

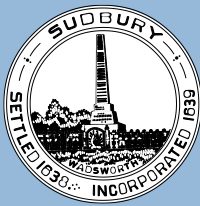
SUDBURY SELECT BOARD  
TUESDAY MARCH 26, 2024  
7:00 PM, ZOOM

Item #	Time	Action	Item
	7:00 PM		CALL TO ORDER
			Opening remarks by Chair
			Reports from Town Manager
			Reports from Select Board
			Public comments
<b>TIMED ITEMS</b>			
1.	7:15 PM	<i>VOTE / SIGN</i>	Application of Logus Craft Beer & Wine, Inc, DBA Sudbury Craft Beer, 365 Boston Post Rd., Suite 103, Sudbury, for a Transfer of Package Store License for the Sale of Wines & Malt Beverages, under G. L. Ch. 138, s.15, from Villa TBR Corp, DBA Sudbury Craft Beer, Owner Gustavo Villatoro. The premises proposed to be licensed (i.e., 365 Boston Post Rd., Suite 103) is described as: 1st floor in Mill Village Plaza. 1250 sq feet. Single use bathroom. 2 doors that can be accessed from RT20 side and the parking lot entrance. Basement.
<b>CONSENT CALENDAR</b>			
2.		<i>VOTE</i>	Vote to sign a proclamation to recognize June 7, 2024 as Colby Caravaggio Day in the Town of Sudbury.
3.		<i>VOTE</i>	Vote to accept the resignation of Ken Nathanson, 5 Whispering Pine Road, from the Energy and Sustainability Committee and send a thank you letter for his service to the Town.
4.		<i>VOTE</i>	Vote to authorize the Town Manager to execute a contract with Weather Shield, Inc. in the amount of \$138,000 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the Fire Station 3 Roof system, or act on anything relative thereto.
5.		<i>VOTE</i>	Vote to authorize the Town Manager to execute a contract with Cape Cod Builders, Inc. in the amount of \$328,000 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the DPW building roof system, or act on anything relative thereto.

*These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Some items may be taken out of order or not be taken up at all. The Chair will strive to honor timed items as best as possible. The Chair reserves the right to accept public comment on any item and may establish time limits.*

<b>Item #</b>	<b>Time</b>	<b>Action</b>	<b>Item</b>
6.		<i>VOTE</i>	Vote to approve action by the Town Manager to sign a lease and power purchase agreement with Solect Energy for the installation of solar panels on the DPW Building Roof in accordance with the affirmative vote on Article 35 of the 2022 Annual Town Meeting, and to allow Town Counsel to make non-substantive edits.
7.		<i>VOTE</i>	Vote to accept the Massachusetts Office on Disabilities Municipal ADA Grant of up to \$250,000 for assisted listening systems in various municipal locations and to authorize the Town Manager to enter into contracts associated with said grant in consultation with KP Law as appropriate.
8.		<i>VOTE</i>	Vote to accept two grants for the Sudbury Police Department: (1) a K9 ballistic vest for Officer Rico donated by Vested Interest in K9s, Inc., valued at \$1800; and (2) a \$10,446 grant from the Sudbury Foundation toward the purchase of two E-Patrol Bikes to be used for Rail Trail patrols.
<b>MISCELLANEOUS</b>			
9.			Report from Finance Committee on ATM articles. Attending will be Michael Joachim and Eric Poch, FinCom co-chairs.
10.			FY25 operating budget presentation
11.		<i>VOTE</i>	Discussion regarding 2024 Annual Town Meeting: consent calendar, positions on articles, other.
12.			Discussion of Firearms Information session, agenda, review of PowerPoint, etc.
13.			Update from Select Board Policy Subcommittee on current status of policy review.
14.			Town Manager evaluation
15.		<i>VOTE</i>	Vote to review and possibly approve the open session minutes of 2/6/24 and 2/12/24.

*These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Some items may be taken out of order or not be taken up at all. The Chair will strive to honor timed items as best as possible. The Chair reserves the right to accept public comment on any item and may establish time limits.*



SUDBURY SELECT BOARD

Tuesday, March 26, 2024

**TIMED ITEM**

**1: Sudbury Craft Beer Wine & Malt Package Store License Transfer Application**

REQUESTOR SECTION

Date of request:

Requestor: Logus Craft Beer & Wine, Inc, DBA Sudbury Craft Beer

Formal Title: Application of Logus Craft Beer & Wine, Inc, DBA Sudbury Craft Beer, 365 Boston Post Rd., Suite 103, Sudbury, for a Transfer of Package Store License for the Sale of Wines & Malt Beverages, under G. L. Ch. 138, s.15, from Villa TBR Corp, DBA Sudbury Craft Beer, Owner Gustavo Villatoro. The premises proposed to be licensed (i.e., 365 Boston Post Rd., Suite 103) is described as: 1st floor in Mill Village Plaza. 1250 sq feet. Single use bathroom. 2 doors that can be accessed from RT20 side and the parking lot entrance. Basement.

Recommendations/Suggested Motion/Vote: Application of Logus Craft Beer & Wine, Inc, DBA Sudbury Craft Beer, 365 Boston Post Rd., Suite 103, Sudbury, for a Transfer of Package Store License for the Sale of Wines & Malt Beverages, under G. L. Ch. 138, s.15, from Villa TBR Corp, DBA Sudbury Craft Beer, Owner Gustavo Villatoro. The premises proposed to be licensed (i.e., 365 Boston Post Rd., Suite 103) is described as: 1st floor in Mill Village Plaza. 1250 sq feet. Single use bathroom. 2 doors that can be accessed from RT20 side and the parking lot entrance. Basement.

Background Information:  
Please see attached.

Financial impact expected:\$150 Application Fee

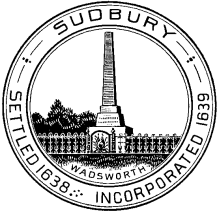
Approximate agenda time requested:

Representative(s) expected to attend meeting: Gustavo Villatoro, Owner/Manager; Alex Nunes Alvarenga, Applicant

Review:

- Select Board Office                      Pending
- Town Manager's Office                  Pending
- Town Counsel                              Pending
- Select Board                                Pending
- Select Board                                Pending

03/26/2024 7:00 PM



## TOWN OF SUDBURY

*Office of Select Board*

*www.sudbury.ma.us*

Flynn Building  
278 Old Sudbury Rd  
Sudbury, MA 01776-1843  
978-639-3381

Fax: 978-443-0756

Email: [sbadmin@sudbury.ma.us](mailto:sbadmin@sudbury.ma.us)

### LEGAL NOTICE TOWN OF SUDBURY

The Select Board, acting as the Licensing Authority of the Town of Sudbury, will hold a Public Hearing on Tuesday, March 26, 2024 at 7:15 p.m. online via Zoom at <https://us02web.zoom.us/j/360217080> on the following application:

Application of Logus Craft Beer & Wine, Inc, DBA Sudbury Craft Beer, 365 Boston Post Rd., Suite 103, Sudbury, for a Transfer of Package Store License for the Sale of Wines & Malt Beverages, under G. L. Ch. 138, s.15, from Villa TBR Corp, DBA Sudbury Craft Beer, Owner Gustavo Villatoro. The premises proposed to be licensed (i.e., 365 Boston Post Rd., Suite 103) is described as: 1st floor in Mill Village Plaza. 1250 sq feet. Single use bathroom. 2 doors that can be accessed from RT20 side and the parking lot entrance. Basement.

### SELECT BOARD

For publication: *Middlesex Daily News* March 12, 2024

Date: March 5, 2024

## Sudbury Craft Beer – License Transfer 2024 Department Feedback

Department	Staff	Date	Comments
Building Department	Andrew Lewis	2/16/24	We have no issue as long as they get permits for any work done on the building.
Fire Department	Chief Whalen	2/13/24	The Fire Department has no issue with this application moving forward.
Health Department	Vivian Zeng	2/12/24	Health approves.
Police Department	Chief Nix	2/12/24	The police department does not have an issue with the application as long as all obligations are met.

Town Counsel Riley found the application to be in order. (2/13/24)



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM**

**2: Caravaggio Proclamation**

REQUESTOR SECTION

Date of request:

Requestor: SPS Noyes staff

Formal Title: Vote to sign a proclamation to recognize June 7, 2024 as Colby Caravaggio Day in the Town of Sudbury.

Recommendations/Suggested Motion/Vote: Vote to sign a proclamation to recognize June 7, 2024 as Colby Caravaggio Day in the Town of Sudbury.

Background Information:

Financial impact expected:n/a

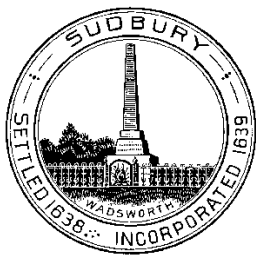
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM



# TOWN OF SUDBURY

Office of Select Board

[www.sudbury.ma.us](http://www.sudbury.ma.us)

278 Old Sudbury Road

Sudbury, MA 01776-1843

978-639-3381

Fax: 978-443-0756

Email: [selectboard@sudbury.ma.us](mailto:selectboard@sudbury.ma.us)

## PROCLAMATION



*Colby J. Caravaggio*

- WHEREAS:** Colby Caravaggio, extraordinary elementary school art teacher in Sudbury, Massachusetts, was faced with a pancreatic cancer diagnosis in June 2023; and
- WHEREAS:** Colby Caravaggio continued to teach in his classroom with his trademark joyful spirit until February 16, 2024, as he underwent arduous cancer treatment; and
- WHEREAS:** Colby Caravaggio succumbed to cancer on March 6, 2024; and
- WHEREAS:** For the last 25 years, Colby Caravaggio has inspired thousands of students with his creativity, talent, and enthusiasm for students' artistic expression; and
- WHEREAS:** Colby Caravaggio started the beloved school-wide art show, a fun-filled student art celebration with an ever-changing theme in 1999; and
- WHEREAS:** Colby Caravaggio embodied a rare spirit of bravery, selflessness, positivity, kindness, and dedication as a role model to our community; and
- WHEREAS:** Thousands of students and their families are thankful to Colby Caravaggio for the positive impact he has had on their lives.

Attachment2.a: Proclamation\_Caravaggio\_03.26.24 (6188 : Caravaggio Proclamation)

**NOW, THEREFORE, BE IT RESOLVED:**

The Select Board hereby proclaims Friday, June 7, 2024 as  
“Colby Caravaggio Day” in the Town of Sudbury.

Signed this 26<sup>th</sup> day of March in the year two thousand and twenty four.

**SELECT BOARD**

\_\_\_\_\_  
Janie W. Dretler, Chair

\_\_\_\_\_  
Lisa V. Kouchakdjian, Vice-Chair

\_\_\_\_\_  
Daniel E. Carty

\_\_\_\_\_  
Jennifer S. Roberts

\_\_\_\_\_  
Charles G. Russo

Attachment2.a: Proclamation\_Caravaggio\_03.26.24 (6188 : Caravaggio Proclamation)





SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM**

**3: Accept resignation from Energy Committee**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to accept the resignation of Ken Nathanson, 5 Whispering Pine Road, from the Energy and Sustainability Committee and send a thank you letter for his service to the Town.

Recommendations/Suggested Motion/Vote: Vote to accept the resignation of Ken Nathanson, 5 Whispering Pine Road, from the Energy and Sustainability Committee and send a thank you letter for his service to the Town.

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM

**From:** [Rami Alwan](#)  
**To:** [Select Board's Office](#); [Town Clerk](#)  
**Subject:** Resignation of Ken Nathanson for the ESC  
**Date:** Thursday, March 7, 2024 3:25:14 PM

---

Hi Rami...

I am writing to submit my formal resignation as a member of the Energy and Sustainability Committee, effective immediately.

I really had a very rewarding and interesting time serving on the Committee, and getting to work with the whole team. It was especially good to get to know you! Your tireless dedication, as well as your strong, but easygoing leadership was truly masterful and impressive in the way you handled the sometimes controversial or difficult issues and personalities along the way. You were always available and open-minded, and your commitment to Sudbury, the Environment, Education, creative programming and significant projects was unwavering. Personally, I want to thank you very much for all of your kindness and support!

Sincerely,

...Ken Nathanson

# Members

[Edit](#)

Members					
Name	Position	Address	Term	End Date	Appointed By
Rami Alwan	Chair	119 Pantry Rd	3	05/31/2025	Select Board
James M. Cummings	Member	145 Lincoln Rd	3	05/31/2025	Select Board
Olga Faktorovich Allen	Member	19 Lakewood Dr	3	05/31/2025	Select Board
Nate Garozzo	Member	4 Blandford Dr	3	05/31/2026	Select Board
Venk Gopal	Member	Address withheld per request	3	05/31/2024	Select Board
Elsa Iovanella	Member	258 Dutton Rd	3	05/31/2026	Select Board
Joseph F. Martino, Jr.	Member	109 Maynard Farm Rd	3	05/31/2024	Select Board
Kenneth Nathanson	Member	5 Whispering Pine Rd	1	05/31/2024	Select Board
VACANCY	Vacancy		3		Select Board

## Energy and Sustainability Committee

— [Subscribe to Content Updates](#)

Interested in serving on this committee?

[Appointment Application](#)

It is the intention of the Selectmen in creating this Committee to provide a mechanism to assist the Board and Town Manager in developing programs and projects to foster energy conservation, energy efficiency, renewable energy generation and sustainability planning. This new committee will gather, study and evaluate information that will help determine various approaches for improving the energy efficiency of operating town and school buildings and vehicles, investigate alternatives energy technologies and identify funding opportunities to help the Town achieve its energy and sustainability related goals.

The [Energy and Sustainability Green Ribbon Committee Complete Mission Statement](#) is available to download.

## Related Departments

### Counterpart Committees

- [Facilities Department](#)

## Recent News

[Consider Transforming Your Lawn](#) March 11, 2024

[Learn More About PFAS in Sudbury](#) March 11, 2024

[Sudbury Community Electricity Aggregation Renewed!](#) November 2, 2023

## Contact

Email: [energy@sudbury.ma.us](mailto:energy@sudbury.ma.us)



[Translate this page with Google Translate](#)

Copyright © 2024, Town of Sudbury, some rights reserved.

Send questions and comments to [webmaster@sudbury.ma.us](mailto:webmaster@sudbury.ma.us).

Close and dock PageAssist in the future



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM**

**4: Contract with Weather Shield for Fire Station 3 roof**

REQUESTOR SECTION

Date of request:

Requestor: Sandra Duran, Combined Facilities Director

Formal Title: Vote to authorize the Town Manager to execute a contract with Weather Shield, Inc. in the amount of \$138,000 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the Fire Station 3 Roof system, or act on anything relative thereto.

Recommendations/Suggested Motion/Vote: Vote to authorize the Town Manager to execute a contract with Weather Shield, Inc. in the amount of \$138,000 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the Fire Station 3 Roof system, or act on anything relative thereto.

Background Information:

The February 2021 Russo Barr Roof Condition Survey recommended replacement of this roof in 2016. Funds allocated in Town Manager Capital Budget ATM 22/4 for \$80,000 were insufficient to replace the roof on Fire Station 3. Solect, (formerly Russo Barr), provided a full design and cost estimate of \$138,317. The project was bid and the lowest responsible bidder's cost is \$138,000.

Subsequently, ARPA Funds were requested supplement ATM 22/4 to remove the two roof assemblies currently on the roof and replace the roof with a new EPDM roof that meets current energy codes and provide \$27,000 in contingency funds. Additionally, roof will be "solar ready" should the town pursue a future solar array on this roof. Continued deferment of this replacement item risks system failure under adverse weather conditions. This request is to ensure that we can address the urgent replacement of this roofing system.

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending

Select Board  
Select Board

Pending  
Pending

03/26/2024 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM**

**5: Contract with Cape Cod Builders \$328K DPW roof**

REQUESTOR SECTION

Date of request:

Requestor: Sandra Duran, Combined Facilities Director

Formal Title: Vote to authorize the Town Manager to execute a contract with Cape Cod Builders, Inc. in the amount of \$328,000 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the DPW building roof system, or act on anything relative thereto.

Recommendations/Suggested Motion/Vote: Vote to authorize the Town Manager to execute a contract with Cape Cod Builders, Inc. in the amount of \$328,000.00 to be expended under the direction of the Combined Facility Director for the purpose of the replacement of the DPW building roof system, or act on anything relative thereto.

Background Information:

The DPW building roof is over 20 years old and showing signs of deterioration. In advance of the installation of solar panels, the roof must be replaced and carry a minimum of 25-year warranty.

ATM 2023 article 25: for the sum of \$400,000, or any other sum or sums, to be expended under the direction of the Town Manager for the purpose of the repair and or replacement of the roof and appurtenances thereto at the Department of Public Works main building located at 275 Old Lancaster Road, together with all incidental and related costs; or act on anything relative thereto is available for funding this roof replacement project. An additional \$100,000 from the Solar Account has been approved by the Energy and Sustainability Committee for use on the roof repair project, if needed.

This project will materially extend the useful life of the building and allow for solar panel installation on the roof of the building.

Financial impact expected:\$328,000

Approximate agenda time requested:

Representative(s) expected to attend meeting:

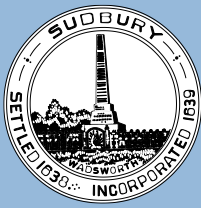
Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending

Select Board

Pending

03/26/2024 7:00 PM



## SUDBURY SELECT BOARD

Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM****6: DPW Solar PPA and lease agreement**REQUESTOR SECTION

Date of request:

Requestor: Sandra Duran, Combined Facilities Director

Formal Title: Vote to approve action by the Town Manager to sign a lease and power purchase agreement with Solect Energy for the installation of solar panels on the DPW Building Roof in accordance with the affirmative vote on Article 35 of the 2022 Annual Town Meeting, and to allow Town Counsel to make non-substantive edits.

Recommendations/Suggested Motion/Vote: Vote to approve action by the Town Manager to sign a lease and power purchase agreement with Solect Energy for the installation of solar panels on the DPW Building Roof in accordance with the affirmative vote on Article 35 of the 2022 Annual Town Meeting, and to allow Town Counsel to make non-substantive edits.

## Background Information:

In October 2021, the Select Board voted to authorize the Town Manager to sign a Letter of Intent to express the desire of the Town to enter into a Power Purchase Agreement (PPA) and Lease Agreement or grant of Easement ("Site Control") with Solect for electricity to be produced by a solar power electric generating project on the roof of the Department of Public Works Building at 275 Old Lancaster Road. Subject to the conditions in the Letter of Intent, the Town and Solect agreed to undertake good faith negotiations to enter into a PPA, and Site Control Agreement. Should the Town wish to execute a PPA following the due diligence phase, a lease of the roof to Solect would be required as a condition of the PPA. The PPA would also specify a payment in lieu of taxes that would require agreement as well. Article 35/2022 allows the Town to enter into the said lease and payment in lieu of taxes agreement.

---

Financial impact expected: The PPA and Lease Agreement will allow the Town to purchase energy at a significantly reduced rate while producing approximately 185% of the buildings' electrical needs. This will provide the ability to off set the costs of other Town Buildings. The planned 284 kW capacity solar array is expected to produce 315,418 kWh (Year 1).

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office

Pending



Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM

**POWER PURCHASE AGREEMENT**

For

Town of Sudbury DPW Facilities Building  
275 Old Lancaster Road  
Sudbury, MA 01776

Dated as of

---

between

Town of Sudbury  
275 Old Lancaster Street  
Sudbury, Massachusetts 01776

And

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

## CONTENTS

<u>Section</u>		<u>Page</u>
1	DEFINITIONS	4
2	TERM	4
3	ACCESS RIGHTS	6
4	PLANNING, INSTALLATION AND OPERATION OF PROJECT	6
5	SALE OF ELECTRIC ENERGY	12
6	PAYMENT AND BILLING	13
7	SUPPLEMENTAL POWER	14
8	OWNERSHIP OF PROJECT; SERVICE CONTRACT	17
9	PURCHASE OPTION; REMOVAL AT END OF TERM	17
10	SHUTDOWNS; RELOCATION, CLOSURE OR SALE OF SITE	19
11	TAXES	21
12	INSURANCE	23
13	COOPERATION	23
14	PRESS RELEASES AND CONFIDENTIALITY	23
15	INDEMNIFICATION	25
16	REPRESENTATIONS AND WARRANTIES	26
17	FORCE MAJEURE; CASUALTY	28
18	CHANGE IN LAW	29
19	PROVIDER DEFAULT AND HOST REMEDIES	30
20	HOST DEFAULT AND PROVIDER REMEDIES	31
21	COLLATERAL ASSIGNMENT, FINANCING PROVISIONS	33
22	LIMITATIONS ON DAMAGES	35
23	DISPUTE RESOLUTION	36
24	NOTICES	36
25	MISCELLANEOUS	37

EXHIBITSGLOSSARY OF TERMS

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

## POWER PURCHASE AGREEMENT

This Power Purchase Agreement (“**Agreement**” or “**PPA**”) is entered into as of \_\_\_\_\_, (the “**Effective Date**”), by and between Town of Sudbury, a municipality with an address of 275 Old Lancaster Road, Sudbury, MA 01776 (“**Host**”), and Solect Energy Development LLC, (“**Solect**” or “**Provider**”) a Limited Liability Company located in Hopkinton, Massachusetts (together, the “**Parties**”).

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

WHEREAS, Provider and PowerOptions have entered into an agreement dated April 1st, 2022, as amended, pursuant to G.L. c.164, § 137, governing the terms and conditions of Provider’s participation in the PowerOptions Solar and Storage Program;

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

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

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

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

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

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

**2. TERM.**

(a) Term. As used herein, “**Term**” shall mean all of the Initial Period, the Operations Period and the Extension Terms (if any), unless the Provider or Host terminates the Agreement prior to the end of any such Term pursuant to the terms of this Agreement; provided, however, any such termination shall not terminate any provisions hereof that expressly survive such termination.

(b) Initial Period. The Initial Period will begin on the Effective Date and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions hereof, including but not limited to Section 4(b) or 4(d), or any other provisions expressly allowing for termination of this Agreement.

(c) Operations Period. The Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twenty-fifth (25<sup>th</sup>) anniversary of the SMART Incentive Payment Effective Date occurs, unless earlier terminated in accordance with the provisions of this Agreement, provided that the Term shall not exceed the period authorized by Host's legislative body without further authorization.

(d) Extensions. At least Twenty-four (24) months prior to the end of the Operations Period, or a previous Extension Term, the Parties will meet, either in person or virtually, as appropriate, to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree upon (each such extension of the Term, an "**Extension Term**"). Neither Party shall be obligated to agree to an extension of this Agreement. Any extension shall be reflected in a written amendment to this Agreement signed by the Parties.

(e) Early Termination by Host. If Host terminates the Agreement prior to the Expiration Date, except as otherwise expressly provided in this subsection (e), Section 4(d) (Construction Commencement Deadline), Section 9 (Purchase Option), Section 17 (Force Majeure), or Section 19 (Provider Event of Default and Host Remedies), Host shall pay, as liquidated damages, the Early Termination Amount set forth on Exhibit B, and Provider shall cause the Project to be disconnected and removed from the Premises, as required pursuant to Section 9(f); provided, however, that if Host wrongfully terminates the Agreement before rather than after the Commercial Operations Date, Host shall not be required to pay the Early Termination Amount and shall instead pay to Provider an amount equal to all direct costs reasonably incurred by Provider during the Initial Period as of the date of termination, Provider's reasonable overhead and five percent (5%) for Provider's profit. Provider shall be entitled to exercise all other remedies set forth in this Agreement and at law or in equity to recover damages caused by such termination.<sup>1</sup> Upon Host's payment to Provider of the Early Termination Amount, this Agreement and the Lease shall terminate automatically, other than those provisions that are intended to survive termination of this Agreement or the Lease. Notwithstanding the foregoing, Host may (i) terminate this Agreement with no liability whatsoever pursuant to Section 4(d) (Construction Commencement Deadline); and (ii) if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, in lieu of termination by Host, Provider shall pay to Host (as Host's sole and exclusive remedy for damages arising from such failure) the Delay Liquidated Damages not to exceed \$15/kW in the aggregate. Further, in addition to the remedy of Delay Liquidated Damages set forth above, Host may nonetheless terminate this Agreement with no liability whatsoever if Provider fails to achieve the Commercial Operations Date by the date that is 60 days after the Guaranteed Commercial Operation Date, as may be extended pursuant to Section 2(f).

<sup>1</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would review with the Town and revise.

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

### 3. ACCESS RIGHTS

(a) Access Specifications. Pursuant to and as set forth in the Lease, Provider has access to and use of the Premises for the Term for the purposes of designing, installing, inspecting, operating, maintaining, repairing, and removing the Project, and otherwise in accordance with the provisions of this Agreement and the Lease. The obligations of Provider with respect to the sale of electricity on the terms and conditions set forth in this Agreement serve as consideration for the lease and access rights granted pursuant to this Section 3.

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

(c) No Interference. Host agrees not to conduct activities on, in or about the Premises that have a reasonable likelihood of causing damage or impairment to, or otherwise materially or adversely affecting, the Project. Host shall reasonably cooperate with Provider to limit access to the Project to Provider, Installer and their respective employees, contractors or subcontractors. For avoidance of doubt, notwithstanding anything to the contrary in this Agreement, Host's reasonable response to on-site emergencies shall not constitute a breach of this provision, and, pursuant to M.G.L. c.40, § 3, nothing in this Agreement or the Lease shall require Host to suffer or permit interference with its educational programs conducted in any school building.

(d) Maintenance of Premises. Host shall, at its sole cost and expense, throughout the Term, maintain the Premises, including those portions designated for Provider's access to the Premises, consistent with Host's normal operations/maintenance policies and procedures, provided that nothing herein shall make Host responsible for any damage to the Premises to the extent caused by Provider, its employees, agents, invitees and licensees, including without limitation by the installation, operation, maintenance, repair and/or removal of the Project by Provider, including without limitation any damage to the structural components of the Premises.

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

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building

permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project. The Provider shall, in accordance with and as set forth in Section 5(l) of the Lease, at its own cost, perform a structural analysis of the building and rooftop on which the solar system and related equipment will be installed, and also to determine and confirm the feasibility, safety, and proper installation of the Project on the rooftop at the Premises, which analysis shall be recorded in a writing signed and stamped by a Massachusetts registered Professional Engineer and shall take into consideration, among other things, all known and customary loads, including snow loads, sufficient to satisfy local building code requirements and the purpose of the analysis. Provider shall provide a copy of the structural engineering analysis to Host upon the later of completion of the analysis or execution of this Agreement. Provider shall not conduct any destructive testing on the Premises without advance written approval of Host. By proceeding with installation of the Project, Provider shall be deemed to have satisfied itself, independent of any information provided by Host, that the Premises are, as of the Construction Start Date, suitable for the Project.

