:

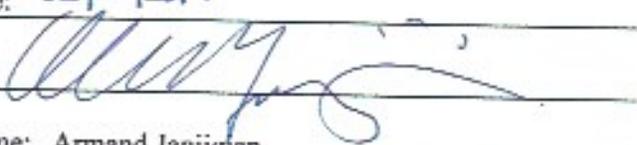
Kingsbury Club Medfield, INC

By: 

Name: Robert Janjigian

Title: President

Date: 03/21/2019

By: 

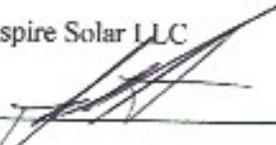
Name: Armand Janjigian

Title: Treasurer

Date: 03/21/2019

LESSEE:

Sunspire Solar LLC

By: 

Name: John Porter

Title: Manager

Date: 3/20/19

[SIGNATURE PAGE TO OPTION AND LEASE AGREEMENT]

COVER SHEET

OPTION AND LEASE AGREEMENT

Effective Date	Thursday, March 21, 2019	
Lease Commencement Date ¹		
Lessor	Kingsbury Club Medfield, INC	
Lessee	Sunspire Solar LLC	
Property address	2 Ice House Road, Medfield, MA, 02052	
Premises	The Premises consists of approximately 35,000 square feet of roof space located at the Property controlled by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052. The Property is more particularly described in Exhibit A attached hereto.	
Option Term	540 Days	
Option Expiration	September 11, 2020	
Rent	Annual rent shall be determined in accordance with Section 4 and Exhibit G.	
Lease Term	Twenty (20) years subject to extension per Section 6.	
Expiration Date ²		
Extension Exercise Notice Deadline ³		
Addresses for Notices	Lessee: Sunspire Solar LLC PO Box 1673 Andover, MA 01810 Attn: John Porter	Lessor: Kingsbury Club Medfield, INC 2 Ice House Road Medfield, MA, 02052 Attn: Robert Janjigian

¹ Parties agree to write in once Exercise Notice is delivered.

² Parties agree to write in once Exercise Notice is delivered.

³ Parties agree to write in once Extension Exercise Notice is delivered.

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement ("**Lease**") is dated as of the Effective Date and is entered into by and between Lessor and Lessee (each a "**Party**" and together, the "**Parties**").

A. The approximately 35,000 square feet of roof space including access rights and Easements necessary to access the roof space ("**Premises**") located on the buildings owned by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052 ("**Property**") situated on land owned by the Town of Medfield and leased to Lessor under that Ground Lease dated September 1, 2007, all of which is more particularly described in the attached Exhibit A.

B. Lessee desires to obtain the exclusive right to occupy the Premises subject to the Concurrent Use as set forth herein and to enjoy all the rights necessary for Lessee to occupy, develop, design, engineer, access, construct, monitor, install, own, maintain and operate the System to be located upon, on and within the Premises as well as all the rights necessary or desirable for Lessee to sell the energy generated by such System and any and all other credits, solar renewable energy credits, and any other environmental financial attributes created as a result of such energy generation.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is acknowledged, and intending to be legally bound hereby, Lessee and Lessor hereby agree to the foregoing recitals and as follows:

1. **Definitions.** Capitalized terms not otherwise defined in this Lease or on the Cover Sheet have the meanings assigned to them in Exhibit C.

2. **Option to Lease the Premises.**

(a) **Grant of Option.** Lessor hereby grants to Lessee an option to Lease the Premises on the terms and conditions set forth in this Lease (the "**Option**").

(b) **Time and Manner of Exercise of the Option.** The Option shall be for an initial term of Five Hundred Forty (540) days after the Effective Date (as it may be extended, the "**Option Term**"). The Option Term may be extended by Lessee for an additional Five Hundred Forty (540) days upon notice to Lessor at any time prior to the end of the initial Option Term.

(c) **Grant of Access License.** Commencing on the Effective Date and throughout the Option Term, Lessor grants to Lessee and any Lessee Party, an irrevocable, exclusive license ("**License**") to enter upon the Property at any time and from time to time to conduct, at Lessee's expense, such tests, inspections, surveys and investigations ("**Tests**") as Lessee deems reasonably necessary or appropriate to evaluate the suitability of the Premises for the uses contemplated under this Lease provided said access does not materially interfere with Lessor's and/or lessor's agents, invitees and guests use of the Property. During the Option Term, no Lessee Party shall place, or permit to be placed, or use, or permit to be used, any permanent improvements or structures on the Premises. If Lessee does not exercise the Option within the Option Term, Lessee shall, at Lessee's sole cost and expense, promptly remove any and all liens, improvements, personal property, equipment, goods, and other property, and all trash, debris, and other refuse from the Premises that is the result of such Tests, and shall have no other rights in and to the Premises or Property and shall return the Property and/or Premises to their former condition, reasonable wear and tear excepted. Lessee agrees to act expeditiously to complete the Tests and other due diligence during the Option Term.

(d) **Lessor Cooperation.** Lessor shall cooperate, at no additional cost to the Lessor, with (i) the performance of Tests, (ii) the obtaining by Lessee, at Lessee's sole cost and expense, of all licenses and Permits or authorizations required for Lessee's use of the Premises from all applicable government and/or regulatory

entities (collectively, "*Governmental Approvals*") and (iii) the securing by Lessee at Lessee's expense of all other leases, agreements, licenses and Permits or authorizations that relate to the Property or Premises. Lessor agrees to use reasonable efforts in assisting Lessee to acquire necessary utility service at the Premises but it shall be the sole cost and expense of Lessee for any hook-up or tie-in to any utility services currently servicing the Property or otherwise. In the event that a utility company requires an easement in connection with Lessee's use of the Premises, Lessor shall use reasonable efforts in obtaining such necessary easement(s) from the Town of Medfield to the utility company, provided that such easement is in a commercially reasonable and recordable form, understanding that Lessor's title to the Property is a leasehold interest and not a fee simple interest therefore any and all easements, rights, restrictions, encumbrances, liens etc. shall require the Town of Medfield's approval of which Lessor agrees to reasonably pursue when requested by the Lessee.

3. **Exercise of Option; Leased Premises and Related Rights.**

(a) In order to exercise the Option, Lessee must deliver to Lessor a notice of exercise (the "*Exercise Notice*"), accompanied by the first Rent payment, prior to the expiration of the Option Term. The date of the Exercise Notice shall be the commencement of the Lease Term (the "*Lease Commencement Date*"). Subject to receipt of the Exercise Notice and first Rent payment, Lessor hereby leases the Premises to Lessee to occupy, develop, design, engineer, construct, access, monitor, install, own, operate and maintain the System for the generation and distribution of electrical power. Lessor hereby also grants to Lessee and the applicable utility company, at all times on a 24-hours-a-day, 7-days-a-week basis, for any purposes reasonably connected with this Lease for a period co-terminus with the Lease, an easement which is irrevocable during the Lease Term for access, ingress, egress, utilities and related rights to the Premises and/or any surrounding or nearby property owned or leased by Lessor, passage through which is necessary or convenient to install, operate or gain access to the System or the Premises (the "*Easements*"). The Easements are generally depicted on Exhibit A attached hereto and incorporated herein. In the event that Lessee or the utility company desires to make such Easements a public record, Lessee shall require the Town of Medfield and Lessor's approval of the same. Only upon approval from the Town of Medfield and Lessor may the Lessee record in the office where real estate records are customarily filed in the jurisdiction of the Premises.

(b) Lessee shall have the right to install utilities on the Property, at Lessee's sole cost and expense, and at locations to be mutually agreed to by Lessee and Lessor to improve the present utilities on the Property (including, but not limited to, the installation of battery storage systems, transformers, switchgear and utility poles).

4. **Rents.** Lessee shall pay the Rent (in accordance with Exhibit G) to Lessor for rental of the Premises ("*Rent*") which shall be due annually beginning on the Lease Commencement Date and on every one (1) year anniversary thereof during the Lease Term. In the event this Lease is terminated by Lessee in accordance with this Lease prior to the Expiration Date, Lessor shall refund to Lessee the pre-paid but unearned annual Rent (pro-rated on a daily basis) within thirty (30) days after Lessee removes the System pursuant to the terms of Section 5. Lessor, its successors, assigns and/or designee, if any, shall submit to Lessee any documents reasonably required by Lessee in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

5. **Term and Termination; Removal.**

(a) The Lease Term shall commence on the Lease Commencement Date and terminate on the Expiration Date, as it may be extended pursuant to the terms herein.

(b) If this Lease expires in accordance with Section 5(a) or is terminated by Lessee in accordance with the terms herein, Lessee shall complete the removal of the System and repair of any damage caused to the Premises by the installation or removal of the System on or before the Removal and Restoration Date leaving the Premises and/or Property in the same condition they were in prior to the installation of the System, reasonable wear and tear excepted. The removal and restoration shall be at Lessee's sole cost and expense. In

connection with such removal and restoration, Lessor shall continue to provide Lessee and its Affiliates and subcontractors with reasonable access to the Premises until the Removal and Restoration Date so long as Lessee and/or its Affiliates and subcontractors do not materially interfere with Lessor's use of the Property and/or Premises.

(c) **Removal of System at Expiration/Termination.** In the event Lessee fails to complete the removal of the System and restoration of the Premises by the Removal and Restoration Date, Lessor may provide notice to Lessee stating that Lessee has failed to remove the System (the "*Abandonment Notice*"). If Lessee fails to remove the System within sixty (60) days after receipt of the Abandonment Notice, Lessor shall have the right, at its option, in its sole discretion, to cause the removal of the System by a qualified contractor and the restoration of the Premises in accordance with Section 5(b), said removal shall be at Lessee's sole cost and expense and in addition to any other rights and/or remedies provided to Lessor herein or by operation of law.

6. **Extension Option.** Lessee may extend the Lease Term for two (2) additional and successive periods of five (5) years (each an "*Extension Option*"), at an annual rental rate equal to that during the initial Lease Term, beginning on the day following the expiration of the then-current Term (each an "*Extension Term*"), by giving notice (the "*Extension Exercise Notice*") to Lessor not less than one hundred eighty (180) days prior to the Expiration Date.

7. **System Construction; Lessor Acknowledgment.**

(a) Prior to commencement of construction of the System by Lessee, Lessee shall obtain the necessary Permits and determine if structural improvements are required for the Premises to safely support the weight of the System. If structural improvements are necessary, the Parties agree to negotiate in good faith the scope of work and payment terms. If the Parties are unable to agree on the scope of work and payment terms within sixty (60) days after the determination that structural improvements are necessary, either Party may terminate this Lease, within fifteen (15) days of the end of the 60 day negotiation period, by providing written notice to the other Party. Throughout the Lease Term, Lessee shall have the right to clean, repair, replace and dispose of part or all of the System as Lessee in its discretion determines to be reasonably necessary provided the same does not enlarge the Premises or unreasonably interfere with Lessor's use of the Property. Lessor acknowledges and understands that the System shall consist of a solar photovoltaic electric generating system, designed to produce electricity and deliver such electricity to the electric interconnection point, including without limitation all of the following: installation equipment; generation facilities, including inverters, fuses, transformers, wiring and output breakers; facilities necessary to connect to the electric interconnection point; protective and associated equipment; and other improvements reasonably necessary for the construction, operation, monitoring and maintenance of the system. Lessee acknowledges that Lessor is undertaking construction on the Property and may need access to the Premises for the same. This shall not constitute a violation of the terms of the Lease provided Lessor does not materially interfere with Lessee's rights and access to the Premises as set forth herein, including those of Section 12(d) below. The Parties acknowledge that the impact of construction is of particular concern to Lessee after the System is operational.

(b) The Parties acknowledge that the Lessee shall be solely responsible for and shall promptly repair any damage to the roof of the Premises that is caused by the installation, repair and/or maintenance of the Systems on the Premises. Any such repair work shall be performed promptly and at Lessee's sole cost and expense by a reputable subcontractor, selected by Lessee (and reasonably acceptable to Lessor via Lessor's prior written approval). Lessor shall not delay or interfere with such repair, rehabilitation and/or replacement work and Lessor shall cooperate with Lessee in the obtaining of all applicable Permits required for any such repair work. Subject to Lessee's prior receipt of any current roof warranty relating to the Premises, any and all installation and construction work performed on the Premises by Lessee with respect to the Systems shall be conducted in a manner that will comply with and preserve any current or future roof warranty relating to the Premises. Said repair and/or maintenance work shall not unreasonably interfere with Lessor's use of the Property.

(c) Except as provided in Section 7(b), the Parties agree and acknowledge that Lessor shall be responsible for the repair and maintenance of the roof of the Building, including that portion of the roof located within the Premises, at the sole cost and expense of Lessor. The Parties further agree and acknowledge that during the Term, Lessor shall be afforded up to an aggregate of sixty (60) days (the "Aggregate Repair Time"), provided that no single such disruption is more than thirty (30) days (each an "Individual Repair Time"), during which the Lessor may repair or perform incidental maintenance on the roof of the Building and during which all or a portion of the Systems may be removed or rendered non-operational as may be required in order for Lessor to complete such roof repair or maintenance. In the event the System or a portion thereof must be removed to allow Lessor to complete such roof repair or maintenance, Lessor shall provide Lessee with written notice and Lessee shall remove the portion of the System within fifteen (15) business days of receipt of such notice. Lessor shall reimburse or pay Lessee for any work reasonably required by Lessee to disassemble or move any portion of the Systems for roof repairs and replacement work undertaken by Lessee during any such repair or maintenance of the roof of the Building. Lessor shall not be required to reimburse Lessee for any other lost revenue during the Aggregate Repair Time or Individual Repair Time, including any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period nor shall there be any rent abatement. In the event that the Lessor requires more aggregate time beyond the Aggregate Repair Time or more time beyond the Individual Repair Time in connection with any single repair or maintenance of the roof of the Building, Lessor shall be required to reimburse Lessee for any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period within thirty (30) days after Lessee provides to Lessor invoices and reasonable back-up data evidencing the lost revenue.

(d) Except as may otherwise be specifically agreed upon by the Parties or as expressly set forth herein, Lessee shall be responsible for all costs of design, permitting, construction, installation, operation, maintenance and removal of the System. Lessee shall maintain the System in good working order at its sole cost and expense. Lessor shall maintain the Property and Premises in good repair at its sole cost and expense. In the event of an emergency condition involving the System that poses an immediate threat of harm to individuals or the environment, Lessee shall take immediate action to cure the condition. If Lessee is unable to do so, Lessor shall be entitled to take actions reasonably necessary to remove the immediate threat of harm.

8. Access to Premises.

(a) Commencing on the Effective Date and throughout the Option Term and Lease Term, Lessee shall have the right to enter upon the Property to perform all effort and labor necessary to carry out Tests, design, engineer, construct, install, inspect, test, operate, upgrade, repair and maintain the System on the Premises provided said access does not unreasonably interfere with Lessor's use of the Property. The Parties agree to the Temporary Construction Area designated in Exhibit B as space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling, and including a temporary, reasonable area for construction laydown. Changes to the Temporary Construction Area may be reasonably designated by Lessor from time to time. Lessor and its authorized representatives shall at all times have access to and the right to observe the installation of the System, subject to compliance with Lessee's safety rules and Applicable Laws, and subject at all times to the sole and absolute discretion of Lessee's construction manager; provided, however, that Lessor shall not interfere with the installation of the System or enter onto, move, adjust, alter, tamper with or otherwise handle any Lessee equipment or any component of the System.

(b) Lessee and Lessee Parties shall at all times conduct themselves in a professional manner at the Premises and shall observe the reasonable requests of Lessor. Lessee shall use reasonable care in entering and exiting the Premises, and in its storage of equipment and materials at the Premises or Property. All equipment and materials stored at the Premises or Property shall be insured, as is required herein, and stored at the sole risk of loss by the Lessee.

9. **Statutory and Regulatory Compliance.** Lessee, Lessee Parties, Lessor and the Lessor Parties shall, pursuant to the terms set forth herein, each comply with all applicable provisions of all Applicable Laws of the locality in which the Property is located.

10. **Lessee's Ownership of System and Output.** The System is personal property, whether or not the same is deemed real or personal property under Applicable Law, and shall not attach to or be deemed a part of, or a fixture to, the Premises or Property. Lessee shall be the legal and beneficial owner of the System at all times and Lessor shall have no right, title or interest in the System or any component thereof, notwithstanding that any such System may be physically mounted or adhered to the Premises or Property. Lessor covenants that it will use commercially reasonable efforts to place all parties having an interest in or lien upon the Property on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Property or Premises, which could reasonably be construed as attaching to the System as a fixture of the Property or Premises, Lessor shall use reasonable efforts to provide a disclaimer or release from such lien holder, any expense or cost thereof shall be borne by the Lessee. Lessor consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the System as a fixture of the Property or Premises in the office where real estate records are customarily filed in the jurisdiction of the Property, provided the same has been approved in advance by both the Town of Medfield and Lessor's current lien holder. Further, Lessor acknowledges and agrees that Lessee is the exclusive owner of all electricity and all utility credits generated by the System and owner of all Environmental Attributes and Incentives attributable to the System. In the absence of an additional agreement to the contrary, all electricity generated by the System will be connected to the distribution grid and sold by Lessee to third parties. Electricity generated will not be available to Lessor or any other occupant at the Property. Without the express consent of Lessee, Lessor shall not make or publish any public statement or notice regarding any Environmental Attribute or Incentive relating to the System or the electricity generated by the System. The Parties acknowledge and agree that the System shall not be considered an electric public utility, an investor owned utility, a municipal utility, or a merchant power plant otherwise known as an exempt wholesale generator.

11. **Representation and Warranties of the Parties as to Authorization and Enforceability**

Each Party represents and warrants that the execution and delivery by such Party of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other Person, and do not contravene any provision of, or constitute a default under any indenture, mortgage or other material agreement binding on such Party or any valid order of any court, or regulatory agency or other body having authority to which such Party is subject. This Lease constitutes a legal and valid obligation of such Party, enforceable against it in accordance with its terms, except as may be limited by a Bankruptcy Event, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity where such enforceability is considered in a proceeding in equity or at law.

12. **Representations, Warranties and Covenants of the Lessor**

(a) **Lessor's Title to Premises.** Lessor represents, warrants and covenants that Lessor has a lawful long-term leasehold interest in the Property, including the Premises, under that ground lease dated September 1, 2007 between Lessor and the Town of Medfield ("Ground Lease"), and that Lessee shall have quiet and peaceful possession of the Premises free from any claim of any entity or Person of superior title thereto and without hindrance to or interference with or molestation of Lessee's quiet enjoyment thereof, throughout the Lease Term. Lessor shall secure all approvals necessary under the terms of the Ground Lease from the Town of Medfield for this Agreement and the purposes included herein. If Lessor sells, leases, assigns, mortgages, pledges or otherwise encumbers the Property, Lessor shall provide notice thereof to Lessee within thirty (30) days, which notice shall identify the transferee, the area of the Property so transferred and the date of the transfer. Lessor agrees that this Lease and the Easements granted in this Lease shall run with the Property and survive any transfer of all or any portion of the Property. In furtherance of the foregoing, Lessor shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Premises or Property has been granted

to execute and deliver to Lessee a commercially reasonable document pursuant to which such party acknowledges and consents to the Lessee's rights in the Premises as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the System, or any work related to such System, and shall not gain any interest in the System by virtue of the Lessor's transfer.

(b) No Interference With and Protection of System. Lessor will not conduct activities on, in or about the Property or Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or operation thereof. Lessor shall take all reasonable actions to limit access to the Premises to Lessee and Lessee Parties. The System shall be operated, maintained and repaired by Lessee at its sole cost and expense; provided, that any repair or maintenance costs incurred by Lessee as a result of Lessor's gross negligence, willful misconduct or uncured breach of its obligations hereunder shall be promptly reimbursed to Lessee by Lessor.

(c) Non-Disturbance Agreements. Lessee shall prepare, at Lessee's sole cost and expense and Lessor shall obtain a non-disturbance agreement ("NDA") in favor of Lessee from any third party who now has or may in the future obtain an interest in the Property or Premises, including, without limitation, any lenders to Lessor, which NDA shall: (i) acknowledge and consent to the Lessee's rights to the Premises and the System under this Lease; (ii) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties' performance or breach of this Lease; (iii) acknowledge that the third party's interest in the Premises (if any) is subject to Lessee's interest under this Lease; (iv) waives any lien the third party may have in and to the System; and (v) agrees not to disturb Lessee's possession of the Premises, provided there is no uncured breach by Lessee under the terms herein.

(d) Insolation. Lessor acknowledges and agrees that access to sunlight ("insolation") is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Accordingly, Lessor shall not permit any material interference with insolation on and at the Premises. Without limiting the foregoing, Lessor shall not construct or permit to be constructed any structure on or adjacent to the Premises or on any adjacent property owned by any Affiliate of Lessor that would create or cause shade on all or a part of the System, permit the growth of foliage that could adversely affect insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to insolation. If Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Premises, Lessor shall promptly advise Lessee of such information and reasonably cooperate with Lessee in taking measures to preserve average levels of insolation at the Premises as they existed as of the Lease Commencement Date insofar as the same is within Lessor's reasonable control. Such measures may include, but not be limited to, obtaining a solar access easement. In the event any such obstruction occurs and is not removed within a reasonable amount of time given the nature of the obstruction, Lessee shall have the right to terminate this Lease without penalty or further liability, upon notice to Lessor. Notwithstanding any other provision of this Lease, the Parties agree that (i) Lessee would be irreparably harmed by a breach of the provisions of this Section 12(d), (ii) termination of the Lease might be inadequate to remedy such a breach, and (iii) Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 12(d). Lessor further represents and warrants that, to the best of its knowledge, there are no developments pending or in progress on adjacent or nearby properties that could diminish the insolation to the Premises.

(e) Hazardous Substances. Lessor represents and warrants that to the best of Lessor's knowledge and belief, without independent investigation, there are no Hazardous Substances present on, in or under the Property or Premises in violation of any Applicable Law.

(f) Condition of Premises. Except as otherwise expressly set forth herein Lessee accepts the Premises "as is" without benefit of any improvements or modifications to be made by Lessor.

(g) Notice of Damage or Emergency. Lessor shall immediately notify Lessee if Lessor becomes aware, through discovery or receipt of notice: (i) of any damage to or loss of the use of the System; (ii)

of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises; or (iii) of any interruption or material alteration of the energy supply to or from the Premises or the System.

(h) Liens. Lessor 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 on or with respect to the System or any interest therein. Lessor shall provide Lessee with notice if it receives notice of any such claims. Lessor further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the System and to indemnify, defend and hold harmless Lessee from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessee's reasonable attorneys' fees and actual court costs. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof.

(i) Representations Regarding Security Interest in System. Lessor has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected personal property security interest under the Uniform Commercial Code (the "*Security Interest*") in the System to one or more Financing Parties and Lessor hereby consents to such Security Interest. In connection therewith, Lessor represents and warrants as follows: (i) the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Property or Premises; (ii) there is no existing lease, mortgage, security interest or other interest in or lien upon the Property or Premises that could attach to the System as an interest adverse to or senior to Lessee's Financing Parties' Security Interest therein; and (iii) there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under the Lease.

(j) Concurrent Use. Any concurrent use of the Premises by Lessor or any third parties during the Term shall not unreasonably interfere with Lessee's rights granted herein.

(k) Utilities. At Lessee's request, Lessor shall provide, at no additional cost to Lessor, or cooperate with the provision of electric current and water to the perimeter of the Premises; provided, however, separate meters for such utilities shall be installed at Lessee's expense and Lessee shall be responsible for all utility expenses. Lessee shall be solely responsible for the payment and expense of any hookup or extension of existing utilities. Lessor makes no representation as to the availability of said utilities to the Premises.

13. Representations, Warranties and Covenants of Lessee.

(a) Regulatory Status. Lessee represents and warrants that it is not an electric public utility, investor owned utility, a municipal utility, a merchant power plant or electrical corporation as defined under the laws of the Commonwealth of Massachusetts.

(b) Liens. Except for the Financing Party's Security Interest in or ownership of Lessee's interest in this Lease, Lessee's personal property or the System, Lessee 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 on or with respect to the Premises and agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Premises, to the extent that such encumbrance or interest arises from or is related to Lessee's performance or non-performance of its obligations hereunder. Lessee shall provide Lessor with notice if it receives notice of any such claims. Lessee further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Property and to indemnify, defend and hold harmless Lessor from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessor's reasonable attorneys' fees and

actual court costs. Lessee waives any and all lien rights it may have, statutory or otherwise, concerning the Property or any portion thereof except for the System.

14. **Hazardous Substances.** Neither Party shall introduce or use any Hazardous Substances on, in or under the Premises or Property in violation of any Applicable Law. If a Party becomes aware of any such Hazardous Substances, it shall promptly notify the other Party of the type and location of such Hazardous Substances in writing. Each Party agrees to indemnify, defend and hold harmless the other Party from and against any and all Environmental Claims including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that such Parties may suffer or incur due to any actions, that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any Applicable Law, all spills or other releases of any Hazardous Substance not caused by Lessee, that have occurred or which may occur on the Property of which Lessor has actual knowledge. Lessor agrees to indemnify, defend and hold Lessee harmless from Environmental Claims resulting from actions on the Property not caused by Lessee. This Section 14 shall survive the termination or expiration of this Lease.

15. **Maintenance.** Throughout the Lease Term, any Extension Term and through the Removal and Restoration Date, Lessee shall have the right: (i) to add to, remove or modify the System or any part thereof, and (ii) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Lessee, to carry out the activities set forth in this Lease, including, but not limited to, the right to clean, repair, replace and dispose of all or a part of the System as Lessee in its sole discretion determines to be reasonably necessary, without prior notice to or consent of Lessor, and all at the sole cost and expense of Lessee. Lessee, at its expense, may use any and all appropriate means of restricting access to the System and Premises.

16. **Insurance.**

(a) **Generally.** Lessor and Lessee shall each maintain the insurance coverages set forth in Exhibit D in full force and effect throughout the Lease Term either through insurance policies, or self-insured programs reasonably acceptable to the other Party. Each Party, upon request, but not more than twice in any twelve (12) month period, shall furnish current certificates evidencing that the coverage required is being maintained.

(b) **Waiver of Subrogation.** Each Party hereby waives any right of recovery against the other for injury or loss to personal property due to hazards covered by insurance obtained with respect to the Property or Premises, including the improvements and installations thereon.

(c) **System Loss.** In the event of any harm to the System that, in the reasonable judgment of Lessee, results in total damage, destruction or loss of the System ("**System Loss**"), Lessee shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Lessor whether Lessee is willing, notwithstanding such System Loss, to repair or replace the System and to continue the Lease. In the event that Lessee notifies Lessor that Lessee is not willing to repair or replace the System, the Lease will terminate automatically effective upon the date of such System Loss, and Lessee shall be entitled to all proceeds of its insurance policies with respect to the System Loss and Lessor shall promptly return to Lessee any prepaid but unearned rent and Lessee shall remove any and all remaining aspects of the System and restore the Premises pursuant to the terms of the Removal and Restoration Date.

17. **Taxes.** Lessee shall pay any real estate or personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority which are directly attributable to Lessee's occupancy and use of the Premises (or any portion or component thereof, including, but not limited to the System) and ownership of the

System. Lessor shall pay, when due, all (i) real and personal property taxes relating to the Property which are not the responsibility of Lessee hereunder, (ii) inheritance or estate taxes imposed upon or assessed against the Property, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Lessor or the owner of any interest therein, and (iv) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof, other than those attributable to Lessee, as specified herein. In the event that Lessor fails to pay any such taxes or other fees and assessments for which it is responsible under this Lease, Lessee shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. In the event Lessee fails to pay any uncontested taxes or other fees and assessments for which it is responsible under this Lease, Lessor shall have the right, but not the obligation, to pay such owed amounts and bill the Lessee for the same, which shall be due ten (10) days thereafter. If Lessor receives notice of any personal property or real property tax assessment against Lessor, which may affect Lessee and is directly attributable to Lessee's installation, Lessor shall provide notice of the assessment to Lessee. Should Lessee determine, in its reasonable and good faith discretion, that they will challenge such assessment, whether in a court, administrative proceeding, or other venue, on behalf of Lessor and/or Lessee, Lessee shall not be in default for the failure to timely pay said taxes or assessments provided Lessee is diligently pursuing said challenge or abatement, in their sole cost and expense. Further, Lessor shall provide to Lessee any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 17, at no additional cost to the Lessor.

18. **Liability and Indemnity.**

(a) Each Party as indemnitor shall indemnify, defend, and hold harmless the other Party and its Affiliates against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property arising out of or in connection with the negligent acts or omissions or willful misconduct of the indemnitor or a breach of any obligation of the indemnitor under this Lease, except to the extent caused by the negligent acts or omissions or willful misconduct of the indemnified party.

(b) Lessee shall not be responsible to Lessor or any third party, for any claims, costs or damages, including fines or penalties, attributable to any pre-existing violations of Applicable Laws by any party other than Lessee. This Section 18 shall survive the termination of this Lease.

19. **Casualty.** If no more than thirty-five percent (35%) of the Property, Building, Premises, and/or parking areas are destroyed from fire or any other cause (a "Partial Casualty") and such damage or destruction renders all or a portion of the Premises inaccessible, unusable or impractical as determined by Lessee in Lessee's sole and absolute discretion, Lessor shall promptly restore the Property, Building, Premises and/or parking areas to substantially the same condition as they were in immediately before the destruction within one hundred eighty (180) days after the date of such partial destruction. Rent shall be abated for the portion of the System which was rendered inoperable due to the Partial Casualty. Lessor shall not be required to make any repairs or restorations that are prohibited by law and Lessor shall not be liable for any inconvenience or annoyance to Lessee or its visitors. Lessee shall be entitled to all proceeds of its insurance policies with respect to the System and Lessor shall promptly return to Lessee any prepaid but unearned rent.

19.1 If more than thirty five percent (35%) of the Property, Building, Premises and/or parking areas are destroyed from fire or any cause (a "Full Casualty"), such damage shall be deemed a complete destruction for purposes of this Lease. In such event, Lessor shall, within sixty (60) days after the date of the casualty, commence its reconstruction and shall complete reconstruction no later than three hundred sixty five (365) days from the date of casualty.

(a) Lessor and Lessee shall each have the right to terminate this Lease upon thirty (30) days written notice to the other party if Lessor's contractor's commercially reasonable estimate of time needed for

reconstruction will exceed three hundred sixty five (365) days from the date of the Full Casualty. Lessor shall promptly return to Lessee any prepaid but unearned rent;

(b) Rent shall be fully abated during the period beginning on the date of the Full Casualty and ending on the date of completion of Lessor's restoration obligations as provided in this Section 19.1.

19.2. Notwithstanding any other provision of this Section 19 to the contrary, if any portion of the Property, Premises, Building, and/or parking areas are destroyed or damaged by a fire or other casualty during the last three (3) months of the Lease Term, Lessor and Lessee shall each have the option to terminate this Lease at the end of such year by giving written notice to the other party within thirty (30) business days of the date of the casualty of its intent to terminate at the end of such year.

19.3. If Lessor or Lessee elects to terminate under this Section 19 in connection with a casualty, Lessee shall pay Rent and all personal tangible property taxes apportioned up to the date of the casualty and Lessor shall return to Lessee any prepaid but unearned rent. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

20. **Condemnation.** In the event the Premises or Property are transferred to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Lessee's determination to render the Premises unsuitable for Lessee's use or to negatively impact the access to the Premises, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice to Lessor. Sale to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation. In the event of an award related to eminent domain or condemnation of all or part of the Premises, each Party shall be entitled to take from such an award that portion as allowed by law for its respective property interest appropriated as well as any damages suffered thereby.

21. **Assignment.** Lessee shall not assign any of its rights, duties or obligations under this Lease without the prior consent of Lessor and the Town of Medfield, which consent shall not be unreasonably withheld, conditioned or delayed. Lessor agrees to execute any consent, novation or other documentation that Lessee may request in connection with any assignment permitted by this Section 21, including without limitation entering into a consent to assignment agreement with Lessee's Financing Party substantially in the form attached hereto as Exhibit E to facilitate financing of the System. An assignment by either Party in accordance with this Section 21 shall relieve the assignor of its obligations hereunder, except with respect to undisputed payments due by the assignor as of the effective date of the assignment, which obligations shall be performed by assignor or assignee as a condition precedent to such assignment.

22. **Defaults and Remedies.**

(a) **Default.** If a Party (the "***Defaulting Party***") fails to perform any non-monetary covenant or obligations hereunder or commits a material breach of this Lease (each an "***Event of Default***"), then it shall not be in default hereunder unless it fails to cure such Event of Default within thirty (30) Business Days after receiving notice from the other Party (the "***Non-Defaulting Party***") regarding the failure to perform such covenant or obligation set forth in this Lease or the material breach, stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "***Notice of Default***"); provided, however, that if the nature or extent of the obligation or obligations is such that more than thirty (30) Business Days are required to complete the cure, despite the exercise of commercially reasonable diligence, then the Defaulting Party shall not be in default if it commences such performance within such thirty (30) Business Day period and thereafter pursues the same to completion with commercially reasonable diligence.

(b) **Bankruptcy.** It shall also be an Event of Default by either Party if such Party becomes subject to a Bankruptcy Event.

(c) **Remedies.** If the Event of Default is not cured within the cure period provided for in this Lease, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including damages, specific performance and/or the right to terminate the Lease upon notice to the Defaulting Party without penalty or further liability, all of which remedies shall be cumulative.

23. **Notices.** All Notices under this Lease shall be made in writing to the Addresses and Persons specified on the Cover Sheet. Notices shall be delivered by hand delivery, regular overnight delivery service, sent by registered or certified mail, return receipt requested or email. Email notices shall require confirmation of receipt. Notices shall be deemed to have been received when delivered as shown on the records or manifest of such courier, delivery service or the U.S. Postal Service. Rejection or refusal to accept delivery of any notice shall be deemed to be the equivalent of receipt of any notice given hereunder. A Party may change its address by providing notice of the same in accordance with the provisions of this Section 23. Failure to comply strictly with the terms of this provision shall not be held against the Party claiming to have given notice so long as such Party substantially complied with this provision and can demonstrate that the notice in question was received.

24. **Waiver.** The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.

25. **Remedies Cumulative.** No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law or in equity or by statute provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

26. **Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.

27. **Choice of Law.** This Lease shall be construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of law principles.

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

29. **Counterparts.** This Lease may be executed in any number of counterparts, which shall together constitute one and the same agreement. Each Party consents to the admission in evidence of a facsimile or photocopy of this Lease in any court or arbitration proceedings between the Parties.

30. **Entire Lease.** This Lease, including the Cover Sheet and all Exhibits, represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and therein and supersede all prior written or oral negotiations, representations, communications and agreements between said parties with respect to said subject matter. This Lease may be amended only in writing signed by both Lessee and Lessor or their respective successors in interest. Lessor and Lessee each acknowledge that in executing this Lease that party has not relied on any verbal or written understanding, promise, or representation which does not appear in this document.

31. **Further Assurances.** Upon the receipt of a request from the other Party or a Financing Party, each Party shall execute such commercially reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof, including at the requesting Party's expense, entering into any consents, assignments, affidavits, estoppels and other documents as may be reasonably required by such Party's lender to create, perfect or preserve its collateral interest in such Party's property or such party's rights and obligations under this Lease. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.

32. **Dispute Resolution.** In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Lease, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, within a reasonable time after the claim, dispute or other matter in question has arisen, pursue all available legal and/or equitable remedies.

33. **Force Majeure.** Except as otherwise specifically provided in the Lease, neither Party shall be considered in breach of the Lease or liable for any delay or failure to comply with the Lease (other than the failure to pay amounts due hereunder), 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 under this Section 33 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. If a Force Majeure Event shall have occurred that has prevented either Party from performing any of its material obligations hereunder and that has continued for a continuous period of one hundred twenty (120) days, then either Party shall have the right, but not the obligation, to terminate the Lease upon ninety (90) days' prior notice to the other Party without penalty or further liability. If at the end of such ninety (90) day period such Force Majeure Event shall still continue and the material obligation has not been able to be resumed to the reasonable satisfaction of the affected Party, the Lease shall terminate. Upon such termination due to a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination or those which expressly survive the termination or expiration of the Lease pursuant to the terms hereof). If, at the end of such ninety (90) day period such Force Majeure Event is no longer continuing, the Lease shall remain in full force and effect, and the Party's termination notice shall be deemed to have been withdrawn. Rent shall abate for any period during which Lessee is not able to operate the System in the manner contemplated herein.

34. **Attorney's Fees.** In the event there is a lawsuit, action, or proceeding between Lessee and Lessor, which arises from or concerns this Lease, whether that lawsuit, action, or proceeding involves causes of action in contract or in tort, at law or in equity, the substantially prevailing party shall be entitled to recover all costs and expenses, including its reasonable attorneys' and expert or consultants' fees and court costs, in such lawsuit, action or proceeding.

35. **Notice of Lease.** Lessor agrees to cooperate with Lessee, or Lessee's assignee, in executing any documents necessary to protect Lessee's rights or Lessee's assignee's rights in or use of the Premises. A Notice of Option and Notice of Lease in substantially the form attached hereto as Exhibit F may be recorded in place of this Lease by Lessee or by Lessee's assignee.

36. **No Brokers.** Lessor and Lessee hereby represent and warrant to the other that no real estate broker or agent is entitled to a commission in connection with this Lease. In the event any broker or other party claims a commission, the party responsible for the contact with that claimant shall indemnify, defend and hold the other party harmless from that claim, including, without limitation, the payment of any attorneys' fees and costs incurred.

37. **Interpretation.** This Lease shall not be construed against the Person or entity preparing it, but shall be construed as if all of the parties jointly prepared this Lease without any uncertainty or ambiguity being interpreted against any one of them.

39. **No Partnership.** This Lease is not intended and shall not be construed to create any partnership or joint venture or any other relationship other than one of 'lessor' and 'lessee', and neither Party shall be deemed the agent of the other Party nor have the authority to act as agent for the other Party.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year set forth on the *Effective Date*, set forth on the Cover Sheet.

LESSOR:

Kingsbury Club Medfield, INC

By: 

Name: Robert Janjigian

Title: President

Date: 03/21/19

By: 

Name: Armand Janjigian

Title: Treasurer

Date: 03/21/19

LESSEE:

Sunspire Solar LLC

By: 

Name: John Porter

Title: Manager

Date: 3/20/19

[SIGNATURE PAGE TO OPTION AND LEASE AGREEMENT]

COVER SHEET

OPTION AND LEASE AGREEMENT

Effective Date	Thursday, March 21, 2019	
Lease Commencement Date ¹		
Lessor	Kingsbury Club Medfield, INC	
Lessee	Sunspire Solar LLC	
Property address	2 Ice House Road, Medfield, MA, 02052	
Premises	The Premises consists of approximately 53,000 square feet of roof space located at the Property controlled by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052. The Property is more particularly described in Exhibit A attached hereto.	
Option Term	540 Days	
Option Expiration	September 11, 2020	
Rent	Annual rent shall be determined in accordance with Section 4 and Exhibit G.	
Lease Term	Twenty (20) years subject to extension per Section 6.	
Expiration Date ²		
Extension Exercise Notice Deadline ³		
Addresses for Notices	Lessee: Sunspire Solar LLC PO Box 1673 Andover, MA 01810 Attn: John Porter	Lessor: Kingsbury Club Medfield, INC 2 Ice House Road Medfield, MA, 02052 Attn: Robert Janjigian

¹ Parties agree to write in once Exercise Notice is delivered.

² Parties agree to write in once Exercise Notice is delivered.

³ Parties agree to write in once Extension Exercise Notice is delivered.

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement ("**Lease**") is dated as of the Effective Date and is entered into by and between Lessor and Lessee (each a "**Party**" and together, the "**Parties**").

A. The approximately 53,000 square feet of roof space including access rights and Easements necessary to access the roof space ("**Premises**") located on the buildings owned by Lessor and commonly known as 2 Ice House Road, Medfield, MA, 02052 ("**Property**") situated on land owned by the Town of Medfield and leased to Lessor under that Ground Lease dated September 1, 2007, all of which is more particularly described in the attached Exhibit A.

B. Lessee desires to obtain the exclusive right to occupy the Premises subject to the Concurrent Use as set forth herein and to enjoy all the rights necessary for Lessee to occupy, develop, design, engineer, access, construct, monitor, install, own, maintain and operate the System to be located upon, on and within the Premises as well as all the rights necessary or desirable for Lessee to sell the energy generated by such System and any and all other credits, solar renewable energy credits, and any other environmental financial attributes created as a result of such energy generation.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is acknowledged, and intending to be legally bound hereby, Lessee and Lessor hereby agree to the foregoing recitals and as follows:

1. Definitions. Capitalized terms not otherwise defined in this Lease or on the Cover Sheet have the meanings assigned to them in Exhibit C.

2. Option to Lease the Premises.

(a) Grant of Option. Lessor hereby grants to Lessee an option to Lease the Premises on the terms and conditions set forth in this Lease (the "**Option**").

(b) Time and Manner of Exercise of the Option. The Option shall be for an initial term of Five Hundred Forty (540) days after the Effective Date (as it may be extended, the "**Option Term**"). The Option Term may be extended by Lessee for an additional Five Hundred Forty (540) days upon notice to Lessor at any time prior to the end of the initial Option Term.

(c) Grant of Access License. Commencing on the Effective Date and throughout the Option Term, Lessor grants to Lessee and any Lessee Party, an irrevocable, exclusive license ("**License**") to enter upon the Property at any time and from time to time to conduct, at Lessee's expense, such tests, inspections, surveys and investigations ("**Tests**") as Lessee deems reasonably necessary or appropriate to evaluate the suitability of the Premises for the uses contemplated under this Lease provided said access does not materially interfere with Lessor's and/or lessor's agents, invitees and guests use of the Property. During the Option Term, no Lessee Party shall place, or permit to be placed, or use, or permit to be used, any permanent improvements or structures on the Premises. If Lessee does not exercise the Option within the Option Term, Lessee shall, at Lessee's sole cost and expense, promptly remove any and all liens, improvements, personal property, equipment, goods, and other property, and all trash, debris, and other refuse from the Premises that is the result of such Tests, and shall have no other rights in and to the Premises or Property and shall return the Property and/or Premises to their former condition, reasonable wear and tear excepted. Lessee agrees to act expeditiously to complete the Tests and other due diligence during the Option Term.

(d) Lessor Cooperation. Lessor shall cooperate, at no additional cost to the Lessor, with (i) the performance of Tests, (ii) the obtaining by Lessee, at Lessee's sole cost and expense, of all licenses and Permits or authorizations required for Lessee's use of the Premises from all applicable government and/or regulatory

entities (collectively, "**Governmental Approvals**") and (iii) the securing by Lessee at Lessee's expense of all other leases, agreements, licenses and Permits or authorizations that relate to the Property or Premises. Lessor agrees to use reasonable efforts in assisting Lessee to acquire necessary utility service at the Premises but it shall be the sole cost and expense of Lessee for any hook-up or tie-in to any utility services currently servicing the Property or otherwise. In the event that a utility company requires an easement in connection with Lessee's use of the Premises, Lessor shall use reasonable efforts in obtaining such necessary easement(s) from the Town of Medfield to the utility company, provided that such easement is in a commercially reasonable and recordable form, understanding that Lessor's title to the Property is a leasehold interest and not a fee simple interest therefore any and all easements, rights, restrictions, encumbrances, liens etc. shall require the Town of Medfield's approval of which Lessor agrees to reasonably pursue when requested by the Lessee.

3. **Exercise of Option; Leased Premises and Related Rights.**

(a) In order to exercise the Option, Lessee must deliver to Lessor a notice of exercise (the "**Exercise Notice**"), accompanied by the first Rent payment, prior to the expiration of the Option Term. The date of the Exercise Notice shall be the commencement of the Lease Term (the "**Lease Commencement Date**"). Subject to receipt of the Exercise Notice and first Rent payment, Lessor hereby leases the Premises to Lessee to occupy, develop, design, engineer, construct, access, monitor, install, own, operate and maintain the System for the generation and distribution of electrical power. Lessor hereby also grants to Lessee and the applicable utility company, at all times on a 24-hours-a-day, 7-days-a-week basis, for any purposes reasonably connected with this Lease for a period co-terminus with the Lease, an easement which is irrevocable during the Lease Term for access, ingress, egress, utilities and related rights to the Premises and/or any surrounding or nearby property owned or leased by Lessor, passage through which is necessary or convenient to install, operate or gain access to the System or the Premises (the "**Easements**"). The Easements are generally depicted on Exhibit A attached hereto and incorporated herein. In the event that Lessee or the utility company desires to make such Easements a public record, Lessee shall require the Town of Medfield and Lessor's approval of the same. Only upon approval from the Town of Medfield and Lessor may the Lessee record in the office where real estate records are customarily filed in the jurisdiction of the Premises.

(b) Lessee shall have the right to install utilities on the Property, at Lessee's sole cost and expense, and at locations to be mutually agreed to by Lessee and Lessor to improve the present utilities on the Property (including, but not limited to, the installation of battery storage systems, transformers, switchgear and utility poles).

4. **Rents.** Lessee shall pay the Rent (in accordance with Exhibit G) to Lessor for rental of the Premises ("**Rent**") which shall be due annually beginning on the Lease Commencement Date and on every one (1) year anniversary thereof during the Lease Term. In the event this Lease is terminated by Lessee in accordance with this Lease prior to the Expiration Date, Lessor shall refund to Lessee the pre-paid but unearned annual Rent (pro-rated on a daily basis) within thirty (30) days after Lessee removes the System pursuant to the terms of Section 5. Lessor, its successors, assigns and/or designee, if any, shall submit to Lessee any documents reasonably required by Lessee in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

5. **Term and Termination; Removal.**

(a) The Lease Term shall commence on the Lease Commencement Date and terminate on the Expiration Date, as it may be extended pursuant to the terms herein.

(b) If this Lease expires in accordance with Section 5(a) or is terminated by Lessee in accordance with the terms herein, Lessee shall complete the removal of the System and repair of any damage caused to the Premises by the installation or removal of the System on or before the Removal and Restoration Date leaving the Premises and/or Property in the same condition they were in prior to the installation of the System, reasonable wear and tear excepted. The removal and restoration shall be at Lessee's sole cost and expense. In

connection with such removal and restoration, Lessor shall continue to provide Lessee and its Affiliates and subcontractors with reasonable access to the Premises until the Removal and Restoration Date so long as Lessee and/or its Affiliates and subcontractors do not materially interfere with Lessor's use of the Property and/or Premises.