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

- (i) Provider determines that the Premises, as is, are insufficient to accommodate the Project; or
- (ii) there exist site conditions or construction or interconnection requirements that were not known, or discoverable upon an industry standard visual roof and electrical inspection of the Premises, as of the Effective Date that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the Project as designed; or
- (iii) there has been a material adverse change in the rights of Host to occupy the Premises or Provider to construct the Project on the Premises; or
- (iv) an interconnection agreement with the Local Electric Utility, in form and substance satisfactory to Provider, is not executed by Provider and the Local Electric Utility within two hundred seventy (270) days after the date of this Agreement; or
- (v) Provider has not obtained financing within twelve months after the date of this Agreement to construct, install, own and operate and maintain the Project; or
- (vi) the Project does not qualify under the Applicable Solar Program; or



- (vii) despite its diligent efforts, Provider does not obtain all permits and approvals, on terms and conditions satisfactory to Provider, which are necessary for the construction, operation and maintenance of the Project; or
- (viii) the Project is not exempt from personal property tax pursuant to M.G.L. c.59, § 5, cl. 45 (Acts of 2021, Chapter 8, §61, as amended and the Massachusetts Department of Revenue regulations adopted in connection therewith) and a Payment In Lieu of Taxes Agreement with the municipality where the Project is located is not executed and approved by the municipality to establish fixed payments in the amount(s) set forth on Exhibit A-1; or
- (ix) the update process for the rate of electric energy generated by the solar system<sup>2</sup> under Exhibit A led to a rate in excess of the Maximum PPA Rate and the Parties were unable to agree on a mutually satisfactory update to the rate pursuant to the terms of such Exhibit A.

If Provider gives Host notice of such termination, this Agreement and the Lease shall terminate effective as of the date specified in such notice without any further liability of the Parties to each other (other than with respect to clause (ix) above, pursuant to which Provider shall be entitled to the termination payment set forth in Exhibit A)<sup>3</sup>, provided that (A) Provider shall remove any equipment or materials which Provider has placed on the Site; (B) Provider shall restore any portions of the Site disturbed by Provider to its pre-existing condition; (C) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and as provided in this Agreement, (D) the confidentiality provisions of Section 14, the indemnity obligations under Section 15, and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. Provider shall conduct a construction kick off meeting with Host. Upon prior written notice to Host, subject to Section 5(a) of the Lease, Provider shall have the right to commence installing the Project on the Premises in accordance with the agreed-upon construction schedule as determined during the construction kick off meeting.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto. The final Project design, and the final layout of the Project, shall be determined by Provider well in advance of the commencement of Installation Work, subject to the review (by an engineer employed or retained by Host) and approval of Host (such approval not to be unreasonably withheld, conditioned or delayed). Such review and approval shall be conducted by a Person or Persons who is appropriately qualified in the review of such materials, as determined by Provider, such approval not to be unreasonably withheld. Such final design and layout shall be based upon plans stamped by a Massachusetts-registered professional engineer to be prepared by Provider at Provider's sole cost and expense. Host shall perform

<sup>2</sup> Provider NTD: "solar system" is not a defined term – why was this capitalized?

<sup>3</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would review with the Town and revise.

its review of such design and layout, and notify Provider of any objections thereto, within ten (10) business days of Host's receipt of such design documents, failing which such design and layout shall be deemed final, provided that such design and layout are consistent with the Site Plan in Exhibit D attached to this Agreement.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may reasonably determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint (if the Project is on the roof), location and height set forth in Exhibits D and E, (a) without Host's review and approval, such approval not to be unreasonably conditioned, withheld or delayed, and (b) without performing a new structural engineering analysis as done initially pursuant to Section 4(a), unless Provider's Massachusetts-registered professional engineer, in writing, confirms that the proposed changes do not change the initial engineering analysis or the conclusions thereof. For avoidance of doubt, the Parties acknowledge that it would not be unreasonable for Host, as part of its review and at its own expense, to have any proposed changes reviewed by its own engineer so long as such review is performed within ten (10) business days of Host's receipt of Provider's engineering analysis.

(d) Construction Commencement Deadline. If Provider has not commenced the Installation Work before the Construction Start Date, Host may terminate this Agreement and the Lease by delivering notice of termination to Provider, and the Agreement and the Lease shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if within such twenty-one (21) day period Provider has had delivered to the Site more than 75% of the Project solar panels and has commenced installation of such panels on the Premises, this Agreement and the Lease shall not terminate so long as the Installation Work proceeds diligently and uninterruptedly to completion.<sup>4</sup> Upon any termination in accordance with this Section 4(d) neither Party shall have any further liability to the other with respect to this Agreement and Lease, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of the Installation Work; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) as provided in this Agreement, the confidentiality provisions of Section 14, the indemnity obligations under Section 15 and the dispute resolution provisions of Section 23 shall continue to apply notwithstanding the termination of this Agreement.

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

<sup>4</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would review with the Town and revise.

Provider's and Host's certificates of insurance, evidencing the insurance required of Provider and Host, shall be furnished by each Party to the other Party before commencement of the Installation Work.<sup>5</sup>

(f) Status Reports, Project Testing, Commercial Operation. Provider shall give Host regular updates, on a reasonable schedule and in the form requested by Host, on the progress of installation of the Project and shall notify Host in writing of the date(s) when Provider will commence testing of the Project. Testing shall be conducted in accordance with guidelines, standards and criteria reasonably accepted or followed by photovoltaic solar system integrators in the United States. Host shall have the right to have its representatives observe the Installation Work and be present during testing, but subject to reasonable written safety rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of and has been approved for interconnection by the Local Electric Utility, has been installed in accordance with all Applicable Law, and is capable of producing electricity on a continuous basis for at least four (4) continuous hours, Provider shall notify Host in writing that the Installation Work is complete. Provider shall also promptly provide Host with written notice of the date Provider receives permission from the Local Electric Utility to commence commercial operations of the Project, which date shall be the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host, provided that such date shall not be before the date on which the Local Electric Utility has given Provider written notice (including by email) of permission to operate the Project or its equivalent, a copy of which notice Provider shall furnish to Host.

(g) Standards of Design, Installation and Operation/Maintenance of the Project. Provider shall design, obtain permits for, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Law and the requirements of the interconnection agreement between Provider and Local Electric Utility, and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular, and all instructions of any original equipment manufacturers' warranties for equipment included in the Project. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, and in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the fullest extent reasonably practicable. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

In addition, notwithstanding anything to the contrary in this Agreement, including but not limited to the exhibits attached hereto, the Project shall be designed and installed in a manner and at such locations on the Premises such that Host shall have reasonable access to its ground and rooftop equipment for operation, maintenance, repair, removal and replacement purposes. In the event of an emergency or unplanned outage, Provider shall have unimpeded access to the Project, subject to any site-specific security requirements of Host

<sup>5</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP agreed to removal.

Host has provided Provider with complete copies of any existing roof warranties in Host's possession, together with any attached instructions and requirements of the manufacturers (all such timely delivered roof warranties, the "**Existing Roof Warranties**") before execution of this Agreement. If Host does not possess complete copies of such information, the Parties shall reasonably cooperate to obtain the same. Provider shall perform the Installation Work, and the maintenance and operation of the Project in accordance with any such instructions or requirements so as not to impair the Existing Roof Warranties.

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

(i) Metering. Provider shall install and maintain a bidirectional, revenue grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the Project and may, at its election<sup>6</sup>, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed by Host at the Premises. Provider shall also install an electronic monitoring system providing real time access to production data for the Project. Host shall have access at all times (other than during periods of maintenance) to information on the Project through such monitoring system.

Subject to any applicable requirements of the Local Electric Utility:

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

(ii) Testing Frequency. Provider shall cause the meter to be calibrated when and as required or recommended pursuant to manufacturer's warranties. Provider shall also conduct tests in accordance with standard industry practice, and at such times as production data for the Project shows variance from the meter readings, and at such times and with such frequency as required<sup>7</sup> by the manufacturer of the meter or directed in the manufacturer's instructions for the meter, but not less than once every five years.

<sup>6</sup> Provider NTD: The Parties can discuss an additional scope of work if Host wants another meter.

<sup>7</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would review with the Town and revise.

(iii) Measurements. Meter readings, as verified and adjusted, shall be conclusive as to the amount of electric energy delivered to Host; provided that if the meter is out of service, is discovered to be inaccurate during testing or calibration performed pursuant to Section 4(i)(iv) or (v) below, or otherwise registers inaccurately, measurement of energy shall be determined by estimating by reference to quantities measured during periods of similar conditions when meter was registering accurately.

(iv) Right to Witness Tests; Host Verification. Each Party shall have the right to witness each test or any calibration of meters or monitoring equipment conducted by or under the supervision of Provider to verify the accuracy of the measurements and recordings of the meter or the monitoring equipment. Provider shall provide prior written notice to Host of the date upon which any such test or calibration is to occur. Notwithstanding the foregoing, unless otherwise approved by Provider, Host shall not access Provider-owned meters or the Local Electric Utility meter used for the measurement of electrical energy generated by the Project without being accompanied by Provider, its employee or agent, subject to Host's rights and obligations under any host customer or retail agreement with the Local Electric Utility related to the Project. If the metering equipment is found to be inaccurate, it shall be corrected and past readings shall be promptly adjusted in accordance with Section 4(i)(v).

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

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

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

(3) If the Parties are unable to resolve the dispute through reasonable negotiations, then Provider shall, at its initial cost but subject to adjustment as set forth in the Section 4(i)(v)(4), cause the meter to be tested promptly by an agreed upon and disinterested third party, and both Parties may attend and witness such testing.

(4) If the meter is found to be inaccurate by not more than two percent (2%), any previous recordings of the meter shall be deemed accurate, and the Party disputing the accuracy or condition of the meter shall bear the cost of inspection and testing of the meter; provided, however, that if Provider pays the initial cost of testing pursuant to Section 4(i)(v)(3) and is reimbursed for such costs, Host shall also pay interest on such costs at the rate set forth in Section 6(d), pro-



rated daily, for the period from 30 days after the later of the date the costs were incurred or the date Provider invoices Host for such costs until the date the costs are reimbursed.

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

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

## 5. SALE OF ELECTRIC ENERGY.

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement and the Lease, Provider shall sell to Host and Host shall buy from Provider all electric energy produced and not consumed by the Project and received at the Point of Delivery, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery. Provider shall own the Capacity Value of the Project and shall have the right to participate in ISO-NE’s Forward Capacity market at their discretion through an aggregator or as an ISO-NE Market Participant, provided that such participation does not result in restrictions or limitations on the use or production of electricity from the Project. The Provider shall sell the capacity of the Project into the Forward Capacity Market by the later of twelve (12) months from the Commercial Operation Date or the first date available to participate in the Forward Capacity Auction; if not, the Provider relinquishes ownership of the Capacity Value of the Project to the Host. Notwithstanding the foregoing, Provider shall not sell capacity of the Project into the Forward Capacity Market if doing so materially restricts the availability, timing or volume of electric energy generation from the Project. The interconnection point of the Project with the Local Electric Utility shall be as indicated in Exhibit E.

(b) Performance Guarantee. Beginning on the Commercial Operation Date and as of each anniversary thereof, if the Project produces less than eighty-five percent (85%) of the applicable Estimated Annual Production specified in Exhibit F, unless, and then only to the extent that, the failure to meet the Estimated Annual Production is due to (i) failure, damage or downtime attributable to third parties (excluding the Installer and any other agents of Provider) or Host, (ii) equipment failure, or delayed repair of equipment due to the claims process with the equipment manufacturer, which are beyond the reasonable control of Provider, (iii) a Force Majeure Event, (iv) variability due to abnormal weather events, (v) acts or omissions of Host in breach of any of its obligations hereunder, (vi) any Host Requested Shutdown, Provider Safety Shutdown or Project Relocation under Sections 10(a), (b), or (c); or (vii) any reduction in output attributable to interference with solar access of the Project by adjoining landowners or Host, provided that the occurrence of any of the preceding events, and the effect of the same on electricity production, shall be reasonably explained in writing by Provider to Host as soon as practicable after Provider's discovery that the performance guarantee provided under this Section 5(b) will not be met; in its next invoice Provider shall credit Host an amount equal to the product of (i) the positive difference, if any, of the Avoided Energy Price per kWh during such period as specified in Exhibit A minus the PPA Rate specified in Exhibit A, multiplied by (ii) the difference between the actual electricity generated by the Project (in kilowatt-hours) during such 12-month period and eighty-five percent (85%) of the Estimated Annual Production for such period. Such credit shall be Host's sole and exclusive remedy for Provider's failure to meet the Estimated Annual Production for such period.

## 6. PAYMENT AND BILLING.

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

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such electricity, and the total amount due, which shall be the product of the quantities and the applicable rates. Provider shall also, as soon as practicable, provide Host such other information as Host may reasonably request to verify such production.

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

To Host: Town of Sudbury  
275 Old Lancaster Road  
Sudbury, Massachusetts 01776

Attention: Accounts Payable

Email:<sup>8</sup>

(d) Payment. Subject to the subparagraph (e) below regarding disputed invoices, Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by check or electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by Applicable Law beginning on the 10<sup>th</sup> day after the invoice due date (i.e., 40<sup>th</sup> day after Host's receipt of invoice).

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay any undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount with interest at the rate set forth in subparagraph (d) above; provided, however, that, subject to adjustments following a failed meter test pursuant to Section 4(i)(v)(5), Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

## 7. SUPPLEMENTAL POWER

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.<sup>9</sup>

(b) Interconnection and Interconnection Fees. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility. Host shall be responsible for maintaining any interconnection service agreement signed by Host in full force and effect for the Site with the Local Electric Utility at Host's side of the Point of Delivery, subject to the terms of such agreement. Provider shall be responsible for maintaining the interconnection of the Project to the Provider's side of the Point of Delivery with the Local Electric Utility. Host shall enter into any retail agreement required by the Local Electric Utility pursuant to its tariffs. Provider shall be responsible for all costs, fees, charges and obligations required to connect the Project to the Local Electric Utility distribution system, including but not limited to fees associated with system upgrades and operation and maintenance carrying charges ("Interconnection Obligations"); however, if system upgrades, in addition to any upgrades contemplated and budgeted for as of Effective Date, are required in excess of the upgrades/costs included in the PPA

<sup>8</sup> Provider NTD: Please insert email address on next turn.

<sup>9</sup> Provider NTD: We cannot accept this change because the bidirectional meter will net out the electricity used in operation of the Project.



Rate as set forth in Exhibit A, Provider shall be entitled to adjust the PPA Rate in accordance with and subject to Exhibit A to compensate Provider for such increased costs.

(c) Production Excess. Provider shall, with the cooperation of Host, work to qualify the Project for the highest available compensation for any solar production which is not used at the time of generation and is transmitted to the Local Electric Utility (the “**Production Excess**”). The Parties will work cooperatively and in good faith to meet all requirements regarding such Production Excess under Applicable Law, the Applicable Solar Program, and Local Electric Utility tariffs, including applicable interconnection and metering requirements (e.g., Massachusetts tariff Schedule Z). In the event that the Project produces Production Excess, the Parties agree that (a) Host shall be entitled to the associated compensation and/or bill credits (including but not limited to Net Metering Credits, Alternative On-Bill Credits, or Qualifying Facility compensation), and (b) such Production Excess will be transmitted into the Local Electric Utility system on behalf of and for the account of Host, and (c) Provider shall provide reasonable assistance in Host’s applying to the Local Electric Utility for the foregoing benefits, but Provider makes no warranty and accepts no obligation regarding Host’s eligibility for or likelihood of receiving any of the foregoing compensation or credits.

(d) Applicable Solar Program Incentives. Provider shall receive all payments available under any Applicable Solar Program other than payments, if any, for Production Excess. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall, promptly upon receipt<sup>10</sup> of the payment, pay them over to Provider; provided, however, that to the extent the payment obligation is delayed more than sixty (60) days beyond the date requested for payment in writing by Provider, the amount due shall accrue interest at the rate set forth in Section 6(d) from the date of demand until paid or Provider may (at its election at any time after such 60-day period) increase the PPA Rate to account for such amounts by an amount and for a period necessary for Provider to be made whole for the delayed receipt of payment of such amounts and provide Host with written explanation of how such increase was calculated. Host’s obligation to make any payments to Provider under this Section 7(d) is limited to any payments in US Dollars actually received by Host and the interest accrued pursuant to this Section 7(d).

(e) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the ownership and operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall, promptly upon receipt of the payment, pay them over to Provider; provided, however, that to the extent the payment by Host is delayed more than sixty (60) days beyond the

<sup>10</sup> Provider NTD: For the avoidance of doubt, this language is intended to place an obligation on the Town to promptly return any such payment, but the interest penalty will not begin to accrue until Solect requests the money from the Town.

date requested for payment in writing by Provider, the amount due shall accrue interest at the rate set forth in Section 6(d) from the date of demand until paid or Provider may (at its election at any time after such 60-day period) increase the PPA Rate to account for such amounts by an amount and for a period necessary for Provider to be made whole for the delayed receipt of payment of such amounts and provide Host with written explanation of how such increase was calculated. Host's obligation to make any payments to Provider under this Section 7(e) is limited to any payments in US Dollars actually received by Host and the interest accrued pursuant to this Section 7(e).

(f) Environmental Attributes. Except as otherwise provided for under Applicable Law, or Applicable Solar Program rules, or the applicable tariff of the Local Electric Utility, Provider (and/or Financing Party) shall be the owner of any Environmental Attributes that may arise as a result of the construction, ownership, and/or operation of the Project and shall be entitled to transfer such Environmental Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Environmental Attributes, and if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Environmental Attributes, it shall, promptly upon receipt of the payment, pay them over to Provider; provided, however, that to the extent the payment by Host is delayed more than sixty (60) days beyond the date requested for payment in writing by Provider, the amount owed shall accrue interest at the rate set forth in Section 6(d) from the date of demand until paid or Provider may (at its election at any time after such 60-day period) increase the PPA Rate to account for such amounts by an amount and for a period necessary for Provider to be made whole for the delayed receipt of payment of such amounts and provide Host with written explanation of how such increase was calculated. Host's obligation to make any payments to Provider under this Section 7(f) is limited to any payments in US Dollars actually received by Host and the interest accrued pursuant to this Section 7(f).

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction, ownership, and/or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall, promptly upon receipt of the payment, pay them over to Provider; provided, however, that to the extent the payment by Host is delayed more than sixty (60) days beyond the date requested for payment in writing by Provider, the amount shall accrue interest at the rate set forth in Section 6(d) from the date of demand until paid or Provider may (at its election at any time after such 60-day period) increase the PPA Rate to account for such amounts by an amount and for a period necessary for Provider to be made whole for the delayed receipt of payment of such amounts and provide Host with written explanation of how such increase was calculated. Host's obligation to make any payments to Provider under this Section 7(g) is limited to any payments in US Dollars actually received by Host and the interest accrued pursuant to this Section 7(g).

(h) Neither Party is A Utility. Neither Party is, and neither Party shall assert that the other Party is, (i) an electric utility or public service company or similar entity that has a duty to provide service, or (ii) subject to electric rate regulation.

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

(j) Local Legislative Appropriations. If a local legislative appropriation is necessary to make a payment set forth in Sections 4(b), 7(d)-(g), 10, 11, 15, or 20, Host shall include an article for such appropriation on the warrant for the next scheduled Town Meeting. Lack of appropriation shall in no way excuse Host's performance of its obligations hereunder; provided that notwithstanding anything to the contrary in this Agreement, to the extent complies with the foregoing process of placing an article on the next scheduled Town Meeting warrant and makes payment promptly following appropriation at such Town Meeting, any delay in payment up until the making of such payment shall not constitute a breach of this Agreement. Any amount due to Provider that is subject to appropriation, and is not appropriated at such Town Meeting and is not paid within the periods set forth herein, shall be amortized (together with interest thereon, accruing at the rate set forth in Section 6(d)) over no more than five (5) years and added to the PPA Rate.

## 8. OWNERSHIP OF PROJECT; SERVICE CONTRACT.

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

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

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

(a) Early Purchase Option. On the seventh (7<sup>th</sup>), tenth (10<sup>th</sup>), and fifteenth (15<sup>th</sup>) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the applicable value identified in Exhibit B or (ii) the Fair Market Value of the Project at such anniversary date; provided, however, if Host and Provider cannot agree to a Fair Market Value within twenty (20) days after Host has exercised its option, the Parties shall select and share equally the costs of a nationally recognized independent appraiser with

experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project, provided that Host may, in its discretion, rescind its exercise of the option to purchase by written notice to Provider received no later than the fifth (5<sup>th</sup>) Business Day following receipt of such appraisal. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider in writing of its election to exercise the option, and, unless it has rescinded the exercise of the option as aforesaid, shall on or before such anniversary date pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider. Provider shall permit Host the opportunity to have the Project inspected prior to committing to any purchase at a time to be agreed upon by the Parties, subject to Provider's reasonable site safety requirements; provided, however, that so long as Provider gives Host opportunity to have the Project inspected within the first 60 days of such 90-day period, such inspection shall not cause the aforementioned 90-day option period deadline to be delayed, deferred or waived for any reason.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider in writing of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) Business Days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, Host may rescind the exercise of the option by delivering notice to Provider within such twenty (20) day period and reimbursing the costs incurred by Provider to prepare such appraisal within thirty (30) days of its rescission notice. If no rescission notice is timely given or cost reimbursement is not timely made, the Parties will engage and share the costs equally of a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project consistent with the terms of the transaction. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction. Host may, in its discretion, rescind its exercise of the option to purchase by written notice to Provider received no later than the fifth (5<sup>th</sup>) Business Day following receipt of such appraisal.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Sections 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of all records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host free and clear of any and all Liens on the Project, except Liens in favor of Host. Such bill of sale shall not contain any warranties, other than a

warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

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

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

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

(g) Decommissioning Bond.

- (i) Before commencement of the Installation Work, Provider shall provide Host with a Decommissioning Bond to secure removal of the Project if the Project is not completed in accordance with the terms of this Agreement and the Lease. Such bond shall expire no earlier than the Commercial Operations Date.
- (ii) Not later than the nineteenth (19th) anniversary of the Commercial Operation Date, Provider shall provide a Decommissioning Bond to secure removal of the Project.

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

(a) Host Requested Shutdown. Host may request, from time to time, that Provider temporarily stop operation of the Project (a "**Host Requested Shutdown**") for a period no longer than thirty (30) days, or until a predetermined date mutually agreed upon by both the Host and Provider, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure or Allowed Disruption Time as defined below, nor where the shutdown was made necessary in order to undertake repairs or maintenance activities made necessary by an act or omission of Provider)<sup>11</sup>, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown.

<sup>11</sup> Provider NTD: We have to reject this change, negligence is a low bar and if shutdowns are permitted to occur too frequently it will bankrupt the Project.



Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on reasonably estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, or if the Project was offline for any reason during such previous Operations Year, the year before that. If the Project was offline for any period of time in each prior year, such determination shall be based on reasonable data offered by Provider. Notwithstanding the foregoing, Provider and Host may mutually agree in writing to an alternative methodology to be used in lieu of the foregoing.

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

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes unsafe conditions or activities of persons on the Site, which are not under the control of Provider, whether or not such conditions or activities are under the control of Host, have a reasonable likelihood of interfering, imminently or within the next 90 days, with the safe operation of the Project. Provider shall give Host written notice of such conditions or activities immediately upon investigating them, and of its intent to shut down the Project (or, where such interference is imminent, of its having shut down the Project) due to such conditions or activities. Provider and Host shall reasonably cooperate and coordinate their respective efforts to restore Site conditions so as to avoid or end such interference with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown; provided that Provider shall not be responsible for any costs or expenses in connection with restoration of conditions at the Site required due to such conditions or activities on the Site not under the control of Provider. If a shutdown pursuant to this Section 10(b) continues for 180 days or longer, Provider may terminate this Agreement and, if the unsafe conditions or activities were caused by a Host Event of Default or Host’s negligence, subject to dispute resolution in Section 23, Host shall pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion (“**Project Relocation**”). In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases reasonably required by Provider in connection with the new location. Host shall pay all reasonable costs associated with the removal and relocation of the Project, including reasonable installation and testing costs and interconnection costs. In addition, during the Relocation Event,

Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the Relocation Event, provided that Provider acts with reasonable diligence in relocating the Project. Determination of the amount of energy that would have been produced during the Relocation Event shall be based, during the first Operations Year, on reasonably estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, or if the Project was offline for any reason during such previous Operations Year, the year before that. If the Project was offline for any period of time in each prior year, such determination shall be based on reasonable data offered by Provider, unless Provider and Host mutually agree to an alternative methodology.

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

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

## 11. TAXES; CHARGES.

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

(b) Sales Taxes. Host shall provide Provider with any certificates or other documents required or appropriate to evidence Host's exemption from any applicable taxes, fees, and charges,

including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay or timely contest any and all such taxes assessed directly against it by any Governmental Authority from which it is not exempt; and to the extent Provider is required to pay such amounts, Provider shall notify Host in writing with a detailed statement of such amounts, which shall be invoiced by Provider and Host shall reimburse Provider for any and all such taxes assessed against and paid by Provider. For avoidance of doubt, the foregoing reference to taxes does not include any real/personal property taxes assessed for the Project or Provider's leasehold interest in the Site.

(c) Property Taxes. If the Project will produce not more than 125% of the annual load of the Property pursuant to M.G.L. c. 59, § 5 (Clause Forty-Fifth), Provider will employ commercially reasonable efforts to secure exemption from personal property taxes under M.G.L. c. 59, § 5 (Clause Forty-Fifth). If the project will produce more than 125% of the annual load of the Property, or if the exemption is not granted, Provider may enter into a Payment In Lieu of Taxes (PILOT) Agreement with the Town of Sudbury to establish fixed payments in lieu of personal property tax. Upon execution of a PILOT Agreement, if the PILOT amounts differ from the Assumptions Around Pricing Elements set forth in Exhibit A, or if a PILOT Agreement is not executed and Provider is assessed any personal property taxes related to the Project, then Host acknowledges and agrees that Provider shall have the right to increase the rates set forth in Exhibit A. Provider will prepare and the Parties shall execute an amendment to this Agreement, in accordance with the provisions of Exhibit A, to reflect the new rate effective as of the date the PILOT payments begin or the personal property taxes are billed.

If Provider is assessed property taxes for the Project or the leasehold interest or if Provider is unable to obtain exemption of the Project from any such property tax and is not able to enter into a PILOT Agreement with the Town of Sudbury, then Host acknowledges and agrees that Provider shall timely pay such taxes, and shall have the right once per quarter to invoice Host for the exact amount of such property taxes; provided, however, that late payment of such taxes shall not excuse Host's reimbursement obligations; provided, further, however, that Host shall not be required to reimburse late fees, interest or other charges due to any late payment of such taxes. Such invoice shall include documentation demonstrating the tax liability from the taxing authority for the current tax year and proof of payment from Provider to the taxing authority. Such invoice shall be submitted to the Host separately from any monthly invoice for solar energy generation.

If Provider is unsuccessful in its efforts to apply for a tax exemption or enter into a PILOT Agreement, within thirty (30) days of making such determination Provider will inform Host of such determination in writing and request that Host provide Provider with a good faith, non-binding estimate of the annual amount of the expected personal property taxes for the first fiscal year (July 1-June 30), which Host shall request its local assessor to provide, provided that Provider shall furnish to Host such information as reasonably requested by the local assessor in order to provide such an estimate; and provided further that nothing herein shall infringe upon or restrict the local assessor's performance of its statutory duties. The Parties acknowledge and agree that if the local assessor refuses to provide such estimate, such refusal shall not constitute a breach of this Agreement by Host.



Each Party has the right to contest taxes in accordance with Applicable Law, except that for any payments in lieu of taxes covered by any PILOT Agreement entered into by the Parties, the rights to contest such payments shall be as set forth in such PILOT Agreement. Each Party shall use all reasonable efforts to cooperate with the other party in any such contest of tax assessments or payments, except that neither Party shall be required to make such efforts in any contest by Provider of real estate and/or personal property taxes assessed by Host as local taxing authority, or of payments in lieu of personal property taxes pursuant to a PILOT Agreement between Provider and Host. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been abated, bonded or otherwise secured in accordance with Applicable Law.

(d) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice from the Party who paid the taxes or charges; provided, however, that to the extent the payment of amounts due and owing is delayed more than sixty (60) days beyond the date requested for payment in writing by Provider, the amounts shall accrue interest at the rate set forth in Section 6(d) from the date of demand until paid or Provider may (at its election at any time after such 60-day period) increase the PPA Rate to account for such amounts.

## 12. INSURANCE.

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit G in full force and effect throughout the Term. Host and Provider shall also provide any additional insurance which may be required from time to time by the Local Electric Utility or any legal or regulatory authority affecting the Premises or operation of the Project. If Host has established and maintains a program of self-insurance, Host shall maintain self-insurance for the coverages and in the amounts set forth on Exhibit G. Host shall include the Premises in its property insurance coverage maintained for all Host-owned real property.

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

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

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

if a Party maintains an active self-insurance program and provides required insurance pursuant to such self-insurance program.

### 13. COOPERATION.

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

### 14. PRESS RELEASES AND CONFIDENTIALITY.

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

(b) Limits on Disclosure of Confidential Information; Massachusetts Public Records Law. Subject to the exceptions set forth in Section 14(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person (other than to its Representatives, as defined in Section 14(c)) and (ii) it shall use any Confidential Information received from the other Party only for the purpose of exercising its rights and fulfilling its obligations under this Agreement. Notwithstanding the foregoing, subject to the requirements of Section 14(c) below, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the

Applicable Solar Program or Tax Attributes, or required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing.

(c) Permissible Disclosures. A Party may provide Confidential Information to its Affiliates and its and their employees, directors, officers, agents, counsel, advisors, and any person who has provided or who is interested in providing construction or permanent financing, or any refinancing, in connection with the Project (for the purpose of this Article 14, “**Representatives**”); provided, however, that such Representatives shall be bound by confidentiality obligations not less restrictive than this Section 14. In addition, if a receiving Party is required by Applicable Law, or by a validly issued subpoena or a required filing, to disclose any Confidential Information provided by the disclosing Party, the receiving Party may make disclosure as required by law, but the receiving Party shall, prior to making any disclosure, if lawfully permitted to do so, notify the disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party, in any efforts by the disclosing Party to limit the extent of disclosure of the Confidential Information and the persons to whom it is disclosed. If Host is a public entity subject to the requirements of M.G.L. c. 66, § 10 (“**MA Public Records Law**”), the provisions of the MA Public Records Law will govern Host’s obligations under Section 14(b) and this Section 14(c). Notwithstanding any term herein to the contrary, the failure of the receiving Party to notify the disclosing Party of a disclosure of Confidential Information pursuant to this Section 14(c) shall not be deemed an Event of Default by the receiving Party.

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

## 15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend (if defense is requested by a Host Indemnified Party) and hold harmless Host and its directors, officers, employees, agents, volunteers, licensees and invitees (including Host, “**Host Indemnified Parties**”), from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any third party claim for injury to or death of any Person or loss or damage to property to the extent caused by the negligence or willful misconduct of any Provider Indemnified Party (defined in Section 15(b)); (ii) Provider Indemnified Parties’ violation of Applicable Law; (iii) any failure by any Provider Indemnified Party to properly interconnect or comply with the requirements procedures of the Local Electric Utility or Applicable Law; or (iv) the failure of any Provider Indemnified Party to properly handle or dispose of any Hazardous Materials brought onto the Site by any Provider Indemnified Party, or the negligent release of any Hazardous Materials by any Provider Indemnified Party. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host’s side of the Point of Delivery except to the extent caused by incidents on Provider’s side of the Point of Delivery, or by the negligence or willful misconduct

of any Provider Indemnified Party. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in the Local Electric Utility's electric service to the Premises. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent of any Loss that is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. To the extent permitted by law, Host shall indemnify, defend and hold harmless Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party, (“**Provider Indemnified Parties**”), from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any third-party claim for injury to or death of any Person or loss or damage to property to the extent caused by the negligence or willful misconduct of any of the Host Indemnified Parties; (ii) Host's violation of Applicable Law; or (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than for which Provider is responsible to indemnify Host or other Host Indemnified Parties under Section 15(a)(iv)). Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Provider Indemnified Party.<sup>12</sup>

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

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

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

<sup>12</sup> Provider NTD: Host cannot disclaim indemnification obligation entirely, but we are open to discussing changes to the indemnification obligations of Host.

## 16. REPRESENTATIONS AND WARRANTIES.

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

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

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

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

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

Notwithstanding the foregoing or anything to the contrary herein, neither Party makes any representation or warranty regarding PowerOptions (or any other entity's) compliance with the requirements of G.L. c. 164, §137, and any failure of PowerOptions (or such other entity) to have complied with such requirements shall not be deemed a breach of this Agreement by either Party.

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

(i) Condition of Premises. Prior to signing this Agreement, Host has provided to Provider what Host reasonably believes are the material records in Host's possession concerning the physical condition of the Premises, but makes no other representations or warranties regarding such records or the condition of the Premises or Site. If, during the Initial Period, Provider deems the Premises are inadequate for the purposes set forth hereunder, it shall promptly notify Host in writing of such discovery, and Host shall



reasonably cooperate in Provider's efforts to procure such additional information as Provider may reasonably require concerning the condition of the Premises. If, whether through the foregoing process or during construction of the Project on the Premises, Provider discovers, and reasonably demonstrates, that (1) the physical conditions of all or part of the Premises upon which all or part of the Project are to be installed are materially different from (a) conditions shown in the records provided by Host and (b) conditions reasonably visible to Provider during site visits prior to entering this Agreement, and (2) such differing conditions require a change in the design or construction of the Project the costs of which were not included in the PPA Rate established on the Effective Date, then, if practicable, the PPA Rate shall be adjusted to compensate Provider for such increase in the cost of Project design and construction changes and delays actually, reasonably incurred by Provider in order to adapt the Project to the different conditions. If the parties cannot agree to a good faith rate adjustment after (30) days, Provider shall have the right to terminate this PPA and the Lease as described in Exhibit A.

(ii) Title to Premises. Host is the fee owner of and has good and valid title to the Premises and to Host's knowledge there are no mortgagees, lienholders or other third party claimants to the Premises (other than in connection with any borrowing for the purchase, or cost of construction or renovations, of the Site). There are no encumbrances on the Premises that would interfere with or prevent the development, construction, operation or maintenance of the Project or any portion thereof. Notwithstanding the foregoing, Provider understands and acknowledges that Host has not performed any search of the records at the local registry of deeds in connection with the Site or Premises, and Provider shall be entitled to conduct and shall rely upon its own due diligence regarding the foregoing.

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

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

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

(ii) Review of Host Records; Inspection of Site/Premises. Prior to signing this Agreement, Provider has carefully reviewed the records provided by Host including those referenced in Section 16(b)(i), above, and has conducted a reasonable visible inspection of the Site and Premises, and without waiver of its rights hereunder to request additional information and perform a Site assessment under Section 4(a), Provider believes such records sufficient to perform such Site assessment.

## 17. FORCE MAJEURE; CASUALTY.

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

(b) No Excuse for Payment for Prior Services. Excepting a Force Majeure Event which impacts business or banking transactions nationally or globally that makes it impossible for a Party to make timely payments required hereunder, in which case such affected payment obligations shall be suspended during the period of such impossibility but not excused, obligations to make payments for services provided prior to the Force Majeure Event shall not be excused by a Force Majeure Event.

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

If any damage to the Project is caused by the negligence or willful misconduct of Host or Host's employees, agents, or invitees, Provider shall send written notice to Host specifying (i) the reasonable and documented expenses for repair and replacement of the Project, and (ii) documented lost revenue for sales of electricity and solar incentives (including, but not limited to, Applicable Solar Program, Tax Attributes, Environmental Attributes) that would have been received based on the estimated energy production of the Project. Provider and Host shall make immediate claim on their respective insurers immediately thereafter. Host shall have thirty (30) days from the receipt of such notice to review the information contained within such notice. Any undisputed amounts shall be due and payable within thirty (30) days after receipt of Provider's notice. If Host disagrees with any information contained in such notice, Host shall provide written

notice to Provider within the Host's thirty (30) day review period. In the event of a dispute, subject to Section 23, Host and Provider shall use good faith to resolve such dispute and agree upon a reimbursement amount. If Host and Provider have agreed upon the reimbursement amount, Host shall pay such agreed amount within thirty (30) days after agreement and in the event there is no dispute, then within thirty (30) days after receipt of the notice.

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

## 18. CHANGE IN LAW.

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

## 19. PROVIDER DEFAULT AND HOST REMEDIES.

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

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



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

(iv) Failure to Operate. After the Commercial Operation Date, if (a) Provider fails to operate the Project for a period of ninety (90) consecutive days, unless such failure is due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or is otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and (b) Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project for a period of ninety (90) consecutive days, provided, however, that such thirty (30) day cure period shall be extended by the number of calendar days during which Provider is prevented, through no fault of its own, from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

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

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

(vii) Payment/Insurance Failure. Provider fails to make any undisputed payment due under the terms of this Agreement or fails to maintain insurance hereunder and fails to make such payment or obtain such insurance within ten (10) Business Days after receipt of notice thereof from Host.

(viii) Provider has an Event of Default under the Lease.

(b) Financing Party Opportunity to Cure; Host Remedies. Subject to the right of the Financing Party to cure a Provider Event of Default as set forth in Section 21, upon a Provider

Event of Default, if Provider or Financing Party does not cure such Provider Event of Default in accordance with the terms hereof, Host may terminate this Agreement without payment of any Early Termination Amount, seek to recover damages, including without limitation costs of replacement electricity, and/or pursue any and all other remedies available at law or equity.

## 20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following (each, a “**Host Event of Default**”) shall occur:

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

(ii) Obstruction. Host (i) obstructs commencement of installation of the Project in breach of its obligations hereunder; (ii) fails to take any reasonable actions required by this Agreement that, in either case, are necessary for the interconnection of the Project; or (iii) fails to take electric energy produced by the Project; and, in the case of (ii) and (iii), such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events); and, in any of these circumstances, Host fails to correct such action or inaction, as the case may be, within fifteen (15) days after receipt of written notice from Provider.

(iii) Payment/Insurance Failure. Host fails to make any undisputed payment due under the terms of this Agreement or fails to maintain insurance hereunder and fails to make such payment or obtain such insurance within ten (10) Business Days after receipt of notice thereof from Provider.

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

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

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

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

(c) Survival of Lease, Access Rights and Easement. Upon a Host Event of Default and exhaustion of all applicable cure periods, where Provider has required Host to pay the Early Termination Amount, unless and until Host pays the Early Termination Amount to Provider in full thus terminating this PPA, Provider may, in its exercise of remedies pursuant to Section 20(b), and subject to the terms of this Agreement, make continued use of, and Host may not terminate: (i) the Lease rights (including easements contained therein) and access rights granted in Section 3 for access to and use of the Site in connection with Provider's use of the Premises; and (ii) the easement referenced in Section 3(f), and Provider's use of such rights and interests shall, subject to the terms of this Agreement, continue until the earlier of Host's payment of the Early Termination Amount to Provider or the twenty-fifth (25<sup>th</sup>) anniversary of the SMART Incentive Payment Effective Date as shall the duties of Provider to decommission the Project in accordance with Section 9(f) following expiration of the earlier of the two foregoing time periods. In such event, Provider shall not be obligated to pay any rent or other consideration for the use of such rights or interests during such continued use, but it shall be bound by all other obligations of the Lease until the expiration of such rights and interests in accordance with this provision.

## 21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

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

conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

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

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

(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement, subject to and in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project, provided that such exercise shall not relieve Provider or any assignee of its obligations under this Agreement;

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

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

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

terms and conditions as this Agreement, subject to any required local legislative approval.

(iii) Right to Cure.

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

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the applicable time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity (including by payment of money damages), then such person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect. For avoidance of doubt, in the event of a Provider Event of Default under Section 19(a)(v) which cannot be undone, it shall be a cure of such Event of Default if, within the applicable cure period, Financing Party pays Host all money damages, if any, resulting directly from such Event of Default and reasonably demonstrated by Host. If the Financing Party notified Host in writing within such sixty (60) day period that it must foreclose on Provider's Interest or otherwise take possession of Provider's interest under this Agreement in order to cure the default (the "**Foreclosure Notice**"), the Host shall not terminate this Agreement on account of such foreclosure and shall permit the Financing Party a reasonable period of time<sup>13</sup>, which shall be outlined in the Foreclosure Notice, as may be necessary for such Financing Party, with the exercise of due diligence, to foreclose or acquire Provider's interest under this Agreement and to perform or cause to be performed all of the covenants and agreements of Provider under this Agreement and the Lease.

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

<sup>13</sup> Provider NTD: this provision as drafted is required by the Financing Party.



(c) Entry to Consent to Assignment. Host agrees to execute any reasonable consents to assignment or acknowledgements as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project, provided that Financing Party or Provider shall pay Host's reasonable attorneys' fees incurred in reviewing and drafting any such consents or acknowledgements.

## 22. LIMITATIONS ON DAMAGES.<sup>14</sup>

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

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

## 23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "**Dispute**") within thirty (30) days after the date that a Party receives written notice of such Dispute from the other Party, except that a Party may seek injunctive relief to prevent irreparable harm without first proceeding or completing any dispute resolution proceedings. Notwithstanding the foregoing, except as expressly set forth in this Agreement, nothing in this Article 23 shall limit a Party's right to terminate this Agreement for reasons expressly set forth in this Agreement, or to exercise any other rights and remedies expressly set forth in this Agreement.

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

<sup>14</sup> Provider NTD: this provision as drafted is key to Provider's underwriting.

it might otherwise have to such jurisdiction and process, provided that if at any time during the Term Provider does not have a registered agent on file with the Secretary of the Commonwealth, service of process may be made upon it by certified mail under Section 24.

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

## 24. NOTICES.

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

If to Host:

Town of Sudbury  
275 Old Lancaster Road  
Sudbury, Massachusetts 01776

Attention: Andrew Sheehan, Town Manager  
Email: townmanager@sudbury.ma.us  
[Attention: [            ]  
Email: [                ]

If to Provider:

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

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



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

## 25. MISCELLANEOUS.

This Section 25 shall survive any termination of this Agreement. Notwithstanding anything to the contrary in this Agreement or the Lease:

(a) Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of law.

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

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

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

(e) Assignment. Except as provided in Section 21, neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider, upon which Provider shall be deemed to have represented and warranted to Host at the time of such transfer that the Affiliate-assignee has the financial ability and experience, by itself or through contracted third parties or affiliates,

to fulfill all obligations of Provider under hereunder; and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host, or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided, that in the case in which Provider or Host, as the case may be, is not the surviving entity, any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement.

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

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

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

(i) CORI. Host shall have the right to conduct a check of the Criminal/Sex Offender Record Information (CORI/SORI) maintained by the Massachusetts Criminal History Board, and the Massachusetts Sex Offender Record Information (SORI) maintained by the Massachusetts Sex Offender Registry Board, for any officer or employee of the Provider or of any contractor of the Provider, or of any other person, who will work at or enter upon the Premises. To the extent the Project is constructed at the premises of a school building, Provider shall timely comply with all Host's school department CORI/SORI policies, and provide Host with such information as Host requires to conduct such checks sufficiently in advance of any entry to the Site and Premises by Provider, its employees, representatives, contractors, agents or any other person acting on or on behalf of Provider. Notwithstanding any other provision of the Agreement, no employee, contractor, agent, representative or other person acting for or on behalf of Provider shall enter upon any school real property unless and until such person has undergone a CORI/SORI check and Host has confirmed its receipt and review of the resulting information, and its lack of objection thereto, provided that, Host shall perform such review with reasonable promptness. Host may refuse to allow any such employee to work on the project if the Host, in its sole discretion, determines that such employee is not suitable for work on the Project based on the results of such CORI/SORI. The Host shall keep such information in a confidential file. With respect to projects to be installed at public schools in other states, similar criminal offender and sex offender information maintained by the state shall apply, and Host shall have discretion regarding employment of such registered offenders. Provider shall fully cooperate with Host's CORI/SORI checks, including by providing such information as Host may reasonably request.

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

(k) Nothing in this Agreement shall constitute a waiver of any Host's rights, remedies, defenses and immunities set forth in G.L. c.258, all of which rights, remedies, defenses and immunities Host hereby reserves.

(l) Nothing in this Agreement shall interfere with the Host's Board of Assessors in the valuation, treatment, and characterization of the Project for tax purposes, nor in the calculation, assessment and collection of taxes in accordance with all Applicable Law and regulations. Nothing in this Agreement or the Lease shall, however, be deemed a waiver of any right to contest any valuation, treatment, and characterization of the Project for tax purposes by Host's assessor, nor a waiver of any rights, remedies or defenses Provider may have against the calculation, assessment and collection of taxes by Host.<sup>15</sup>

(m) If all or any part of the Premises constitutes or is located on school property, while on or about the Premises, Provider shall not interfere, and shall not engage or allow persons for whom it is responsible engage, in any activities on or about the Premises that have a reasonable likelihood of interfering with educational programs at the Premises (G.L. c. 40, § 3).

(n) This Agreement is subject to the provisions of Applicable Law.

(o) Any requirement that Host cooperate with or assist Provider or take any action shall not require Host to improperly interfere with or influence the independent regulatory, licensing, taxing, permitting or judicial functions of any official, department, board, committee, body or commission of Host or any other Governmental Authority.

(p) M.G.L. c. 62C, § 49A Certification. Provider hereby certifies under penalties of perjury that it has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support, all as stated under M.G.L. c. 62C, §49A.

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

<sup>15</sup> Provider NTD: This language is from the similar provision in the Lease Agreement that was removed and incorporated by reference therein.

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

**Solect Energy Development LLC,  
a Massachusetts limited liability company**

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

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

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

Date: \_\_\_\_\_

**Town of Sudbury, Massachusetts**

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

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

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

Date: \_\_\_\_\_

Attachment6.a: KP-#901666-V2-SUDB - Solect\_PPA\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

## GLOSSARY OF TERMS

“Access Rights” has the meaning set forth in Section 3(c) of the Lease.

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

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

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

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

“Avoided Energy Price” means the rate, expressed in \$/kWh, set forth in Exhibit A for purposes of calculating any credits/damages/costs owed to Host pursuant to Section 5(b). The Year 1 Avoided Energy Price shall be the average applicable tariff rate per kWh, at the time of execution of the Agreement, that Host would have paid for full requirements delivered electric service (which shall include energy-related charges such as delivery, service, distribution, or taxes, but excluding demand and other related charges) from its Local Electric Utility, with a 2% annual escalation rate applied to each subsequent Guarantee Year as shown in Exhibit A.

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

“Capacity Value” means such capacity value as determined by market rules established by ISO-NE.

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

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

“Confidential Information” means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information shall not include information that (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party, through the exercise of reasonable diligence, to be under an obligation of confidentiality respecting the information; (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party; or (v) does not fit within one of the exemptions to the definition of “Public Records” as set forth in M.G.L. c. 4, § 9 (Clause Twenty-Sixth).

“Construction Start Date” means the date that is the earlier of (a) sixty (60) days after receipt of (i) an executed interconnection agreement for the Project and (ii) all permits, or (b) 730 days from the Effective Date, which date shall be subject to extension as set forth in Section 2(f).

“Decommissioning Bond” means a performance bond issued by a surety qualified to do business in Massachusetts, satisfactory to Host, in an amount estimated, at Provider’s expense, by a Massachusetts professional engineer, and approved by Host (not to be unreasonably withheld), as the cost (without any deduction for salvage value) to remove the Project from the Premises and Site and to restore the Premises in accordance with the terms of this Agreement and Lease.<sup>16</sup>

“Delay Liquidated Damages” means an amount equal to \$0.250/day/kW for each day from the Guaranteed Commercial Operation Date to the Commercial Operation Date, not to exceed \$15/kW in the aggregate, if Provider fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date; provided that such damages will be subject to the limitation set forth in Section 2(e) of this Agreement.

“Dispute” has the meaning set forth in Section 23(a) of this Agreement.

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

<sup>16</sup> Provider NTD: Changes reflect that the decommissioning bond will only be effective at the beginning and at the end of the Term.

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

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

“Electricity Deficiency Quantity” has the meaning ascribed thereto in Section 4(i) of the Agreement.

“Electricity Surplus Quantity” has the meaning ascribed thereto in Section 4(i) of the Agreement.

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

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

“Existing Roof Warranties” has the meaning set forth in Section 4(g) of the Agreement.

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

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

“Financing Party” means a Project Lessor or Lender.

“Force Majeure Event” means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other



causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, declared state of emergency or public health emergency, pandemic, government mandated quarantine or travel ban, epidemic, terrorist acts, or rebellion; (iv) acts or omissions of Governmental Authorities, including the Local Electric Utility; (v) strikes or labor disputes (except involving employees of the affected Party); and (vi) failure of the Local Electric Utility to perform actions with respect to the Project in the times required under its tariffs or Applicable Law. Force Majeure Events shall not include equipment failures or acts or omissions of a Party or such Party's employees, representatives, agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity or economic hardship shall not constitute Force Majeure Events.

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

"Guaranteed Commercial Operation Date" means 270 days from the Construction Start Date, which shall be extended as set forth in Section 2(f).

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

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

"Host Event of Default" has the meaning ascribed thereto in Section 20(a) of the Agreement.

"Host Indemnified Parties" has the meaning ascribed thereto in Section 15(a) of the Agreement.

"Indemnified Person" means the Host's Indemnified Parties or the Provider's Indemnified Parties, as the case may be.

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

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

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

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

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

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

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

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

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

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

“MA Public Records Law” has the meaning ascribed thereto in Section 14(c) of the Agreement.

“Maximum PPA Rate” shall be the rate set forth in Exhibit A of this Agreement.

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

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

“Notice of Claim” has the meaning ascribed thereto in Section 15(c) of this Agreement.

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

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

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

“Performance Guarantee” means that guarantee provided by Provider to Host Pursuant to Section 5(b) of this Agreement.

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

“PowerOptions” has the meaning ascribed thereto in the recitals.

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

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

“Project” means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement, and, for the avoidance of doubt, equipment owned by the Host as of the Effective Date (e.g., electric panels) shall remain owned by the Host and not be considered part of the “Project.”

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

“Project Relocation” has the meaning ascribed thereto in Section 10(c) of the Agreement.

“Provider” means Solect Energy Development, LLC.

“Provider Event of Default” has the meaning ascribed thereto in Section 19(a) of this Agreement.

“Provider Indemnified Parties” has the meaning ascribed thereto in Section 15(b) of the Agreement.

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

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

“Representatives” has the meaning ascribed thereto in Section 14(c) of this Agreement.

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

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

“Solect” has the same meaning as Provider.

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

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

## EXHIBIT A

### ENERGY PURCHASE PRICES<sup>17</sup>

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

	<b>Block 6</b>
SMART Incentive Amount	\$0.12041
PPA Rate (\$/kWh)	\$0.0876

Assumptions around Pricing Elements:

- Additional utility interconnection costs. Prices shown include budgeted interconnection costs known as of the date of execution and exclude costs (if any) for utility engineering studies or system upgrades.
- PPA Rate assumes Project is exempt from personal property tax but includes the PILOT (Payment In Lieu of Taxes) amounts shown on Exhibit A-1 for payments in lieu of such taxes.
- Prices shown do not include costs required to comply with additional site work, stormwater management infrastructure, environmental compliance or remediation, or pursuant to any Orders of Conditions or similar order or decision rendered by a local authority having jurisdiction (e.g., Planning Board, Conservation Commission).
- Federal investment tax credit amount will reflect the calendar year in which installation begins.<sup>18</sup>

Variations:

Should the actual values of the Pricing Elements materially differ from the assumed values set forth above, the PPA Rate will be adjusted up or down, as the case may be, in accordance with the following process. Upon the occurrence of such a material difference, Provider will promptly notify Host in writing of the details of such difference, and shall prepare a “Final PPA Rate” in accordance with the rules of the PowerOptions Solar plus Storage program. Such Final PPA Rate will be provided to Host in writing no later than (twenty) 20 days prior to the Construction Start Date, and shall automatically take effect, provided that, excluding increases to the PPA Rate under

<sup>17</sup> PPA Rates, Avoided Energy Price, Early Termination Amount and Early Purchase Amounts subject to update by agreement of the Parties for final allocation of risk and cost.

<sup>18</sup> Provider NTD: All pricing must be approved by PowerOptions, we need to keep the door open for those changes dictated by PowerOptions,

Sections 7(d)-(g) for incentive and other payments inadvertently paid to the Town, such Final PPA Rate shall not exceed the Maximum PPA Rate of: \$.12/kWh, unless the Parties agree, in writing by authorized representatives, on a Final PPA Rate that exceeds the Maximum PPA Rate pursuant to the process described below.

Notwithstanding anything to the contrary in this Agreement, if, at any time, adjustments to the PPA Rate authorized by this Exhibit A, or by any other provision of the Agreement (excluding increases to the PPA Rate under Sections 7(d)-(g)), will cause the PPA Rate to exceed the Maximum PPA Rate, Provider shall so notify Host in writing and provide a reasonably detailed explanation of such adjustments, and the Parties will cooperate in good faith to negotiate a PPA Rate acceptable to both Parties; provided, however, that no Party shall be obligated to agree to a PPA Rate in excess of the Maximum PPA Rate. If, after fifteen (15) days, the Parties are not able to agree on an acceptable PPA Rate, Provider may, in its sole discretion, elect either to (i) continue performance under this Agreement with the PPA Rate equal to the Maximum PPA Rate, or (ii) terminate this Agreement upon ten (10) days' written notice to Host. Upon a termination hereunder, Host shall reimburse Provider for 50% of Provider's direct costs incurred in performing under this Agreement between the Effective Date and the date of such termination.