(c) **Removal of System at Expiration/Termination.** In the event Lessee fails to complete the removal of the System and restoration of the Premises by the Removal and Restoration Date, Lessor may provide notice to Lessee stating that Lessee has failed to remove the System (the "*Abandonment Notice*"). If Lessee fails to remove the System within sixty (60) days after receipt of the Abandonment Notice, Lessor shall have the right, at its option, in its sole discretion, to cause the removal of the System by a qualified contractor and the restoration of the Premises in accordance with Section 5(b), said removal shall be at Lessee's sole cost and expense and in addition to any other rights and/or remedies provided to Lessor herein or by operation of law.

6. **Extension Option.** Lessee may extend the Lease Term for two (2) additional and successive periods of five (5) years (each an "*Extension Option*"), at an annual rental rate equal to that during the initial Lease Term, beginning on the day following the expiration of the then-current Term (each an "*Extension Term*"), by giving notice (the "*Extension Exercise Notice*") to Lessor not less than one hundred eighty (180) days prior to the Expiration Date.

7. **System Construction; Lessor Acknowledgment.**

(a) Prior to commencement of construction of the System by Lessee, Lessee shall obtain the necessary Permits. Throughout the Lease Term, Lessee shall have the right to clean, repair, replace and dispose of part or all of the System as Lessee in its discretion determines to be reasonably necessary provided the same does not enlarge the Premises or unreasonably interfere with Lessor's use of the Property. Lessor acknowledges and understands that the System shall consist of a solar photovoltaic electric generating system, designed to produce electricity and deliver such electricity to the electric interconnection point, including without limitation all of the following: installation equipment; generation facilities, including inverters, fuses, transformers, wiring and output breakers; facilities necessary to connect to the electric interconnection point; protective and associated equipment; and other improvements reasonably necessary for the construction, operation, monitoring and maintenance of the system. Lessee acknowledges that Lessor is undertaking construction on the Property and may need access to the Premises for the same. This shall not constitute a violation of the terms of the Lease provided Lessor does not materially interfere with Lessee's rights and access to the Premises as set forth herein, including those of Section 12(d) below. The Parties acknowledge that the impact of construction is of particular concern to Lessee after the System is operational.

(b) The Parties acknowledge that the Lessee shall be solely responsible for and shall promptly repair any damage to the roof of the Premises that is caused by the installation, repair and/or maintenance of the Systems on the Premises. Any such repair work shall be performed promptly and at Lessee's sole cost and expense by a reputable subcontractor, selected by Lessee (and reasonably acceptable to Lessor via Lessor's prior written approval). Lessor shall not delay or interfere with such repair, rehabilitation and/or replacement work and Lessor shall cooperate with Lessee in the obtaining of all applicable Permits required for any such repair work. Subject to Lessee's prior receipt of any current roof warranty relating to the Premises, any and all installation and construction work performed on the Premises by Lessee with respect to the Systems shall be conducted in a manner that will comply with and preserve any current or future roof warranty relating to the Premises. Said repair and/or maintenance work shall not unreasonably interfere with Lessor's use of the Property.

(c) Except as provided in Section 7(b), the Parties agree and acknowledge that Lessor shall be responsible for the repair and maintenance of the roof of the Building, including that portion of the roof located within the Premises, at the sole cost and expense of Lessor. The Parties further agree and acknowledge that during the Term, Lessor shall be afforded up to an aggregate of sixty (60) days (the "*Aggregate Repair Time*"), provided that no single such disruption is more than thirty (30) days (each an "*Individual Repair Time*"), during which the Lessor may repair or perform incidental maintenance on the roof of the Building and during which all or a portion

of the Systems may be removed or rendered non-operational as may be required in order for Lessor to complete such roof repair or maintenance. In the event the System or a portion thereof must be removed to allow Lessor to complete such roof repair or maintenance, Lessor shall provide Lessee with written notice and Lessee shall remove the portion of the System within fifteen (15) business days of receipt of such notice. Lessor shall reimburse or pay Lessee for any work reasonably required by Lessee to disassemble or move any portion of the Systems for roof repairs and replacement work undertaken by Lessee during any such repair or maintenance of the roof of the Building. Lessor shall not be required to reimburse Lessee for any other lost revenue during the Aggregate Repair Time or Individual Repair Time, including any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period nor shall there be any rent abatement. In the event that the Lessor requires more aggregate time beyond the Aggregate Repair Time or more time beyond the Individual Repair Time in connection with any single repair or maintenance of the roof of the Building, Lessor shall be required to reimburse Lessee for any lost revenue associated with any reduced sales of energy or Environmental Attributes and Incentives during each such time period within thirty (30) days after Lessee provides to Lessor invoices and reasonable back-up data evidencing the lost revenue.

(d) Except as may otherwise be specifically agreed upon by the Parties or as expressly set forth herein, Lessee shall be responsible for all costs of design, permitting, construction, installation, operation, maintenance and removal of the System. Lessee shall maintain the System in good working order at its sole cost and expense. Lessor shall maintain the Property and Premises in good repair at its sole cost and expense. In the event of an emergency condition involving the System that poses an immediate threat of harm to individuals or the environment, Lessee shall take immediate action to cure the condition. If Lessee is unable to do so, Lessor shall be entitled to take actions reasonably necessary to remove the immediate threat of harm.

8. Access to Premises.

(a) Commencing on the Effective Date and throughout the Option Term and Lease Term, Lessee shall have the right to enter upon the Property to perform all effort and labor necessary to carry out Tests, design, engineer, construct, install, inspect, test, operate, upgrade, repair and maintain the System on the Premises provided said access does not unreasonably interfere with Lessor's use of the Property. The Parties agree to the Temporary Construction Area designated in Exhibit B as space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling, and including a temporary, reasonable area for construction laydown. Changes to the Temporary Construction Area may be reasonably designated by Lessor from time to time. Lessor and its authorized representatives shall at all times have access to and the right to observe the installation of the System, subject to compliance with Lessee's safety rules and Applicable Laws, and subject at all times to the sole and absolute discretion of Lessee's construction manager; provided, however, that Lessor shall not interfere with the installation of the System or enter onto, move, adjust, alter, tamper with or otherwise handle any Lessee equipment or any component of the System.

(b) Lessee and Lessee Parties shall at all times conduct themselves in a professional manner at the Premises and shall observe the reasonable requests of Lessor. Lessee shall use reasonable care in entering and exiting the Premises, and in its storage of equipment and materials at the Premises or Property. All equipment and materials stored at the Premises or Property shall be insured, as is required herein, and stored at the sole risk of loss by the Lessee.

9. Statutory and Regulatory Compliance. Lessee, Lessee Parties, Lessor and the Lessor Parties shall, pursuant to the terms set forth herein, each comply with all applicable provisions of all Applicable Laws of the locality in which the Property is located.

10. Lessee's Ownership of System and Output. The System is personal property, whether or not the same is deemed real or personal property under Applicable Law, and shall not attach to or be deemed a part

of, or a fixture to, the Premises or Property. Lessee shall be the legal and beneficial owner of the System at all times and Lessor shall have no right, title or interest in the System or any component thereof, notwithstanding that any such System may be physically mounted or adhered to the Premises or Property. Lessor covenants that it will use commercially reasonable efforts to place all parties having an interest in or lien upon the Property on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Property or Premises, which could reasonably be construed as attaching to the System as a fixture of the Property or Premises, Lessor shall use reasonable efforts to provide a disclaimer or release from such lien holder, any expense or cost thereof shall be borne by the Lessee. Lessor consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the System as a fixture of the Property or Premises in the office where real estate records are customarily filed in the jurisdiction of the Property, provided the same has been approved in advance by both the Town of Medfield and Lessor's current lien holder. Further, Lessor acknowledges and agrees that Lessee is the exclusive owner of all electricity and all utility credits generated by the System and owner of all Environmental Attributes and Incentives attributable to the System. In the absence of an additional agreement to the contrary, all electricity generated by the System will be connected to the distribution grid and sold by Lessee to third parties. Electricity generated will not be available to Lessor or any other occupant at the Property. Without the express consent of Lessee, Lessor shall not make or publish any public statement or notice regarding any Environmental Attribute or Incentive relating to the System or the electricity generated by the System. The Parties acknowledge and agree that the System shall not be considered an electric public utility, an investor owned utility, a municipal utility, or a merchant power plant otherwise known as an exempt wholesale generator.

11. **Representation and Warranties of the Parties as to Authorization and Enforceability**

Each Party represents and warrants that the execution and delivery by such Party of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other Person, and do not contravene any provision of, or constitute a default under any indenture, mortgage or other material agreement binding on such Party or any valid order of any court, or regulatory agency or other body having authority to which such Party is subject. This Lease constitutes a legal and valid obligation of such Party, enforceable against it in accordance with its terms, except as may be limited by a Bankruptcy Event, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity where such enforceability is considered in a proceeding in equity or at law.

12. **Representations, Warranties and Covenants of the Lessor**

(a) **Lessor's Title to Premises.** Lessor represents, warrants and covenants that Lessor has a lawful long-term leasehold interest in the Property, including the Premises, under that ground lease dated September 1, 2007 between Lessor and the Town of Medfield ("Ground Lease"), and that Lessee shall have quiet and peaceful possession of the Premises free from any claim of any entity or Person of superior title thereto and without hindrance to or interference with or molestation of Lessee's quiet enjoyment thereof, throughout the Lease Term. Lessor shall secure all approvals necessary under the terms of the Ground Lease from the Town of Medfield for this Agreement and the purposes included herein. If Lessor sells, leases, assigns, mortgages, pledges or otherwise encumbers the Property, Lessor shall provide notice thereof to Lessee within thirty (30) days, which notice shall identify the transferee, the area of the Property so transferred and the date of the transfer. Lessor agrees that this Lease and the Easements granted in this Lease shall run with the Property and survive any transfer of all or any portion of the Property. In furtherance of the foregoing, Lessor shall cause any purchaser, lessee, assignee, mortgagee, pledge, secured party or party to whom a lien on the Premises or Property has been granted to execute and deliver to Lessee a commercially reasonable document pursuant to which such party acknowledges and consents to the Lessee's rights in the Premises as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the System, or any work related to such System, and shall not gain any interest in the System by virtue of the Lessor's transfer.

(b) No Interference With and Protection of System. Lessor will not conduct activities on, in or about the Property or Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or operation thereof. Lessor shall take all reasonable actions to limit access to the Premises to Lessee and Lessee Parties. The System shall be operated, maintained and repaired by Lessee at its sole cost and expense; provided, that any repair or maintenance costs incurred by Lessee as a result of Lessor's gross negligence, willful misconduct or uncured breach of its obligations hereunder shall be promptly reimbursed to Lessee by Lessor.

(c) Non-Disturbance Agreements. Lessee shall prepare, at Lessee's sole cost and expense and Lessor shall obtain a non-disturbance agreement ("NDA") in favor of Lessee from any third party who now has or may in the future obtain an interest in the Property or Premises, including, without limitation, any lenders to Lessor, which NDA shall: (i) acknowledge and consent to the Lessee's rights to the Premises and the System under this Lease; (ii) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties' performance or breach of this Lease; (iii) acknowledge that the third party's interest in the Premises (if any) is subject to Lessee's interest under this Lease; (iv) waives any lien the third party may have in and to the System; and (v) agrees not to disturb Lessee's possession of the Premises, provided there is no uncured breach by Lessee under the terms herein.

(d) Insolation. Lessor acknowledges and agrees that access to sunlight ("insolation") is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Accordingly, Lessor shall not permit any material interference with insolation on and at the Premises. Without limiting the foregoing, Lessor shall not construct or permit to be constructed any structure on or adjacent to the Premises or on any adjacent property owned by any Affiliate of Lessor that would create or cause shade on all or a part of the System, permit the growth of foliage that could adversely affect insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to insolation. If Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Premises, Lessor shall promptly advise Lessee of such information and reasonably cooperate with Lessee in taking measures to preserve average levels of insolation at the Premises as they existed as of the Lease Commencement Date insofar as the same is within Lessor's reasonable control. Such measures may include, but not be limited to, obtaining a solar access easement. In the event any such obstruction occurs and is not removed within a reasonable amount of time given the nature of the obstruction, Lessee shall have the right to terminate this Lease without penalty or further liability, upon notice to Lessor. Notwithstanding any other provision of this Lease, the Parties agree that (i) Lessee would be irreparably harmed by a breach of the provisions of this Section 12(d), (ii) termination of the Lease might be inadequate to remedy such a breach, and (iii) Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 12(d). Lessor further represents and warrants that, to the best of its knowledge, there are no developments pending or in progress on adjacent or nearby properties that could diminish the insolation to the Premises.

(e) Hazardous Substances. Lessor represents and warrants that to the best of Lessor's knowledge and belief, without independent investigation, there are no Hazardous Substances present on, in or under the Property or Premises in violation of any Applicable Law.

(f) Condition of Premises. Except as otherwise expressly set forth herein Lessee accepts the Premises "as is" without benefit of any improvements or modifications to be made by Lessor.

(g) Notice of Damage or Emergency. Lessor shall immediately notify Lessee if Lessor becomes aware, through discovery or receipt of notice: (i) of any damage to or loss of the use of the System; (ii) of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises; or (iii) of any interruption or material alteration of the energy supply to or from the Premises or the System.

(h) Liens. Lessor 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 on or with respect to the System or any interest therein. Lessor shall provide Lessee with notice if it receives notice of any such claims. Lessor further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the System and to indemnify, defend and hold harmless Lessee from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessee's reasonable attorneys' fees and actual court costs. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof.

(i) Representations Regarding Security Interest in System. Lessor has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected personal property security interest under the Uniform Commercial Code (the "Security Interest") in the System to one or more Financing Parties and Lessor hereby consents to such Security Interest. In connection therewith, Lessor represents and warrants as follows: (i) the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Property or Premises; (ii) there is no existing lease, mortgage, security interest or other interest in or lien upon the Property or Premises that could attach to the System as an interest adverse to or senior to Lessee's Financing Parties' Security Interest therein; and (iii) there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under the Lease.

(j) Concurrent Use. Any concurrent use of the Premises by Lessor or any third parties during the Term shall not unreasonably interfere with Lessee's rights granted herein.

(k) Utilities. At Lessee's request, Lessor shall provide, at no additional cost to Lessor, or cooperate with the provision of electric current and water to the perimeter of the Premises; provided, however, separate meters for such utilities shall be installed at Lessee's expense and Lessee shall be responsible for all utility expenses. Lessee shall be solely responsible for the payment and expense of any hookup or extension of existing utilities. Lessor makes no representation as to the availability of said utilities to the Premises.

13. Representations, Warranties and Covenants of Lessee.

(a) Regulatory Status. Lessee represents and warrants that it is not an electric public utility, investor owned utility, a municipal utility, a merchant power plant or electrical corporation as defined under the laws of the Commonwealth of Massachusetts.

(b) Liens. Except for the Financing Party's Security Interest in or ownership of Lessee's interest in this Lease, Lessee's personal property or the System, Lessee 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 on or with respect to the Premises and agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Premises, to the extent that such encumbrance or interest arises from or is related to Lessee's performance or non-performance of its obligations hereunder. Lessee shall provide Lessor with notice if it receives notice of any such claims. Lessee further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to the Property and to indemnify, defend and hold harmless Lessor from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessor's reasonable attorneys' fees and actual court costs. Lessee waives any and all lien rights it may have, statutory or otherwise, concerning the Property or any portion thereof except for the System.

14. **Hazardous Substances.** Neither Party shall introduce or use any Hazardous Substances on, in or under the Premises or Property in violation of any Applicable Law. If a Party becomes aware of any such Hazardous Substances, it shall promptly notify the other Party of the type and location of such Hazardous Substances in writing. Each Party agrees to indemnify, defend and hold harmless the other Party from and against any and all Environmental Claims including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that such Parties may suffer or incur due to any actions, that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any Applicable Law, all spills or other releases of any Hazardous Substance not caused by Lessee, that have occurred or which may occur on the Property of which Lessor has actual knowledge. Lessor agrees to indemnify, defend and hold Lessee harmless from Environmental Claims resulting from actions on the Property not caused by Lessee. This Section 14 shall survive the termination or expiration of this Lease.

15. **Maintenance.** Throughout the Lease Term, any Extension Term and through the Removal and Restoration Date, Lessee shall have the right: (i) to add to, remove or modify the System or any part thereof, and (ii) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Lessee, to carry out the activities set forth in this Lease, including, but not limited to, the right to clean, repair, replace and dispose of all or a part of the System as Lessee in its sole discretion determines to be reasonably necessary, without prior notice to or consent of Lessor, and all at the sole cost and expense of Lessee. Lessee, at its expense, may use any and all appropriate means of restricting access to the System and Premises.

16. **Insurance.**

(a) **Generally.** Lessor and Lessee shall each maintain the insurance coverages set forth in Exhibit D in full force and effect throughout the Lease Term either through insurance policies, or self-insured programs reasonably acceptable to the other Party. Each Party, upon request, but not more than twice in any twelve (12) month period, shall furnish current certificates evidencing that the coverage required is being maintained.

(b) **Waiver of Subrogation.** Each Party hereby waives any right of recovery against the other for injury or loss to personal property due to hazards covered by insurance obtained with respect to the Property or Premises, including the improvements and installations thereon.

(c) **System Loss.** In the event of any harm to the System that, in the reasonable judgment of Lessee, results in total damage, destruction or loss of the System ("**System Loss**"), Lessee shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Lessor whether Lessee is willing, notwithstanding such System Loss, to repair or replace the System and to continue the Lease. In the event that Lessee notifies Lessor that Lessee is not willing to repair or replace the System, the Lease will terminate automatically effective upon the date of such System Loss, and Lessee shall be entitled to all proceeds of its insurance policies with respect to the System Loss and Lessor shall promptly return to Lessee any prepaid but unearned rent and Lessee shall remove any and all remaining aspects of the System and restore the Premises pursuant to the terms of the Removal and Restoration Date.

17. **Taxes.** Lessee shall pay any real estate or personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority which are directly attributable to Lessee's occupancy and use of the Premises (or any portion or component thereof, including, but not limited to the System) and ownership of the System. Lessor shall pay, when due, all (i) real and personal property taxes relating to the Property which are not the responsibility of Lessee hereunder, (ii) inheritance or estate taxes imposed upon or assessed against the Property, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Lessor or the owner of any interest therein, and (iv) taxes, fees, service payments,

excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof, other than those attributable to Lessee, as specified herein. In the event that Lessor fails to pay any such taxes or other fees and assessments for which it is responsible under this Lease, Lessee shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. In the event Lessee fails to pay any uncontested taxes or other fees and assessments for which it is responsible under this Lease, Lessor shall have the right, but not the obligation, to pay such owed amounts and bill the Lessee for the same, which shall be due ten (10) days thereafter. If Lessor receives notice of any personal property or real property tax assessment against Lessor, which may affect Lessee and is directly attributable to Lessee's installation, Lessor shall provide notice of the assessment to Lessee. Should Lessee determine, in its reasonable and good faith discretion, that they will challenge such assessment, whether in a court, administrative proceeding, or other venue, on behalf of Lessor and/or Lessee, Lessee shall not be in default for the failure to timely pay said taxes or assessments provided Lessee is diligently pursuing said challenge or abatement, in their sole cost and expense. Further, Lessor shall provide to Lessee any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 17, at no additional cost to the Lessor.

18. **Liability and Indemnity.**

(a) Each Party as indemnitor shall indemnify, defend, and hold harmless the other Party and its Affiliates against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property arising out of or in connection with the negligent acts or omissions or willful misconduct of the indemnitor or a breach of any obligation of the indemnitor under this Lease, except to the extent caused by the negligent acts or omissions or willful misconduct of the indemnified party.

(b) Lessee shall not be responsible to Lessor or any third party, for any claims, costs or damages, including fines or penalties, attributable to any pre-existing violations of Applicable Laws by any party other than Lessee. This Section 18 shall survive the termination of this Lease.

19. **Casualty.** If no more than thirty-five percent (35%) of the Property, Building, Premises, and/or parking areas are destroyed from fire or any other cause (a "Partial Casualty") and such damage or destruction renders all or a portion of the Premises inaccessible, unusable or impractical as determined by Lessee in Lessee's sole and absolute discretion, Lessor shall promptly restore the Property, Building, Premises and/or parking areas to substantially the same condition as they were in immediately before the destruction within one hundred eighty (180) days after the date of such partial destruction. Rent shall be abated for the portion of the System which was rendered inoperable due to the Partial Casualty. Lessor shall not be required to make any repairs or restorations that are prohibited by law and Lessor shall not be liable for any inconvenience or annoyance to Lessee or its visitors. Lessee shall be entitled to all proceeds of its insurance policies with respect to the System and Lessor shall promptly return to Lessee any prepaid but unearned rent.

19.1 If more than thirty five percent (35%) of the Property, Building, Premises and/or parking areas are destroyed from fire or any cause (a "Full Casualty"), such damage shall be deemed a complete destruction for purposes of this Lease. In such event, Lessor shall, within sixty (60) days after the date of the casualty, commence its reconstruction and shall complete reconstruction no later than three hundred sixty five (365) days from the date of casualty.

(a) Lessor and Lessee shall each have the right to terminate this Lease upon thirty (30) days written notice to the other party if Lessor's contractor's commercially reasonable estimate of time needed for reconstruction will exceed three hundred sixty five (365) days from the date of the Full Casualty. Lessor shall promptly return to Lessee any prepaid but unearned rent;

(b) Rent shall be fully abated during the period beginning on the date of the Full Casualty and ending on the date of completion of Lessor's restoration obligations as provided in this Section 19.1.

19.2. Notwithstanding any other provision of this Section 19 to the contrary, if any portion of the Property, Premises, Building, and/or parking areas are destroyed or damaged by a fire or other casualty during the last three (3) months of the Lease Term, Lessor and Lessee shall each have the option to terminate this Lease at the end of such year by giving written notice to the other party within thirty (30) business days of the date of the casualty of its intent to terminate at the end of such year.

19.3. If Lessor or Lessee elects to terminate under this Section 19 in connection with a casualty, Lessee shall pay Rent and all personal tangible property taxes apportioned up to the date of the casualty and Lessor shall return to Lessee any prepaid but unearned rent. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

20. **Condemnation.** In the event the Premises or Property are transferred to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Lessee's determination to render the Premises unsuitable for Lessee's use or to negatively impact the access to the Premises, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice to Lessor. Sale to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation. In the event of an award related to eminent domain or condemnation of all or part of the Premises, each Party shall be entitled to take from such an award that portion as allowed by law for its respective property interest appropriated as well as any damages suffered thereby.

21. **Assignment.** Lessee shall not assign any of its rights, duties or obligations under this Lease without the prior consent of Lessor and the Town of Medfield, which consent shall not be unreasonably withheld, conditioned or delayed. Lessor agrees to execute any consent, novation or other documentation that Lessee may request in connection with any assignment permitted by this Section 21, including without limitation entering into a consent to assignment agreement with Lessee's Financing Party substantially in the form attached hereto as Exhibit E to facilitate financing of the System. An assignment by either Party in accordance with this Section 21 shall relieve the assignor of its obligations hereunder, except with respect to undisputed payments due by the assignor as of the effective date of the assignment, which obligations shall be performed by assignor or assignee as a condition precedent to such assignment.

22. **Defaults and Remedies.**

(a) **Default.** If a Party (the "***Defaulting Party***") fails to perform any non-monetary covenant or obligations hereunder or commits a material breach of this Lease (each an "***Event of Default***"), then it shall not be in default hereunder unless it fails to cure such Event of Default within thirty (30) Business Days after receiving notice from the other Party (the "***Non-Defaulting Party***") regarding the failure to perform such covenant or obligation set forth in this Lease or the material breach, stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "***Notice of Default***"); provided, however, that if the nature or extent of the obligation or obligations is such that more than thirty (30) Business Days are required to complete the cure, despite the exercise of commercially reasonable diligence, then the Defaulting Party shall not be in default if it commences such performance within such thirty (30) Business Day period and thereafter pursues the same to completion with commercially reasonable diligence.

(b) **Bankruptcy.** It shall also be an Event of Default by either Party if such Party becomes subject to a Bankruptcy Event.

(c) **Remedies.** If the Event of Default is not cured within the cure period provided for in this Lease, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including damages, specific performance and/or the right to terminate the Lease upon notice to the Defaulting Party without penalty or further liability, all of which remedies shall be cumulative.

23. **Notices.** All Notices under this Lease shall be made in writing to the Addresses and Persons specified on the Cover Sheet. Notices shall be delivered by hand delivery, regular overnight delivery service, sent by registered or certified mail, return receipt requested or email. Email notices shall require confirmation of receipt. Notices shall be deemed to have been received when delivered as shown on the records or manifest of such courier, delivery service or the U.S. Postal Service. Rejection or refusal to accept delivery of any notice shall be deemed to be the equivalent of receipt of any notice given hereunder. A Party may change its address by providing notice of the same in accordance with the provisions of this Section 23. Failure to comply strictly with the terms of this provision shall not be held against the Party claiming to have given notice so long as such Party substantially complied with this provision and can demonstrate that the notice in question was received.
24. **Waiver.** The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.
25. **Remedies Cumulative.** No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law or in equity or by statute provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.
26. **Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.
27. **Choice of Law.** This Lease shall be construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of law principles.
28. **Binding Effect.** This Lease and its rights, privileges, duties and obligations shall bind and inure to the benefit of and be binding upon each of the Parties hereto, together with their respective heirs, personal representatives, successors and permitted assigns.
29. **Counterparts.** This Lease may be executed in any number of counterparts, which shall together constitute one and the same agreement. Each Party consents to the admission in evidence of a facsimile or photocopy of this Lease in any court or arbitration proceedings between the Parties.
30. **Entire Lease.** This Lease, including the Cover Sheet and all Exhibits, represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and therein and supersedes all prior written or oral negotiations, representations, communications and agreements between said parties with respect to said subject matter. This Lease may be amended only in writing signed by both Lessee and Lessor or their respective successors in interest. Lessor and Lessee each acknowledge that in executing this Lease that party has not relied on any verbal or written understanding, promise, or representation which does not appear in this document.
31. **Further Assurances.** Upon the receipt of a request from the other Party or a Financing Party, each Party shall execute such commercially reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof, including at the requesting Party's expense, entering into any consents, assignments, affidavits, estoppels and other documents as may be reasonably required by such Party's lender to create, perfect or preserve its collateral interest in such Party's property or such party's rights and obligations under this Lease. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.
32. **Dispute Resolution.** In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Lease, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, within a reasonable time after the claim, dispute or other matter in question has arisen, pursue all available legal and/or equitable remedies.

33. **Force Majeure.** Except as otherwise specifically provided in the Lease, neither Party shall be considered in breach of the Lease or liable for any delay or failure to comply with the Lease (other than the failure to pay amounts due hereunder), 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 under this Section 33 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. If a Force Majeure Event shall have occurred that has prevented either Party from performing any of its material obligations hereunder and that has continued for a continuous period of one hundred twenty (120) days, then either Party shall have the right, but not the obligation, to terminate the Lease upon ninety (90) days' prior notice to the other Party without penalty or further liability. If at the end of such ninety (90) day period such Force Majeure Event shall still continue and the material obligation has not been able to be resumed to the reasonable satisfaction of the affected Party, the Lease shall terminate. Upon such termination due to a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination or those which expressly survive the termination or expiration of the Lease pursuant to the terms hereof). If, at the end of such ninety (90) day period such Force Majeure Event is no longer continuing, the Lease shall remain in full force and effect, and the Party's termination notice shall be deemed to have been withdrawn. Rent shall abate for any period during which Lessee is not able to operate the System in the manner contemplated herein.

34. **Attorney's Fees.** In the event there is a lawsuit, action, or proceeding between Lessee and Lessor, which arises from or concerns this Lease, whether that lawsuit, action, or proceeding involves causes of action in contract or in tort, at law or in equity, the substantially prevailing party shall be entitled to recover all costs and expenses, including its reasonable attorneys' and expert or consultants' fees and court costs, in such lawsuit, action or proceeding.

35. **Notice of Lease.** Lessor agrees to cooperate with Lessee, or Lessee's assignee, in executing any documents necessary to protect Lessee's rights or Lessee's assignee's rights in or use of the Premises. A Notice of Option and Notice of Lease in substantially the form attached hereto as Exhibit F may be recorded in place of this Lease by Lessee or by Lessee's assignee.

36. **No Brokers.** Lessor and Lessee hereby represent and warrant to the other that no real estate broker or agent is entitled to a commission in connection with this Lease. In the event any broker or other party claims a commission, the party responsible for the contact with that claimant shall indemnify, defend and hold the other party harmless from that claim, including, without limitation, the payment of any attorneys' fees and costs incurred.

37. **Interpretation.** This Lease shall not be construed against the Person or entity preparing it, but shall be construed as if all of the parties jointly prepared this Lease without any uncertainty or ambiguity being interpreted against any one of them.

39. **No Partnership.** This Lease is not intended and shall not be construed to create any partnership or joint venture or any other relationship other than one of 'lessor' and 'lessee', and neither Party shall be deemed the agent of the other Party nor have the authority to act as agent for the other Party.

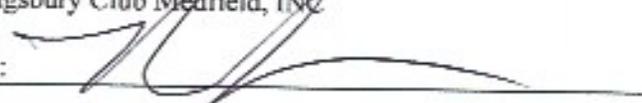
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IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year set forth on
the *Effective Date*, set forth on the Cover Sheet.



LESSOR:

Kingsbury Club Medfield, INC

By: 

Name: Robert Janjigian

Title: President

Date: 03/21/19

By: 

Name: Armand Janjigian

Title: Treasurer

Date: 03/21/19

LESSEE:

Sunspire Solar LLC

By: 

Name: John Porter

Title: Manager

Date: 3/28/19

[SIGNATURE PAGE TO OPTION AND LEASE AGREEMENT]



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division
 One Ashburton Place, 17th floor
 Boston, MA 02108-1512
 Telephone: (617) 727-9640

Certificate of Organization

(General Laws, Chapter)

Identification Number: 001394504

1. The exact name of the limited liability company is: 2 ICE HOUSE, LLC

2a. Location of its principal office:

No. and Street: 128 WARREN STREET
 City or Town: LOWELL State: MA Zip: 01201 Country: USA

2b. Street address of the office in the Commonwealth at which the records will be maintained:

No. and Street: 128 WARREN STREET
 City or Town: LOWELL State: MA Zip: 01201 Country: USA

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:
SOLAR PROJECT DEVELOPMENT

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: NORTHWEST REGISTERED AGENT SERVICE INC.
 No. and Street: 82 WENDELL AVE. STE 100
 City or Town: PITTSFIELD State: MA Zip: 01201 Country: USA

I, TOM GLOVER OF NORTHWEST REGISTERED AGENT SERVICE INC. resident agent of the above limited liability company, consent to my appointment as the resident agent of the above limited liability company pursuant to G. L. Chapter 156C Section 12.

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
SOC SIGNATORY	SUNSPIRE SOLAR, LLC	128 WARREN STREET LOWELL, MA 01852 USA

SOC SIGNATORY

ENERGY VENTURES GROUP, LLC

146 MAIN STREET
NORTH ANDOVER, MA 01845 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 25 Day of July, 2019,
MORGAN NOBLE

(The certificate must be signed by the person forming the LLC.)

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

July 25, 2019 10:06 AM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, prominent initial "W".

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

**2 Ice House, LLC,
a Massachusetts Limited Liability Company**

OPERATING AGREEMENT

Dated as of August 7, 2019

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Exhibits

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**SUNPSIRE SOLAR – ICE HOUSE, LLC
OPERATING AGREEMENT**

THIS OPERATING AGREEMENT of 2 Ice House, LLC (the “**Company**”), dated as of August 7, 2019 (the “**Effective Date**”), is made and entered into by and among Energy Ventures Group, LLC, a Delaware limited liability company (“**EVG**”), NRGTree LLC, a Massachusetts limited liability company (“**NRG**”) and Sunspire Solar, LLC, a Delaware limited liability company (“**SSL**”).

RECITALS

A. On or prior to the Effective Date, SSL has contributed to those certain assets, including the Project Assets (as defined below) listed on Exhibit A related to the development of 1951.38 kilowatts DC of solar photovoltaic facilities (each a “**Project**” and collectively the “**Projects**”) to be located at 2 Ice House Road in Medfield, Massachusetts (the “**Site**”).

B. SSL desires to admit EVG and NRG as Members in the Company, and EVG and NRG desire to be admitted to the Company as a Members, on the terms and conditions as set forth herein.

C. In connection with the foregoing, the parties hereto desire to enter into this Agreement to reflect the issuance of the Class B Units to EVG and NRG, and the issuance of the Class A Units to SSL, and to further set forth the respective rights and obligations of the Members with respect to the Company.

NOW, THEREFORE, in consideration of the premises and the mutual undertakings contained herein, the parties hereto hereby agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 Certain Definitions. The following initially capitalized terms, as and when used in this Agreement, shall have the meanings set forth below:

“**Act**” means the Massachusetts Limited Liability Company Act, as amended from time to time, and any successor to such statutes.

“**Actual Class B Capital Contribution**” means the total amount of capital funded by Class B members and actually drawn by the Company, plus any EVG Value-Added Payments that have not been taken as cash payments pursuant to the terms of Section 5.3(a).

“**Additional Class B Contribution**” has the meaning set forth in Section 3.1(b).

“**Adjusted Budget**” means the Approved Budget as adjusted during the development of the Projects, and determined at the time of sale of the Projects or the Company, as the case may be.

“**Adjusted Project Capacity**” means the Project Design Capacity, expressed in watts DC, as adjusted during the development of the Projects, and determined at the time of sale of the Projects or the Company, as the case may be.

“**Adverse Party**” means a Person that is adverse in any pending or threatened action, suit or proceeding involving the Company, any Class A Member, any Class B Member, or an Affiliate of any thereof.

“**Affiliate**” of any Person shall mean (a) any Person which, directly or indirectly, is in Control of, is Controlled by, or is under common Control with such Person, or (b) any Person who is a director, manager, member, managing member, general partner or officer (i) of such Person, (ii) of any subsidiary of such Person or (iii) of any Person described in clause (a) above.

“**Agreement**” means this Operating Agreement. For the avoidance of doubt, this Agreement shall constitute the Company’s only “limited liability company agreement” within the meaning of the Act.

“**Approved Budget**” means the Project budget attached hereto as Exhibit E, which Budget may be adjusted with the Approval of the Class B Members and Class A Members, as adjusted the “Adjusted Budget”.

“**Assets**” means all right, title and interest of a Person in land, properties, buildings, improvements, fixtures, foundations, other assets and rights of any kind, whether tangible or intangible, real, personal or mixed, including preferred equity, other Contracts, leases, easements, equipment, systems, books, data, reports, studies and records, proprietary rights, intellectual property, Licenses and Permits, rights under or pursuant to all warranties, representations and guarantees, cash, accounts receivable, deposits and prepaid expenses.

“**Bankrupt**” or “**Bankruptcy**” means, with respect to any Person: (a) the filing of a petition for relief as to any such Person as debtor or bankrupt under the Bankruptcy Code or like provision of law (except if such petition is contested by such Person and has been dismissed within sixty (60) days); (b) insolvency of such Person as finally determined by a court proceeding; (c) filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of its assets; or (d) commencement of any proceedings relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereinafter in effect, either by such Person or by another; provided that if such proceeding is commenced by another, such Person indicates its approval of such proceeding, consents thereto or acquiesces therein, or such proceeding is contested by such Person and has not been finally dismissed within sixty (60) days.

“**Business Day**” means any day other than a Saturday, a Sunday or any other day on which banks are authorized to be closed in New York City.

“**Buy-Sell Offer**” has the meaning set forth in Section 6.6(b).

“**Buy-Sell Purchasing Member**” has the meaning set forth in Section 6.6(c).

“Buy-Sell Selling Member” has the meaning set forth in Section 6.6(c).

“Capital Contribution” means any cash or the initial Value of any other property (net of liabilities secured by such property that the Company is considered to assume or take subject to) that a Member directly or indirectly contributes to the Company (or is deemed to contribute to the Company) with respect to the Units held or purchased by such Member, including any capital contributions made by such Member pursuant to Article III or Article XI hereof, and any reference to the Capital Contributions of a Member shall include the Capital Contributions of any predecessor Holder of the Member’s Units.

“Cause” means the occurrence or commission, as applicable, of any of the following with respect to or by the Manager: (a) fraud, willful misconduct or misappropriation of funds; (b) gross negligence in carrying out its duties as the Manager; (c) a breach by the Manager of its obligations under this Agreement that would reasonably be expected to result in a Material Adverse Effect and which, if curable, is not timely cured within the applicable cure period granted under Section 6.3(b) or which is not deemed to be cured pursuant to Section 6.3(b); (d) an event of Bankruptcy with respect to the Manager; or (e) an event of Bankruptcy with respect to the Company, provided such event of Bankruptcy is not caused by the breach by any Class B Member of its obligations under this Agreement.

“Certified Public Accountant” means a firm of independent public accountants selected from time to time by the Manager and approved with the Consent of the Members.

“Change of Control” means the occurrence of any event (whether in one or more transactions) which results in a third party, unaffiliated with SSL (as of the Effective Date), (a) owning more than fifty percent (50%) of the Ownership Interests of the Company or (b) obtaining the power to direct or cause the direction of the management and policies of SSL.

“Claims” means all claims, suits, demands, injunctions, actions, causes of action, assessments, cleanup and remedial obligations, judgments, awards, liabilities, losses (including amounts paid in settlement of claims), damages (including any loss of profits, consequential, punitive, incidental or special damages recovered by any Third Party, but excluding any loss of profits, consequential, punitive, incidental or special damages asserted by any Member or an Affiliate), fines, fees, taxes, penalties, costs and expenses of every kind and character (including litigation costs and reasonable attorneys’ and experts’ fees and expenses, including such fees and expenses at trial and on any appeal).

“Class A Indemnified Claims” has the meaning set forth in Section 10.1.

“Class A Indemnified Party” has the meaning set forth in Section 10.1.

“Class A Indemnifying Party” has the meaning set forth in Section 10.1.

“Class A Interest” means, with respect to a Class A Member: (a) that Class A Member’s status as a Class A Member and as the holder, in such capacity, of a limited liability company interest in the Company within the meaning of the Act, subject to this Agreement; (b) that Class A Member’s share of Company Items, and the right to receive distributions from the Company as a Class A Member; (c) all other rights, benefits and privileges enjoyed by that Class A Member

(under the Act, this Agreement or otherwise) in its capacity as a Class A Member, including that Class A Member's right to vote, consent and approve and otherwise to participate in the management of the Company, to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class A Member (under the Act, this Agreement or otherwise) in its capacity as a Class A Member, including any obligations to make Capital Contributions.

"Class A Member" means SSL, and includes, to the extent permitted under this Agreement, its successors or transferees, and any Person admitted as an additional Class A Member.

"Class A Unit" means a unit representing a Class A Interest and having the rights, preferences and designations provided for such class in this Agreement.

"Class B Indemnified Claims" has the meaning set forth in Section 10.1.

"Class B Indemnified Party" has the meaning set forth in Section 10.1.

"Class B Indemnifying Party" has the meaning set forth in Section 10.1.

"Class B Interest" means, with respect to any Class B Member: (a) that Class B Member's status as a Class B Member and as the holder, in such capacity, of a limited liability company interest in the Company within the meaning of the Act, subject to this Agreement; (b) that Class B Member's share of Company Items and the right to receive distributions from the Company as a Class B Member; (c) all other rights, benefits and privileges enjoyed by that Class B Member (under the Act, this Agreement or otherwise) in its capacity as a Class B Member, including that Class B Member's right to vote, consent and approve and otherwise to participate in the management of the Company, to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class B Member (under the Act, this Agreement or otherwise) in its capacity as a Class B Member, including any obligations to make Capital Contributions.

"Class B Member" means EVG and NRG, and includes, to the extent permitted under this Agreement, their successors or transferees, and any Person admitted as an additional Class B Member.

"Class B Unit" means a unit representing the Class B Interest and having the rights, preferences and designations provided for such class in this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of any successor tax statute.

"Company" has the meaning set forth in the preamble to this Agreement.

"Competitor" means any Person that (a) is not the Manager or an Affiliate thereof and (b) owns, operates, maintains, manages, or develops power generation, energy storage or distribution facilities; provided that a Person who is involved (directly or indirectly) in owning such facilities solely as a result of such Person, directly or through an Affiliate, making passive investments (including consent and approval rights customarily afforded to investors in connection with such

investments) in such facilities similar to those owned by the Class B Members hereunder shall not be considered a “Competitor” hereunder.

“**Confidential Information**” has the meaning set forth in Section 7.7(a).

“**Consent of the Class A Members**” means the consent or approval of the Majority of the Class A Members.

“**Consent of the Class B Members**” means the consent or approval of fifty percent (50%) or more of the Class B Members.

“**Consent of the Members**” means the Consent of the Class B Members and the Consent of the Class A Members, subject to Section 7.2.

“**Contracts**” means contracts, agreements, leases, licenses, notes, indentures, obligations, reinsurance treaties, bonds, mortgages, instruments, and other binding commitments, arrangements, undertakings and understandings (whether written or oral) including any amendments, modifications or supplements thereto, but not including any Licenses and Permits.

“**Control**” and the term “**Controlled by**” mean the possession, directly or indirectly, of any of the following: (a) more than fifty percent (50%) of the outstanding voting Securities thereof; (b) the right to more than fifty percent (50%) of the distributions (including liquidating distributions) therefrom; (c) in the case of a trust or estate, including a business trust, more than fifty percent (50%) of the beneficial interest therein or in the case of any other entity, more than fifty percent (50%) of the economic or beneficial interest therein; or (d) the power or authority, through ownership of voting Securities, by contract or otherwise, to exercise a controlling influence over the management of the entity.

“**Damages**” has the meaning set forth in Section 10.1.

“**Disqualified Transferee**” means a Person who is, or whose Affiliate is, then an Adverse Party (unless the Company, with the Consent of the Members, or the applicable Member as to which such Person is adverse, in its sole and absolute discretion, as applicable, has consented in writing to the Transfer to such Person).

“**Effective Date**” has the meaning set forth in the preamble.

“**Encumbrances**” means any lien (statutory or otherwise), mortgage, deed of trust, claim, option, lease, easement, charge, pledge, security interest, hypothecation, assignment, use restriction or other encumbrance of any kind or nature whatsoever, whether voluntary or involuntary, choate or inchoate (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement), and “**Encumber**” means any action or inaction creating an Encumbrance.

“**Environmental Law**” means applicable Law (both statutory and common law) pertaining to, regulating, relating to or imposing liability, obligations, or standards of conduct concerning (a) pollution or (b) protection of health, safety (including the health and safety of workers pursuant to the U.S. Occupational Health and Safety Act of 1970 (29 U.S.C. §§ 651 *et seq.*)), flora and

fauna, any Environmental Media, or natural resources. Environmental Law includes, without limitation, (i) any Law relating to actual or threatened emission, discharge, Release, manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of any hazardous waste (as defined by 42 U.S.C. § 6903(5)), hazardous substance (as defined by 42 U.S.C. § 9601(14)), hazardous material (as defined by 49 U.S.C. § 5102(2)), toxic pollutant (as listed pursuant to 33 U.S.C. § 1317), or pollutant or contaminant (as pollutant or contaminant is defined in 42 U.S.C. § 9601(33)), or any oil (as defined by 33 U.S.C. § 2701(23)), (ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*), the Resource Conservation Recovery Act (42 U.S.C. §§ 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*), National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*), the National Historic Preservation Act (16 U.S.C. §§ 470a *et seq.*), the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and Title 14 of the Code of Federal Regulations Part 77 “Safe, Efficient Use, And Preservation of the Navigable Airspace” with any amendments or reauthorization thereto or thereof, and any and all regulations promulgated thereunder, and all analogous state and local counterparts or equivalents, and (iii) all duties and obligations imposed by any order issued by any Governmental Authority into pursuant to any such Law.

“**Environmental Media**” means and includes, without limitation, any air (including ambient, workplace or indoor air), soil, sediments, land surface (whether above or below water), subsurface strata, plant or animal life, natural resources, or water (including, without limitation, territorial, coastal and inland surface waters, groundwater, streams, and wetlands).

“**EVG**” has the meaning set forth in the preamble.

“**EVG Adjusted Distribution Percentage**” means the EVG Initial Distribution Percentage as adjusted pursuant to Section 5.2 and/or Section 5.3, as applicable.

“**EVG Initial Distribution Percentage**” means fourteen percent (14%).

“**EVG Value-Added Payments**” has the meaning given to such term in Section 5.3(a).

“**Fair Market Value**” or “**FMV**” means, with respect to any Asset, the price at which the Asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of the relevant facts, and incorporating the specific assumptions set forth in this Agreement, as applicable.

“**Fiscal Quarter**” means the calendar quarters each ended March 31st, June 30th, September 30th and December 31st during each Fiscal Year.

“**Fiscal Year**” means any 12-month period commencing on January 1 and ending on December 31, except (a) the first Fiscal Year of Company shall commence on the Effective Date and (b) the final Fiscal Year of the Company shall end on the date on which the Company is terminated under Article XI hereof.

“**Force Majeure Event**” means, in respect of the Projects, an event (i) whose cause is beyond the reasonable control of the Company, that despite the exercise of due diligence, the

Company is unable to prevent or overcome and (ii) that causes a cessation in the Projects' operation for greater than 48 continuous hours. By way of example, a Force Majeure Event may include but is not limited to events caused by acts of God, acts or omissions of government, acts of a public enemy, wars (declared or undeclared), hostilities, blockades, insurrections, rebellions, revolutions, riots, terrorism, civil disturbances, sabotage, embargoes, epidemics, quarantines, landslides, earthquakes, fires, explosions, lightning, floods, storms, hurricanes, tornados, nuclear accident, in each case to the extent that the Force Majeure Event (x) in fact affects such Projects (y) is not the fault of the Company, or Manager, and (z) could not have been prevented by the Company's or Manager's exercise of reasonable diligence.

"GAAP" means United States generally accepted accounting principles consistently applied.