### AVOIDED ENERGY PRICE

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

Guarantee Year	Avoided Energy Price per kWh
1	0.1444
2	0.1473
3	0.1502
4	0.1532
5	0.1563
6	0.1594
7	0.1626
8	0.1658
9	0.1692
10	0.1725
11	0.1760
12	0.1795
13	0.1831
14	0.1868
15	0.1905
16	0.1943
17	0.1982
18	0.2022
19	0.2062
20	0.2103
21	0.2145
22	0.2188
23	0.2232
24	0.2277
25	0.2322



EXHIBIT A-1  
PILOT AMOUNTS

Year	PILOT Value
1	\$1,704.96
2	\$1,653.81
3	\$1,604.20
4	\$1,556.07
5	\$1,509.39
6	\$1,464.11
7	\$1,420.18
8	\$1,377.58
9	\$1,336.25
10	\$1,296.16
11	\$1,257.28
12	\$1,219.56
13	\$1,182.97
14	\$1,147.48
15	\$1,113.06
16	\$1,079.67
17	\$1,047.28
18	\$1,015.86
19	\$985.38
20	\$955.82
21	\$927.15
22	\$899.33
23	\$872.35
24	\$846.18
25	\$820.80

Attachment6.a: KP-#901666-V2-SUDB - Solect\_PPA\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

EXHIBIT B

## EARLY TERMINATION AMOUNTS

Subject to final PPA Prices in Exhibit A

<b>Year</b>	<b>Early Termination Amount</b>	<b>Early Purchase</b>
1	\$984,470	N/A
2	\$912,439	N/A
3	\$839,488	N/A
4	\$812,921	N/A
5	\$737,965	N/A
6	\$661,918	N/A
7	\$584,716	\$462,568
8	\$553,652	N/A
9	\$521,293	N/A
10	\$487,566	\$354,091
11	\$462,254	N/A
12	\$440,520	N/A
13	\$417,915	N/A
14	\$394,388	N/A
15	\$369,885	\$215,151
16	\$342,510	N/A
17	\$313,932	N/A
18	\$284,081	N/A
19	\$252,881	N/A
20	\$220,256	N/A
21	\$217,543	N/A
22	\$214,945	N/A
23	\$212,472	N/A
24	\$210,137	N/A
25	\$216,194	N/A

EXHIBIT C

## DESCRIPTION OF SITE

**Property Address: 275 Old Lancaster Rd, Sudbury MA 01776**

The land, together with the buildings and improvements thereon, located at 275 Old Lancaster Road, Sudbury, Massachusetts and known as the Sudbury Department of Public Works, described in that certain quitclaim deed by Bessie R. Noyes to the inhabitants of the Town of Sudbury, dated May 18, 1949 and recorded with the Middlesex South County Registry of Deeds on May 19, 1949 in Book 7431, Page 153, a copy of which is attached hereto and incorporated herein.

*[Remainder of page intentionally left blank]*

BOOK  
7431  
PAGE  
153

I, Bessie R. Noyes  
of Sudbury Middlesex County, Massachusetts,  
being unmarried, for consideration paid, grant to the inhabitants of the Town of Sudbury  
of \_\_\_\_\_ with quitclaim covenants

~~whereas~~ A certain parcel of land in the central part of Sudbury,  
bounded and described as follows:

(Description and encumbrances, if any)

Northerly by land conveyed by Mary A. Finney to Marcua G. Haley, Jr. et al, eight hundred and twelve (812) feet, more or less; Easterly and Northeasterly by the town road called Old Lancaster Road to South Sudbury, four hundred (400) feet, more or less; Easterly again, by land now or formerly of the Heirs of Horatio Hunt Eleven Hundred and twenty-five (1125) feet, more or less; Southerly, Southwesterly and Westerly by Wash Brook.

Excepting, however, from the above described premises, and not hereby conveying, so much of the above parcel of land, described in a deed given by me to the Sudbury Water District of Sudbury, dated February 4, 1936, recorded with Middlesex South District Registry of Deeds in Book 6004, Page 287.

For my title see deed of Mary A. Finney to me dated June 2, 1930, recorded with said Deeds, book 5468, page 206.

This conveyance is subject to all unpaid taxes due the Town of Sudbury for the year 1949.



~~whereas~~ Witness my hand and seal this 18<sup>th</sup> day of May 19 49  
Bessie R. Noyes

The Commonwealth of Massachusetts

Middlesex ss. May 18 19 49

Then personally appeared the above named Bessie R. Noyes

and acknowledged the foregoing instrument to be her free act and deed, before me  
John Rice  
Notary Public - State of Mass.  
My commission expires Aug 27 19 49  
Rice

Rec'd & entered for record May 19, 1949 at 4h. 47m. P.M. #216

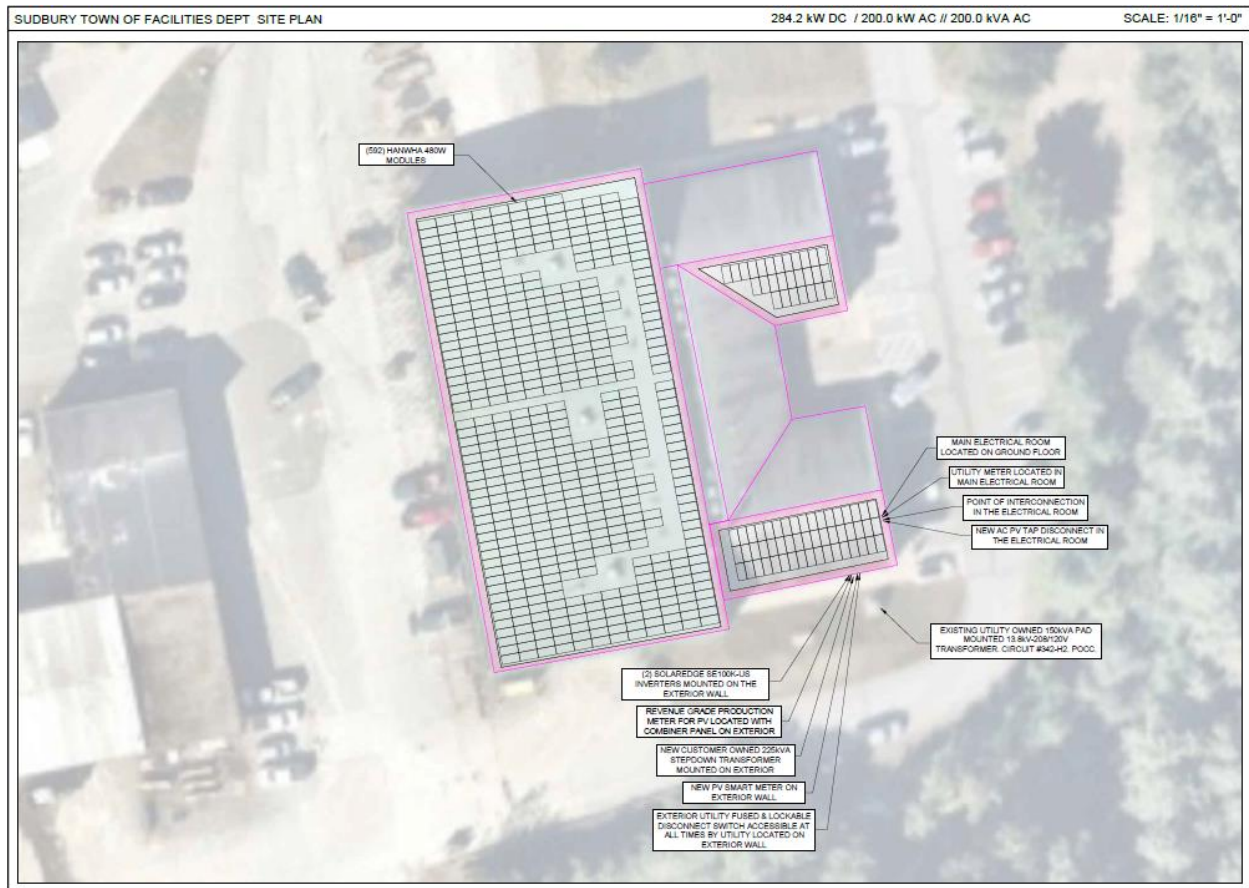
Attachment 6.a: KP-#901666-V2-SUDB - Select PPA - DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

EXHIBIT D

DESCRIPTION OF PREMISES<sup>19</sup>

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

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



<sup>19</sup> Notwithstanding anything to the contrary in this Agreement and the exhibits thereto, in the event of any conflict between the description of the Site and the Premises in this Agreement and the Lease, the description in the Lease shall control.

EXHIBIT E

## POINT OF DELIVERY; DESCRIPTION OF PROJECT

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

The Project is a collection of equipment that includes:

- Roughly 592 x 480W Tier 1 Solar modules or equivalent
  - 4 x SolarEdge solar inverters or equivalent
  - Solar racking equipment
  - Rapid shutdown system
  - Stepdown Transformer
  - Solar kWh meter and monitoring system, connected to Host-provided internet service
- Combiners, Disconnects, Conduit, Switches, Pipe and Wire and Balance of System materials

Equipment list may change during the course of the Project.

EXHIBIT FESTIMATED ANNUAL PRODUCTION<sup>20</sup>

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

<b>Year</b>	<b>Estimated Production (kWh)</b>
1	315,418
2	313,683
3	311,958
4	310,242
5	308,535
6	306,839
7	305,151
8	303,473
9	301,803
10	300,144
11	298,493
12	296,851
13	295,218
14	293,595
15	291,980
16	290,374
17	288,777
18	287,189
19	285,609
20	284,038
21	282,476
22	280,922
23	279,377
24	277,841
25	276,313

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

<sup>20</sup> Estimated Annual Production subject to final system size and equipment.



## EXHIBIT G

### INSURANCE REQUIREMENTS

#### 1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of one million dollars (\$1,000,000) for each occurrence, and two million dollars (\$2,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage “occurrence” form, with no coverage deletions. In addition to the CGL, Provider will carry umbrella/excess liability coverage with limits of five million dollars (\$5,000,000).

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

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

#### 2. Workers’ Compensation

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

#### 3. Property Loss

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

#### 4. Additional Insurance Provisions

Host’s and Provider’s liability insurance shall be written on an occurrence basis, and be primary and non-contributory. Host and Provider shall also have the other Party added as an additional insured on the applicable liability policies. Host and Provider shall furnish the other with certificates of insurance. Such certificates shall include evidence all required insurance and endorsements thereto, and as may be reasonably requested by the other party, copies of the actual insurance policies and endorsements thereto. Host and Provider shall also maintain without interruption all Insurance required of it by the Local Electric Utility. Host and Provider shall require that its insurer give 30 days’ advance written notice to the other party of any intent to cancel any insurance policies required hereunder.

## 5. Additional Installation Contractor Requirements

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

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

## LEASE AGREEMENT

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

WHEREAS, Host is a member of the PowerOptions Program, organized by PowerOptions, Inc. (“**PowerOptions**”), a nonprofit corporation organized under the laws of the Commonwealth of Massachusetts and the Internal Revenue Code, which assists its members with procuring energy products and energy-related services;

WHEREAS, Provider and PowerOptions have entered into an agreement dated April 1st, 2022, as amended, pursuant to G.L. c.164, § 137, governing the terms and conditions of Provider’s participation in the PowerOptions Solar and Storage Programs; and

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

WHEREAS, Provider desires to lease the Premises from Host in order to develop, design, construct, own and operate the Project; and

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

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

### 1. DEFINITIONS.

Certain capitalized terms used in this Lease not defined herein shall have the meanings set forth in the PPA.

### 2. TERM.

The Term of the Lease shall begin as of the Effective Date and shall continue until 11:59 p.m. on the last day of the month in which the twenty-fifth (25<sup>th</sup>) anniversary of the SMART Incentive Payment Effective Date occurs. Notwithstanding the foregoing, in the event that the PPA is terminated prior to the end of the Term, this Lease shall also terminate; provided, however, that in the event that the PPA terminates early pursuant to Section 20(c) of the PPA (due to Host

Event of Default), and Host does not pay the Early Termination Amount to the Provider, and Provider desires to continue use of the Premises under this Lease, the Term of this Lease shall continue until the end of the Term as set forth above. This Lease may be extended in accordance with the provisions for an extension of the PPA (as more specifically set forth in Section 2 of the PPA). For greater clarity, the Parties hereby confirm that at the expiration or termination of the Lease, Provider shall also have Access Rights as described in Section 3 hereof, for removal of the Project pursuant to Section 9 (Removal at End of Term) hereof.

### 3. LEASE RIGHTS.

(a) Lease Access Specifications; Easement Rights. Host hereby grants Provider and its designees (including Installer) the following easements (the “**Easements**”), which shall be non-exclusive except to the extent set forth in Section 3(a)(iii) below, across the Property for access to the Premises, for the Term and for so long as reasonably needed after termination to remove the Project pursuant to the applicable provisions herein and in the PPA, at reasonable times and upon reasonable advance notice (except in situations where there is imminent risk of damage to persons or property, in which event notice shall be given as soon as practicable), for the purposes of designing, installing, inspecting, operating, maintaining, repairing, and removing the Project, and any other purpose expressly set forth in this Lease (the “**Permitted Uses**”). The Premises are leased together with the Easements. The Access Rights (defined below) and Easements shall expire automatically upon the expiration or earlier termination of this Lease, and Provider shall promptly take all actions reasonably necessary to ensure that the release of such easements is recorded at the appropriate registry of deeds. The Easements are as follows:

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

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

(iii) Solar Easement. An easement to receive direct sunlight and solar energy, pursuant to which Host (and each lessee, grantee, invitee or licensee of Host) shall not construct new buildings or structures or install rooftop equipment (other than like-kind replacement), or plant new trees or vegetation or engage in any activities not otherwise permitted by the Lease or PPA which now or hereafter may be a hazard to the Project, overshadow or otherwise block or interfere with sunlight access to the Project at all hours of the day. The solar easement granted herein includes rights of unobstructed sunlight, and in furtherance of the foregoing, the Parties have included in this Lease provisions regarding

Provider's trimming of vegetation and/or removal of obstructions<sup>1</sup> which could impair insolation of the Project. Notwithstanding the foregoing, nothing herein shall require Host to remove perceived obstructions to sunlight that existed prior to the Effective Date other than trees and vegetation, or prevent Host from having access to such sunlight, or from granting similar solar easements to other parties provided that any such access or easements will not result in the overshadow of, or the blocking or interference with, sunlight access to the Project. In the event the solar easement is to be recorded, the Parties shall negotiate the terms of such easement. Host's material failure to comply with its obligations in this Section 3(a)(iii) shall be a material breach subject to cure pursuant to Section 20.

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

(b) Quiet Enjoyment of Premises. Host hereby leases the Premises to Provider and Provider leases the Premises from Host for the Permitted Uses for the Term in accordance with the terms of this Lease. Provided that Provider remains in compliance with its obligations under this Lease, and subject to the terms of this Lease, Provider shall lawfully and quietly have, hold, occupy and enjoy the Premises, use of the Easements and Access Rights (defined below), and any other rights granted by this Lease for the Permitted Uses twenty-four hours a day, seven days a week, for the entire Term, free of any claim of any person of superior title thereto, without hindrance, interruption, suit, or interference of any kind by Host or any other person or entity claiming (whether at law or in equity) by, through or under Host.

(c) Access to Premises. For the Term of this Lease, subject to the notice requirements in clause (a), above, Host hereby grants to Provider the rights ("Access Rights") necessary for Provider to use and occupy portions of the Premises for the installation, operation, maintenance, repair, and removal of the Project pursuant to the terms of this Lease, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the Project with the Premises' electrical wiring. Host hereby covenants that (i) Provider shall have access to the Premises and Project during the Term of this Lease and for the period set forth in Section 9 of this Lease after termination to remove the Project pursuant to the applicable provisions herein, and (ii) subject to the other provisions of this Lease and the PPA, Host shall not interfere with or handle any Provider equipment or the Project without written authorization from Provider; provided, however, that Host shall at all times have access to and the right to observe the Installation Work or Project removal.<sup>2</sup>

<sup>1</sup> Provider NTD: In the event the Town adds any obstructions to the roof, Solect needs the ability to have such an obstruction removed regardless of whether it is vegetation.

<sup>2</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP agreed to removal.

(d) No Interference. Subject to the other provisions of this Lease, Host agrees not to conduct activities on, in or about the Property that have a reasonable likelihood of causing damage or impairment to, or otherwise materially, adversely affecting, the Project. Host shall reasonably cooperate with Provider to limit access to the Project to Provider, Installer, its employees, contractors or subcontractors. For avoidance of doubt, pursuant to M.G.L. c.40, § 3, neither the foregoing nor any other provision in this Lease and the PPA shall require Host to suffer or permit interference with its educational programs conducted in any school building, to the extent that there is any school building on the Site.

(e) Host's Rooftop Equipment. For avoidance of doubt, Host shall be permitted to conduct routine or otherwise necessary operational and maintenance activities at the Site and Premises, such as to repair, modify, or alter the Premises, so long as such activities do not interfere with direct sunlight access to (including causing shading) or operation of the Project, other than such negligible interference as may occur during routine, daily maintenance and repair (so long as such negligible interference does not materially affect the operation or output of the Project). Provider, at its sole cost and with the approval of Host, shall have the right to provide and install such reasonable security measures for the protection of the Project or to prevent injury or damage to persons or property, subject in all cases to Host's normal security procedures and Provider's Access Rights.

(f) Temporary storage space during installation or removal. Host shall provide a reasonable amount of space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, maintenance of the Project, service events during the Term, or Project removal, and access for rigging and material handling. Provider shall be responsible for providing shelter and security for stored items during construction and installation, and for any and all damage arising from such use.

(g) Recording. Provider may record a Notice of this Lease in substantially the same form attached hereto as Exhibit C in the Middlesex County Registry of Deeds regarding its Access Rights under this Lease.

#### **4. HAZARDOUS MATERIALS; SITE SECURITY; SITE CONDITIONS.**

(a) Hazardous Materials. Provider and Installer shall not introduce Hazardous Materials to the Site. However, neither Provider nor Installer shall be in breach of the foregoing prohibition due to the fact that Project equipment, materials or tools may, as manufactured, lawfully contain Hazardous Materials, provided that as between Provider and Host, Provider shall be responsible to lawfully store, transport, handle and dispose of such Hazardous Materials, until, if at all, the Host purchases the Project pursuant to the PPA or the Project is removed from the Property in accordance with the provisions of the PPA and Lease and Applicable Law.<sup>3</sup> Provider and Installer are not responsible, however, for any Hazardous Materials pre-existing at the Site or subsequently brought to the Site by Host, unless the same are negligently released by Provider or

<sup>3</sup> Provider NTD: The current language "in accordance with the provisions of the PPA and Lease and *Applicable Law*" necessarily implies it will be properly disposed of.



its Installer. Upon encountering any pre-existing Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or Host may determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may cooperate to locate and agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Lease. If Host elects to remediate the Site, Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has, in its reasonable judgment, complied with all Applicable Laws, and provides to Provider written documentation, if any, issued from an authorized Governmental Authority or any independent expert retained by Host that certifies that (i) any remediation as required by Applicable Law has been completed and (ii) all necessary approvals from any Governmental Authority having jurisdiction over the Project or the Site have been obtained. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials negligently released to the Site by Provider, Installer, or their employees, agents, or subcontractors; nor is Host required to remediate an affected area for which it is responsible if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(b) Site Security; Host Cooperation. Host will continue to provide any security for the rooftop upon which the Project is located in the same manner as it provides such security as of the Effective Date, and will reasonably cooperate with Provider in connection with Provider's incorporating of any security measures for the Project. Notwithstanding the foregoing or anything to the contrary herein, Host is not responsible, and thus shall not be liable for any alleged failure, to provide security for the Project, or to observe or monitor the condition, operations or state of repair of the Project, provided that Host shall notify Provider if it observes physical damage to the Project, and provided further that Host shall not be deemed in breach of this Lease or liable for any good faith failure to provide such notification. Notwithstanding the foregoing, Host shall reasonably assist Provider in any investigations regarding security or access to the Project that may arise due to unapproved access to the Project by any person other than Provider and its agents.<sup>4</sup>

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

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

## 5. CONSTRUCTION; OPERATION OF PERMITTED USES; ROOF.

<sup>4</sup> Provider NTD: We are happy to draft in Provider's right to add security to the Project as it sees fit, but Provider's Site security should not in any way be a substitute for the Town maintaining its current level of security.



(a) Provider and its contractors, agents, consultants, and representatives shall have reasonable access to the Site for the Permitted Uses and to any documents, materials and records of Host relating to the Site that Provider reasonably requests in conjunction with these activities. While at the Site, Provider, and its contractors, agents, consultants and representatives shall comply with Host's reasonable safety, security and operational procedures (as may be promulgated from time to time), and Provider and its contractors, agents, consultants and representatives shall conduct such activities in such a manner and at such a time and day as to cause minimum interference with Host's activities at the Site. Host shall have the right to access the Premises for the purpose of observing the Installation Work and the eventual removal of the Project from the Site subject to Provider's reasonable safety, security and operational procedures and the requirement that during such access Host does not in any way interfere with the Project, its equipment, its interconnection or its operations.

(b) Notwithstanding anything to the contrary in this Lease or the PPA, Provider shall perform or cause to be performed the Installation Work, and operate, maintain and repair the Project in a manner that will not obstruct or interfere with Host's access to the roof and any rooftop equipment, or with Host's use of and activities at the Site, and with the rights of any other occupants of the Site, to the extent such rights are disclosed or otherwise known to Provider. In addition, Provider shall make reasonable efforts to coordinate all work with Host's facilities department.

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

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

(e) During the course of construction and completion of the Project and any substantial alteration thereto, Provider shall maintain all plans, shop drawings, and specifications relating to such construction which Host, its agents or representatives may examine at reasonable times upon reasonable prior notice for the purpose of determining whether the work conforms to the PPA and this Lease, and for any other reasonable purpose. Within 30 days of the Commercial Operation Date, Provider shall provide to Host a set of as-built drawings for the Project.

(f) Host has been informed by Provider and acknowledges that the presence of and construction and operation of the Project and other activities related to the development, operation and decommissioning of the Project may potentially result in some inconvenience to Host, such as unpleasant visual impact. Subject to the other terms of this Lease, Host hereby accepts such inconvenience and waives any right that Host may have to object to such activities on grounds that such inconvenience constitutes a nuisance, and Host releases Provider from any claims Host may

have with respect to any such activities on grounds that such inconvenience constitutes a nuisance, provided that the foregoing shall not relieve Provider of responsibility for the consequences of any negligence of Provider in performing any such construction, operation and activities, and that the Project as built is consistent with the site plan and specifications attached hereto, as amended from time to time, or otherwise approved by Host, which approval shall not be unreasonably withheld, conditioned or delayed.

(g) For rooftop projects only, Host shall, at its sole cost and expense, throughout the Term, maintain the Premises consistent with Host's ordinary course of operations/maintenance policies and procedures ("Maintenance"), provided that nothing herein shall make Host responsible for any damage to the Premises caused by the installation, operation, maintenance, repair and/or removal of the Project by Provider, including without limitation any damage to the structural components of the Premises. Host shall make reasonable efforts to coordinate any Maintenance with Provider if such Maintenance requires access to the Premises and Provider shall reasonably and timely cooperate with Host in connection therewith; provided, however, that in cases of emergency Maintenance, Host may perform such Maintenance and notify Provider as soon as reasonably possible after it learns of the need for such Maintenance. Host shall reimburse Provider for any damage to the Project to the extent caused by Host's Maintenance activities.<sup>5</sup>

(h) Provider also covenants and agrees to perform all work, including the construction, alteration (if permitted), repair and maintenance of the Project in a good, safe and workmanlike manner and in such a way as to minimize noise, dust and interference with the operation, use and enjoyment of the Property by Host, or by other tenants, visitors or users of the Property. During the Installation Work, Provider shall remove all trash, waste and debris from the Site at a reasonable interval, or with such greater frequency if and as the safe performance of the Installation Work may require.

(i) Provider shall, at Provider's expense, comply with all laws and regulations applicable to any of its activities at the Site, including without limitation Provider's installation, operation, maintenance, repair and removal of the Project, and shall be responsible for obtaining and paying for all permits or approvals required by any applicable authority in order to construct and operate the Project, and to comply, at all times during the term of this Lease, with all such permits and approvals.

(j) Provider further covenants and agrees to keep the Project in good order, repair and condition throughout the Term, and to promptly and adequately repair all damage to the Premises and the Property caused by Provider, its agents, employees, consultants, contractors or representatives, or by the Project. During the Term, any and all installation and construction work performed on the Property by Provider shall also be conducted in compliance with Section 4(g) of the PPA.

(k) Provider shall not bring into or install or keep on the Premises, any objects, including the Project, the weight of which, singularly or in the aggregate, would exceed the

<sup>5</sup> Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would propose alternate language.

maximum load per square foot of the roof of the building, taking into account all dead loads and live loads, including snow loads, and all equipment located on the roof as of the date of the engineer's report, as such maximum load may be set forth in the local building code, as shall be confirmed in the written engineering analysis to be furnished by Provider in accordance with Section 4(a) of the PPA.

(l) The Provider shall not make any alterations, improvements and/or additions to the rooftop, except as necessary to affix the Project to the rooftop in the manner shown on the plans approved by the Town except as provided in Section 4(c)(ii) of the PPA.

(m) Provider acknowledges and agrees that, notwithstanding anything to the contrary in this Lease and the PPA, but subject to Section 16(b)(i) of the PPA, the Premises are being leased to Provider in their condition as of the Effective Date, "As Is," without any representation or warranty, subject, however, to Host's obligation to provide certain records concerning the Premises as set forth in this Lease and in the PPA, and Provider hereby waives any implied warranty that the Site is habitable or suitable for Provider's intended purposes or any other particular purpose. Provider acknowledges that Provider has inspected the Premises, including without limitation the condition of the rooftop and building at the Site, and that by commencing construction of the Project, Provider will be deemed to have found the same satisfactory for all Permitted Uses. Provider agrees that Host is under no obligation to perform any work or provide any materials to prepare the Premises for Provider.

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

**7. DECOMMISSIONING BOND.** Provider shall furnish a Decommissioning Bond as required by Section 9 of the PPA.

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

(a) Permits. Provider shall pay for and obtain all approvals from Governmental Authorities necessary for the construction and operation of the Project, including, as applicable, land use permits, building permits, demolition and waste disposal permits and approvals. Host shall cooperate reasonably and in good faith with Provider in such efforts and shall execute any complete and accurate applications required to be executed in the name of Host upon request by Provider. In furtherance of the foregoing, Provider may, with the reasonable cooperation of Host, file with such federal, state and local authorities as Provider deems appropriate (i) one or more applications to obtain any zoning relief regarding the Property or portions thereof as may be necessary and/or desirable to develop, construct and operate the Project on the Premises; and (ii) one or more applications to obtain construction, use or occupancy permits for the Project or any portion thereof; provided, however, this shall not in any way limit the obligations of the Host set forth in the PPA, including, without limitation, with regard to cooperation or execution of documents requested by the Utility.