"Good Utility Practice" means the practices, methods and acts engaged in or approved by a significant portion of the solar power industry in the same region as the Projects that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would reasonably have been expected to accomplish the desired result in a manner consistent with applicable Law, regulation, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. Good Utility Practices are not intended to be limited to optimum practices, methods or acts to the exclusion of all others, but rather to those practices, methods and acts generally accepted or approved by a significant portion of the power industry in the relevant region, during the relevant period.

"Governmental Authority" means any national, state, provincial, regional, municipal or local authority, body, agency, ministry, court, judicial or administrative body, Taxing Authority, regulatory authority or other governmental organization having jurisdiction or effective control over any of the Members, the Company or the Projects.

"Government Directives" means any directive received by a Governmental Authority in writing (including electronically) with respect to construction, developmental or operational changes required for the Projects.

"Hazardous Substance" means material, substance or waste to which liability or standards of conduct can be imposed under any law related to protection, preservation or conservation of the environment and public or worker health and safety, including, but not limited to applicable state and local statutes, rules and regulation.

"Holder" means, as to a Class B Unit, the Class B Member holding such Class B Unit, and, as to a Class A Unit, the Class A Member holding such Class A Unit.

"Indebtedness" means (a) any indebtedness of the Company, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments; or (b) capital lease obligations; or (c) the balance deferred and unpaid of the purchase price of any property or representing any hedging obligations (including interest and currency rate swap agreements, cap agreements or collar agreements, or any other agreements or arrangements designed to protect against fluctuations in interest or currency exchange rates), if and to the extent

such indebtedness and obligations would appear as a liability upon the Company's balance sheet prepared in accordance with GAAP (as herein defined); or (d) guarantees of indebtedness by the Company, or (e) any indebtedness and obligations arising in connection with any refinancings, replacements or increases of any of the foregoing, whether now existing or hereafter incurred or created, and including, without limitation, claims for indemnity or damages arising under or with respect thereto.

"Indemnified Claims" has the meaning set forth in Section 10.1.

"Indemnified Party" has the meaning set forth in Section 10.1.

"Indemnifying Party" has the meaning set forth in Section 10.1.

"Initial Class B Contribution" has the meaning set forth in Section 3.1(a).

"Investment Documents" means, collectively, this Agreement, all agreements executed in connection herewith, and any replacements or substitutions for any of the foregoing entered into in accordance with this Agreement.

"IRS" means the Internal Revenue Service or any successor agency.

"Law" means any applicable constitution, statute, law, ordinance, regulation, rate, ruling, order, judgment, legally binding guideline, restriction, requirement, writ, injunction, notice, Government Directive or decree which has been enacted, issued or promulgated by any Governmental Authority.

"Licenses and Permits" means filings and registrations with, and licenses, permits, notices, approvals, grants, easements, exemptions, variances, determinations and authorizations from, any Governmental Authority.

"Liquidating Events" has the meaning set forth in Section 11.1(a).

"Majority of the Class A Members" means, subject to Section 7.2, the Class A Members who own in the aggregate fifty and one-tenth percent (50.1%) or more of the Class A Units.

"Majority of the Class B Members" means, subject to Section 7.2, the Class B Members who own in the aggregate fifty and one-tenth percent (50.1%) or more of the Class B Units.

"Manager" means the Person appointed by the Members pursuant to Article VI to manage the affairs of the Company and any other Person hereafter appointed as a successor Manager of the Company as provided in Article VI. The initial Manager is SSL, as appointed pursuant to Section 6.1 below.

"Massachusetts Certificate" means the Certificate of Formation of the Company filed with the Secretary of State of the Commonwealth of Massachusetts on the Original Effective Date, as amended or restated from time to time.

“**Material Adverse Effect**” means any change, event or effect that has a materially adverse effect on (a) the business, assets, liabilities, financial condition or results of operations of the Company taken as a whole, or (b) the rights, remedies or economic benefits of the Class B Members (taken as a group if there is more than one) under the Investment Documents.

“**Material Project Documents**” means any material Contract related to the development of the Projects, including but not limited to any engineering, procurement, or construction contract, Licenses and Permits, power purchase agreement, or any other material Contract to which the Company is a party or by which it or its Assets are bound or any Contracts entered into in replacement or substitution thereof.

“**Member**” means any Person who executes the signature page of this Agreement as of the Effective Date or thereafter agrees to be bound hereby and is admitted to the Company as a member pursuant to this Agreement, excluding any Person (a) having solely the status of an assignee, or (b) that has ceased to be a Member.

“**Membership Interest**” means either the Class B Interest or the Class A Interest or both, as the context requires.

“**Milestone Schedule**” means the Project timelines set forth in Exhibit E.

“**Moody’s**” means Moody’s Investor Service, or any successor entity.

“**MW**” means megawatt. All references herein to watts, kilowatts, or megawatts shall be understood as direct current or DC, unless otherwise specified in the text.

“**Notice to Proceed**” means the existence of all circumstances necessary for the Company to deliver to a contractor constructing the Projects to commence performance of material construction activities.

“**NRG**” has the meaning set forth in the preamble.

“**NRG Adjusted Distribution Percentage**” means the NRG Initial Distribution Percentage as adjusted pursuant to Section 5.3, as applicable

“**NRG Initial Distribution Percentage**” means fourteen percent (14%). “**Ownership Interest**” means all shares, interests, participations, rights to purchase, options, warrants, general or limited partnership interests, limited liability company interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or nonvoting, including common stock, preferred stock or any other “equity security” (as such term is defined in Rule 3a11-1 of the Rules and Regulations promulgated by the Securities and Exchange Commission (17 C.F.R. § 240.3a11-1) under the Securities Exchange Act of 1934, as amended).

“**Party**” means a Class B Member or a Class A Member, as the context requires, and “**Parties**” means the Class B Members and the Class A Members.

“Permitted Encumbrances” means (a) obligations or duties to any Governmental Authority arising in the ordinary course of business (including under Licenses and Permits and under all applicable Law and orders of any Governmental Authority) the effect of which does not or could not be reasonably expected to result in a Material Adverse Effect; (b) obligations or duties under easements, leases or other property rights; (c) liens for taxes not yet due or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP; (d) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, employees’, contractors’, operators’ or other similar liens or encumbrances securing the payment of expenses incurred in the ordinary course of business of the Company which are either (i) not yet due and payable or (ii) for amounts being contested in good faith and by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP; (e) encumbrances created pursuant to the Investment Documents; (f) all other Encumbrances that are incurred in the ordinary course of business of the Company, are not incurred for borrowed money, are not in excess of Ten Thousand Dollars (\$10,000) in the aggregate, and could not reasonably be expected to have a Material Adverse Effect or to materially and adversely affect either the use of any material Assets of the Company or the value of any such Assets; (g) any encumbrances which are an exception to the owner’s title policy and any future easements, rights-of-way, restrictions, reservations and other similar encumbrances and exceptions to title existing or incurred in the ordinary course of business that, do not in any case result in more than a *de minimis* reduction of the value of the property subject thereto or, in the aggregate, interfere with the ordinary conduct of the business of the Company; (h) trade contracts, deposits to secure the performance of bids, statutory obligations; surety and appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business of the Company; (i) liens of record and zoning and other land use restrictions that do not impair the value or intended use of the Projects; (l) restrictions on transfer of membership interests provided for in the Investment Documents or under any applicable federal, state or foreign securities law; and (m) any other liens agreed to in writing by the Parties.

“Permitted Indebtedness” means trade indebtedness incurred in the ordinary course of business and consistent with past practice, and not more than thirty (30) days past due.

“Person” means any individual, partnership, joint venture, company, corporation, limited liability company, limited duration company, limited life company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“Project” and “Projects” have the meaning set forth in the recitals hereto.

“Project Assets” has the meaning set forth in Section 8.7(a).

“Project Design Capacity” means the capacity of the Projects, expressed in watts DC, as set forth on Exhibit A.

“Release” means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration in the indoor or outdoor environment.

“Restricted Payment” means (a) any payment or other distribution, direct or indirect, on account of any ownership interests of any Member other than a Class B Member or any Indebtedness owed to an owner or other Affiliate of a Class A Member, (b) any redemption, conversion, exchange, retirement, sinking fund or similar payment, purchase or other acquisition for value, or any return of capital, direct or indirect, of any ownership interests of a Class A Member or any Indebtedness owed to an owner or other Affiliate of a Class A Member, (c) any payment made to retire, or to exercise any call rights or to obtain the surrender of, any outstanding warrants, options or other rights to acquire any ownership interests of a Class A Member or any Indebtedness owed to an owner or other Affiliate of a Class A Member, or (d) any payment made with respect to any contract or agreement (including a management contract) between the Company and any owner of or other Affiliate of a Class A Member, in each case, other than distributions expressly provided for under Section 5.1.

“Required Consents” means, collectively, consent of (i) the Town of Medfield and (ii) the Kingsbury Club Medfield Inc. to assignment of the Project Assets from SSL to the Company.

“S&P” means Standard & Poor’s Ratings Group, a division of McGraw Hill, Inc., or any successor entity.

“Securities” means, with respect to any Person, such Person’s capital stock or limited liability company interests or any options, warrants or other securities which are directly or indirectly convertible into, or exercisable or exchangeable for, such Person’s capital stock or limited liability company interests, whether or not such derivative securities are issued by such Person, and any reference herein to “Securities” refers also to any such derivative securities and all underlying securities directly or indirectly issuable upon conversion, exchange or exercise of such derivative securities.

“Securities Act” means the Securities Act of 1933 or any successor statute, as amended from time to time.

“Site” has the meaning given to such term in the Recitals.

“SMART” means the Solar Massachusetts Renewable Target Program.

“SSL” has the meaning set forth in the preamble.

“SSL Adjusted Distribution Percentage” means the SSL Initial Distribution Percentage as adjusted pursuant to Section 5.2 and/or Section 5.3, , as applicable.

“SSL Initial Distribution Percentage” means seventy-two percent (72%).

“Third Party” means a Person other than a Member or an Affiliate of a Member of the Company.

“Transaction” means the transactions contemplated and provided for herein and in the Investment Documents.

“**Transfer**” means the sale, transfer, assignment, conveyance, gift, exchange or other disposition of Class B Units or Class A Units (and the Membership Interests represented thereby) directly by a Member.

“**Treasury Regulations**” means the regulations promulgated under the Code by the United States Department of Treasury, as such regulations may be amended from time to time and all references herein to specific Sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

“**UCC**” or “**Uniform Commercial Code**” means the Uniform Commercial Code in effect in the Commonwealth of Massachusetts from time to time.

“**Unrecouped Capital Contribution**” means with respect to a Member, the total amount of such Member’s Capital Contributions to the Company, less distributions to such Member pursuant to Section 5.1(a) or (b), as applicable.

“**Units**” means either the Class B Units or the Class A Units or both, as the context requires.

1.2 Other Definitional Provisions.

(a) Construction. As used herein, singular shall include the plural, the masculine gender shall include the feminine and neuter, and the neuter gender shall include the masculine and feminine unless the context otherwise indicates.

(b) References. References to Articles and Sections are intended to refer to Articles and Sections of this Agreement, and all references to Exhibits and Schedules are intended to refer to Exhibits and Schedules attached to this Agreement, each of which is made a part of this Agreement for all purposes. The terms “include,” “includes” and “including” mean “including, without limitation.” Any date specified for action that is not a Business Day shall mean the first Business Day after such date. Any reference in this Agreement to “the date of this Agreement” refers to the Effective Date. Any reference to a Person shall be deemed to include such Person’s successors and permitted assigns. Any reference to any document or documents shall be deemed to refer to such document or documents as amended, modified, supplemented or replaced from time to time in accordance with the terms of this Agreement. References to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law. The words “herein,” “hereof” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement. References to money refer to legal currency of the United States of America.

(c) Accounting Terms. As used in this Agreement and in any certificate or other documents made or delivered pursuant hereto or thereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the

meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document will control.

ARTICLE II THE COMPANY

2.1 Continuation of Limited Liability Company. The Parties hereby continue the Company, which was formed as a Massachusetts limited liability company by the filing of the Massachusetts Certificate pursuant to the Act. The rights and obligations of the Members shall be as provided in the Act, except as otherwise expressly provided herein. The Manager shall from time to time execute or cause to be executed all such certificates, instruments and other documents, and cause to be done all such filings and other actions, as the Manager may deem necessary or appropriate to operate, continue, or terminate the Company as a limited liability company under the laws of the Commonwealth of Massachusetts and to qualify the Company to do business in all jurisdictions other than the Commonwealth of Massachusetts in which the Company conducts or proposes to conduct business and in any other jurisdiction where such qualification is necessary or appropriate.

2.2 Name. The name of the Company is, and the business of the Company shall continue to be conducted under the name of, “Sunspire Solar – Ice House, LLC” or such other name or names as the Manager may designate from time to time, with the Consent of the Members.

2.3 Principal Office. The Company shall maintain a principal office which shall initially be: 128 Warren Street Lowell, MA 01852. The Manager may change the principal office of the Company from time to time upon prior written notice to the Members. The Manager shall maintain all records of the Company at its principal office or such location designated by the Manager in a notice to the Members.

2.4 Registered Office; Registered Agent. The registered office of the Company shall be located at 82 Wendell Ave. Suite 100 Pittsfield MA 01201 and the registered agent for the Company at such office shall be Northwest Registered Agent, LLC. The Manager may change the registered office of the Company or the registered agent for the Company at any time, and from time to time, by providing written notice to the Members.

2.5 Purposes. The purpose of the Company is to originate, develop, and market the Projects (or the interests in the Company) for sale upon securing a SMART Statement of Qualification, all pursuant to the terms set forth in this Agreement; and to engage in and perform any and all activities necessary, incidental, related or appropriate to allow the foregoing that may be engaged in by a limited liability company formed under the Act. The Company shall not engage in any activity or own any Assets that are not directly related to the Company’s purpose as set forth in this Section 2.5, except as authorized by the Consent of the Members.

2.6 Term. The Company began on the Effective Date and shall continue in existence until dissolved and terminated in accordance with this Agreement or the Act.

2.7 Title to Property. Title to Assets of the Company, whether tangible or intangible, shall be held in the name of the Company, and no Member, individually, shall have title to or any

interest in such property by reason of being a Member. The Membership Interest of each Member shall be personal property for all purposes.

2.8 Units; Certificates of Membership Interest. Membership Interests shall be represented by Units, divided into Class A Units (in the case of Class A Interests) and Class B Units (in the case of Class B Interests). The Membership Interests represented by Class A Units and Class B Units shall have the respective rights, powers and preferences ascribed to Class A Units and Class B Units in this Agreement. The class of Membership Interest of a Member shall be as provided in Exhibit B.

2.9 No State Law Partnership. The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes, and this Agreement may not be construed to suggest otherwise. The Members intend that the Company be a partnership for federal income tax purposes and applicable state and local income tax purposes.

ARTICLE III CAPITAL CONTRIBUTIONS

3.1 Class B Interests; Class B Capital Contributions. The Class B Members shall make available to the Company an amount equal to three hundred fifty one thousand two hundred forty eight dollars and forty cents (\$351,248.40) (the “**Class B Capital Contribution**”), which amount has been calculated based on the Projects Design Capacity *multiplied* by \$0.18 per DC watt, subject to the following conditions:

(a) Initial Capital Contribution. On the Effective Date, each Class B Member shall make available to the Company an amount equal to ninety seven thousand five hundred sixty nine dollars (\$97,569.00) (the “**Initial Class B Contribution**”),.

(b) Additional Capital Contributions. Each Class B Members shall make available to the Company an amount equal to seventy eight thousand fifty five dollars and twenty cents (\$78,055.20) (the “**Additional Class B Contribution**”) to be drawn down based on the procedures set forth in Section 3.1(c) below.

(c) Draw Procedures. With respect to the Additional Class B Capital Contribution available for draw by the Company, such amounts may be drawn by the Company on a quarterly basis, based on the Project Budgets agreed to by the Members, and shall be accompanied by a certification by the Manager substantially in the form attached hereto as Exhibit D. Notwithstanding anything to the contrary herein, the Class B Members shall have no obligation to make any Capital Contribution to the Company if a default or event of default exists and is continuing.

(d) Use of Proceeds of Class B Capital Contributions. The proceeds of the Initial Class B Contribution shall be used to reimburse the cost of securing site control and the development expenses of the Projects incurred prior to the Effective Date, as agreed to by the Parties in the Approved Budget, or the Adjusted Budget, if any and may be withdrawn from the Company notwithstanding any other provision of this Agreement. The proceeds of the Additional Class B Contribution shall be used to pay the development expenses of the Projects incurred after

the Effective Date, and substantially in accordance with the Approved Budget, or the Adjusted Budget, if any. Any unspent Additional Class B Contribution for a quarter shall be applied to the next quarterly draw under Section 3.1(c).

(e) Reduction in / Return of Class B Capital Contribution. At the sole option of each Class B Member, said member's Class B Capital Contribution shall be reduced in the event that the Approved Budget is adjusted downward, resulting in a reduced amount of the Class B Capital Contribution. In the event the Actual Class B Capital Contribution for a Class B Member exceeds the Class B Capital Contribution for that Member (as adjusted pursuant to this Section 3.1(e)), such excess shall be returned to the Class B Member as a priority distribution. If the Approved Budget is adjusted downward and the Class B Member does not elect to reduce its Class B Capital Contribution, the Company will be able to draw the full amount of the Class B Capital Contribution and the Actual Class B Capital Contribution will not be decreased. In the event that the Class A Member fails to timely obtain the Required Consents in accordance with Section 8.5(h), at the sole option of the Class B Member, within ten (10) days' notice of the exercise thereof, the Class B Capital Contribution will be returned to the Class B Member, for which, the Company and the Class A Member shall be jointly and severally liable. Upon payment in full of Class B Capital Contribution, Class B Member shall cease to be a Member and have no further obligation to the Company or Class A Member. Notwithstanding anything to the contrary in this Agreement, the failure of Class A Member to timely obtain one or both of the Required Consents in accordance with Section 8.5(h), shall constitute a default and, immediately upon its occurrence, the Class B Member shall have no further obligation to make any Capital Contribution to the Company.

3.2 Class A Interests; Class A Capital Contributions. On or prior to the Effective Date, SSL has contributed to the Company the assets listed on Exhibit A.

3.3 Other Required Capital Contributions. Except as provided in Sections 3.1 and 3.2, no Member shall be obligated to make Capital Contributions after the Effective Date. Notwithstanding the foregoing, if the Parties agree that additional capital is required regarding development of the Projects, the Manager shall provide written notice to the Members detailing the amount of additional capital required. Within ten (10) days of delivery of such notice, the Members shall contribute capital to the Company on a pro rata basis according to their respective Initial Distribution Percentages. If a Member fails to make its required Capital Contribution, the Initial Distribution Percentages of the Members shall be adjusted in accordance with Section 5.3(c) hereof.

3.4 No Right to Return of Capital Contributions. Except as otherwise provided in this Agreement, no Member may require a return of any part of its Capital Contributions or the payment of interest thereon from the Company or from another Member. An unrepaid Capital Contribution is not a liability of the Company or any Member.

ARTICLE IV COMPANY TAX AND ACCOUNTING RULES

4.1 Capital Accounts, Allocations, Adjustments, Partnership Representative . The Company shall follow the tax and accounting provisions set forth on Exhibit C.

ARTICLE V DISTRIBUTIONS

5.1 Distributions. Subject to Sections 9.4 and 11.2(a)(v), distributions shall be made to the Members as follows:

(a) First, to each Class B Member, pro rata, an amount equal to such Member's Unrecouped Capital Contribution;

(b) Second, to each Class A Member, pro rata, an amount equal to such Member's Unrecouped Capital Contribution;

(c) Last, to each Member, an amount equal to such Member's Adjusted Distribution Percentage.

Notwithstanding anything to the contrary in this Agreement, no distribution shall be made without the Consent of the Class B Members.

5.2 Withholding. Notwithstanding any other provision of this Agreement, the Company shall comply with any withholding requirements under any Law and shall remit amounts withheld to, and file required forms with, applicable Taxing Authorities. To the extent that the Company is required to withhold and pay over any amounts to any Taxing Authority with respect to distributions or allocations to any Member, the amount withheld shall be treated as a distribution of cash to such Member in the amount of such withholding. The Company shall notify such Member and permit such Member, if permitted by applicable Law and at such Member's expense, to contest the applicability of the underlying Tax prior to making such withholding. If an amount required to be withheld was not withheld from an actual distribution, the Company may reduce subsequent distributions by the amount of such required withholding and any penalties or interest thereon. Each Member agrees to furnish to the Company such forms or other documentation as is reasonably necessary to assist the Company in determining the extent of, and in fulfilling, its withholding obligations.

5.3 EVG Value-Added Amounts and Adjustments to Distribution Percentage.

(a) EVG Services. EVG shall have the option, but not the obligation, to provide certain development services to the Company upon request by Manager. EVG shall be compensated for any such services, beyond attendance at regular bi-weekly meetings regarding Project development, at a rate of \$150 per hour. EVG shall invoice the Company on a monthly basis for all such services. If not disputed by the Manager within ten (10) Business Days, each such invoice will be final. If an invoice is disputed by the Manager, the parties shall meet to resolve any disagreement, with each party acting reasonably and in good faith. EVG may elect to either (i) have all, or a portion of the amounts owed under this Section 5.3(a) ("**EVG Value-Added Payments**") paid to EVG in cash, or (ii) have the Initial Distribution Percentages adjusted in accordance with Section 5.3(c). If EVG elects to have such payments made in cash, the Company shall make all such payments within five (5) days of such election, and such amounts shall be paid

prior to any distribution under Section 5.1 as an operating expense of the Company. Such amounts shall also reduce EVG's Actual Class B Capital Contribution by that same amount.

(b) Adjustments to Distribution Percentage Based on EVG Services. Upon the election of EVG, all or a portion of the EVG Value-Added Payments shall be treated as additional Capital Contributions of EVG and shall increase the Class B Capital Contribution accordingly.

(c) Adjustments to Distribution Percentage Based on Adjusted Budget and Adjusted Project Capacity. The Adjusted Distribution Percentages of the Members (following the adjustments required by Section 5.3(b)) shall be adjusted in accordance with any changes to the Approved Budget, or the Adjusted Budget, if any, and corresponding changes to the Capital Contribution of the Class B Members, including any EVG Value-Added Payments, and any changes to the Project Design Capacity based on the following formulas:

$$\begin{aligned} & \text{EVG Adjusted Distribution Percentage} \\ &= \text{EVG Initial Distribution Percentage} \times \frac{\left(\frac{\text{Actual Class B Capital Contributions (EVG)}}{\text{Project Design Capacity}} \right)}{0.09 \text{ \$/W}} \times \frac{\text{Project Design Capacity}}{\text{Adjusted Project Capacity}} \end{aligned}$$

$$\begin{aligned} & \text{NRG Adjusted Distribution Percentage} \\ &= \text{NRG Initial Distribution Percentage} \times \frac{\left(\frac{\text{Actual Class B Capital Contributions (NRG)}}{\text{Project Design Capacity}} \right)}{0.09 \text{ \$/W}} \times \frac{\text{Project Design Capacity}}{\text{Adjusted Project Capacity}} \end{aligned}$$

and

$$\text{SSL Adjusted Distribution Percentage} = 100\% - (\text{EVG Adjusted Distribution Percentage} + \text{NRG Adjusted Distribution Percentage})$$

The sum of the Class B Member Adjusted Distribution Percentage shall not exceed one hundred percent (100%). If the sum of the Class B Member Adjusted Distribution Percentages would exceed one hundred percent (100%), it shall be deemed to be equal to one hundred percent (100%). In this case, the distribution for each of the Class B Members shall be equal to their pro-rata share of the total distribution amount.

(d) Examples. Examples addressing the concepts set forth in this Section 5.3 and the definitions of EVG or NRG Adjusted Distribution Percentage and SSL Adjusted Distribution Percentage are set forth on Exhibit F attached hereto. In the case of any inconsistency between the examples on Exhibit F and the body of this Agreement, the body of this Agreement shall control.

ARTICLE VI MANAGEMENT

6.1 Manager. The Majority of the Class A Members and the Majority of the Class B Members shall jointly appoint the Manager, including any successor Manager. SSL is hereby appointed by all of the Members as the initial Manager of the Company. Except as provided in Section 6.2 or as otherwise expressly provided herein, the Manager shall conduct, direct and exercise control over all activities of the Company, and shall have full power and authority on

behalf of the Company to manage and administer the business and affairs of the Company, and to do or cause to be done any and all acts considered by the Manager to be necessary or appropriate to conduct the business of the Company (including, without limitation, except as provided in Section 6.2 or as otherwise expressly provided herein, taking all necessary actions to cause the Company to perform its obligations and enforce their respective rights under the agreements to which each is a party and to otherwise carry out their respective purposes) without the need for approval by or any other consent from any Member, including, but not limited to, the authority to bind the Company in making contracts and incurring obligations in the Company's name in the course of the Company's business.

6.2 Standard of Care; Delegation; Required Consents.

(a) In carrying out its duties hereunder, the Manager shall (i) cause the Company to develop and manage the Projects in accordance with Good Utility Practice; (ii) perform its duties and responsibilities in accordance with the applicable Law, and (iii) act in good faith and in a manner reasonably believed to be in the best interests of the Company.

(b) Notwithstanding any contrary provision of this Agreement, the Manager may not take, cause or permit any of the following actions (except as otherwise expressly provided below) without the express written consent of the Majority of Class B Members:

(i) any action to cause, authorize or permit the Company to incur Indebtedness other than Permitted Indebtedness;

(ii) any action to cause, authorize or permit the Company to create or permit to exist any encumbrance on the Projects, or any other Assets of the Company (other than Permitted Encumbrances);

(iii) any action to admit an additional Member to the Company, or to issue any additional Membership Interest;

(iv) any action to cause, authorize or permit (a) any merger, conversion or consolidation of the Company or any sale of all or substantially all of the assets of the Company, (b) changing the Company's legal form; (c) recapitalizing the Company, or (d) liquidating, winding-up or dissolving the Company, except in accordance with Section 6.6 and Article XI;

(v) any action to cause or direct the Company to take any actions or decisions specifically reserved to the Members by this Agreement;

(vi) any action in contravention of the organizational documents of the Company;

(vii) loan any funds of the Company to any Person;

(viii) use any Capital Contribution for any purpose other than the development of the Projects;

(ix) make, or agree to make, any expenditure not substantially in accordance with the Approved Budget;

(x) any decision regarding the major equipment to be used in the Projects, including but not limited to photovoltaic panels, inverters, storage systems and design, and canopy;

(xi) any action to cause or direct the Company to be treated other than as a partnership for United States federal income tax purposes (including by electing under Treasury Regulations Section 301.7701-3 to be classified as an association);

(xii) develop the Projects beyond the Notice to Proceed stage: or

(xiii) any other action which would reasonably be expected to have a Material Adverse Effect on the rights and obligations of the Company or any Class B Member with respect to the Class B Units.

(c) Notwithstanding any contrary provision of this Agreement, the Manager may not take, cause or permit any of the following actions (except as otherwise expressly provided below) without the express written Consent of the Class B Members

(i) any action to cause, authorize or permit the Company to commingle the funds of such Person with the funds of any other Person;

(ii) any action to cause or direct the Company (as applicable) to take any action to amend the Massachusetts Certificate;

(iii) any action to initiate, adjust, compromise, settle or refer to arbitration any claim against the Company, the Projects, or the Company's Assets, or otherwise impacting the Projects, any legal proceeding or arbitration proceeding;

(iv) any action to cause, authorize, or permit any distribution other than a distribution made at the time of the sale of the Projects, except as authorized by Section 3.1(d);

(v) cause, authorize or permit the Company to become Bankrupt;

(vi) any deviation from the Approved Budget or the Project Design Capacity in excess of 10%; or

(vii) any action to materially amend the Milestone Schedule, or any action which would have the effect of the Projects not meeting the Milestone Schedule in a materially adverse way. For the avoidance of doubt, this provision does not include delays caused by external factors.

6.3 Resignation and Removal of Manager.

(a) The Manager shall not have a right to resign unless and until a successor Manager is selected with the consent of the Majority of the Class B Members and the Consent of the Class A Members (in each case, such consent not to be unreasonably withheld, delayed or conditioned) and any resignation pursuant to this provision shall not be effective until a successor Manager is selected and commences its duties as Manager (subject in all cases to Section 6.3(c)); provided, that, as long as the Manager shall be a Class A Member or its Affiliate, any such Class A Member shall recuse itself from the voting by the Members regarding the removal of the Manager.

(b) Provided that the circumstances for removal (as set forth in the next sentence) have occurred, the Manager will be subject to removal from such capacity upon the following occurring: (i) the consent of the Majority of the Class B Members, but only if the Manager is a Class A Member or an Affiliate of a Class A Member (or is appointed by the Class A Member); or (ii) the Consent of the Members, in all other cases. Removal of the Manager shall be limited to circumstances in which Cause exists; provided, however, that the Manager shall not be subject to removal for Cause pursuant to clause (c) of the definition thereof in the case of any material breach or material violation of obligations under this Agreement which is capable of cure unless the Manager shall have failed to cure or remedy such breach or violation after being provided with written notice thereof and the opportunity to cure such breach or violation within forty-five (45) days of receipt of such notice.

(c) The Members acknowledge and agree that in the event of the removal of the Manager for Cause, a non-Member that is neither a Disqualified Transferee nor a Competitor of SSL may be selected as the replacement Manager, and such Person shall be engaged by the Company to manage the affairs of the Company pursuant to a contract reasonably satisfactory to the Majority of the Class B Members.

6.4 Indemnification and Exculpation.

(a) To the fullest extent permitted by Law, the Manager and its respective officers, directors, managers, employees and agents shall be exculpated from, and the Company shall indemnify, such Persons from and against, all Claims any of them incur by reason of any act or omission performed or omitted by such Person on behalf of the Company in performing the Manager's duties hereunder; provided, however, that this indemnity does not: (i) apply to Claims that are attributable to the negligence, willful misconduct or fraud of such Person; or (ii) apply to a breach by the Manager or any of its Affiliates of their respective covenants or representations set forth in any of the Investment Document to which it is a party.

(b) The Manager may authorize the Company to purchase from the funds of the Company and maintain insurance on behalf of any Person who is or was an officer, employee, or agent of the Company, against any liability asserted against the Person and incurred by the Person in such capacity, or arising out of the Person's status as such, whether or not the Company would have the power to indemnify the Person against the liability under the provisions of this Section 6.4.

6.5 Manager's Duties and Obligations Relating to the Projects, and the Company.

The Manager shall with respect to the Projects, and the Company, as applicable:

(a) dedicate and maintain at all times qualified management, development, legal and financial personnel in sufficient numbers to serve the business objectives of the Company and to adequately develop the Projects;

(b) schedule bi-weekly meetings at which the Class B Members shall be invited (including by telephone) to discuss development of the Projects;

(c) undertake all necessary or reasonably appropriate action to cause the Company to comply with applicable law;

(d) cause the Company to do all things necessary to (i) maintain their status as a limited liability company in good standing under the laws of their jurisdiction and any jurisdiction in which the failure to register to do business may reasonably result in a Material Adverse Effect, (ii) continue to have full power and authority to develop the Projects in accordance with the terms of this Agreement, and (iii) to enable the Company and to engage in its businesses;

(e) exercise commercially reasonable efforts and good faith in all activities relating to the conduct of the business of the Company, including the development of the Projects, and take no action with respect to the business and property of the Company which is not reasonably related to the achievement of the purposes of the Company;

(f) not act in any manner which the Manager knows or should know after due inquiry will (i) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation, (ii) cause the Company to fail to qualify as a limited liability company under the Act or (iii) cause any Class B Member to be liable for Company obligations;

(g) (i) prepare and submit to the IRS or Department of Treasury (or any other Governmental Authority designated for such purpose), on a timely basis, any and all applications, filings, annual reports, information returns and other certifications required to comply with the requirements of the Code and (ii) upon request, provide the IRS (or other requesting Governmental Authority) any such documents, statements or information with respect to the Company or the Members;

(h) cause the Company to comply with the provisions of all Licenses and Permits and Law, including all state and local zoning laws, building codes, health and safety codes and all other applicable governmental and contractual obligations, where the failure to comply would result in a Material Adverse Effect;

(i) provide the Members with notice of any notice of any (i) material default, material noncompliance, termination or force majeure claim with respect to any Material Project Document; (ii) IRS or United States Department of the Treasury proceeding regarding the Projects or the Company, or (iii) material litigation, criminal action or administrative proceeding against the Company;

(j) conduct the business of the Company solely in the name of the Company and in such a way as to not mislead others as to the identity of the entity with which they are dealing;

(k) take all actions necessary to ensure (i) that Hazardous Substances are not brought onto the Site except in compliance with Environmental Law, (ii) that any such Hazardous Substances brought onto the Site are not Released, and (iii) that Projects are not in violation of any material federal, state or local statute, law, regulation, rule or ordinance, including any Environmental Law;

(l) cause the Company to promptly deliver to the Members any notice received from any Person of the existence or potential existence of any Hazardous Substance on or affecting the Projects or of a material violation of any federal, state or local statute, law, regulation, rule or ordinance, including any Environmental Law, with respect to the Projects;

(m) develop the Projects in accordance with Good Utility Practice;

(n) establish and maintain bank accounts in the name of the Company and in accordance with the terms of this Agreement;

(o) cause the Company to maintain insurance coverages in amounts and types consistent with Good Utility Practice;

(p) maintain the assets associated with the Projects in good condition, repair and working order, reasonable wear and tear excepted, and supplied with reasonably necessary equipment, and make reasonably necessary repairs, renewals, replacements, betterments and improvements thereto, as may be necessary to conduct the Company's business;

(q) provide the notices and other reports to the Members as required by Section 8.4;

(r) not make any Restricted Payment;

(s) if the Manager believes a Force Majeure Event has occurred, (i) within a reasonable amount of time after they have knowledge of the commencement of such Force Majeure Event and, if applicable, again within a reasonable amount of time after resumption of the development of the Projects after such suspension occurs, submit a notice to the Members describing in detail the Force Majeure Event, the effect thereof on the development of the Projects, the length of disruption and the measures taken or to be taken to minimize such disruption, (ii) use commercially reasonable efforts to remedy its inability to develop the Projects and to minimize the disruption caused by such Force Majeure Event and (iii) promptly resume its performance at the cessation of the Force Majeure Event. If a Force Majeure Event occurs, Manager shall continue to perform its obligations under this Agreement so far as commercially practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure Event. Manager shall communicate at reasonable intervals with the Members regarding the actions the Manager has taken and/or proposes to take, including any alternative means for performance not prevented by the Force Majeure Event; and

(t) not take any action for which Member consent must be received or notice to Members must be given under the terms of this Agreement or as required by Law, without receiving such consent or providing such notice.

6.6 Project Development and Sale.

(a) With respect to the Projects, the Company shall make commercially reasonable efforts to develop the Projects and market them for sale to unrelated third parties upon the receipt of a SMART Statement of Qualification with respect to the Projects. In the event, such sale is structured as the sale of the Membership Interests in the Company, the sale proceeds shall be allocated to the Members in the same manner as distributions pursuant to Section 5.1.

(b) In the event the Projects cannot be successfully sold within ninety (90) days of initiating a marketing process, each Member will have the right, but not the obligation to deliver a written notice to the other Members certifying that, in such Member's view, a successful third party sale of the Projects is not possible and offering (A) to sell all of its Membership Interest and (B) to purchase all of the other Members' Membership Interest, and specifying the prices for the Membership Interest at which such Member is willing to buy and sell (the "**Buy-Sell Offer**"); provided that each such price shall not be less than the fair market value of the Membership Interest. Upon receipt of the Buy-Sell Offer, the other Members must respond in writing within thirty (30) days indicating its acceptance of the offer to purchase or the offer to sell set forth in the Buy-Sell Offer or asserting that the price set forth in the Buy-Sell Offer is less than the fair market value. If the Member receiving the Buy-Sell Offer fails to respond to such offer within thirty (30) days of the receipt thereof, such receiving Member shall be deemed to have accepted the offer to sell its Membership Interest set forth in the Buy-Sell Offer. If the Member receiving the Buy-Sell Offer asserts that any price specified therein is less than the fair market value of the Membership Interest, such fair market value shall be established by an independent third party appraiser mutually agreed by the Members. If such fair market value is determined to be greater than such price, then the Buy-Sell Offer shall be deemed to have been made at such fair market value, rather than at such price, and the Member making the Buy-Sell Offer shall bear all the costs of the determination of such fair market value. If such fair market value is determined to be less than or equal to such price, then the Member receiving the Buy-Sell Offer shall bear the costs of such determination. Upon such determination of fair market value, the Member that received the Buy-Sell Offer must respond in writing within thirty (30) days indicating its acceptance of the offer to purchase or the offer to sell set forth in the Buy-Sell Offer, as deemed adjusted pursuant to the foregoing, if applicable.

(c) Once the Buy-Sell Offer has been accepted or deemed accepted, the selling Member (the "**Buy-Sell Selling Member**") shall have no voting rights, and must sell its Membership Interest to the other Member (the "**Buy-Sell Purchasing Member**") based solely on the Buy-Sell Offer.

(d) The Buy-Sell Offer shall be on an "as is, where is" basis, although the Buy-Sell Selling Member shall warrant indefeasible title to the Membership Interest to be sold, free and clear of any Encumbrances, except those already affecting all Membership Interests, of all Members, for the price set forth in the Buy-Sell Offer. The purchase price shall be payable only in cash in one lump sum at the closing of the purchase. Further, the purchase and sale transaction

contemplated by the Buy-Sell Offer shall include the requirement that the parties thereto consummate the transaction within sixty (60) days after the Buy-Sell Offer.

(e) The Buy-Sell Purchasing Member shall indemnify the Buy-Sell Selling Member for all losses and liabilities arising from and after the date on which the Buy-Sell Selling Member loses his voting rights; provided, however, that if the purchase and sale transaction contemplated by the Buy-Sell Offer is not consummated (other than as a result of a breach or failure to act in good faith by the Buy-Sell Selling Member), then the Buy-Sell Selling Member shall have his voting rights restored, and such indemnification shall only be for period up to the date upon which the Buy-Sell Selling Member's voting rights are restored.

ARTICLE VII RIGHTS AND RESPONSIBILITIES OF MEMBERS

7.1 General. The rights and responsibilities of the Members shall be as provided in the Massachusetts Certificate, this Agreement and the Act, with this Agreement controlling in the event of any conflict or inconsistency with the Act or the Massachusetts Certificate.

7.2 Member Consent Rights; Recusal; Standard of Review. Except as provided in Section 6.2(b) and (c), and as otherwise expressly provided in this Agreement or as required by the Act, the consent of the Members shall not be required and the Manager (and not the other Members) shall have all right, power and authority to do for, on behalf of, and in the name of the Company, all things that the Manager deems necessary, proper or desirable to carry out its duties and responsibilities. Without limitation of the foregoing, to the extent that the consent of the Members is expressly required by this Agreement or the Act, except as provided in Section 6.2(b), or as otherwise expressly provided in this Agreement, the Consent of the Members shall constitute approval by, or the authorization of, any action by or on behalf of the Company that expressly requires a vote, consent, approval or action of or an election by the Members; provided that without the prior written approval of each Member adversely affected thereby, no such consent shall: (i) modify the limited liability of a Member; (ii) require a Member to provide funds to the Company, by loan, contribution or otherwise (or amend any of the conditions to making any loan or contribution); (iii) alter the interest of any Member in Capital Accounts, profits, losses, distributions or available cash flow; or (iv) amend, supplement or otherwise modify Section 6.2(b) or this Section 7.2, or, in each case, any of the definitions of capitalized terms used therein.

7.3 Member Liability.

(a) To the fullest extent permitted under the Act and any other applicable Law as currently or hereafter in effect, no Member shall have any personal liability whatsoever, whether to the Company or to its creditors for the debts, obligations, expenses or liabilities of the Company, whether arising in contract, tort or otherwise, which shall be solely the debts, obligations or liabilities of the Company, or for any of its losses, in excess of the value of such Member's Capital Account, except as expressly provided herein. WITHOUT LIMITING THE OBLIGATIONS OF ANY PERSONS UNDER THE OTHER INVESTMENT DOCUMENTS, THE OBLIGATIONS OF THE MEMBERS UNDER THIS AGREEMENT ARE OBLIGATIONS OF THE MEMBERS ONLY, AND TO THE FULLEST EXTENT PERMITTED BY LAW NO RECOURSE SHALL

BE AVAILABLE AGAINST ANY OFFICER, DIRECTOR, MANAGER, MEMBER, PARTNER OR AFFILIATE OF ANY MEMBER.

(b) A Member shall, to the fullest extent permitted by applicable Law, be liable only to make its Capital Contributions as provided herein and shall not be required to restore a deficit balance in its Capital Account, except as provided in Section 11.3. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Members or the Manager for liabilities of the Company.

7.4 Withdrawal. Except as otherwise provided in this Agreement, no Member shall be entitled to: (a) voluntarily withdraw or resign from the Company; (b) withdraw any part of such Member's Capital Contributions from the Company; (c) demand the return of such Member's Capital Contributions; or (d) receive property other than cash in return for such Member's Capital Contribution.

7.5 Member Compensation. No Member shall receive any interest, compensation or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member, except as otherwise provided in this Agreement.

7.6 Other Ventures. The Members and their respective Affiliates at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, including other business ventures competitive with, or of the same type and description as the Company, independently or with others.

7.7 Confidential Information.

(a) Each Member shall hold, and shall cause its Affiliates to hold, in strict confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law (including securities laws of any applicable jurisdiction), the contents of this Agreement and other confidential information ("**Confidential Information**"), except to the extent that such Confidential Information has been or has become (i) generally available to the public other than as a result of disclosure by any party hereunder or an Affiliate of a party or (ii) made available to the public on a non-confidential basis from a source other than an Affiliate of a party entitled to the protection offered hereby. However, nothing contained in this Section 7.7 shall preclude the disclosure of Confidential Information, on the condition that it remain confidential, to auditors, attorneys, lenders, financial advisors and other Persons in connection with the performance of their duties as delegated or requested by the Manager or any Member hereof.

(b) Without limiting the foregoing provisions of (and subject to the exceptions set forth in) this Section 7.7, none of the Parties shall disclose the name of any of the other Parties (or of any Affiliate of any Party hereto) without the prior written consent of such other party and no such party shall issue a press release disclosing such name without the prior written consent of such party which consent shall not be unreasonably withheld, conditioned or delayed, except as required by applicable Law.

7.8 Indemnification of Members by the Company. Each Member and its officers,

directors, shareholders, Affiliates, employees and agents (each a “**Member Party**”) shall be exculpated from liability for and defended, indemnified and held harmless by the Company from all Claims arising out of the performance by such Member Party of its obligations under this Agreement or by virtue of such Member Party’s ownership of Membership Interest, so long as such Member Party acted in good faith on behalf of the Company and in a manner reasonably believed by it to be within the scope of the authority granted to it by this Agreement, and the Member Party’s actions did not constitute willful misconduct, fraud or gross negligence or breach of any of its representations, warranties or covenants under this Agreement or the Investment Documents, and did not give rise to any obligation to indemnify under Article X.

ARTICLE VIII ADMINISTRATIVE AND TAX MATTERS

8.1 Intent for Income Tax Purposes. The Members intend that the Company be treated as a partnership for federal and applicable state and local income tax purposes and that it be operated in a manner consistent with such treatment, but that the Company not be operated or treated as a “partnership” for any other purpose, including, but not limited to, Section 303 of the Federal Bankruptcy Code, and the provisions of this Agreement may not be construed to suggest otherwise.

8.2 Books and Records; Bank Accounts; Company Procedures.

(a) The Company’s books of account shall be prepared and maintained in accordance with GAAP for the type of business of the Company in coordination with the Certified Public Accountant. The Manager shall cause to be kept true, correct and accurate ledgers and other books of account and records of all receipts and disbursements and other financial activities of the Company in accordance with prudent business practices and as required by Law, including the following documents:

- (i) A copy of the Massachusetts Certificate and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;
- (ii) Copies of the Company’s federal, state and local income tax or information returns and reports, if any;
- (iii) Copies of this Agreement and all amendments thereto;
- (iv) Copies of the constituent documents in respect of the Company;
- (v) Financial statements, including a consolidated balance sheet and consolidated statements of income (or loss), of the Company and its consolidated subsidiaries for, to the extent applicable, each of the six (6) most recent Fiscal Years; and
- (vi) The Company’s books and records for at least the current and, to the extent applicable, the past three (3) Fiscal Years.

(b) The books of account of the Company shall be (i) maintained on the basis of a Fiscal Year and (ii) maintained on an accrual basis¹ in accordance with GAAP.

(c) Funds of the Company shall be deposited in such banks or other depositories, and withdrawals from any such depository shall be made as determined by the Manager. All monies in Company bank accounts shall be retained in cash and held at any commercial bank that is a member of the Federal Reserve System.

8.3 Information and Access Rights. The Members and their respective agents may, at their sole risk and expense, at reasonable times, and upon reasonable prior notice to the Manager, inspect the Projects and the Company's assets, and audit, examine and make copies of all relevant documents, books and records of the Company, pursuant to and without limitation to the rights afforded under Section 18-305(c) of the Act, and to discuss the affairs, finances, and accounts of the Company with the appropriate officers of the Company and the Manager. If the books and records of the Company are not regularly maintained at the principal place of business of the Company, upon reasonable notice, the Manager shall arrange for such records to be brought to the Company's principal place of business or such other location as mutually agreed by the parties, for the purposes of this Section 8.3.

8.4 Reports. The Manager shall, at the Company's expense, deliver, or cause to be delivered, to each Member that is not an Affiliate of the Manager, the following:

(a) Annually, but not later than ninety (90) days after the end of each Fiscal Year annual consolidated financial statements for the Company and its consolidated subsidiaries prepared on a GAAP basis effective as of the end of the immediately-preceding year, including a consolidated balance sheet and consolidated statements of income, members' equity and changes in cash flows, which financial statements shall be audited if available (if the unaudited financial statements are later audited, such audited financial statements shall be provided at the time the audit is completed), and shall be Confidential Information subject to Section 7.7;

(b) At the request of the Class B Members, quarterly, within twenty (20) days of the end of each Fiscal Quarter, a report that will include a summary of the development activities of the Projects from such quarter (including amounts spent on the development of the Projects) and an anticipated timeline of future development activities of each Project in a form mutually agreed to by the Parties;

(c) Annually, within seventy-five (75) days following the end of each calendar year, a draft federal Tax Return for the Company, including Schedule K-1, Partner's Share of Income, Deductions, Credits, etc. for the immediately preceding Taxable Year, by August 1 following the end of each calendar year, a final federal Tax Return, including Schedule K-1, Partner's Share of Income, Deductions, Credits, etc., for the immediately preceding Taxable Year. All Tax Returns required by this Section shall be prepared by the Certified Public Accountant;

¹ NTD: John Porter asked: Does this raise any issue with safe harbor provisions for the IT? PA Response: It can have an impact if the intent is to delay delivery of components into 2020. Parties to discuss.