(b) Project Ownership. Except as provided in Section 9 of the PPA, Provider (or Financing Party, should it exercise its foreclosure rights over the Project) shall be the legal and

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

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

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Lease from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage, deed of trust, fixture filing or ground lease or similar encumbrance (a "**Mortgage**," and the holder thereof from time to time the "**Holder**") encumbering the Property, whether executed and delivered prior to or subsequent to the date of this Lease, Host shall, promptly upon request and with the reasonable cooperation of Provider, use commercially reasonable efforts to cause the Holder of any such Mortgage to enter into a mutually agreeable nondisturbance agreement, which provides that (i) this Lease is subordinate to the Mortgage (unless the Holder shall elect otherwise); (ii) in the event that the Holder or any other party shall succeed to the interest of Host (such Holder or other party, a "Successor"), at the election of the Holder or Successor, Provider shall attorn to the Holder or Successor and this Lease shall continue in full force and effect between the Holder or Successor and Lessee; (iii) in the event of foreclosure of the Mortgage, so long as the Provider is not in default with the Lease after any applicable cure period, Holder agrees to recognize the rights of the Provider under this Lease, including Provider's Access Rights and the priority of Provider's

(and/or Financing Party's rights ) in the Project; and (iv) Holder or Successor recognizes that the ownership of the Project remains in Provider and acknowledges that the Project is personal property of Provider. Such nondisturbance agreement shall be substantially in the form attached hereto as Exhibit D or in the form customarily used by Holder, and it shall be recorded, such recording costs of the Land Registry to be at Provider's expense, in the appropriate Land Registry. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry and, if Host is not the fee owner, Host will obtain such consent from such owner of the Premises, provided that the foregoing shall not affect characterization of the Project as personal property by Host's assessor for tax purposes.

## **9. REMOVAL AND RESTORATION AT END OF TERM.**

Subject to Host's exercise of its purchase option under Section 9(a) or 9(b) of the PPA, upon the expiration or earlier termination of the Lease, Provider shall, at Provider's expense, remove all of its tangible property comprising the Project from the Premises by a mutually convenient date, but in no case later than one hundred eighty (180) days after the date of such expiration or termination, which may be extended with written consent of Host, in its discretion. The Premises shall be returned to its original condition, except for ordinary wear and tear. In no case shall Provider's removal of the Project affect the integrity of Host's roof or void any Existing Roof Warranties (as defined in the PPA), and which roof shall, following removal, be as leak proof as it was prior to installation of Project (other than ordinary wear and tear of the roof). For purposes of Provider's removal of the Project, Host's and Provider's covenants pursuant to Section 3 (Lease Rights) and Section 16 (Representations and Warranties) shall remain in effect until the date of actual removal of the Project. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the Project by such agreed upon date, Host shall have the right, but not the obligation, to remove the Project to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Provider's reasonable cost and make claim on the Decommissioning Bond.

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

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

## **11. TAXES.**

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

## **12. INSURANCE.**

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

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



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

(b) [Reserved.]

(c) Provider's Right to Remove. The Parties hereby acknowledge that Provider shall have the right (but shall not be obligated) with advance written notice to Host, and subject to Applicable Law, to trim or remove, at Provider's reasonable cost, any trees or other vegetation now or hereafter on the Site which now or hereafter in the reasonable opinion of Provider may overshadow or otherwise block or interfere with access of sunlight to the Project. The Parties acknowledge and agree that as of the Effective Date there are no trees or vegetation at the Site that currently have such effect.

(d) Adjoining Properties. Prior to signing this Lease, Provider made reasonable efforts to ascertain whether easements from owners of adjoining properties will be necessary to protect solar access of the Project, including a visible inspection of such properties to the extent visible from the Site and adjacent public ways, and has determined that it is unlikely that such easements will be required. If Applicable Law and existing easements will not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, the Parties shall work together to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including any payments to property owners and legal costs, but shall be reimbursed by Host for the reasonable costs and expenses thereof if the need for such additional easements was not reasonably ascertainable through Provider's exercise of reasonable efforts. At Host's election, in lieu of reimbursement as a lump sum, the PPA Rate shall be increased by an amount sufficient for Provider to fully amortize such costs over a period equal to the lesser of (i) five years or (ii) the remaining term of this Lease without regard to Host's option to purchase the Project.<sup>6</sup>

(e) Right to Inspect and Enter. In addition to any other rights of entry explicitly authorized by this Lease and/or the PPA, Host and its agents, consultants, and representatives shall have reasonable access to the Premises at all times for emergency purposes, and in all other instances, at all reasonable times for inspection and operation-and-maintenance purposes, subject to Provider's reasonable safety, security, and operational rules and, except where such non-emergency access is routine and in accordance with a written schedule previously furnished to

---

<sup>6</sup> Provider NTD: We've pushed back on the language restricting the ability to request future easements - it's important to recognize that we're making an investment for 20-25 years, so while there may not be additional easements needed now, it is conceivable that neighbors may build new structures, or that the Town could split the parcel that the Project is on and sell a portion which could result in obstructions that require an easement to remedy, which cannot be foreseeable prior to executing this agreement.

Provider NTD: This issue was discussed on the 3/15/2024 call between KP and DE. KP advised they would review with the Town and revise.

Provider by Host, at least 5 business days prior notice to inspect the Premises for the purpose of ascertaining its condition and to carry out such maintenance and repairs to Host's property and equipment as may be required; provided, however, that during any non-emergency access Host shall not interfere with Provider's performance of its obligations hereunder; and provided, further, that neither Host nor any of its agents, employees, consultants, contractors or representatives shall operate, touch or perform any repair or maintenance to the Project, its equipment, its interconnection or its operations. For avoidance of doubt, in the event of an emergency requiring the shutdown of the Project by emergency personnel, such shutdown shall not be a breach of this Lease or the PPA where such shutdown was reasonably necessary under the circumstances, was performed by the main shutoff switch, was not longer than reasonably necessary to abate the emergency, and was otherwise performed in accordance with any other applicable provisions of this Lease and the PPA.

#### **14. PRESS RELEASES AND CONFIDENTIALITY.**

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

#### **15. INDEMNIFICATION.**

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

#### **16. REPRESENTATIONS AND WARRANTIES.**

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

#### **17. FORCE MAJEURE; CASUALTY.**

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

#### **18. INTENTIONALLY OMITTED.**

#### **19. PROVIDER DEFAULT AND HOST REMEDIES.**

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

(b) Remedies. Upon the occurrence of a Provider Event of Default, if Provider or Financing Party does not cure such Provider Event of Default in accordance with the terms hereof, including Section 21, Host may terminate this Lease, and shall be entitled to exercise any and all rights and remedies available under this Lease, at law and in equity.

#### **20. HOST DEFAULT AND PROVIDER REMEDIES.**



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

(b) Remedies. Upon the occurrence of a Host Event of Default, except as expressly provided in Section 20(b) of the PPA concerning payment of the Early Termination Amount as liquidated damages for lost revenues from sales of electricity, Provider may, at its option, terminate this Lease, and shall be entitled to exercise any and all rights and remedies available under this Lease, at law and in equity.

## **21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.**

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

## **22. LIMITATIONS ON DAMAGES.**

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

## **23. DISPUTE RESOLUTION.**

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

## **24. NOTICES.**

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

## **25. MISCELLANEOUS.**

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

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

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

**Solect Energy Development LLC,  
a Massachusetts limited liability company**

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

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

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

**Town of Sudbury, Massachusetts**

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

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

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

Attachment6.b: KP-#901677-v2-SUDB - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

EXHIBIT A

## DESCRIPTION OF SITE

**Property Address: 275 Old Lancaster Rd, Sudbury MA 01776**

The land, together with the buildings and improvements thereon, located at 275 Old Lancaster Road, Sudbury, Massachusetts and known as the Sudbury Department of Public Works, described in that certain quitclaim deed by Bessie R. Noyes to the inhabitants of the Town of Sudbury, dated May 18, 1949 and recorded with the Middlesex South County Registry of Deeds on May 19, 1949 in Book 7431, Page 153, a copy of which is attached hereto and incorporated herein.

*[Remainder of page intentionally left blank]*

Attachment6.b: KP-#901677-v2-SUDB - - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

BOOK  
7431  
PAGE  
153

I, Bessie R. Noyes

of Sudbury Middlesex County, Massachusetts,  
being unmarried, for consideration paid, grant to the inhabitants of the Town of Sudbury

of \_\_\_\_\_ with quitclaim covenants

~~to~~ A certain parcel of land in the central part of Sudbury,  
bounded and described as follows:

(Description and encumbrances, if any)

Northerly by land conveyed by Mary A. Finney to Marcua G. Haley,  
Jr. et al, eight hundred and twelve (812) feet, more or less;  
Easterly and Northeasterly by the town road called Old Lancaster  
Road to South Sudbury, four hundred (400) feet, more or less;  
Easterly again, by land now or formerly of the Heirs of Horatio  
Hunt Eleven Hundred and twenty-five (1125) feet, more or less;  
Southerly, Southwesterly and Westerly by Wash Brook.

Excepting, however, from the above described premises, and not  
hereby conveying, so much of the above parcel of land, described  
in a deed given by me to the Sudbury Water District of Sudbury,  
dated February 4, 1936, recorded with Middlesex South District  
Registry of Deeds in Book 6004, Page 287.

For my title see deed of Mary A. Finney to me dated June 2, 1930,  
recorded with said Deeds, book 5468, page 206.

This conveyance is subject to all unpaid taxes due the Town of  
Sudbury for the year 1949.



Witness my hand and seal this 18<sup>th</sup> day of May 19 49

Bessie R. Noyes



The Commonwealth of Massachusetts

Middlesex ss.

May 18 19 49

Then personally appeared the above named Bessie R. Noyes

and acknowledged the foregoing instrument to be her free act and deed, before me

John Rice  
Notary Public - Middlesex County

My commission expires Aug 27 19 49

Rice

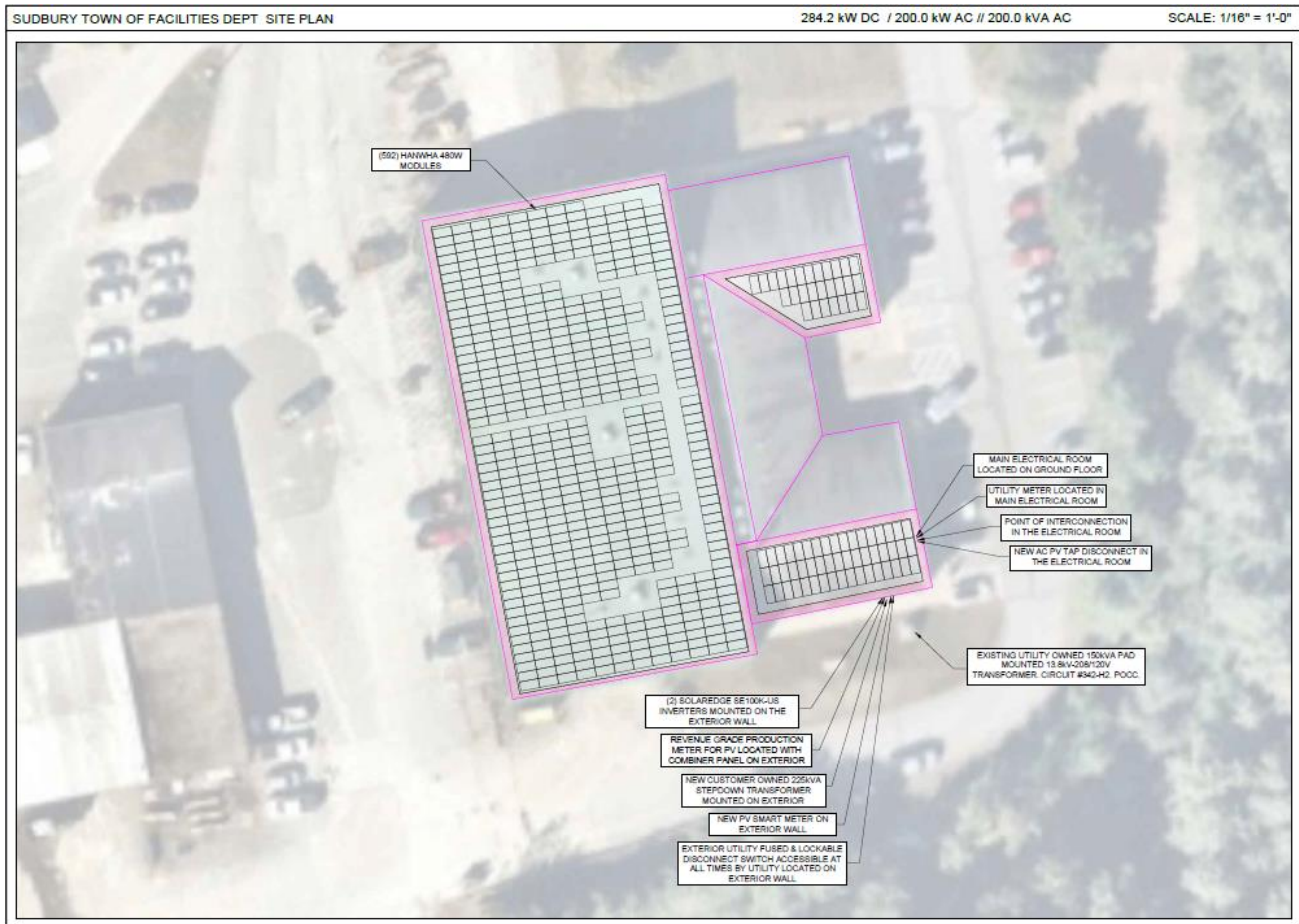
Rec'd & entered for record May 19, 1949 at 4h. 47m. P.M. #216

EXHIBIT B to Lease Agreement

DESCRIPTION OF PREMISES

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

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



Attachment 6.b: KP-#901677-v2-SUDB - Solect\_Lease - DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

EXHIBIT C to Lease Agreement

FORM OF NOTICE OF LEASE

*[On following Page]*

Attachment6.b: KP-#901677-v2-SUDB\_- \_Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

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

[Street], [Town, State Zip]

**NOTICE OF LEASE**

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

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

**Host/Landlord:**

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

**Property Description:** The real property located at [Street], [Town, State Zip] described on the attached Exhibit A (the “Property”). For Landlord’s title see Deed recorded with the [\_\_ Insert County\_\_] [Registry of Deeds/Land Records] in [Book \_\_\_\_\_, Page \_\_\_\_\_] [Certificate of Title No \_\_\_\_\_].

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

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



**Term of Lease:** The Term of the Lease includes a Development Period, Operations Period and Decommissioning Period. The Lease shall commence on the Effective Date and, unless terminated earlier pursuant to the provisions of the Lease, the Operations Period shall continue until 11:59 p.m. on the last day of the calendar month in which the twenty-fifth (25th) anniversary of the SMART Incentive Payment Effective Date, as defined in the Lease, unless the Tenant exercises the Options to Extend, in which case the Term of Lease shall include the Development Period, the Operations Period, the Extension Term(s) and the Decommissioning Period.

**Options to Extend:** Tenant shall have option to extend the Operations Period (each extension, an “Extension Term”) upon mutual agreement between Provider and Host.

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

**Easements:**

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

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

**Miscellaneous:**

1. This Notice of Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.
2. This Notice of Lease does not describe or refer to all of the terms or conditions contained in the actual Lease and nothing contained herein shall serve to modify, supplement or amend the terms of the actual Lease. In the event of any inconsistency between the provisions of the Lease and the provisions of this Notice, the provisions of the Lease shall control.
3. Any capitalized term not defined herein shall have the definition ascribed to it in the Lease.

EXECUTED as a sealed instrument as of \_\_\_\_\_, 202\_.

**LANDLORD:**  
[insert name of Landlord]

By: \_\_\_\_\_  
Name and Title:

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_ County

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

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

Attachment6.b: KP-#901677-v2-SUDB - - Solect\_Lease\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

**TENANT:**  
Solect Energy Development LLC

By: \_\_\_\_\_  
James R. Dumas, CFO, an Authorized  
Signatory

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this \_\_\_\_ day of \_\_\_\_\_, 202\_, before me, the undersigned Notary Public, personally appeared the above-named James R. Dumas, CFO of Solect Energy Development LLC, and an Authorized Signatory, personally known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as CFO of Solect Energy Development LLC, a Massachusetts limited liability company and the voluntary act of the company.

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

Attachment6.b: KP-#901677-v2-SUDB - - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

**EXHIBIT A TO NOTICE OF LEASE**

**PROPERTY DESCRIPTION**

**Property Address: [            ]**

[INSERT LEGAL DESCRIPTION PLUS DEED REFERENCE, BOOK AND PAGE OR CERTIFICATE OF TITLE]

Attachment6.b: KP-#901677-v2-SUDB - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

## EXHIBIT B TO NOTICE OF LEASE

### DESCRIPTION OF PREMISES

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

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

**EXHIBIT C TO NOTICE OF LEASE**

**EASEMENTS**

**[update with Easements/Access Rights per Lease and PPA]**

Attachment6.b: KP-#901677-v2-SUDB - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)

EXHIBIT D to Lease Agreement

## FORM OF SNDA

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

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

WITNESSETH

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

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

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

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

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

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



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

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

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

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

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

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

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

If to Lender:

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

If to Landlord:

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

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

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

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

TENANT:  
SOLECT ENERGY DEVELOPMENT LLC

By: \_\_\_\_\_  
Printed Name:  
Title:

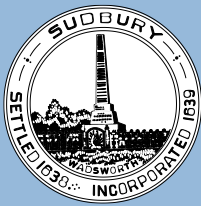
LANDLORD:

By: \_\_\_\_\_  
Printed Name:  
Title:

LENDER:

By: \_\_\_\_\_  
Printed Name:  
Title:

Attachment6.b: KP-#901677-v2-SUDB - - Solect\_Lease\_\_DPW\_site\_revised (6180 : DPW Solar PPA and lease agreement)



## SUDBURY SELECT BOARD

Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM****7: Accept MOD Grant****REQUESTOR SECTION**

Date of request:

Requestor: Sandra Duran, Combined facilities director

Formal Title: Vote to accept the Massachusetts Office on Disabilities Municipal ADA Grant of up to \$250,000 for assisted listening systems in various municipal locations and to authorize the Town Manager to enter into contracts associated with said grant in consultation with KP Law as appropriate.

Recommendations/Suggested Motion/Vote: Vote to accept the Massachusetts Office on Disabilities Municipal ADA Grant of up to \$250,000 for assisted listening systems in various municipal locations and to authorize the Town Manager to enter into contracts associated with said grant in consultation with KP Law as appropriate.

## Background Information:

The Town applied for and received a grant from the Massachusetts Office on Disability of up to \$250,000 to remove barriers and improve access by improving the public address systems and assisted listening systems in municipal buildings and schools.

As the Town Buildings have been outfitted with Audio Visual equipment to enable Hybrid meetings, we plan to add assisted listening systems to the public spaces such as, Town Hall, Silva Room, the Police Community Room, the DPW Conference Room and the Park and Recreation Department Poly Studio Carts at the Fairbank Center.

---

The elementary schools hold their community gatherings in the cafetorium/café's and the middle school holds their events in the auditorium. Facilities and the Schools' IT department intend to work with AV contractors that are on the State Bid list to design the systems and receive proposals. The Public Address Systems and ALS designs include new speakers, amplifiers, projectors, wireless handheld and lapel mics, FM assisted listening system with headsets and neck loops. In addition, we are hopeful that these funds may go toward additional RedCat Assisted Listening Systems in the classrooms. **This grant comes with a start date of February 2, 2024 and a deadline to design, procure, and install these systems by June 30, 2024.**

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**CONSENT CALENDAR ITEM**

**8: Accept two grants for PD**

REQUESTOR SECTION

Date of request:

Requestor: Police Chief Scott Nix

Formal Title: Vote to accept two grants for the Sudbury Police Department: (1) a K9 ballistic vest for Officer Rico donated by Vested Interest in K9s, Inc., valued at \$1800; and (2) a \$10,446 grant from the Sudbury Foundation toward the purchase of two E-Patrol Bikes to be used for Rail Trail patrols.

Recommendations/Suggested Motion/Vote: Vote to accept two grants for the Sudbury Police Department: (1) a K9 ballistic vest for Officer Rico donated by Vested Interest in K9s, Inc., valued at \$1800; and (2) a \$10,446 grant from the Sudbury Foundation toward the purchase of two E-Patrol Bikes to be used for Rail Trail patrols.

Background Information:  
see attached

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

- Select Board Office                      Pending
- Town Manager's Office                  Pending
- Town Counsel                              Pending
- Select Board                                Pending
- Select Board                                Pending

03/26/2024 7:00 PM

## **Sudbury Police Department's K9 Rico to get donation of body armor**

Sudbury Police Department's K9 Rico will receive a bullet and stab protective vest thanks to a charitable donation from non-profit organization Vested Interest in K9s, Inc. K9 Rico's vest is sponsored by Vested Interest in K9s, Inc. and will be embroidered with the sentiment "In memory of K9 Hobbs, Des Moines, IA - EOW 12/12/23". Delivery is expected within eight to ten weeks.

Vested Interest in K9s, Inc., established in 2009, is a 501(c)(3) charity whose mission is to provide bullet and stab protective vests and other assistance to dogs of law enforcement and related agencies throughout the United States. This potentially lifesaving body armor for four-legged K9 officers is U.S. made, custom fitted, and NIJ certified. Since its inception, Vested Interest in K9s, Inc. has provided over 5,514 vests to K9s in all 50 states at a value of \$6.9 million, made possible by both private and corporate donations.

The program is open to U.S. dogs that are at least 20 months old and actively employed and certified with law enforcement or related agencies. K9s with expired vests are also eligible to participate. There are an estimated 30,000 law enforcement K9s throughout the United States.

Vested Interest in K9s, Inc. accepts tax-deductible contributions in any amount, while a single donation of \$985 will sponsor one vest. Each vest has a value of \$1800.00, weighs an average of 4-5 lb., and comes with a five-year warranty. For more information, or to learn about volunteer opportunities, please call 508-824-6978. Vested Interest in K9s, Inc. provides information, lists events, and accepts donations at [www.vik9s.org](http://www.vik9s.org), or you may mail your contribution to P.O. Box 9, East Taunton, MA 02718.



**From:** [Shurling Jr., Wayne](#)  
**To:** [Nix, Scott](#); [Perodeau, John](#)  
**Subject:** FW: Sudbury Foundation Grant Application Status  
**Date:** Tuesday, March 19, 2024 12:43:28 PM  
**Attachments:** [~WRD000.jpg](#)  
[image001.jpg](#)

---

**From:** The Sudbury Foundation <administrator@grantinterface.com>  
**Sent:** Tuesday, March 19, 2024 11:51 AM  
**To:** Shurling Jr., Wayne <ShurlingJr@sudbury.ma.us>  
**Cc:** brunner@sudburyfoundation.org  
**Subject:** Sudbury Foundation Grant Application Status

Dear Wayne,

Congratulations! I am delighted to inform you that the Sudbury Foundation has awarded Sudbury Police Department a \$10,446.00 grant for the project E-Patrol Bikes.

Please log in to Sudbury Foundation's online grant system to review and complete the agreement as part of your grant requirements.

Follow these steps to complete the contract:

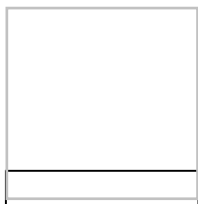
1. [Logon](#) with your username (shurlingjr@sudbury.ma.us) and password.
2. Once logged in you will be on the Applicant Dashboard.
3. Below your application, you will see Acknowledgement Form listed on the left-hand side of the page. Click on the Start button to the right of the form. Please complete and submit the form as soon as possible.

The check will be mailed to you directly from the Bank of America in a few weeks. Once you receive the check, please logon to our system and complete the Grant Check Receipt form.

In addition to the grant agreement, the Sudbury Foundation requires a financial and programmatic report within one year of the grant award. The Annual Grant Report form can be found on your Applicant Dashboard. You will receive a reminder one month prior to the deadline. Please contact us if the follow-up report should be assigned to another person in your organization.

Please contact us if you have any questions.

My best,



Sonia Shah  
Executive Director  
Sudbury Foundation  
326 Concord Road  
Sudbury, MA 01776  
shah@sudburyfoundation.org  
978-443-0849

[Logon](#)



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**9: Report from FinCom on ATM articles**

REQUESTOR SECTION

Date of request:

Requestor: member Roberts

Formal Title: Report from Finance Committee on ATM articles. Attending will be Michael Joachim and Eric Poch, FinCom co-chairs.

Recommendations/Suggested Motion/Vote: Report from Finance Committee on ATM articles. Attending will be Michael Joachim and Eric Poch, FinCom co-chairs.

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**  
**10: FY25 operating budget presentation**

REQUESTOR SECTION

Date of request:

Requestor: Town Manager Sheehan

Formal Title: FY25 operating budget presentation

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

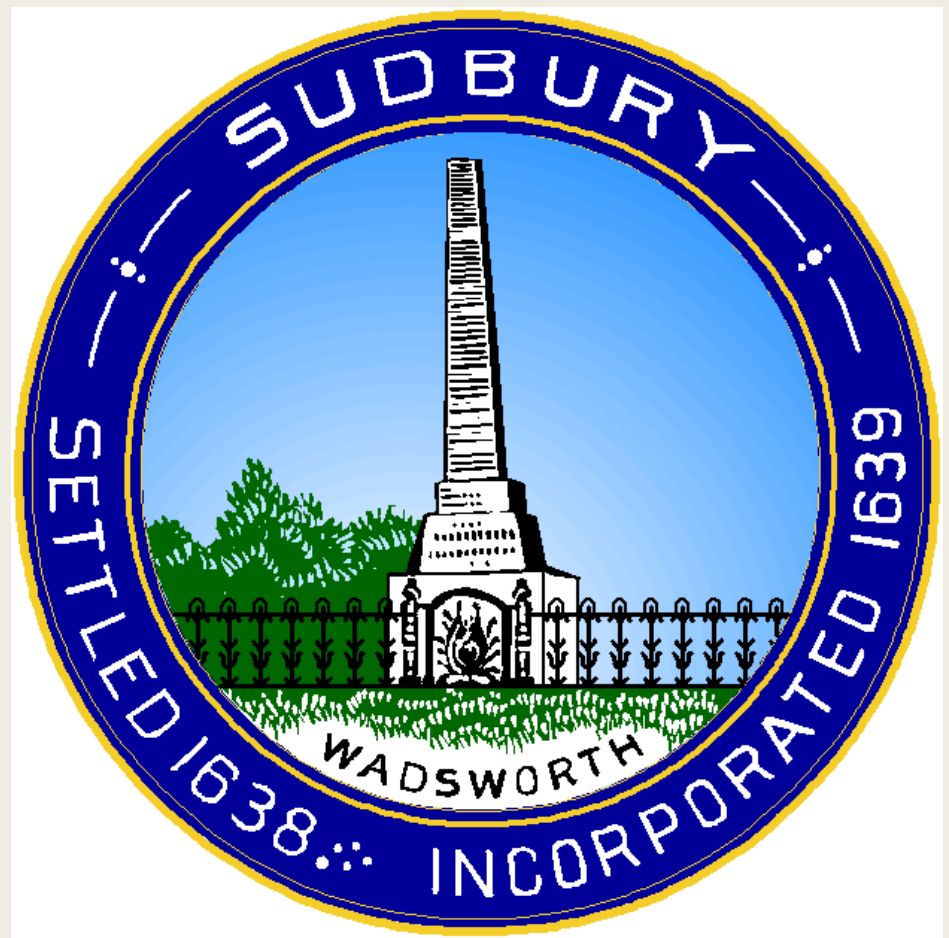
Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM

# Article 3

## Town Manager's Proposed Budget



# HOME RULE CHARTER

- Section 10. Financial Management Responsibilities: The Town Manager, with the assistance of the Finance Director and the Treasurer-Collector, shall be responsible for all the financial management functions of the Town, unless otherwise provided by this Act. Such functions shall include, but are not intended to be limited to, the following:
  - a) To prepare and submit, after consultation with all Town departments, an annual operating budget and capital improvement program for all Town departments.