(d) As promptly as practicable following the discovery of such event or condition, notice of (i) any material License and Permit violations in connection with the Projects, and (ii) any Material Adverse Effect on the Projects or the Company, or any event or condition that will have a material adverse effect on the Manager or the Class B Units.

8.5 Representations, Warranties and Covenants of the Class A Members. Each Class A Member, severally but not jointly, represents and warrants (and with respect to clause (f), covenants) to the Company and each other Member with respect to itself only, that the following statements are true and correct as of the Effective Date (and with respect to clause (f), shall be true at all times it is a Member):

(a) Due Organization, Etc. It is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization or formation and, if required by applicable Law, it is duly qualified and in good standing in the jurisdiction of its principal place of business, if different from its jurisdiction of organization or formation.

(b) Authority. It has the full right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and that all necessary action by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries or other applicable Persons necessary for the due authorization, execution, delivery and performance of this Agreement by such Class A Member has been duly taken.

(c) Enforceability. It has duly executed and delivered this Agreement and the other documents contemplated herein to which it is a party, and they constitute the legal valid and binding obligations of such Class A Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles.

(d) Financial Sophistication. It has such sophistication, knowledge and experience in financial and business matters that it is capable of evaluating the merits, risks and suitability of entering into the Transaction. It is acquiring its Membership Interest for its own account and not as a nominee or agent. It understands its Membership Interest has not been, and will not be, registered under the Securities Act and is being acquired in a transaction not involving a public offering by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the bona fide nature of each Member's investment intent and the accuracy of the Members' respective representations as expressed herein. It understands that no public market now exists for the Membership Interests or any of the Securities of the Company and that neither the Company nor any Member or Affiliate thereof has made any assurances that a public market will ever exist for the Membership Interests or the Company's Securities.

(e) Accredited Investor. It has discussed the Transaction and the accounting and tax treatment that it intends to accord the Transaction with its independent advisors, it is solely responsible for deciding to enter into the Transaction and has not relied on any other party (save for any representations made in this Agreement), other than its independent advisors, in respect of the accounting or tax treatment to be applied to the Transaction, or the overall suitability of the Transaction. It is an "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) of

Regulation D promulgated under the Securities Act, and is able to bear the economic risk of losing its entire investment in the Company.

(f) Tax Status. The Class A Member is and shall at all times be a “United States person” within the meaning of Section 7701(a)(30) of the Code and not subject to withholding under Section 1445 or 1446 of the Code.

(g) Third Party Consents. Except for the Required Consents, there is no requirement to make any filing with, or to obtain the consent, waiver, authorization or approval of or from any Person as a condition to the execution and delivery of, and performance of such Class A Member’s obligations under this Agreement.

(h) Required Consents. To the extent that any of the Required Consents have not been obtained prior to the Effective Date, then, to the extent permitted by applicable Law, the Class A Member shall:

(i) apply for and obtain the Required Consents as soon as practicable and, in any event, not later than:

(A) sixty (60) days after the Effective Date in the case of the Required Consent of the Town of Medfield; or

(B) fourteen (14) days after the Effective Date in the case of the Required Consent of the Lessor; and

(ii) take such actions and do such things as may be reasonably and lawfully designed to provide the benefits of the licenses, permits, agreements to be assigned subject to the Required Consents to the Company, including holding those licenses, permits, or agreements in trust for the benefit of the Company or acting as agent for the Company pending such assignment.

8.6 Representations, Warranties and Covenants of the Class B Members. Each Class B Member represents and warrants (and with respect to clause (f), covenants) to the Company and each other Member with respect to itself only, that the following statements are true and correct as of the Effective Date (and with respect to clause (f), shall be true at all times it is a Member):

(a) Due Organization, Etc. It is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization or formation and, if required by applicable Law, it is duly qualified and in good standing in the jurisdiction of its principal place of business, if different from its jurisdiction of organization or formation.

(b) Authority. It has the full right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and that all necessary action by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries or other applicable Persons necessary for the due authorization, execution, delivery and performance of this Agreement by such Class B Member has been duly taken.

(c) Enforceability. It has duly executed and delivered this Agreement and the other documents contemplated herein to which it is a party, and they constitute the legal valid and binding obligations of such Class B Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles.

(d) Financial Sophistication. It has such sophistication, knowledge and experience in financial and business matters that it is capable of evaluating the merits, risks and suitability of entering into the Transaction. It is acquiring its Membership Interest for its own account and not as a nominee or agent. It understands its Membership Interest has not been, and will not be, registered under the Securities Act and is being acquired in a transaction not involving a public offering by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the bona fide nature of each Member's investment intent and the accuracy of the Members' respective representations as expressed herein. It understands that no public market now exists for the Membership Interests or any of the Securities of the Company and that neither the Company nor any Member or Affiliate thereof has made any assurances that a public market will ever exist for the Membership Interests or the Company's Securities.

(e) Accredited Investor. It has discussed the Transaction and the accounting and tax treatment that it intends to accord the Transaction with its independent advisors, it is solely responsible for deciding to enter into the Transaction and has not relied on any other party (save for any representations made in this Agreement), other than its independent advisors, in respect of the accounting or tax treatment to be applied to the Transaction, or the overall suitability of the Transaction. It is an "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act, and is able to bear the economic risk of losing its entire investment in the Company.

(f) Tax Status. The Class B Member is and shall at all times be a "United States person" within the meaning of Section 7701(a)(30) of the Code and not subject to withholding under Section 1445 or 1446 of the Code.

(g) Third Party Consents. There is no requirement to make any filing with, or to obtain the consent, waiver, authorization or approval of or from any Person as a condition to the execution and delivery of, and performance of such Class B Member's obligations under this Agreement.

(h) Capital Availability. EVG and NRG have sufficient capital available to make their own respective Class B Capital Contributions.

8.7 Representations and Warranties Regarding Project Assets. SSL represents and warrants to the Company and each other Member with respect to itself only, that the following statements are true and correct as of the Effective Date:

(a) Valid Assignment. Exhibit A contains a complete list of all Licenses and Permits and Contracts related to the Projects (the "**Project Assets**"). All Project Assets, including all Licenses and Permits, and Contracts, if any, have been validly assigned to the Company free

and clear of all liens and encumbrances, other than Permitted Encumbrances, and, except for the Required Consents, no consent is required from any third party to such assignment (or such consent has been received).

(b) Legal Proceedings. There are no actions, suits, investigation, proceedings or arbitrations, in which SSL has appeared or has been named or served as a party (either as a plaintiff or defendant) or, to SSL's knowledge, threatened before any court or Governmental Authority seeking to restrain, prohibit or obtain damages or other relief in connection with this Agreement or the transactions contemplated hereby or which would, if determined adversely have a Material Adverse Effect on the Company, its Assets, or the Projects.

(c) Compliance with Law. SSL is in compliance in all respects with all Legal Requirements applicable to its business and operations, including with respect to the Projects.

(d) Environmental Laws. To SSL's knowledge, (i) SSL has complied and is in compliance in all respects with all Environmental Laws affecting it, the Project Assets, or the development of the Projects and (ii) no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand or notice has been filed or commenced or, to SSL's knowledge, threatened against SSL alleging any material failure to comply with any applicable Environmental Law, in each such case which would reasonably be expected to have a Material Adverse Effect on the Company or the Projects.

(e) Condition of Assets. The Project Assets, to the extent tangible, have been maintained to prevailing industry standards for similar assets in all material respects and are in good operating condition and repair in all material respects, ordinary wear and tear excepted

ARTICLE IX TRANSFERS OF INTERESTS

9.1 Transfer Restrictions. No Member may Transfer or Encumber all or any portion of its Membership Interest, or permit any Encumbrance, except in strict accordance with this Article IX. Any attempted Transfer or Encumbrance of any Membership Interest by a Member, other than in strict accordance with this Article IX, shall be, and is hereby declared, null and void *ab initio*. The Members agree that a breach of the provisions of this Article IX may cause irreparable injury to the Company and to the other Members for which monetary damages (or other remedy at Law) are inadequate in view of (a) the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Member to comply with such provision and (b) the uniqueness of the Company's business and the relationship among the Members. Accordingly, the Members agree that the provisions of this Article IX may be enforced by specific performance.

9.2 Restrictions on Transfer. A Class A Member may not Transfer all or any portion of its Membership Interest, except with the Consent of the Class B Members. Likewise, a Class B Member may not Transfer all or any portion of its Membership Interest, except with the Consent of the Class A Members.

9.3 General Restrictions on Transfer. In addition to the other requirements of this Article 9, any Transfer of a Membership Interest shall also comply with the following terms and conditions:

(a) an instrument of Transfer and related documents reasonably have been executed by the transferor and transferee and delivered to the principal office of the Company;

(b) a counterpart signature page to this Agreement has been executed by the transferee;

(c) a certificate from an officer of such transferee stating that the representations and warranties contained in Sections 8.6 or 8.7, as applicable, respecting the Member holding the class of Membership Interest that such transferee is purchasing are true and correct with respect to such transferee as of the date of such transfer;

(d) the Transfer does not create a default under any agreements to which the Company is a party;

(e) the transferor has reimbursed the Company and the non-transferring Member for, and held the Company and the non-transferring Member harmless from, all of their respective costs, expenses, taxes or liabilities (including reasonable attorneys' fees and disbursements) incurred in connection with the Transfer;

(f) the Transfer shall not result in the Company being treated as a "publicly traded limited liability company" within the meaning of Section 7704 of the Code and the Treasury Regulations or have other adverse tax effects on the Company;

(g) such Transfer does not require, or qualifies for an exemption from, registration under the Securities Act of 1933 and qualification under any applicable state securities law; and

(h) such Transfer does not result in the imposition of a transfer tax on any other Member, unless such transfer tax or the consequences of such tax termination are indemnified against by the transferring Member or its transferee in a manner reasonably acceptable to each non-transferring Member; provided that the Members shall cooperate in good faith, at the request of the transferring Member, to structure such Transfer in a manner that does not give rise to any such transfer tax.

9.4 Terminated Member. Upon the closing of a Transfer by a Member of all of its Membership Interest in the Company in accordance with this Article IX, the following provisions shall apply to the Transferring Member (now a "**Terminated Member**").

(a) The Terminated Member shall cease to be a Member immediately upon the occurrence of such closing.

(b) The Terminated Member shall no longer be entitled to receive any distributions (including liquidating distributions) or allocations from the Company, and it shall not be entitled to exercise any consent rights or to receive any further information (or access to

information) from the Company, other than information required in connection with preparation of applicable tax returns or any tax audit.

(c) The Terminated Member must pay (i) to the Company all amounts owed to the Company by the Terminated Member and (ii) to each other Member all amounts owed to such Member by the Terminated Member.

(d) The Terminated Member shall remain obligated for all liabilities it may have under this Agreement or otherwise with respect to the Company that accrue prior to the closing; and

(e) The Membership Interest, including the Capital Account balance attributable thereto, of the Terminated Member shall be allocated among the applicable transferees in proportion to the relative Transferred Units acquired by such transferee.

9.5 Additional Class A Members and Additional Class A Units. No Person may be admitted as an additional Class A Member, nor may additional Class A Units be issued without the Consent of the Class B Members.

ARTICLE X INDEMNIFICATION

10.1 Indemnification.

(a) Subject to the terms and conditions of this Article X, each Class A Member (including a Class A Member in its role as Manager) (a “**Class A Indemnifying Party**”) agrees, jointly and severally, to indemnify, defend, reimburse and hold harmless without duplication each of the Class B Members and their respective parent or subsidiary companies, shareholders, partners, members and other Affiliates and each of their respective officers, directors, managers, employees, agents, attorneys, contractors, representatives, successors and permitted assigns (collectively, the “**Class B Indemnified Parties**”), from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, Taxes, penalties, costs, and expenses (including reasonable and documented attorneys’ fees and other expenses), of any nature whatsoever (collectively, “**Damages**”), asserted against, resulting to, imposed upon, or incurred by any or all of the Class B Indemnified Parties, directly or indirectly, by reason of, arising out of or resulting from any act or omission of the Class A Indemnifying Party in this Agreement (collectively, “**Class B Indemnified Claims**”).

(b) Subject to the terms and conditions of this Article X, each Class B Member (a “**Class B Indemnifying Party**”) and together with a Class A Indemnifying Party, “**Indemnified Party**”) agrees, jointly and severally, to indemnify, defend, reimburse and hold harmless without duplication each of the Class A Members (including a Class A Member in its role as Manager) and their respective parent or subsidiary companies, shareholders, partners, members and other Affiliates and each of their respective officers, directors, managers, employees, agents, attorneys, contractors, representatives, successors and permitted assigns (collectively, the “**Class A Indemnified Parties**”) and together with the Class A Indemnified Parties, “**Indemnified Parties**”), from and against any Damages, asserted against, resulting to, imposed upon, or incurred by any or all of the Class A Indemnified Parties, directly or indirectly, by reason of, arising out of or resulting

from any act or omission of the Class B Indemnifying Party in this Agreement (collectively, “**Class A Indemnified Claims**” and together with Class B Indemnified Claims, “**Indemnified Claims**”).

10.2 Limitation on Liability. The indemnification obligations of the Parties pursuant to this Article X shall be subject to the following limitations:

(a) The amount of Damages required to be paid by any party to indemnify any Indemnified Party pursuant to this Article X as a result of any Indemnified Claim shall be reduced to the extent of any amounts actually received by the Indemnified Party pursuant to the terms of the insurance policies (if any) thereof covering such claim.

(b) Damages paid pursuant to this Article X shall, to the maximum extent permitted under applicable Law, be treated as an adjustment to the capital contributions of the Members (or otherwise as a non-taxable reimbursement, contribution, or return of capital, as the case may be).

(c) The indemnification obligations under this Article X shall be limited to Damages and shall not include special, incidental, consequential, indirect, punitive, or exemplary Damages, nor shall any Claims be made by any Party hereto or any of its Affiliates, directors, employees, attorneys or agents against any other Party hereto or any of its Affiliates, directors, employees, attorneys or agents for special, incidental, consequential, indirect, punitive, or exemplary Damages (whether or not the Claim therefor is based on contract, tort, duty imposed by law or otherwise) in connection with, arising out of or in any way related to this Agreement; provided that any incidental, consequential, indirect, punitive, or exemplary Damages that are either (i) reasonably and probably foreseeable and proximately caused by such breach or (ii) recovered by a third party (including Governmental Authorities) against a Person entitled to indemnity pursuant to this Article X shall be included in the Damages recoverable under such indemnity.

(d) No Indemnified Party may receive compensation for Damages suffered by such Indemnified Party to the extent that such Damages are solely attributable to (i) the gross negligence or willful misconduct of such Indemnified Party or (ii) the inaccuracy, breach or failure of any representation or warranty or covenant of such Indemnified Party in this Agreement or any other Investment Document.

(e) Notwithstanding anything to the contrary in this Agreement, except for Indemnified Claims resulting from fraud, gross negligence or willful misconduct, in no event shall the Indemnifying Party’s indemnification obligations hereunder apply with respect to any Indemnified Claim until all Indemnified Claims by the Indemnified Party hereunder exceed in the aggregate Twenty Thousand Dollars (\$20,000), and once such threshold amount has been reached, at which point and thereafter, such indemnification obligation shall apply to all Indemnified Claims for indemnification hereunder (from dollar one), including amounts that were not previously subject because such threshold amount had not been reached.

10.3 Procedure for Indemnification. After receipt by an Indemnified Party under Section 10.1 of notice of the commencement of any action, such Indemnified Party shall, if a claim

in respect thereof is to be made against an Indemnifying Party under such Section, give written notice to the Indemnifying Party of the commencement thereof. The failure to promptly notify the Indemnifying Party shall not relieve it of any liability that it may have to any Indemnified Party with respect to such action. In case any such action shall be brought against an Indemnified Party and it shall give written notice to the Indemnifying Party of the commencement thereof, the Indemnifying Party shall be entitled to participate therein and, to the extent that it may wish, to assume the defense thereof with counsel reasonably satisfactory to such Indemnified Party. If the Indemnifying Party elects not to assume (or fails to assume) the defense of such action, the Indemnified Party shall be entitled to assume the defense of such action with counsel of its own choice, at the expense of the Indemnifying Party. If the Indemnifying Party elects to assume the defense of such action, (i) no compromise or settlement thereof may be effected by the Indemnifying Party without the Indemnified Party's written consent (which shall not be unreasonably withheld) unless the sole relief provided is monetary damages that are paid in full by the Indemnifying Party and (ii) the Indemnifying Party shall have no liability with respect to any compromise or settlement thereof effected without its written consent (which shall not be unreasonably withheld) unless the Indemnifying Party has failed to defend such indemnified party against such action.

10.4 Exclusivity. The Parties agree that, in relation to any breach, default, or nonperformance of any representation, warranty, covenant, or agreement made or entered into by a Member (whether in its capacity as a Member, the Manager, the Partnership Representative or otherwise) pursuant to this Agreement, any other Investment Document, or arising out of the transactions contemplated herein or therein, the only relief and remedy available to the other Members in respect of said breach, default, or nonperformance to the extent recoverable by the payment of monetary damages shall be recovery of Damages pursuant to this Article X or otherwise hereunder.

10.5 No Duplication. Any liability for indemnification under this Agreement shall be determined without duplication of recovery.

ARTICLE XI DISSOLUTION, LIQUIDATION AND TERMINATION

11.1 Dissolution.

(a) The Company will dissolve and its business and affairs will be wound up on the first to occur of the following (the "**Liquidating Events**"):

- (i) The unanimous consent of the Members to dissolve the Company;
- (ii) Any other event upon the occurrence of which dissolution is required by the Act (that the Act does not allow to be waived by agreement of the Parties), unless, to the extent permitted by the Act, Members (other than the Member with respect to which such event occurs) unanimously elect in writing, within ninety (90) days of the date such event described in this Section 11.1(a)(ii) occurs, to continue the business of the Company, in which case the Company will not dissolve; or

(iii) The Transfer by the Company of all or substantially all of its business and Assets.

(b) Each Member agrees that, to the fullest extent permitted by Law, it will not dissolve itself or the Company or withdraw from the Company except as set forth in Section 11.1(a).

11.2 Liquidation and Termination.

(a) On dissolution of the Company, the Manager shall appoint one or more Members as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided in this Agreement. The costs of liquidation will be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company with all of the power and authority of the Members. The steps to be accomplished by the liquidator are as follows:

(i) As promptly as reasonably practicable after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by the Certified Public Accountant of the Company's Assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(ii) The liquidator shall pay from Company funds all of the debts and liabilities of the Company or otherwise make adequate provision for them (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidator may reasonably determine).

(iii) With respect to the remaining Assets of the Company: the liquidator shall use all commercially reasonable efforts to obtain the best possible price and may sell any or all Assets of the Company (subject to any and all restrictions to which the Projects are subject), including to the Members at such price, but in no event lower than the Fair Market Value thereof.

(iv) Any Company Items of income and gain (including any such items attributable to the disposition or deemed disposition of Assets pursuant to Section 11.2(a)(iii)) for the Taxable Year during which the distribution of liquidation proceeds occurs that have not been allocated pursuant to the Regulatory Allocations shall first be allocated to each Member having a deficit balance in its Capital Account, in the proportion that such deficit balance bears to the total deficit balances in the Capital Accounts of all Members, until each Member has been allocated Company Items of income and gain equal to any such deficit balance in its Capital Account and such deficit balance has thereby been eliminated. Any remaining Company Items (including any items attributable to the disposition or deemed disposition of Assets pursuant to Section 11.2(a)(iii)) for such Taxable Year during which the distribution of liquidation proceeds occurs shall be allocated among the Members in such manner as to ensure that, to the greatest extent feasible, following these allocations, the balances in the Capital

Accounts of the Members are expected to result in distributions pursuant to Section 11.2(a)(v) in accordance with the following target liquidation distributions:

(A) First, to the Class B Members, pro rata, an amount equal to such Member's Unrecouped Capital Contribution;

(B) Second, to each Class A Member, pro rata, an amount equal to such Member's Unrecouped Capital Contribution; and

(C) Third, the remainder to the Members, pro rata in accordance with their Adjusted Distribution Percentages.

(v) After giving effect to all allocations (including those under Section 2 of Exhibit C and Section 11.2(a)(iv)), all distributions (including those under Section 5.1) and all Capital Contributions (including those under Section 3.1 and Section 3.2) for all periods, all remaining cash and property shall be distributed, to the Members pro rata in accordance with the positive balances in their Capital Accounts.

(vi) Any distribution to the Members in respect of their Capital Accounts pursuant to this Section 11.2 shall be made by the end of the Company Taxable Year in which a Liquidating Event occurs (or if later, within ninety (90) days after the date of such Liquidating Event).

(b) The distribution of cash or property to a Member in accordance with the provisions of this Section 11.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on account of its Membership Interest and all the Company's property and constitutes a compromise to which all Members have consented pursuant to Section 18-502(b) of the Act.

11.3 Deficit Capital Accounts. No Member shall be obligated to contribute cash to restore a deficit in its Capital Account balance.

11.4 Termination. On completion of the satisfaction of liabilities and distribution of Assets as provided in this Agreement, the Manager (or such other Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the Secretary of State of the Commonwealth of Massachusetts and cancel any other filings made as provided in Section 2.1, and shall take such other actions as may be necessary to terminate the existence of the Company. Upon the filing of such certificate of cancellation, the existence of the Company shall terminate (and the term of the Company shall end), except as may be otherwise provided by the Act or other applicable Law. All costs and expenses in fulfilling the obligations under this Section 11.4 shall be borne by the Company.

ARTICLE XII GENERAL PROVISIONS

12.1 Notices. Except as may otherwise be expressly provided in this Agreement, all notices, consents, demands, requests or other communications which may be or are required to be given under this Agreement shall be in writing and shall (a) be sent by overnight courier or United

States mail, addressed to the recipient, postage paid, and registered or certified, return receipt requested, or delivered to the recipient in person (in each case, with a copy by email, which copy shall not constitute a notice, demand, request or other communication for purposes of this Agreement unless receipt is acknowledged by the recipient) and (b) be sent or delivered at the addresses (with a copy to the e-mail addresses) set forth on the signature page of this Agreement or such other address as a Member may specify by notice to the Company and the other Members. Any notice, request or consent to the Company must be given to the Manager. Notices, consents, demands, requests and other communications shall be deemed effective or served on the date of receipt at the address of the Person to receive it, and if by email on the date such recipient acknowledges receipt.

12.2 Counterparts. This Agreement may be executed in one or more counterparts, each bearing the signatures of one or more Members. Each such counterpart shall be considered an original and all of such counterparts shall constitute a single agreement binding all the Parties as if all had signed a single document. Electronic signatures in PDF format shall be accepted as original signatures for purposes of this Agreement.

12.3 Governing Law and Severability. This Agreement shall be construed, interpreted and enforced in accordance with the internal laws and decisions of the Commonwealth of Massachusetts without giving effect to any choice of law or conflict of law rules or provisions of any other state or jurisdiction that would cause the application of the laws of any jurisdiction other than the Commonwealth of Massachusetts. If any provision of this Agreement shall be contrary to any other applicable Law, at the present time or in the future, such provision shall be deemed null and void, but this shall not affect the legality of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in compliance with applicable Law and this Agreement shall then be construed in such a way as will best serve the intention of the Parties at the time of the execution of this Agreement.

12.4 Entire Agreement. This Agreement, including any Schedules and Exhibits, together with the other Investment Documents, constitutes the entire agreement among the Members regarding the terms and operations of the Company, except as amended in writing pursuant to the requirements of this Agreement, and supersedes all prior and contemporaneous agreements, statements, understandings and representations of the Parties, whether written or oral.

12.5 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations under this Agreement, or any Investment Document is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person under this Agreement, or any Investment Document. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to its obligations under this Agreement, or any Investment Document, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute of limitations period has run.

12.6 Amendment or Modification. Except as otherwise provided herein, this Agreement may be amended or modified from time to time only by a written instrument executed by all Members.

12.7 Binding Effect. Subject to the restrictions and provisions pertaining to Transfers set forth in this Agreement, this Agreement is binding on and inures to the benefit of the Members and their respective legal representatives, permitted successors and permitted assigns.

12.8 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions contemplated here, including all filing, recording, publishing and other acts appropriate to comply with all requirements for the operation of a limited liability company under the laws of all jurisdictions where the Company shall conduct business.

12.9 Jurisdiction. The Parties agree to submit to the exclusive jurisdiction of the State and Federal courts of the Commonwealth of Massachusetts. Each Party irrevocably waives and agrees not to make, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the jurisdiction of any such court or to the laying of venue of any such action or proceeding brought in any such court and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. To the extent permitted by law, the Parties agree that service of process in connection with an action or proceeding may be effected by mailing such service of process in the manner provided in Section 12.1.

12.10 Waiver of Jury Trial. THE PARTIES MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE PARTIES TO EXECUTE THIS AGREEMENT AND CONSUMMATE THE TRANSACTION.

12.11 Dispute Resolution. Except as provided in this Section 12.11, the sole procedure to resolve any claim arising out of or relating to this Agreement is the dispute resolution procedure set forth in this Section 12.11. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the dispute by means of the dispute resolution procedure set forth in this Section 12.11. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within ten (10) days of initiating such discussions, or within fifteen (15) days after notice of the dispute, either Party may seek any and all remedies available to it at law or in equity.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CLASS A MEMBER:

Sunspire Solar, LLC

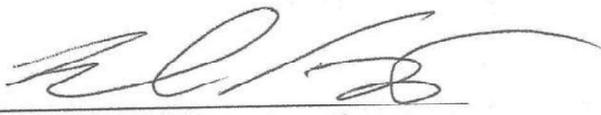
By: Clean Footprint, LLC its Manager

By: John Porter
Name: John Porter
Title: Manager

Address for Notice:
PO Box 1673
Andover, MA, 01810
Attn: John Porter

CLASS B MEMBERS:

ENERGY VENTURES GROUP

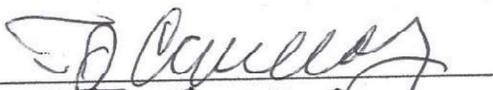
By: 

Name: *MARK IAMONACO*

Title: *CEO*

Address for Notice:
4 Hawk Ridge Road
Andover, MA 01810
Attn: Mark Iamonaco

NRGTree LLC

By: 

Name: *TJ Caveney*

Title: *CEO*

Address for Notice:
128 Warren St.
Lowell, MA 01852
Attn: TJ Caveney

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS **ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “Agreement”) is made and entered into effective as of August 7, 2019 (the “Effective Date”), by and between Sunspire Solar, LLC, a Delaware limited liability company (the “Assignor”), and 2 Ice House, LLC a Massachusetts limited liability company (the “Assignee”) (each a “Party” and collectively the “Parties”).

WHEREAS, Assignor and Kingsbury Club Medfield, Inc. (the “Landlord”) entered into those four certain Option and Lease Agreements all dated March 21, 2019 (two roof leases for approximately 35,000 and 53,000 square feet respectively and two parking lot canopy leases for approximately 44,000 and 14,000 respectively) (collectively, the “Leases”) for the development and construction of solar photovoltaic systems (the “Systems”) at the Landlord’s property known as 2 Ice House Road, Medfield, MA 02052 (the “Premises”).;

WHEREAS, the Town of Medfield (“Town”) owns and leases the Premises to Kingsbury Club Medfield, Inc, under that certain ground lease dated September 1, 2007 and, on March 19, 2019, approved the Leases;

WHEREAS, the Assignor has initiated or completed other development items detailed on Exhibit A (the “Development Items”);

WHEREAS, Assignor has provided copies of the Leases and Development Items to Assignee; and

WHEREAS, the Assignor desires to assign to the Assignee all of the Assignor’s right, title and interest in and to the Leases and Development Items, and all of the Assignor’s duties, obligations and liabilities pursuant to or arising out of, the Lease, and the Assignee desires to accept such assignment and assume such duties, obligations and liabilities, all upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Assignment.** The Assignor hereby assigns and transfers to the Assignee (collectively, the “Assignment”) all of (a) the Assignor’s right, title and interest in and to, and all of the Assignor’s duties, obligations, and liabilities pursuant to or arising out of, the Leases and Development Items and (b) all of Assignor’s benefits and privileges as the “Lessee” under the Leases, free and clear of all encumbrances. Assignee hereby accepts the foregoing assignment and hereby agrees, from and after the Effective Date, to perform all of the terms and conditions of the Leases to be performed on the part of Assignor as Lessee under the Lease, except as otherwise set forth in this Agreement, and assumes all of the liabilities and obligations of Assignor as Lessee under the Leases arising or accruing on or after the Effective Date.

2. Landlord and Town Written Consent to Assignment. Within fourteen (14) days and sixty (60) of the Effective Date of this Agreement, respectively, Assignor shall deliver to Assignee, Landlord's and the Town's written consent to Assignor's assignment, conveyance, and transfer of all of (a) the Assignor's right, title and interest in and to, and all of the Assignor's duties, obligations, and liabilities pursuant to or arising out of, the Leases and Development Items, and (b) all of Assignor's benefits and privileges as the "Lessee" under the Leases in a form acceptable to Assignee in its sole discretion (collectively, the "Consent to Assignment").

3. Development Services of Assignor: Following the Effective Date, at the request of Assignee and without further consideration, Assignor shall execute and deliver, or cause to be executed and delivered, such further documents and instruments and shall take, or cause to be taken, such further actions as the requesting party may reasonably request or as otherwise may be necessary or desirable to evidence and make effective the transactions contemplated by this Agreement, including but not limited to completing the administrative transfer of all Development Items to Assignee. Furthermore, Assignor shall perform such services regarding development of the Systems as required in its role as manager under that certain Operating Agreement of Assignee, dated on or about the date hereof (the "Assignee Operating Agreement").

4. Development Services of Assignee. Following the Effective Date, Assignee shall oversee all development activities for the Systems including those listed in Exhibit A, in accordance with the Assignee Operating Agreement.

5. Standards. The Parties shall perform the development activities described herein on behalf of the Project in a professional, workmanlike and efficient manner in accordance with all applicable laws, this Agreement, and prudent industry standards. The Parties shall devote such time as is necessary to perform the development services properly and timely to achieve the objectives of the Project.

6. Representations or Warranties. Assignor hereby represents and warrants to Assignee that (i) Assignor has not amended, restated, modified, supplemented, revised, extended, released or otherwise changed the Leases; (ii) the Leases contains all of the understandings and agreements between Assignor and Landlord, and are in existence and in full force and effect without modification, addition, extension or renewal on the date hereof; (iii) neither Assignor nor, to Assignor's knowledge, Landlord is in default under any of the terms of the Leases; (iv) all obligations and conditions under the Leases to be performed to date by Assignor, including all payments of rent due through the date of this Agreement, have been satisfied; (v) to Assignor's knowledge, Landlord has no current defenses or claims against Assignor under the Leases or otherwise; (vi) Assignor has received no written notice by any governmental authority or person claiming a violation of, or requiring compliance with, any federal, state or local statute, ordinance, rule, regulation or other requirement of law, at the Premises; and (vii) Assignor has no knowledge of any environmental claims, hazardous materials or other site conditions at or on the Premises that would frustrate or otherwise impede the purpose of the Leases.

7. Indemnification. Assignee agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, arising in connection with Assignee's performance or failure to perform any obligation hereby assumed by Assignee under this Agreement arising or accruing from and

after the Effective Date. Assignor agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, arising in connection with the performance or the failure to perform any agreement or obligation of Assignor under this Agreement arising or accruing prior to the Effective Date and/or directly arising out of any breach of the representation and warranties in this Agreement.

8. Binding Effect. This Agreement shall be binding upon the successors and assigns of the parties. The parties shall execute and deliver such further and additional instruments, agreements and other documents as may be necessary to evidence or carry out the provisions of this Agreement.

9. Entire Agreement. This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them.

10. Notices. All notices, consents, waivers and other communications under this Agreement must be in writing and will be deemed to have been duly given when (a) delivered by hand, or (b) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate address set forth below (or to such other addresses as a party may designate by notice to the other party):

If to Assignee:

2 Ice House, LLC
128 Warren St.
Lowell, MA 01852
Attn: John Porter

With a copy to:

Energy Ventures Group
4 Hawk Ridge Road
Andover, MA 01810
Attn: Mark Iamonaco

If to Assignor:

Sunspire Solar, LLC
PO Box 1673
Andover, MA, 01810
Attn: John Porter

11. Headings. The headings of the sections of this Agreement, where employed, are for the convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meanings of the parties.

12. Counterparts; Electronic Signatures. This Agreement and any amendment, waiver, approval or consent relating hereto may be executed in any number of counterparts, each of which

when so executed and delivered shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The delivery by any party of an executed signature page to this Agreement or any amendment, waiver, approval or consent relating hereto by electronic email in Adobe Corporation's Portable Document Format (or PDF) shall be deemed to be, and shall be enforceable to the same extent as, an original signature page hereto or thereto. Any party who delivers such a signature page agrees to later deliver an original counterpart to any party that requests it.

13. Waiver of Jury Trial. Assignee knowingly, voluntarily, and intelligently waives Assignee's right to a trial by jury with respect to any claim, dispute, conflict, or contention, if any, as may arise under this Agreement, and agrees that any litigation between the parties concerning this Agreement shall be heard by a court of competent jurisdiction sitting without a jury. Assignee hereby confirms to Assignor that Assignee has reviewed the effect of this waiver of jury trial with competent legal counsel, or has been afforded the opportunity to do so, prior to signing this Agreement and acknowledges and agrees that Assignor is relying upon this waiver.

14. Governing Law. This Agreement shall be governed by and construed according to the laws of the Commonwealth of Massachusetts.

15. Interpretation. Each of the parties hereby waives any provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party that drafted the contract, agreement or instrument.

16. Incorporation of Assignee Operating Agreement. This Assignment shall be subject to the terms and conditions set forth in the Assignee Operating Agreement (including Assignor's representations, warranties, covenants, and agreements), which are hereby incorporated herein by reference, and nothing contained in this Assignment shall be construed to limit, terminate or expand the representations, warranties or covenants set forth in the Assignee Operating Agreement. Assignor acknowledges and agrees that nothing in the Assignee Operating Agreement shall be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Assignee Operating Agreement and the terms hereof, the terms of the Assignee Operating Agreement shall govern.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

ASSIGNOR

Sunspire Solar, LLC

By: Clean Footprint LLC, its Manager

By: John Porter
Name: John Porter
Title: Manager

ASSIGNEE

2 Ice House, LLC

By: Sunspire Solar LLC, its Manager

By: Clean Footprint LLC its Manager

By: John Porter
Name: John Porter
Title: Manager

EXHIBIT A – DEVELOPMENT ITEMS

1. Four certain Option and Lease Agreements, entered into by Kingsbury Club Medfield, Inc., as Lessor, and Sunspire Solar, LLC, as Lessee dated as of March 21, 2019 (two roof leases for approximately 35,000 and 53,000 square feet respectively and two parking lot canopy leases for approximately 44,000 and 14,000 square feet respectively) on the property located at 2 Ice House Road, Medfield, Massachusetts 02052.
2. Notice of Option for each lease recorded at the Norfolk County Registry of Deeds in Dedham, MA, dated as of April 16, 2019.
3. Approval by the Town of Medfield, dated March 19, 2019 of the four subleases by Kingsbury Club Medfield, Inc., as Lessor and Sunspire Solar, LLC, as Lessee on property owned by the Town of Medfield and leased to Kingsbury Club Medfield, Inc. pursuant to that certain Ground Lease dated September 1, 2007.
4. Interconnection pre application report from Eversource Energy-NSTAR dated October 17, 2018.
5. One Interconnection Application – Eversource Work Order Number 2351919 and Eversource Energy Account Number 3023-692-0010, Single Line Diagram and Site Plan, both the Single Line Diagram and Site Plan are stamped and sealed by a MA P.E., for the Canopy PV System with a DC Nameplate of 939.06 kW and a Battery Energy Storage System with a DC Nameplate of 522 kW and 2088 kWh over 4 Hours.
6. One Interconnection Application, Single Line Diagram and Site Plan, both the Single Line Diagram and Site Plan are stamped and sealed by a MA P.E., for the Building Mounted PV System with a DC Nameplate of 1,012.32 kW and a Battery Energy Storage System with a DC Nameplate of 522 kW and 2088 kWh over 4 Hours.
7. Two structural engineering approval letters, both stamped and sealed by a MA P.E., completed by Hurricane Hill Development Company, PLLC dated February 26, 2019 for the new building structure and May 5, 2019 for the existing building structure.
8. Preliminary Assessment of the suitability of the Site for System installation dated Thursday, April 25, 2019.

9. Four Subordination, Nondisturbance and Attornment Agreements (one for each lease) made as of the 4th day of June, 2019 by and among Sunspire Solar LLC (the "Tenant"), Kingsbury Club Medfield, Inc. (the "Landlord"), and Eastern Bank (the "Mortgagee").
10. Title Search Report from Security First Title Report, Inc. dated May 13, 2019.

CONSENT TO ASSIGNMENT

This Consent to Assignment Agreement (the “**Agreement**”) is made effective as of _____, 2019 (the “**Effective Date**”) by and among SUNSPIRE SOLAR LLC, a Delaware limited liability company (“**Assignor**”), 2 ICE HOUSE LLC, a Massachusetts limited liability company, (“**Assignee**”), and KINGSBURY CLUB MEDFIELD INC, a Massachusetts corporation (“**Lessor**”), and TOWN OF MEDFIELD, a Massachusetts town (“**Town**”) with reference to the following facts:

RECITALS

- A. WHEREAS, Lessor leases certain real property located at 2 Ice House Road, Medfield, MA 02052 from the Town under that ground lease agreement dated September 1, 2007, which property is more particularly described on Exhibit A attached hereto and incorporated herein (the “**Property**”).
- B. WHEREAS, Assignor and Lessor are the parties to those four certain Option and Lease Agreements, all dated as of March 21, 2019 (two roof leases for approximately 35,000 and 53,000 square feet respectively and two parking lot canopy leases for approximately 44,000 and 14,000 square feet respectively) which grant to Lessee the exclusive and irrevocable option (the “**Option**”) for a period of 540 days from March 21, 2019 (such period referred to herein as the “**Initial Option Period**”), to lease the Premises on the terms and conditions set forth in those Agreements attached hereto as Exhibit B (the “**Option and Lease Agreements**”) for the purpose of developing, designing, engineering, accessing, monitoring, installing, owning, maintaining and operating rooftop and canopy solar photovoltaic systems, including all improvements thereto, (each, a “**System**” and collectively, the “**Systems**”) on those portions of the Property on which the Systems are installed (collectively, the “**Premises**”) for the purpose of generating on-site electrical energy output from the Systems (“**Solar Power**”) and selling the Solar Power and any and all other credits, solar renewable energy credits, and any other environmental financial attributes created from the Solar Power (collectively the “**Project**”);
- C. WHEREAS, the parties to this Agreement acknowledge and agree that Assignor and Assignee entered into that certain Assignment and Assumption Agreement with an effective date of August 7, 2019 in order to assign and transfer to Assignee all of Assignor’s rights, title and interest in and to the Option and Lease Agreements and the Project (the “**Assignment Agreement**”);
- D. WHEREAS, Lessor and Town desire to consent to the assignment to Assignee, all of Assignor’s rights, title and interest in and to the Option and Lease Agreement as set forth in the Assignment Agreement; and
- E. WHEREAS, the parties to this Agreement wish to memorialize their agreement.

NOW, THEREFORE, in consideration of 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. Consent. The Lessor and Town hereby consent to the assignment by Assignor to Assignee of all of Assignor's rights, title and interest in and to the Option and Lease Agreements (the "**Project Assignment**"), agrees that the Project Assignment shall not constitute a default under the Option and Lease Agreement, and all terms, covenants and conditions of the Option and Lease Agreement are hereby declared by Lessor and Assignor to be in full force and effect. From and after the Effective Date: (i) the Assignee shall be deemed the lessee for all purposes under the Option and Lease Agreement; (ii) the Assignee agrees directly with Lessor to pay and perform all the obligations of Assignor under the Option and Lease Agreement and to be bound by all of the terms and provisions contained therein; and (iii) Lessor shall be bound solely by the terms and conditions of the Option and Lease Agreement and not by the terms and conditions of the Assignment and Assumption Agreement.

Except as provided in this Consent, neither the giving of this Consent nor anything contained herein shall be construed to modify, waive, impair or affect any of the covenants, agreements, terms, provisions, obligations or conditions contained in the Option and Lease Agreement, or to waive any breach thereof, or any rights of Lessor against any person, firm, association or corporation liable or responsible for the performance thereof, or to increase the obligations or diminish the rights of Lessor under the Lease, or to increase the rights or diminish the obligations of Assignee thereunder, or to, in any way, be construed as giving Assignee any greater rights than Assignor would be entitled to, and all covenants, agreements, terms, provisions and conditions of the Option and Lease Agreement are hereby mutually declared to be in full force and effect.

Assignee acknowledges that any rights or remedies it has under the Assignment and Assumption Agreement are derived from the Option and Lease Agreement and, notwithstanding anything to the contrary contained herein or in the Assignment and Assumption Agreement.

2. Third Party Consents. No other third party is required to consent to the Project Assignment.

3. Representation and Warranty. Each of Lessor and Assignor hereby severally and not jointly represents and warrants to Assignee that attached hereto and incorporated herein at **Exhibit B** to this Agreement are true, correct and complete copies of the Option and Lease Agreements executed by Lessor and Assignor. Lessor hereby represents and warrants that as of the date hereof there are no defaults, breaches or other violations of the Option and Lease Agreements by Assignor and that Lessor as of the Effective Date and to the best of Lessor's knowledge and belief, has no claims against Assignor under the Option and Lease Agreements.

4. Assignee Consent. Effective upon the Effective Date of this Agreement, Assignee hereby consents to, and agrees to be bound by, the terms and conditions of the Option and Lease Agreements.

5. Further Representations and Warranties. Each party hereto represents and warrants to each other party hereto, that the following is true and correct on the date of this Agreement:

Such party has the power and authority to execute and deliver this Agreement and to perform, or cause to be performed, its obligations hereunder. The execution and delivery of this Agreement has been duly authorized by such party, and no other actions on the part of such party are necessary to authorize this Agreement and/or the transactions (including, without limitation, the consents) contemplated hereby. This Agreement has been duly executed and delivered by such party and constitutes a valid and binding agreement of such party, enforceable against such party in accordance with its terms.

6. Future Assignments. The execution of this Consent by Lessor in no manner shall affect or abridge any right Lessor may have under the Option and Lease Agreement to consent to any future assignment of the Option and Lease Agreement in instances where such consent is required.

7. The giving of this Consent shall not result in any liability on the part of Lessor for the payment of any commissions or fees in connection with the proposed assignment transaction herein contemplated by Assignor and Assignee; Assignor and Assignee hereby covenant and agree that Lessor is not and will not be responsible for the payment of any commissions or fees in connection with the aforesaid assignment transaction and they each agree to indemnify and hold Lessor harmless from and against any claims, liability, losses or expenses, including attorneys' fees and court costs, incurred by Lessor in connection with any claims for a commission or fee by any broker, agent or finder in connection with said assignment transaction.

8. Assignor and Assignee hereby agree that (a) Lessor is not a party to the Assignment and Assumption Agreement and is not bound by the provisions thereof; and (b) the Assignment and Assumption Agreement will not be modified or amended in any way without the prior written consent of Lessor and the Town.

9. General Provisions.

(a) Governing Law; Severability. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision will, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid that invalidity, illegality, or unenforceability or, if that is not possible, the provision will, to the extent of that invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement will remain in effect.

(b) Recitals Incorporated. The Recitals set forth above are hereby incorporated into and made a part of this Agreement by reference as if set forth in full.

(c) Further Action. Each party agrees to take such further actions and to execute and deliver such additional agreements and instruments as the other parties may reasonably require to consummate, evidence or confirm the agreements contained herein.

(d) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original document, but all of which together shall constitute one and the same instrument. This Agreement, when duly executed by a party, may be delivered to the other parties by electronic mail or facsimile transmission.

(e) Successors. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

(f) Titles and Headings. The article, section, and paragraph titles and headings in this Agreement are inserted as matters of convenience and for ease of reference only and will be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

(g) Amendment; Waiver. Neither this Agreement nor any term hereof may be amended, changed, waived, discharged or terminated other than by an instrument in writing, signed by an authorized signatory of each of the parties to this Agreement.

(h) Time of the Essence. Time is of the essence for every provision of this Agreement that specifies a time for performance.

(i) Costs; Attorney Fees. Each party shall bear all of its own costs and expenses incurred in connection with its entering into, and the performance of its obligations under, this Agreement and the related agreements and instruments entered into in connection herewith, provided however, that in the event of any disputes among the parties arising out of this Agreement the prevailing party shall be reimbursed by the other party or parties, as applicable, for all reasonable legal costs and expenses incurred due to such dispute.

(j) No Third Party Beneficiary Intended. This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other person or entity will have or acquire any right by virtue of this Agreement.

[SIGNATURE PAGES FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

LESSOR:

KINGSBURY CLUB MEDFIELD, INC.
A Massachusetts Corporation

By:  _____

Name: Robert Janjigian _____

Title: President _____

By:  _____

Name: Armand Janjigian _____

Title: Treasurer _____

ASSIGNOR:

SUNSPIRE SOLAR LLC,
a Delaware limited liability company.

By: Clean Footprint LLC, its Manager

By:  _____

Name: John Porter _____

Title: Manager _____

ASSIGNEE:

2 ICE HOUSE LLC,
a Massachusetts limited liability company.

By: Sunspire Solar LLC, its Manager,
By: Clean Footprint LLC, its Manager

By:  _____

Name: John Porter _____

Title: Manager _____

TOWN:
TOWN OF MEDFIELD

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Property Description



Exhibit B

The Option and Lease Agreements have been sent to all Parties by email prior to the Effective Date.