# BACKDROP

- S&P Global Ratings: AAA/Stable; reaffirmed 1/17/24
- Government Finance Officers' Associations guidance (GFOA):
  - Annual Comprehensive Financial Report (ACFR): Certificate of Achievement for Excellence in Financial Reporting, fiscal year ended June 30, 2022 (11 years in a row)
  - GFOA Distinguished Budget Presentation Award: for budget report, fiscal year beginning July 1, 2023 (6 years in a row)
- Budget Document: <https://sudbury.ma.us/finance/budget/>
  - *Recommended budget*
  - *Transparent, easy to understand*
  - *Includes information about town government, budget procedures and policies, goals and forecasting information*
- Revenue Challenges in Future Years



# BUDGET CALENDAR

- October 31: Financial Projection
- November 14: Financial Condition of the Town
- November 15: Budget Guidance to Departments
- December 1: Budget Requests to Finance Director
- December: Meetings w/ Departments: TM, FD, ATM
- January 31: Town Manager's Proposed Budget to SB, FC
- February-March: Budget Review
- February 26: Finance Committee Budget Hearing
- March 31: Finance Committee Report/Recommendations to SB
- May 6: Town Manager Presents Budget to Annual Town Meeting
- July 1: FY025 begins

# REVENUES

<b>REVENUES &amp; AVAILABLE FUNDS</b>	<b>FY23 Actual</b>	<b>FY24 Budgeted</b>	<b>FY25 Recommended</b>	<b>Percentage Increase</b>
Real Estate and Personal Property Taxes	98,495,687	102,907,420	109,151,952	6.07%
State Aid	6,952,173	7,101,143	7,201,622	1.41%
MEDICAID Reimbursements	98,251	150,000	98,251	-34.50%
Local Receipts	7,445,594	5,590,000	5,907,000	5.67%
Other Available	744,373	724,697	824,894	13.83%
Free Cash	-	3,466,652	1,110,550	-67.96%
<b>TOTAL REVENUES &amp; AVAILABLE FUNDS:</b>	<b>113,736,077</b>	<b>119,939,912</b>	<b>124,294,269</b>	<b>3.63%</b>

Attachment 10.a: Article 3 FY25 Op Budget DJK-AJS UPDATE 3-22-2024 (6179 : FY25

# EXPENDITURES

<b>EXPENDITURES</b>	<b>FY23 Actual</b>	<b>FY24 Budgeted</b>	<b>FY25 Recommended</b>	<b>Percentage Increase</b>
Education - Sudbury Public Schools (SPS)	41,748,483	44,358,543	45,785,871	3.22%
Education - LS Regional High School (LS)	27,869,763	28,936,600	29,497,481	1.94%
Education - Vocational	343,462	500,000	450,000	-10.00%
General Government	3,287,790	3,598,455	3,817,526	6.09%
Public Safety	9,507,572	9,939,791	10,399,288	4.62%
Public Works	6,155,006	6,111,600	6,370,754	4.24%
Human Services	948,036	1,002,310	1,031,179	2.88%
Culture & Recreation	1,527,400	1,639,483	1,716,739	4.71%
<b>Total Town Departments</b>	<b>91,387,513</b>	<b>96,086,782</b>	<b>99,068,838</b>	<b>3.10%</b>
Reserve Fund	-	300,000	300,000	0.00%
Town-Wide Operating and Transfers	759,929	195,991	201,305	2.71%
Town Debt Service	2,176,160	2,781,145	4,897,465	76.10%
Employee Benefits (Town and SPS)	14,476,744	15,730,817	16,487,414	4.81%
OPEB Trust Contribution (Town and SPS)	650,000	650,000	650,000	0.00%
<b>Total Operating Budget</b>	<b>109,450,346</b>	<b>115,744,735</b>	<b>121,605,022</b>	<b>5.06%</b>

Attachment 10.a: Article 3 FY25 Op Budget DJK-AJS UPDATE 3-22-2024 (6179 : FY25

EXPENDITURES	FY23	FY24	FY25	Percentage
	Actual	Budgeted	Recommended	Increase
Education - Sudbury Public Schools (SPS)	41,748,483	44,358,543	45,785,871	3.22%
Education - LS Regional High School (LS)	27,869,763	28,936,600	29,497,481	1.94%
Education - Vocational	343,462	500,000	450,000	-10.00%
General Government	3,287,790	3,598,455	3,817,526	6.09%
Public Safety	9,507,572	9,939,791	10,399,288	4.62%
Public Works	6,155,006	6,111,600	6,370,754	4.24%
Human Services	948,036	1,002,310	1,031,179	2.88%
Culture & Recreation	1,527,400	1,639,483	1,716,739	4.71%
<b>Total Town Departments</b>	<b>91,387,513</b>	<b>96,086,782</b>	<b>99,068,838</b>	<b>3.10%</b>
Reserve Fund	-	300,000	300,000	0.00%
Town-Wide Operating and Transfers	759,929	195,991	201,305	2.71%
Town Debt Service	2,176,160	2,781,145	4,897,465	76.10%
Employee Benefits (Town and SPS)	14,476,744	15,730,817	16,487,414	4.81%
OPEB Trust Contribution (Town and SPS)	650,000	650,000	650,000	0.00%
<b>Total Operating Budget</b>	<b>109,450,346</b>	<b>115,744,735</b>	<b>121,605,022</b>	<b>5.06%</b>
Town Manager's Capital Operating Article	585,047	728,525	628,697	-13.70%
Capital Expenditures - Other Articles	2,223,701	3,466,652	2,060,550	-40.56%
<b>Total Capital Expenditures</b>	<b>2,808,748</b>	<b>4,195,177</b>	<b>2,689,247</b>	<b>-35.90%</b>
<b>TOTAL EXPENDITURES:</b>	<b>112,259,094</b>	<b>119,939,912</b>	<b>124,294,269</b>	<b>3.63%</b>

REVENUES & AVAILABLE FUNDS	FY23	FY24	FY25	Percentage
	Actual	Budgeted	Recommended	Increase
Real Estate and Personal Property Taxes	98,495,687	102,907,420	109,151,952	6.07%
State Aid	6,952,173	7,101,143	7,201,622	1.41%
MEDICAID Reimbursements	98,251	150,000	98,251	-34.50%
Local Receipts	7,445,594	5,590,000	5,907,000	5.67%
Other Available	744,373	724,697	824,894	13.83%
Free Cash	-	3,466,652	1,110,550	-67.96%
<b>TOTAL REVENUES &amp; AVAILABLE FUNDS:</b>	<b>113,736,077</b>	<b>119,939,912</b>	<b>124,294,269</b>	<b>3.63%</b>

# BIG PICTURE

- Budgets include steps for eligible employees
- All collective bargaining agreements expire 6/30/24
- Level service budget
- No increase in headcount
- No new initiatives
- Needs identified in past several years remain unaddressed
- Significant challenges beyond FY25

# SCHOOL BUDGETS

- Sudbury Public Schools
  - 3.22% increase over FY24
  - Initiatives supported by COVID relief funds now funded in General Fund budget
- Lincoln-Sudbury Regional High School
  - FY25 Assessment increasing 1.94%
  - Sudbury's share continues gradual decline
- Vocational Education – out-of-district
  - Reduction of \$50,000
  - Continued declining enrollment

# LEVEL SERVICE BUDGET

## NO INCREASE IN HEADCOUNT

### NO NEW INITIATIVES

- General Government: Administration, Finance, Law, HR, IT, Town Clerk, Land Use
- Public Safety: Police, Fire, Inspections
- Public Works: DPW (Engineering, Streets, Trees & Cemeteries, Parks, Transfer Station) and Combined Facilities
- Human Services: Health, Senior Center, Veterans
- Culture & Recreation: Goodnow Library, Recreation, Historic Commission, Historic Districts Commission
- Town Wide Operations: Postage, Copiers, Town Meeting, Elections, Audits, Independence Day, Memorial Day



# DEBT SERVICE

- Debt service increasing 76.10%
- 1/23/24 bond sale: 3.53% net interest rate
- Debt service for previously approved borrowing:
  - Fairbank Community Center
  - Fire Station No. 2 Housing/Living Quarters
  - Town-Wide Drainage and Reconstruction project
  - Stearns Mill Dam
  - CSX acquisition – Bruce Freeman Rail Trail

# EMPLOYEE BENEFITS (TOWN AND SPS)

- Overall Increase: \$756,597 (4.81%)
- Total Employee Benefits Budget: \$16,487,414
  - Town: \$7,144,239
  - SPS: \$9,343,175
- Includes:
  - Unemployment
  - FICA/Medicare
  - Medical Insurance
  - Retiree Medical Insurance
  - County Retirement Assessment
  - Property/Casualty/Liability
    - Town/School Property, Vehicles
    - Workers Compensation
    - IOD: Police, Fire
    - Deductibles

# OPEB TRUST CONTRIBUTION

- \$650,000
- Level funded
- Town & SPS OPEB Obligations
- OPEB Trust charged to pay retiree health insurance premiums

# FULL TIME HEAD COUNT TOWN DEPARTMENTS

Fiscal Year	Head Count
2023	181
2024	184
2025	184

# UNFULFILLED REQUESTS

- Human Resources
- Finance: Financial Analyst
- Public Works: Four (4) Light Equipment Operators: Trees & Cemetery, Streets & Roads, and Parks & Grounds
- Police: Sergeant
- Fire: Fire Inspector/Fire Prevention Officer
- Senior Center: Support/Program staff
- Goodnow Library: Support/Program staff
- Park & Recreation: Support/Program staff

# LOOKING AHEAD

- Challenge: We need to develop a long term plan for sustainable operating and capital budgets
- Fixed costs are rising faster than revenue:
  - Benefits: insurance, pension
  - Wages: challenging labor environment
  - Debt: increase in-levy debt for capital
- Unable to add capacity necessary to provide services expected by residents
- We need to chart a path that positions us to thrive as one: Town, SPS, LSRHS
- Need for new, recurring revenues in FY2026

# THANK YOU





SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**11: Discussion on 2024 ATM articles**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Discussion regarding 2024 Annual Town Meeting: consent calendar, positions on articles, other.

Recommendations/Suggested Motion/Vote: Discussion regarding 2024 Annual Town Meeting: consent calendar, positions on articles, other.

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM



Special Town Meeting Articles  
October 23, 2023

#	Article Title	Sponsor/ Submitted by	Category	Article Presenter	SB Position Vote	SB Position	Date SB voted	FinCom Position Vote	FinCom Position	CIAC Position Vote	CIAC Position	CPA Position Vote	CPA Position	Report SB position at ATM	Funding Source	Requested Amount	Required Vote	Consent Calendar (Y/N)
1	Hear Reports	Select Board	Finance/Budget	TBD											-		Majority	
2	FY24 Budget Adjustments	Select Board	Finance/Budget	Sheehan													Majority	
3	FY25 Budget	Town Manager	Finance/Budget	Sheehan				6-1	Support						Levy	\$121,605,022	Majority	
4	FY25 Town Manager's Capital Budget	Town Manager	Finance/Budget	Sheehan				7-0	Support						Levy	\$713,697	Majority	
5	FY25 Transfer Station Enterprise Fund Budget	Town Manager	Finance/Budget	Sheehan				7-0	Support						Enterprise	\$329,869	Majority	Y
6	FY25 Pool Enterprise Fund Budget	Town Manager	Finance/Budget	Sheehan				7-0	Support						Enterprise	\$537,783	Majority	Y
7	FY25 Recreation Field Maintenance Enterprise Fund Budget	Town Manager	Finance/Budget	Sheehan				7-0	Support						Enterprise	\$243,663	Majority	Y
8	FY24 Snow & Ice Transfer	Town Manager	Finance/Budget	Sheehan				HOLD							Free Cash	0	Majority	Y
9	Unpaid Bills of Prior Fiscal Years	Town Accountant	Finance/Budget	Keohane				N/A	No Position						Free Cash	\$0	Four-Fifths	
10	Chapter 90 Highway Funding	Director of Public Works	Finance/Budget	Nason	5-0	Support		7-0	Support						State	-	Majority	Y
11	FY25 Stabilization Fund	Select Board	Finance/Budget	Carty	5-0	Support		7-0	Support						Free Cash	\$201,507	Majority	Y
12	FY25 Revolving Fund Spending Limits	Finance Director	Finance/Budget	Keohane	5-0	Support		7-0	Support						Fees	-	Majority	Y
13	Capital Stabilization Fund	Town Manager	Finance/Budget	Sheehan	5-0	Support		7-0	Support						Free Cash	\$250,000	Majority	Y
14	Revoke Opioid Settlement Stabilization Fund	Board of Health	Finance/Budget	Sheehan/ Zeng	5-0	Support		7-0	Support								Two-Thirds	
15	Means Tested Senior Tax Exemption Extension	Board of Assessors	Finance/Budget		5-0	Support		7-0	Support								Majority	Y
16	Amend Zoning Bylaw: Firearms Safety Business Use	Select Board	Other	Russo	3-2	Support											Two-Thirds	
17	Acquisition of MBTA Buildings	Historical Commission	Other	Sheehan/ Hagger	5-0	Support		7-0	Support	6-0	Support						Two-Thirds	
18	Swap Body Trucks w/Plow & Various Bodies - 2 of same vehicle	Director of Public Works	Other	Nason	5-0	Support		7-0	Support	6-0	Support				Free Cash	\$560,000	Majority	Y
19	Pickup Truck with Plow	Director of Public Works	Other	Nason	5-0	Support		7-0	Support	6-0	Support				Free Cash	\$120,000	Majority	Y
20	Town Wide Culvert and Drainage Reconstruction	Director of Public Works	Other	Nason	5-0	Support		7-0	Support	7-0	Support				Levy	\$625,000	Two-Thirds	
21	DPW Roof Top HVAC Unit Replacements	Facilities Director	Other	Duran	5-0	Support		7-0	Support	7-0	Support				Levy	\$200,000	Majority	Y
22	DPW Salt Shed Vinyl Cover Replacement	Facilities Director	Other	Duran	5-0	Support		7-0	Support	7-0	Support				Levy	\$125,000	Majority	Y
23	Atkinson Pool Renovation	Facilities Director	Other	Duran	5-0	Support		7-0	Support	7-0	Support				Debt	\$2,350,000	Two-Thirds	
24	SPS - School Classroom Instructional Equipment Replacement	SPS School Committee	Other	Crozier	5-0	Support		7-0	Support	7-0	Support				Free Cash	\$100,000	Majority	Y
25	SPS - Haynes Elementary School Dehumidification HVAC	SPS School Committee	Other	Duran	5-0	Support		7-0	Support	6-0	Support				Free Cash	\$150,000	Majority	Y
26	LSRHS Lighting Control Replacement	Lincoln-Sudbury Regional School Committee	Other	Stephens				7-0	Support	6-0	Support				Free Cash	\$144,585	Majority	Y
27	LSRHS Exterior Stairwell Replacement	Lincoln-Sudbury Regional School Committee	Other	Stephens				7-0	Support	6-0	Support				Free Cash	\$130,965	Majority	Y
28	Electric Vehicle Charging Stations - Goodnow Library	Goodnow Library Trustees	Other												Free Cash	\$80,000	Majority	
29	Amend General Bylaw, Art. XV, Building Permit Fees	Town Manager	Other	Sheehan				6-0-1	Support								Majority	
30	Amend General Bylaws, Art. XXII, Conservation Commission Fees	Town Manager	Other	Sheehan				6-0-1	Support								Majority	
31	Amend Zoning Bylaw: Codification - Additional Changes	Town Clerk	Other	Klein													Two-Thirds	
32	Amend Zoning Bylaw: Section 6390A, Site Plan Review Lapse and Appeal Modification	Planning Board	Other														Two-Thirds	
33	Amend Zoning Bylaw Article IX: Insert Section 4700C Multi-Family Overlay District (MBTA Zoning)	Planning Board	Other														Two-Thirds	
34	Amend Zoning Bylaw Article IX: Insert Section 5600 Inclusion of Affordable Housing	Planning Board	Other														Two-Thirds	
35	Community Preservation Act Fund - Wayside Inn Road Bridge Reconstruction	Community Preservation Committee	Community Preservation					6-0-1	Support	6-0	Support					\$400,000	Majority	Y
36	Community Preservation Act Fund - Bruce Freeman Rail Trail Phase 3	Community Preservation Committee	Community Preservation					7-0	Support	6-0	Support					\$600,000	Majority	Y
37	Community Preservation Act Fund - Sudbury Housing Authority Allocation	Community Preservation Committee	Community Preservation					7-0	Support							\$450,000	Majority	Y
38	Community Preservation Act Fund - Sudbury Housing Trust Allocation	Community Preservation Committee	Community Preservation					7-0	Support							\$380,000	Majority	Y
39	Community Preservation Act Fund - Remediation of Water Chestnuts from Hop Brook Pond System	Community Preservation Committee	Community Preservation					7-0	Support							\$56,221	Majority	Y
40	Community Preservation Act Fund - Parkinson Field Driveway Design	Community Preservation Committee	Community Preservation					2-5	Oppose	2-4	Oppose					\$100,000	Majority	Y
41	Community Preservation Act Fund - Community Garden	Community Preservation Committee	Community Preservation					7-0	Support							\$40,000	Majority	Y
42	Community Preservation Act Fund - Regional Housing Services Office (RHSO) Membership Fee	Community Preservation Committee	Community Preservation					7-0	Support							\$33,000	Majority	Y
43	Community Preservation Act Fund - Return of Unspent Funds	Community Preservation Committee	Community Preservation					7-0	Support							\$28,051	Majority	Y
44	Community Preservation Act Fund - General Budget and Appropriations	Community Preservation Committee	Community Preservation					7-0	Support							\$864,693	Majority	Y
45	Amend General Bylaws, Chapter 20, by Adding "Disability"	Petition	Petition	Kay Bell													Majority	

Attachment 1.a: 2024 ATM\_Articles\_for website (6157 : Discussion on 2024 ATM articles)



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**12: Town Forum discussion**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Discussion of Firearms Information session, agenda, review of PowerPoint, etc.

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

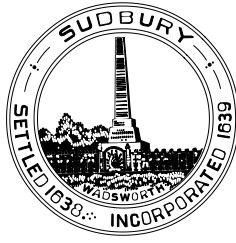
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM



**SUDBURY SELECT BOARD  
HYBRID MEETING  
THURSDAY, MARCH 28, 2024  
7:00 -9:00 PM**

**INFORMATION SESSION: FIREARMS SAFETY BUSINESS USE BYLAW**

**GOODNOW LIBRARY COMMUNITY ROOM, 21 CONCORD RD., SUDBURY, MA 01776**

or

**ZOOM: [HTTPS://US02WEB.ZOOM.US/J/81183876472](https://us02web.zoom.us/j/81183876472)**

Please note, the capacity of the venue is 100 people. If attendance exceeds capacity, an accommodation to participate using the above Zoom link with a modest delay will be made.

The Sudbury Select Board invites the Sudbury community to an information session on the proposed Firearms Safety Business Use Bylaw that is on the May 6, 2024 Annual Town Meeting warrant.

This notice of meeting anticipates that there may be a quorum of one or more Town boards and committees, but that no committee or board will be taking votes at this meeting.

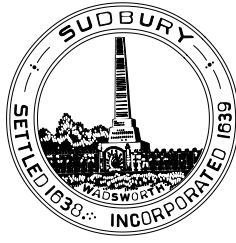
**AGENDA**

**CALL TO ORDER**

**OPENING REMARKS BY CHAIR**

- Sudbury Select Board Firearms Safety Business Use Zoning Bylaw Presentation, Charlie Russo
  1. How We Got Here
  2. The Proposed Bylaw - Overview
  3. What the Bylaw Is and Is Not
  4. Current State (status quo)
  5. Expert Recommendations
  6. Other Communities
  7. Why Not a Ban?
  8. The Process
  9. The Proposed Bylaw - Recap
- Input on Key Topics from staff
- Questions & answers

**ADJOURN**



**SUDBURY SELECT BOARD  
HYBRID MEETING  
THURSDAY, MARCH 28, 2024  
7:00 -9:00 PM**

**INFORMATION SESSION: FIREARMS SAFETY BUSINESS USE BYLAW**

**GOODNOW LIBRARY COMMUNITY ROOM, 21 CONCORD RD., SUDBURY, MA 01776**

or

**ZOOM: [HTTPS://US02WEB.ZOOM.US/J/81183876472](https://us02web.zoom.us/j/81183876472)**

Please note, the capacity of the venue is 100 people. If attendance exceeds capacity, an accommodation to participate using the above Zoom link with a modest delay will be made.

The Sudbury Select Board invites the Sudbury community to an information session on the proposed Firearms Safety Business Use Bylaw that is on the May 6, 2024 Annual Town Meeting warrant.

This notice of meeting anticipates that there may be a quorum of one or more Town boards and committees, but that no committee or board will be taking votes at this meeting.

**AGENDA**

**CALL TO ORDER**

**OPENING REMARKS BY CHAIR**

- Sudbury Select Board Firearms Safety Business Use Zoning Bylaw Presentation, Charlie Russo
  1. How We Got Here
  2. The Proposed Bylaw - Overview
  3. What the Bylaw Is and Is Not
  4. Current State (status quo)
  5. Expert Recommendations
  6. Other Communities
  7. Why Not a Ban?
  8. The Process
  9. The Proposed Bylaw - Recap
- Input on Key Topics from staff
- Questions & answers

**ADJOURN**

# Sudbury Information Session

# FIREARM SAFETY

# ZONING USE BYLAW



Thursday  
March 28, 2024  
7 PM - 9 PM

In Person

Goodnow Library, Community Room

Via Zoom

<https://uso2web.zoom.us/j/81183876472>

A 2024 Annual Town Meeting warrant article proposes:

*To establish reasonable criteria for the establishment of Firearm Business Uses in the Town of Sudbury to address public safety concerns arising from the operations of such businesses and the potential disruption of peace and quiet enjoyment of the community and to address the location, siting, design, placement, security, safety, monitoring and modifications of Firearm Business Uses within the Town to minimize the adverse impacts on Firearms Business Uses on adjacent properties, residential neighbors, schools and other locations where children congregate, and to protect and promote the quality of the Town's neighborhoods, commercial and business districts, and the general health, safety, and welfare of the residents of Town.*

The Sudbury Select Board invites all Sudbury community members to an information session on the zoning bylaw changes proposed in the article.

## PANELISTS

Janie Dretler, Lisa Kouchakdjian,  
Dan Carty, Jen Roberts and  
Charlie Russo, *Select Board*  
Andy Sheehan, *Town Manager*  
Adam Burney, *Director of Planning &  
Community Development*  
Chief Scott Nix, *Police Chief*  
Lee Smith, Janelle Austin and  
Robin Stein, *Town Counsel (KP Law)*

[sudbury.ma.us/FirearmsZoning](https://sudbury.ma.us/FirearmsZoning)

Send Questions by 12PM on 3/28 to:  
[FirearmsZoning@sudbury.ma.us](mailto:FirearmsZoning@sudbury.ma.us)

**FIREARM SAFETY  
BUSINESS USE ZONING BYLAW**

Public Forum  
March 2024

1

**OUTLINE**

1. Why We're Here
2. The Process
3. The Proposed Bylaw – Overview
4. What This is Not
5. Current State (status quo)
6. What Would Change?
7. Expert Recommendations
8. Other Communities?
9. Why Not a Ban?
10. The Proposed Bylaw - Recap

2

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

# A YEAR AGO ...

- The Littleton “gun mill” recently housed 84 firearm businesses.
- Littleton developed a firearm business zoning restriction bylaw and a sale of the property mean the gun mill – just 13 miles away from LSRHS – is closing down.
- Acton, Stow, and Westford received inquiries from firearm businesses seeking to relocate from Littleton. All those communities have developed or are developing firearm business zoning bylaws as a result. No firearm shop has relocated, no lawsuits.
- Newton received an inquiry from a firearm business and Newton, Brookline, and Wellesley developed firearm business zoning bylaws as a result. No firearm shops relocated, no lawsuits.
- A Citizens’ Petition at 2023 Annual Town Meeting proposed a zoning bylaw that would impose a full ban of firearm shops.
- The vote for a full ban last year was 59 in favor, 107 against - i.e., after debate, 64% of Town Meeting attendees voted against a full ban.
- The ban failed, but generated extensive media coverage (Sudbury Patch, Boston Globe, gun rights websites, etc.).

3

# WHY WE’RE HERE

**Cities and towns turn to zoning to limit gun businesses**

At least eight municipalities in Massachusetts passed zoning bylaws between 2020 and 2023 to limit where firearms businesses can operate. Some also cap the total number that can exist at one time and bar them from clustering in the same building. At least three other towns are eyeing similar measures.

Status ■ Pending AG approval ■ Pending town approval ■ Enacted

**As Littleton gun vendors seek new home, towns erect barriers**

Zoning becomes go-to defense against new weapons hubs.

By Sarah L. Ryley Globe Staff. Updated August 15, 2023, 11:30 a.m.

<https://www.bostonglobe.com/2023/08/14/metro/after-uproar-littleton-gun-vendors-seek-new-home-nearby-towns-are-wary-them/>

4

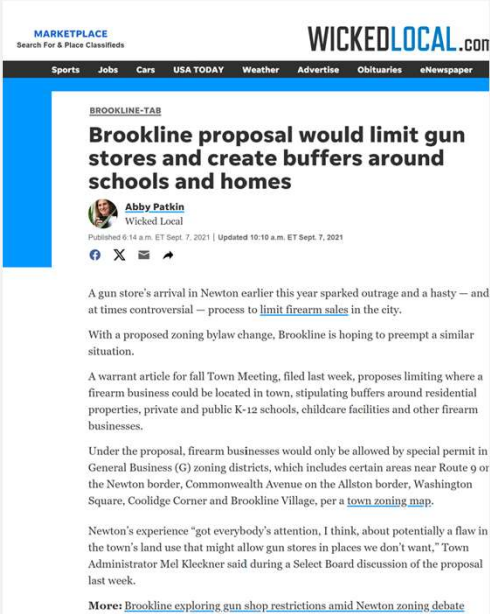
Attachment12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

# NEWTON AS A CAUTIONARY TALE

Newton’s experience of a firearm shop applying to operate in a community with no firearm zoning:

*“... got everybody’s attention, I think, about potentially a flaw in the town’s land use that might allow gun stores in places we don’t want ...”*

Brookline Town Administrator Mel Kleckner, during a Brookline Select Board discussion of the firearms shop zoning bylaw that was approved in that community.  
- WickedLocal.com Brookline coverage, Sept. 7, 2021



5

# KEEP A PROMISE ...

*“The Select Board does share the petitioner’s **deep concern about the high rate of gun violence in the United States** and is interested in **action to mitigate this crisis and increase public safety in Sudbury**. Select Board members have expressed a desire to work further with the citizen petitioner and with the Planning Board to develop a revised bylaw through a modified approach such as Brookline, Dedham, or Newton have ... such a revised bylaw might be more likely to be approved by the Attorney General and may be **more legally defensible** if challenged while still **enhancing the public safety in Sudbury and beyond**.”*

- Joint Statement from the Select Board, Annual Town Meeting 2023, May 2

6

Attachment12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)



## THE PROCESS

### Key Points of this Bylaw:

- Debated as an issue at Annual Town Meeting 2023
- Drafted by Town Manager based on Select Board comments after ATM23
- Based on similar established, approved bylaws (Acton, Littleton, Stow, Dedham, Newton, Wellesley, etc.)
- Discussed and revised at 12+ open Select Board meetings (May 16, June 27, July 11, Sept. 26, Dec. 19, Jan. 9, Jan. 23, Jan. 31, Feb. 6, Feb. 27, March 12, March 26)
- Revised numerous times
- Reviewed by the Gifford Law Center to Prevent Gun Violence
- Reviewed by Town Counsel

7

## BYLAW OVERVIEW

Sudbury has NO firearms business zoning bylaws. This means a firearms business permit would be reviewed the same as a standard retail store application, with minimal review focused on a dimensional requirements of the shop.

Other businesses in Sudbury, such as kennels and auto repair shops, must undergo a more stringent special permit process. The new bylaw will require firearm businesses to undergo the more stringent special permit process and:

- Add zoning and geographic location restrictions that do not exist now
- Strengthen the permitting standards from “by right” to Special Permit requirements
- Limit the number of firearm businesses to a maximum of 2 (only 2<sup>nd</sup> in Mass/US to have a cap)
- Add operational safety requirements (e.g., storage, video recording)
- Adhere to relevant state and federal regulations
- Respect individual and Constitutional rights

8

## OVERVIEW...PROPOSED BYLAW

- Adoption of this Bylaw would create a new use, Firearm Safety Business Zoning Bylaw, and restrict the operation of firearm businesses to only one zoning district, Industrial District, by special permit granted by a 4-1 vote or better from the Select Board.
- Special permits require a public hearing with abutter notification and empower the permitting authority with greater ability to impose conditions, safeguards, and/or limitations on the time or use of a site, or even to deny an application for good reason.
- This bylaw would limit two Firearm Businesses to locate in Sudbury at any given time.
- The bylaw aligns with similar bylaws approved in nearby communities, follows a template created by the Gifford Law Center to Prevent Gun Violence, and includes regulations on best business practices and security to maintain safety for the general public.
- The end result is **far greater local control** over the permitting of any firearm business application that comes to Sudbury.

9

## BYLAW OVERVIEW

Category	Current	Proposed
Number of Zoning Districts where firearms businesses are allowed:	7 of 10	1 of 10
Number of Parcels where firearm businesses are allowed:	536 (500+)	5
Number of potential firearm businesses in Town:	536 (500+)	2
Required setback from sensitive locations	None	250 feet
Local operating standards:	None	Best practice
Permitting standards:	Relaxed By Right	Strong Special Permit

10

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

## WHAT THIS IS NOT ...

- Not a ban on firearm businesses.
  - No community in Massachusetts has a ban on firearm businesses in place.
  - We are not aware of any community in the U.S. with a ban in place.
  - (Nationwide, places like Alameda County CA and Piscataway NJ have had zoning restrictions similar to the one we propose upheld when challenged in court).
  - Because of Constitutional protections (2<sup>nd</sup>, 10<sup>th</sup>, 14<sup>th</sup>), a total ban is likely to be challenged in courts, with case law not supporting bans.
- Not a discussion around regulating individual rights to buy, own, or carry firearms.

11

## CURRENT STATE


PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>i</sup>	ID	LID	IP	RD
2. Educational use, nonexempt	N	N	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
3. Farm stand, nonexempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Animal clinic or hospital	N	N	N	BOS	N	N	BOS	N	N	N
5. Kennel	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
6. Nursing or convalescent home and assisted care facility	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	N	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	N	N	N	Y
7. Funeral home	N	N	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
8. Adult day care facility	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
9. Bed and Breakfast	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
10. Motel or hotel	N	N	N	ZBA	N	Y <sup>iii</sup>	ZBA	N	N	N
11. Retail stores and services not elsewhere set forth	N	N	N	Y	Y	Y	Y	Y	N	N

12

## CURRENT STATE

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>1</sup>	ID	LID	IP	RD
<b>D. INDUSTRIAL</b>										
1. Light manufacturing	N	N	N	Y <sup>v</sup>	Y <sup>v</sup>	Y <sup>v</sup>	Y	Y	Y	Y <sup>vi</sup>
2. Laboratory for research and development	N	N	N	Y	N	N	N	Y	Y	Y <sup>vi</sup>
3. Wholesale, warehouse, self-storage, mini-warehouse or distribution facility	N	N	N	N	N	N	Y	Y	Y	N
4. Manufacturing	N	N	N	N	N	N	Y	Y	Y	Y <sup>vi</sup>
5. Wholesale or retail lumber yard	N	N	N	N	N	N	Y	ZBA	N	N

13



**Town of Westford**  
Director of Land Use Management  
Town Hall, 55 Main Street  
Westford, Massachusetts 01886  
TEL (978) 692-5524 FAX (978) 399-2732

**To: Westford Select Board**  
**From:** Jeffrey Morrissette, Director of Land Use Management  
**Re:** Zoning Bylaw Amendment for Firearm Businesses  
**Cc:** Kristen Las, Town Manager  
 Mark Chambers, Chief of Police, Westford Police Department  
 Rae Dick, Health Director, c/o Westford Board of Health  
 Justin Perrotta, K-P Law/Town Counsel

**Date:** September 11, 2023

As you may recall, the Planning Board, Select Board, and Board of Health held a joint discussion about the proposed zoning bylaw amendment to regulate Firearm Businesses during the August 21, 2023, Planning Board public hearing. Several questions were raised by the various boards and public, and so additional advice was sought from Town Counsel. As co-sponsors of the amendment, the Select Board decided to further discuss the proposal (outside the public hearing process) at their meeting of September 12, 2023, to be able to provide recommendations to the Planning Board for consideration at the public hearing scheduled for September 18, 2023.

This memorandum serves to provide a friendly reminder to readers about the status quo and what will continue if no zoning bylaw amendment is passed by Town Meeting. It summarizes recent advice received from Town Counsel, clarifies the "math" behind the suggested limitations on the number of special permits, and provides several options for the Board's consideration.

**Reminders:**

- Depending on the nature of the specific business, our current zoning bylaw does not regulate Firearm Businesses any differently than Retail sales to the general public (selling firearms, selling ammunition), Light manufacturing (performing gunsmithing services), or potentially indoor and outdoor commercial recreation (firing ranges).

## Town of Acton

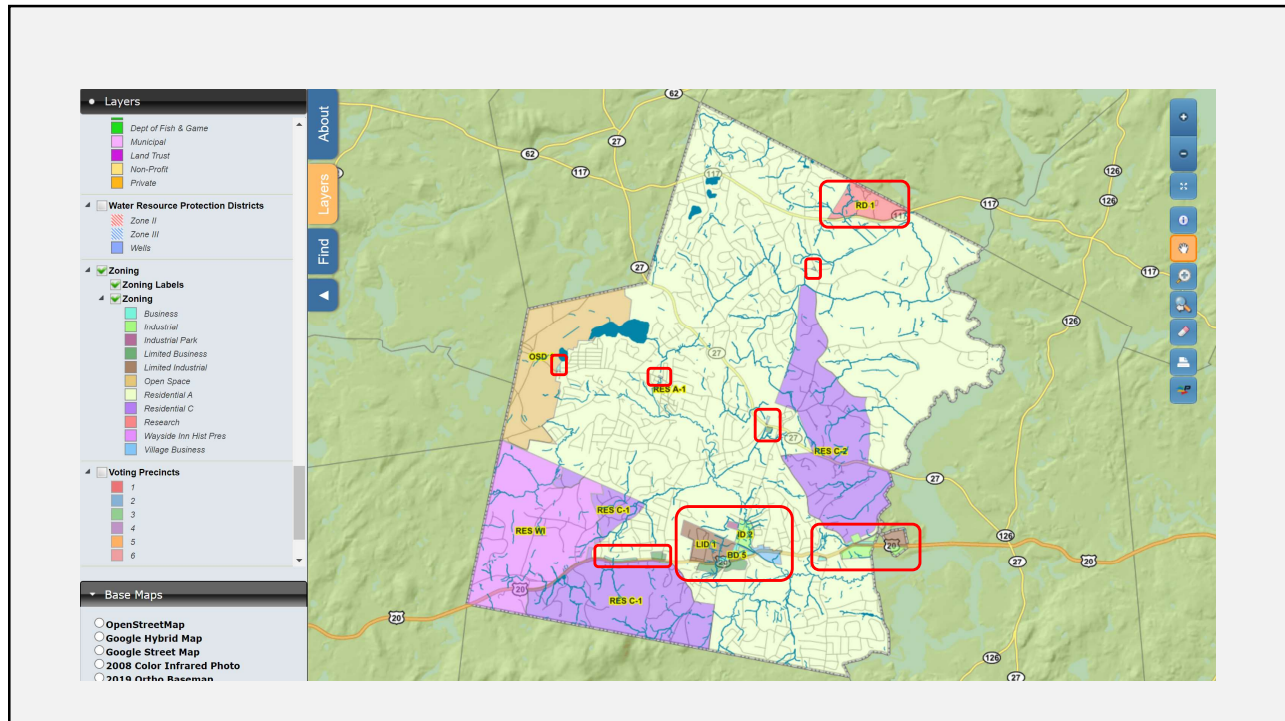
**Summary**

Acton's Zoning Bylaw does not currently have a separate use for Firearms Businesses. Under today's zoning, firearms businesses would either be classified as a retail store, manufacturing, or both depending on how the business operates. Retail Store uses are allowed by-right in the following Village Districts: Village Residential (VR), East Acton Village-2 (EAV-2), North Acton Village (NAV), South Acton Village (SAV), West Acton Village (WAV), as well as the Kelley's Corner (KC), Limited Business District (LB), and Powder Mill (PM) zoning districts, and by special permit in the East Acton Village (EAV) zoning district. Manufacturing uses are allowed by-right in Office Park-1 (OP-1), Office Park-2 (OP-2), Power Mill (PM), General Industrial (GI), Light Industrial (LI), Light Industrial-1 (LI-1), Small Manufacturing (SM), and Technology District (TD) zoning districts, and by special permit in the South Acton Village, West Acton Village, and Kelley's Corner zoning districts. The Powder Mill zoning district is the only Acton zoning district that allows both Retail Store and Manufacturing as a use. Depending on the business operation, a firearms business would be allowed in one or more of the above zoning districts.

Adoption of this Bylaw would create a new use, Firearm Business, and allow the use by special permit. The bylaw would limit two Firearm Businesses to locate in Acton at any given time. Over the last year the Town has received inquiries from firearms businesses looking to relocate from the Town of Littleton to Acton primarily along Great Road and Main Street. This Bylaw would allow for a Firearm Business to be located in the Technology District off Knox Trail and Small Manufacturing District in north Acton, but prohibit the use elsewhere in Town. The Bylaw includes regulations on best business practices and security to maintain safety for the general public.

14

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)



15

## WHAT WOULD CHANGE?

	PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>i</sup>	ID	LID	IP	RD
<b>Before:</b>	11. Retail stores and services not elsewhere set forth	N	N	N	Y	Y	Y	Y	Y	N	N
<b>After:</b>	11. Retail stores and services not elsewhere set forth	N	N	N	N	N	N	SB	N	N	N
<b>Before:</b>	1. Light manufacturing	N	N	N	Y <sup>v</sup>	Y <sup>v</sup>	Y <sup>v</sup>	Y	Y	Y	Y <sup>vi</sup>
<b>After:</b>	1. Light manufacturing	N	N	N	N	N	N	SB	N	N	N
<b>Before:</b>	4. Manufacturing	N	N	N	N	N	N	Y	Y	Y	Y <sup>vi</sup>
<b>After:</b>	4. Manufacturing	N	N	N	N	N	N	SB	N	N	N

16

**ARTICLE TITLE: AMEND ZONING BYLAW, SECTIONS 2200 AND 7000, FIREARMS SAFETY BUSINESS USE**

To see if the Town will vote to amend the Sudbury Zoning Bylaw, Sections 2200 and 7000, as set forth below, by adding the following provisions; or act on anything relative thereto:

2200. PRINCIPAL USE REGULATIONS

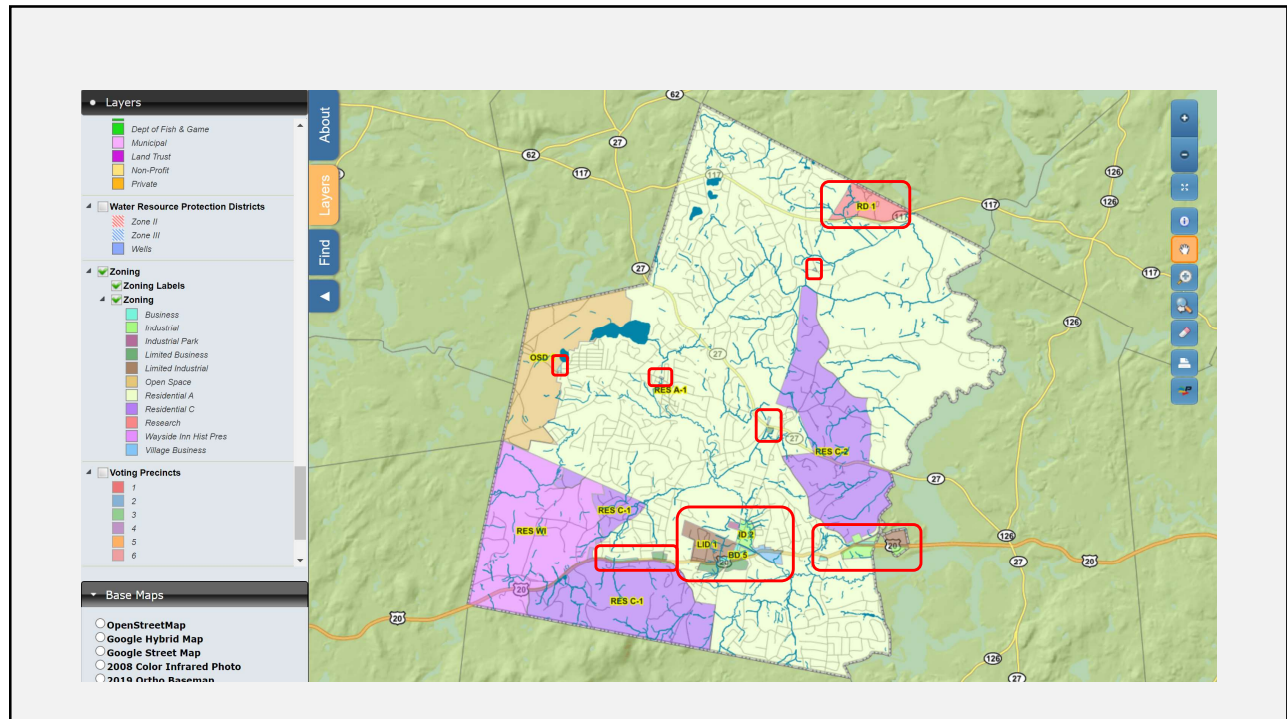
A.

Insert in Section 2230, Table of Principal Use Regulations, Part C. Commercial, after “28. Marijuana Establishment” a new use category entitled “29. Firearm Business Use”, as shown in the table below.

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD	ID	LID	IP	RD
C. COMMERCIAL										
29. Firearm Business Use	N	N	N	N	N	N	SB	N	N	N

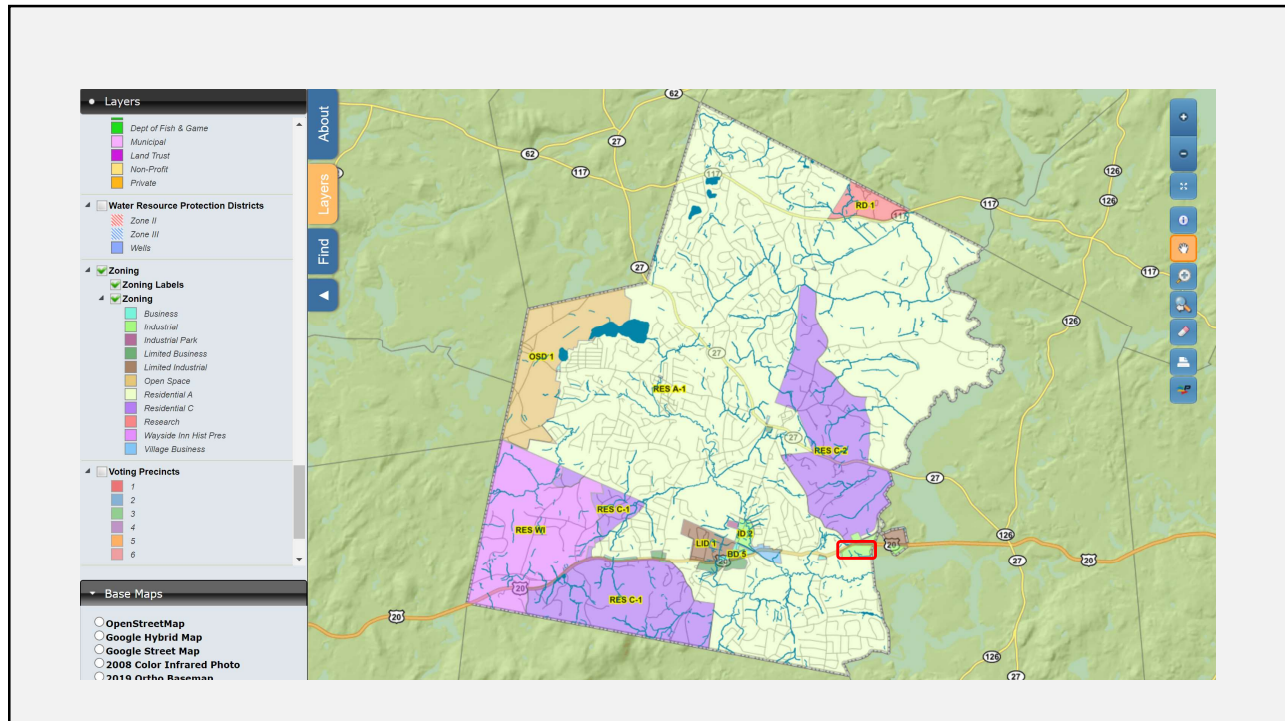
17

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

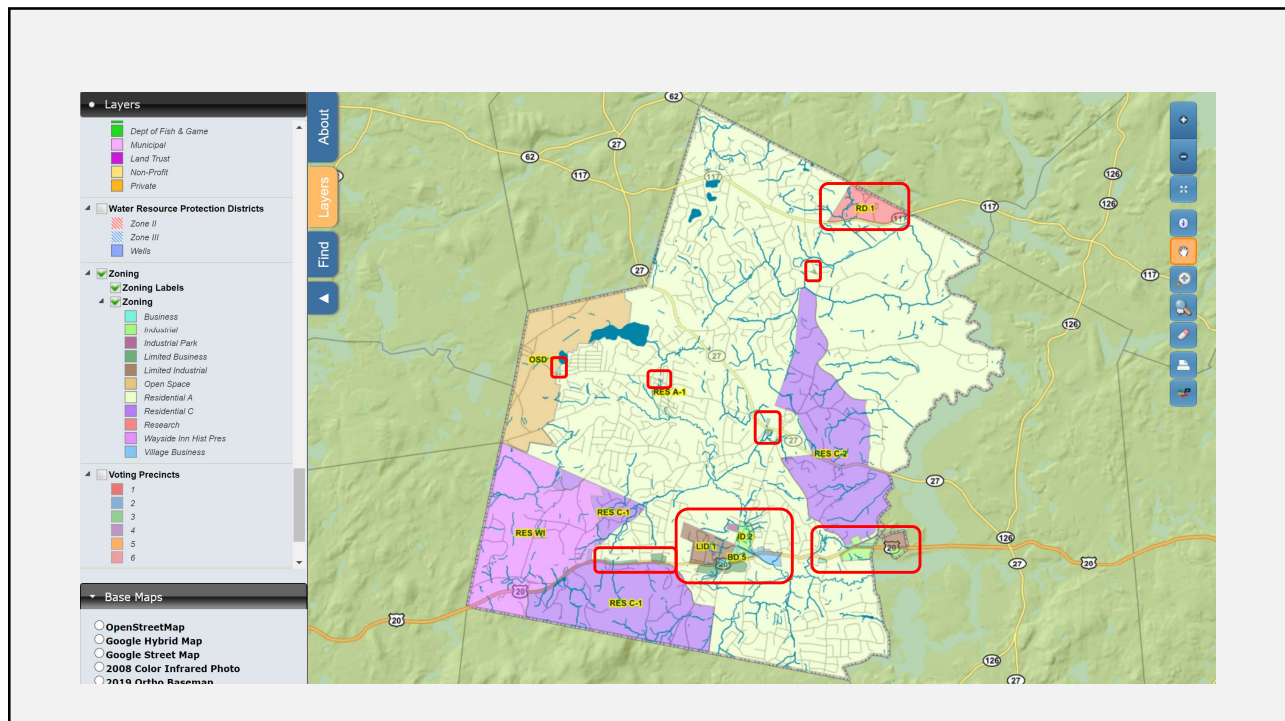


18



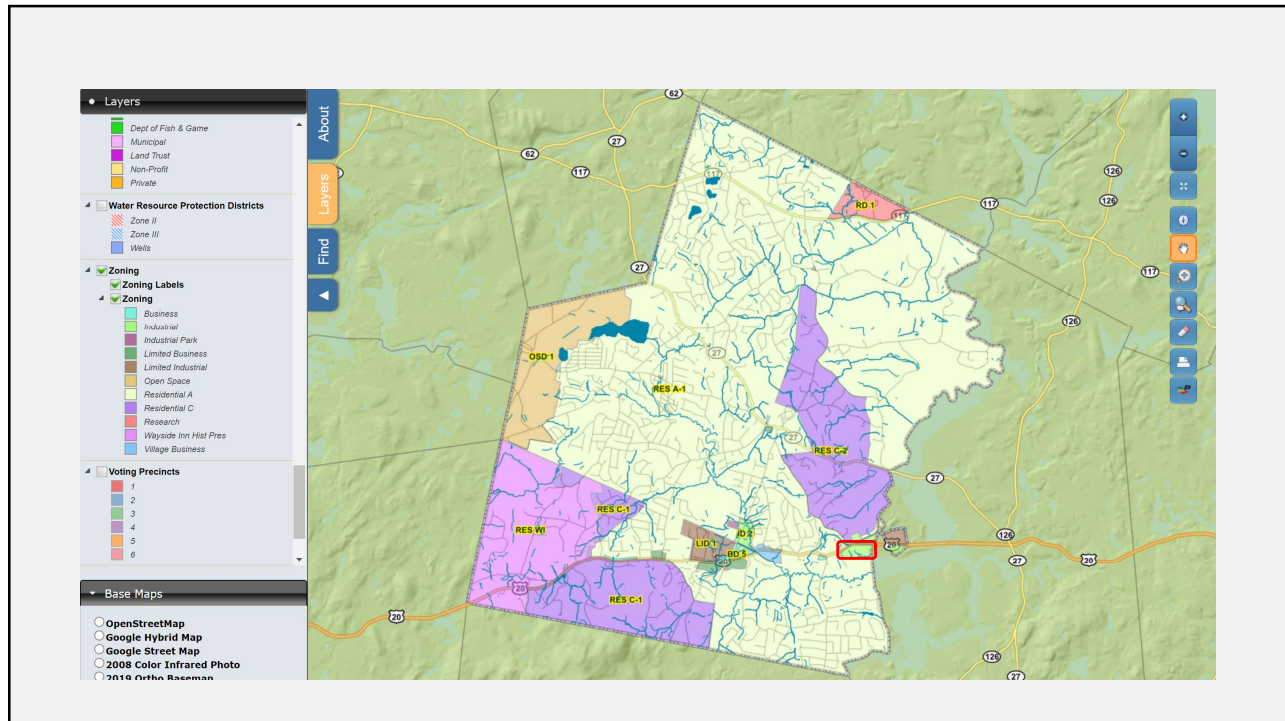


19



20

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)



21

## EXPERT RECOMMENDATIONS

ZONING BYLAW / SPECIAL PERMIT	BAN
<ul style="list-style-type: none"> <li>• Giffords Law Center to Prevent Gun Violence</li> <li>• MA Coalition to Prevent Gun Violence representatives</li> <li>• Every Town for Gun Safety</li> <li>• Stop Handgun Violence MA</li> <li>• Newton Coalition to Prevent Gun Violence</li> </ul>	<ul style="list-style-type: none"> <li>• No gun control organization</li> </ul>

22





MODEL LAW
REGULATING FIREARMS DEALERS AND AMMUNITION SELLERS
(LOCAL GOVERNMENTS IN CALIFORNIA)

March 2023<sup>1</sup>

About Giffords Law Center and Our Model Laws

Giffords Law Center to Prevent Gun Violence ("Giffords Law Center") is a non-profit organization focused on ending the epidemic of gun violence in America. Formed in the wake of the July 1, 1993 assault weapon massacre at a law firm in San Francisco, and renamed Giffords Law Center in 2017 after joining forces with former congresswoman Gabby Giffords, the organization is now the premier clearinghouse for information about federal, state, and local firearms laws and Second Amendment litigation nationwide.

Giffords Law Center serves governmental entities and activists throughout the United States. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure pro bono litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, giffordslawcenter.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

23



May 7, 2021

Newton City Council
citycouncil@newtonma.gov
rfuller@newtonma.gov

Dear Mayor Fuller and Members of the City Council,

On behalf of Giffords Law Center to Prevent Gun Violence, the nonprofit gun violence prevention organization led by former congresswoman and survivor, Gabby Giffords, I write to offer our support for the proposed ordinance regulating gun dealers that seek to operate in the community. This ordinance would zone gun dealers to safe locations in the city, and impose other measures to deter and detect illegal gun sales and thefts. It will undoubtedly improve the public safety of the residents of Newton and surrounding communities.

We support the approach the city is taking to zone dealers to areas where their presence poses a lower risk. Despite the claims of gun extremists, firearms dealers do present risks to a community. They are high-value targets for criminals, and have often been magnets for break-ins, theft, and destruction of property. According to an ATF Special Agent, "When people break into homes or businesses, guns are often the target. ... [O]f the commodities that we find that people that are involved in criminal activity are looking for, guns are very high on the list." Gun thefts have been on the rise nationally, and while Massachusetts has lower rates of gun thefts from dealers than most other states thanks, in part, to its comprehensive statewide regulations, after years of declines, gun thefts from dealers in 2020 reached peak levels not seen since 2014.

The presence of gun dealers is incompatible with places where children and families frequent as well as other locations that have been targets of violence, such as houses of worship. One academic study suggests that firearms dealers may attract individuals engaged in criminal activity to the areas in which they are located, not only because they are a high-value target for theft, but also because of firearms dealers' willingness to sell to "straw purchasers" who illegally buy for others. Another study analyzed ATF data showing that guns "are often found to have been used for criminal purposes not far from the gun dealer where they were first obtained." Based on the above evidence, the presence of firearms dealers in residential neighborhoods and near sensitive areas may endanger the public (and decrease the public's sense of safety) by increasing the risk of criminal activity and violent crime.<sup>2</sup>

<sup>1</sup>Gene Wintermute, "Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase," Journal of Urban Health 87, no. 5 (2010): 865-870.
<sup>2</sup>See Friedman v. City of Highland Park, 784 F.3d 406, 412 (7th Cir. 2015) (law that reduces the "perceived risk from a mass shooting, and mak[es] the public feel safer as a result" provides "a substantial benefit").

24

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

**GIFFORDS  
LAW CENTER**

Parents should have the freedom to determine when and how to expose their children to guns. If a gun store is located along a walking route to a school, playground, child care facility, library, or park, this becomes impossible. Zoning gun dealers away from these areas and ensuring that unsupervised minors may not enter gun stores puts these decisions back in the hands of parents, not gun dealers.

Finally, this ordinance will help ensure that guns sold by dealers in the community do not end up in the hands of people who commit crimes. Requiring guns to be safely stored during non-business hours will help prevent gun store burglaries after-hours. Unlike jewelers who routinely lock up their inventory at night, many dealers leave their guns unsecured which enables criminals to drive their cars into storefronts and make off with numerous guns quickly, before law enforcement arrives. Stolen guns are often used in subsequent crimes. An analysis of more than 23,000 stolen firearms recovered by police between 2010 and 2016 found that the majority of these weapons were recovered in connection with crimes, including more than 1,500 violent acts such as murder, kidnapping, and armed robbery.

For the foregoing reasons, Giffords Law Center strongly supports the proposed ordinance which would enact reasonable and effective regulations of gun dealers.

Sincerely,



Allison Anderman  
Senior Counsel

---

**ABOUT GIFFORDS LAW CENTER**  
For over 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.

2 [giffordslawcenter.org](http://giffordslawcenter.org)

25

**GIFFORDS  
LAW CENTER**  
TO PREVENT GUN VIOLENCE

April 26, 2021

Mayor Fuller and the Members of the Newton City Council  
Newton, MA

Sent via email

Dear Mayor Fuller and the Members of the City Council,

On behalf of Giffords Law Center to Prevent Gun Violence, the gun violence prevention organization led by former Congresswoman and survivor, Gabby Giffords, I write to offer our perspective on an ordinance that would prohibit gun dealers from operating in the City of Newton. For nearly 30 years, the organization now known as Giffords Law Center to Prevent Gun Violence has been providing advice and assistance to federal, state, and local legislators and attorneys on gun violence prevention.

We are aware that Newton is contemplating an ordinance that would prohibit gun dealers from operating in the city and that such an ordinance has garnered significant public support. Given our decades of expertise in gun violence prevention policy and Second Amendment litigation, we write to offer the following perspective.

Regardless of the constitutionality of a law banning gun dealers, gun advocates will surely sue the city for such an ordinance. In light of the fact that former President Trump filled the federal judiciary, including the Supreme Court, with gun extremists, even a law fully consistent with existing constitutional precedent could face a serious threat. A bad ruling in this case could jeopardize reasonable, constitutional, and effective laws that regulate dealers around the country. Zoning and other regulatory measures, on the other hand, are effective tools which other cities have successfully employed. Pursuing a ban at this time with the current makeup of the federal judiciary is not an effort that Giffords recommends.

If you would like to discuss this further, please do not hesitate to contact me at [aanderman@giffords.org](mailto:aanderman@giffords.org).

Sincerely,



Allison Anderman  
Senior Counsel

26

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

## IMPLEMENTATION?

### ZONING BYLAW / SPECIAL PERMIT IN MASSACHUSETTS

1. Acton (2023)
2. Littleton (2023)
3. Newton (2020)
4. Wellesley (2023)
5. Brookline (2022)
6. Dedham (2020)
7. Plainville (2022)
8. Westwood (2021)
9. Westford (defeated at Town Meeting 2023; updates planned)

27

## OTHER COMMUNITIES

Community	Highlights
1. Acton	Special Permit in 2 Industrial District zones. 500-foot setback from sensitive uses. 2 licenses cap.
2. Littleton	Special Permit in Industrial District. 500-foot setback from sensitive uses. No cap on # of licenses.
3. Newton	Special Permit in Business and Manufacturing districts. 150-foot setback from residential use. 1000-foot setback from K-12 schools, other sensitive uses. No cap on # of licenses.
4. Dedham	Special Permit in Adult Uses Overlay District. 150-foot setback from sensitive uses. No cap on #.
5. Brookline	Special Permit in Business District. 1000-foot setback from K-12 schools. 500-foot setback from child-centered and other sensitive uses. Cannot abut a residential property. No cap on # of licenses.
6. Wellesley	Special Permit in Business and Industrial districts. 500-foot setback from K-12 schools, child-centered businesses. No cap on # of licenses.
7. Westwood	Limited to Highway Business and Industrial districts. No setbacks or other specific regulations. No cap on # of licenses.
8. Plainville	Special Permit in 6/13 districts. 150-foot setback from residential uses. 1000-foot setback from K-12 schools. 500-foot setback from childcare and similar uses. No cap on # of licenses.

28

# WHY NOT A BAN?

- No community in Massachusetts, or anywhere in the United States, has a full ban on firearm sales, due to protections around free commerce, due process, and the Second Amendment.
- Massachusetts Coalition to Prevent Gun Violence writes:
  - “As longtime activists for gun violence prevention, we see terrible risks in a gun shop ban, and little practical benefit over a tough zoning ordinance.”
  - “While a ban might have emotional appeal, it’s a bad idea. It creates the potential for the Supreme Court to overturn not just this ban, but restrictive zoning on gun shops.”
- Sudbury Marijuana Prohibition not the same – that was a one-time opt-out as part of the law enabling the legalization process, and not supported by Constitutional rights

29

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

November 20, 2023

Eva K. Szkaradek, Town Clerk  
Town of Acton  
172 Main Street  
Acton, MA 01720

Re: Acton Annual Town Meeting of May 1, 2023 --- Warrant Articles # 15, 16, and 17 (Zoning) Warrant Articles # 12, 13, 18, and 20 (General)

Dear Ms. Szkaradek:

**Article 15:** Under Article 15 the Town voted to amend its Businesses (as defined in the by-law) by special permit in two zones of allowed Firearm Businesses to no more than two at any given location because it does not conflict with the Constitution or laws of the Commonwealth. 398 Mass. 793, 795-96 (1986) (requiring an Attorney General's approval to disapprove a by-law). The Constitution for the Attorney General to disapprove a by-law. *V. State Rifle & Pistol Association v. Bruen*, 142 S.Ct. 2111 (2022) (limit on Firearm Businesses may be impacted by the U.S. Supreme Court's decision in *Bruen* because of conflict with Second and Fourth Amendment rights). We determine that *Bruen* does not preclude the Town's Firearm Businesses.

In this decision we briefly describe the by-law and discuss the Attorney General's limited standard of review of the by-law and explain why, based on that standard, we approve Article 15.

constitutionality of a handgun licensing law and did not limit a municipality's zoning power to regulate the siting and operation of a firearm business, the *Bruen* Court's holding does not provide grounds for this Office to disapprove Article 15. The Town should consult with Town Council with any questions on the scope of the Court's holding in *Bruen*.<sup>3</sup>

We have also considered the question whether the limit on the number of Firearm Businesses that can operate in Town poses any conflict with state or federal law and determine that it does not. **The limitation does not amount to a complete ban on Firearm Businesses in the Town and thus cannot be said to constrain any resident's ability to purchase firearms in the Town.** See *Teixeira v. County of Alameda*, 873 F.3d 670, 680 (9<sup>th</sup> Cir. 2017) ("Gun buyers have no right to have a gun store in a particular location, at least as long as their access is not meaningfully constrained.") see also *Second Amendment Arms v. City of Chicago*, 135 F. Supp.3d 743, 754 (N.D. Ill. 2015) ("[A] slight diversion off the beaten path is no affront to . . . Second Amendment rights."). Moreover, courts have consistently upheld municipalities' authority to impose traditional zoning restrictions on firearms-related land uses. See, e.g., *Ezell v. City of Chicago*, 651 F.3d 684 (7<sup>th</sup> Cir. 2011) (although a complete ban on firing ranges was unconstitutional, City retained power to adopt zoning and safety regulations governing operation of firing ranges); see also *Teixeira*, 873 F.3d 670 (upholding a 500-foot buffer restriction between gun store and various other uses because it was not a total ban on gun sales or purchases). Although we determine that the limitation on special permits for Firearm Businesses in the Town does not conflict with state or federal law, we encourage the Town to consult closely with Town Counsel during the special permit application process to ensure the by-law is applied in a lawful manner.

**IV. The Town Must Apply Article 15 Consistent with State Laws Applicable to Firearm Dealers**

In applying the by-law, the Town should also be mindful of the various state laws and regulations governing the safety of firearm businesses and the licensing requirements for gun dealers. Those laws include (but are not limited to) the requirements in G.L. c. 140, § 122 (licenses to sell firearms), § 122B (licenses to sell ammunition), § 123 (imposing conditions on firearm sales licenses issued under G.L. c. 140, § 122), and 940 CMR 16.00 *et seq.* (imposing conditions on the sale of handguns in Massachusetts).<sup>4</sup>

General Laws Chapter 140, Section 122 requires a license to sell firearms and Section 122B

30

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

**MEMORANDUM**

To: File  
 From: David E. Emer, Legislative Director and General Counsel (Senator Jamie B. Eldridge)  
 Date: August 4, 2023  
 Re: Zoning Ordinance for Gun Dealers

---

I am providing some information on gun dealer zoning ordinances in Massachusetts and potential legal challenges to them. Please be advised that this information is not provided as legal advice.

Massachusetts Gun Zoning Ordinances

- Newton** – the City of Newton adopted an ordinance to regulate firearm dealers through a zoning ordinance.<sup>1</sup> Most significantly, a firearm dealer must be 1,000 feet from an “existing Firearm Dealer or Firing Range.”
- Littleton** – On February 15, 2023, Littleton approved a Firearms Business Zoning bylaw at a special town meeting.<sup>2</sup>

Littleton’s bylaw is stricter than Newton’s is. In contrast to Newton’s ordinance, it prohibits a firearm business from being located within 500 feet of an existing firearm business.<sup>3</sup> It also prohibits a firearm business from being located within 500 feet of a residential zone, educational institution and other locations.<sup>4</sup>

The bylaw contains a number of other significant provisions. First, it prohibits signage depicting firearms.<sup>5</sup> Second, it limits the hours of a business from 8 AM to 9 PM.<sup>6</sup> Third, the bylaw prohibits a person under age 18 from being at a firearm business without a parent or legal guardian.<sup>7</sup> Finally, it requires a business to obtain a permit before opening a firearm business.<sup>8</sup> The bylaw provides for the termination of a permit.

On May 25, 2023, the Attorney General approved the bylaw as it did in Dedham.

<sup>1</sup> <https://www.newtonma.gov/home/showpublisheddocument/70761637588394567140000>  
<sup>2</sup> <https://littletonma.org/523-Firearms-Business-Zoning-Bylaw-Information>  
<sup>3</sup> § 173-248 (E).  
<sup>4</sup> § 173-248.  
<sup>5</sup> § 173-240 (D).  
<sup>6</sup> § 173-243 (D).  
<sup>7</sup> § 173-243 (E).  
<sup>8</sup> § 173-237 (A).

1

---

Westwood, Brookline, Wellesley, and Plainville.<sup>9</sup> The approval stated that the permitting authority must revoke the permit. It also noted that the “the by-law is silent as to any notice and hearing process prior to revoking a special permit.” This statement might suggest advice from the Attorney General to, in fact, provide a hearing before terminating a special permit.

Constitutional Legal Challenges

- Challenges to Gun Dealer Zoning** – Neither the Supreme Court nor the intermediate federal circuit court that covers Massachusetts has decided whether the Second Amendment applies to gun zoning regulations.

Federal courts throughout the nation have been split on this question. The federal circuit court in California upheld a zoning regulation similar to Newton’s.<sup>10</sup> By contrast, the federal circuit court in Illinois rejected a zoning regulation related to firearm ranges.<sup>11</sup>

- Bottom line** – Based on my limited research, I do believe that the Town could ultimately prevail in limiting gun dealers through zoning regulation. That’s a prediction. It’s not a guarantee.

The Town, however, would need to carefully study the practical impact of any regulation. A court would likely review the regulation to ensure that the zoning regulation does not operate as a *de facto* ban on gun dealers anywhere in town. In addition to studying the practical impact, before moving forward on a regulation, I would encourage the town’s counsel to carefully review the recent Second Amendment Supreme Court decision – *New York v. Bruen*. That case does not involve zoning. But it changes the ways courts analyze Second Amendment claims.

DEE:/dee

<sup>9</sup> [https://littletonma.org/DocumentCenter/View/5749/Littleton108688\\_App](https://littletonma.org/DocumentCenter/View/5749/Littleton108688_App)  
<sup>10</sup> *Teixeira v. County of Alameda*, 873 F.3d 670 (2017).  
<sup>11</sup> *Ezell v. City of Chicago*, 846 F.3d 888 (2017).

2

31

**THE PROPOSED BYLAW**

Key Additions:

- Requires a Special Permit process, a much stronger oversight process, which enables conditions and denials
- Requires a public hearing, with public notice, and abutter notification
- Requires a 4-1 vote of approval of the Special Permit from the Select Board, instead of simply majority of Planning Board
- Limits zoning locations to just the Industrial District: just 1/10 zoning district instead of 7/10 available today
- Limits the number of potential parcel locations from 500+ to ~5
- Reduces geographic footprint from 8 locations in town to 1
- Caps the number of firearm businesses in town to 2 – Sudbury would be only the second community we know of with a cap
- Requires 250 foot offset from sensitive locations – schools, parks, churches, senior living, alcohol stores – the largest feasible setback, in line with other communities’ setbacks, with a longer list of sensitive locations in Sudbury than other communities
- Requires 24/7 surveillance and videotape storage for 3 years
- Requires after-hours lock up and secure storage
- Allows site-specific conditions in consideration of abutters, public safety

32

Attachment 12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)

THANK YOU

- Questions?

33

Attachment12.c: SB Firearm Bylaw Info Session Presentation 03.25.2024 (6164 : Town Forum discussion)



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**13: Update from Policy subcommittee**

REQUESTOR SECTION

Date of request:

Requestor: Chair Dretler

Formal Title: Update from Select Board Policy Subcommittee on current status of policy review.

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

- Select Board Office                      Pending
- Town Manager's Office                  Pending
- Town Counsel                              Pending
- Select Board                                Pending
- Select Board                                Pending

03/26/2024 7:00 PM

## LICENSING OF OUTDOOR AMUSEMENTS POLICY

In accordance with Chapter 140, Section 181 of the General Laws, it is required that any outdoor theatrical exhibition, public show, public amusement, or exhibition, to be held in the Town of Sudbury obtain a license from the Select Board for such show or amusement, and that such show or amusement cannot be held in a residential area. Application for a license must be filed with the Select Board at least thirty days before the event on a form provided by the Select Board's Office.

It is the policy of the Select Board that, after May 1, 1971, no permit under the jurisdiction of the Select Board shall be issued for the operation of a carnival or circus in the Town of Sudbury.

All permits and licenses required by other entities, including but not limited to, the Health Department, Building Commissioner, and Fire Department shall be satisfied. All requirements of the Americans with Disabilities Act and Massachusetts Architectural Access Board will be met.

(Adopted as amended 4/29/71, 5/10/76, 03.26.24)



## LICENSING OF OUTDOOR AMUSEMENTS POLICY

In accordance with Chapter 140, Section 181 of the General Laws, it is required that any outdoor theatrical exhibition, public show, public amusement or exhibition, to be held in the Town of Sudbury obtain a license from the Select Board ~~of Selectmen~~ for such show or amusement, and that such show or amusement cannot be held in a residential area. Application for a license must be filed with the Select Board ~~of Selectmen~~ at least thirty days before the event on a form provided by the Select Board's Office ~~and must indicate the name of the owner and the name and address of the firm involved, the sponsor, if any, the nature and extent of the show or amusement, the days and hours, amount of admission charge, and the exact location within the Town where the show or amusement is to be held.~~

It is the policy of the Select Board ~~of Selectmen~~ that, after May 1, 1971, no permit under the jurisdiction of the Select Board ~~Boardmen~~ shall be issued for the operation of a carnival or circus in the Town of Sudbury.

~~If food service is planned, notice shall be sent to the Board of Health allowing no less than two (2) weeks, prior to opening to the public, for inspection and issuance of a food service permit required by that Board. All permits and licenses required by other entities, including but not limited to, the Health Department, Building Commissioner, and Fire Department shall be satisfied. All requirements of the Americans with Disabilities Act and Massachusetts Architectural Access Board will be met.~~

(Adopted as amended 4/29/71, 5/10/76, 03.26.24)



SUDBURY SELECT BOARD  
Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**14: Town Manager evaluation**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Town Manager evaluation

Recommendations/Suggested Motion/Vote:

Background Information:  
attached review form

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM

## TOWN OF SUDBURY TOWN MANAGER EVALUATION FORM

### Instructions

A space has been provided for each statement within the performance areas. Check the number which most accurately reflects the level of performance for the factor. If you did not have an opportunity to observe or make a determination on a particular factor, please indicate so in the N/A space. Select Board members are encouraged to provide comments and suggestions, especially concerning significant areas of strength or weakness.

### Rating Scale (1-5)

(1) Below Expectations/Unsatisfactory:

The Town Manager's work performance is inadequate and inferior to the standards of performance required for the position.

(2) Meets Some Expectations/Improvement Needed:

The Town Manager's work performance does not consistently meet the standards of the position.

(3) Meets Expectations/Satisfactory/Proficient:

The Town Manager's work performance consistently meets the standards of the position.

(4) Exceeds Expectations/Highly Effective:

The Town Manager's work performance is frequently or consistently above the level of a satisfactory employee.

(5) Excellent/Highly Commendable:

The Town Manager's work performance is consistently excellent when compared to the standards of the job.

<b>1. Vision and Community Leadership</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Demonstrates an understanding of the importance of mission and vision. Takes a leadership role in developing and communicating a vision for the Town.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Works with the Select Board to develop goals to protect and improve the quality of life of the Town of Sudbury and its core values.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Ensures that the Board’s goals are translated into strategies and action steps leading toward implementation on a timely basis.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Creates and facilitates an environment where Town government is open to input and participation, an exchange of ideas, creativity, and responsible experimentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>2. Communications/Public Relationships</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Projects a positive image in the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Communicates the Town’s vision, goals, and accomplishments effectively. Expresses ideas in a logical, forthright manner in written and oral presentations. Communicates effectively with a variety of audiences (e.g., staff, community, media).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Develops a positive relationship with the press and uses various media, including social media, effectively.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Demonstrates an open and transparent approach to sharing information with the community. Is reasonably available to the public and responsive to citizen complaints and requests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Encourages community involvement in Town government and supports the efforts of volunteer citizens.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attachment 14.a: 6. Town Manager Review Form 03.25.22 (6177 : Town Manager evaluation)

f. Maintains contacts with other town administrative leaders throughout the state, through professional organizations and other means, and with state and federal government officials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>3. Select Board Support/Relations</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Offers professional advice, including appropriate recommendations and alternatives, based on thorough study and analysis.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Implements the Select Board’s policies and directives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Maintains a professional working relationship with the Select Board, promoting a climate of mutual respect and trust.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Keeps Board members informed of issues and activities in Town government and in the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Works with the Chair to establish an agenda that addresses issues in a timely manner. Provides support materials and sufficient lead time to allow for informed decision-making and policy formation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Helps the Board use Town Counsel to effectively achieve Town goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>4. Personnel Management</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Establishes procedures and practices for hiring, supervision, promotion, and termination that support the Town and are implemented in a consistent and fair manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Effectively leads collective bargaining. Informs and advises the Select Board as appropriate in matters of collective bargaining and grievance proceedings.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Recognizes, develops, and utilizes the abilities of staff. Encourages participation and shared decision-making with appropriate staff. Develops	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

strong, open, and honest relationships with staff. Effectively delegates tasks and assignments.						
d. Develops a meaningful staff evaluation process and opportunities for professional development that contribute to professional growth.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Ensures that staff members work effectively with relevant town boards and citizen volunteers, appropriately seeking their input, and are open to public input and participation.						
Comments:						

<b>5. Financial Management</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Employs a comprehensive and transparent process of business planning and budgeting. Employs sound fiscal management procedures, techniques, and methods. Develops and maintains a long-term financial plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Employs budget forecasting, accounting, and control systems to protect the Town's financial health. Effectively monitors and controls expenditures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Prepares the annual budget in a timely manner with input from department heads and the Finance Director, in accordance with adopted goals and town-wide needs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Presents budget information to the Select Board, Finance Committee, the community, and Town Meeting in a manner which promotes full understanding.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Pursues alternative funding sources to supplement programs and accomplish established goals. Creatively manages available resources to increase efficiency, productivity, and effectiveness.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>6. General Management and Planning</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Provides leadership, motivation, and support within the organization. Creates and facilitates an environment for long-range and strategic planning.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Monitors and plans for maintenance, repairs, and improvement of Town facilities, including plans for long-range capital needs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Supervises and maintains in good order financial, personnel, and other records and documents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Administers the Town in accordance with state and federal laws, rules, and regulations, with Town By-laws, and with Select Board policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>7. Progress on Town Manager Goals</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Manages priorities effectively.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Explains to the Board how unanticipated issues and challenges affect achievement of goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Creatively develops resources to support goal implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Plans for strategic use of limited resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Sets ambitious but realistic targets.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

Attachment 14.a: 6. Town Manager Review Form 03.25.22 (6177 : Town Manager evaluation)

<b>8. Personal Qualities and Characteristics</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
a. Maintains high standards of ethics, honesty, integrity, and sound professional judgement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Represents the Town in a professional manner at all times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Displays the ability to be flexible, to manage conflict, to handle crisis, and to adjust to varying situations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Displays creativity and innovation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Maintains a high level of ongoing professional development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

<b>9. Overall Rating</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>N/A</b>
Overall, the Town Manager performs at the following level.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:						

Attachment 14.a: 6. Town Manager Review Form 03.25.22 (6177 : Town Manager evaluation)





SUDBURY SELECT BOARD

Tuesday, March 26, 2024

**MISCELLANEOUS (UNTIMED)**

**15: Minutes review and approval**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to review and possibly approve the open session minutes of 2/6/24 and 2/12/24.

Recommendations/Suggested Motion/Vote: Vote to review and possibly approve the open session minutes of 2/6/24 and 2/12/24.

Background Information:  
attached drafts of 2/6 and 2/12/24.

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Select Board Office	Pending
Town Manager's Office	Pending
Town Counsel	Pending
Select Board	Pending
Select Board	Pending

03/26/2024 7:00 PM

SUDBURY SELECT BOARD

TUESDAY FEBRUARY 6, 2024

7:00 PM - ZOOM

(Meeting can be viewed at [www.sudburytv.org](http://www.sudburytv.org))

Present: Chair Janie Dretler, Vice-Chair Lisa Kouchakdjian, Select Board Member Daniel Carty, Select Board Member Jennifer Roberts, Select Board Member Charles Russo, Town Manager Andrew Sheehan

The statutory requirements as to notice having been compiled with, the meeting was convened at 7:00 PM, via Zoom telecommunication mode.

Chair Dretler announced the recording of the meeting and other procedural aspects included in the meeting.

**Call to Order**

Select Board Roll Call: Kouchakdjian-present, Carty-present, Russo-present, Dretler-present

**Opening remarks by Chair**

- 2024 Census was mailed; residents are asked to complete the Census and return to the Town Clerk's Office; reminder to renew dog licenses
- Attended the "soft" opening of the Fairbank Community Center today, as did Vice-Chair Kouchakdjian and Town Manager Sheehan – opening was well-attended by community members
- Thanked staff and volunteers who contributed to the opening

**Town Managers Report**

- The Town's FY25 Budget was distributed to the Finance Committee and the Select Board for FY25
- Capital Night will be at the joint Select Board meeting February 12<sup>th</sup> at 7:00 PM; the Finance Committee (FinCom) and the Capital Improvement Advisory Committee (CIAC) will be present to review the FY25 Operating Budget and associated Town Meeting Warrant Articles
- FinCom will conduct a FY25 budget hearing February 26, 2024
- Reminder the Select Board meets in regular session February 27, 2024

**Select Board Reports**

Vice-Chair Kouchakdjian:

- Congratulated Combined Facilities Director Sandra Duran for securing the \$250,000 MOD (MA Office on Disabilities) Grant which will improve the lives of Sudbury residents.
- She attended the "soft" opening of the Fairbank Community Center; it was gratifying to see community members enjoying the great space, as well as SPS Staff in their offices, and thanked all who made the new Community Center possible

Board Member Carty:

- Announced Select Board Office Hours scheduled for February 16, 2024 at Noon via Zoom

Board Member Russo:

- Acknowledged many tree branches have fallen due to recent storms; mentioned that on-line burning permitting is available

### Public comments

Resident Kay Bell, 348 Old Lancaster Road, expressed her opinion about Citizen's Petition treated as others and wants the opportunity to address that citizen's position, and would rather the petition not be presented as a consent calendar item.

### Consent Calendar

**#1. Vote to sign/approve the Presidential Primary Warrant which must be posted no later than Tues, Feb. 27. The Primary is Tuesday, March 5, 2024**

**#2. Vote to approve acceptance of Emergency Performance Grant (EMPG) Grant funds in the amount of \$4,600 toward the purchase of a positive ventilation fan with misting system to be used for Firefighter rehabilitation operations, as requested by Fire Chief John Whalen**

Vice-Chair Kouchakdjian motioned to approve Consent Calendar items #1 and #2, as included on the 2/6/24 Select Board packet. Board Member Russo seconded the motion.

It was on motion 4-0; Kouchakdjian-aye, Carty-aye, Russo-aye, Dretler-aye.

VOTED: To approve Consent Calendar items #1 and #2, as included in the 2/6/24 Select Board packet

**Vote to accept 2024 Annual Town Meeting articles submitted by 1/31/24 and to refer all articles to Town Counsel for review and comment as to form. Also vote on order of articles, and designate articles for the consent calendar. Also vote to refer any Zoning Bylaw amendments and street acceptance articles to the Planning Board.**

Town Manager Sheehan noted the propose of the agenda item was for the Board to consider the listing order of the 2024 Annual Town Meeting articles, with the Finance/Budget articles beginning the listing, real property articles and CPC articles following and ending with the Petition Article (Article 44) as mentioned by Ms. Bell.

Board Member Carty stated that he would like to present Article #11 – FY25 Stabilization Fund as he's done at previous Town Meetings. Board Members concurred.

Board Member Roberts joined the meeting at 7:23 PM., and cited her presence; Roberts-present.

Chair Dretler commented that Select Board articles are always presented at the beginning of the article listing.

Vice-Chair Kouchakdjian motioned to accept the 2024 Town Meeting articles submitted by January 31, 2024 and to refer all articles to Town Counsel for review and comment as to form; and to refer any zoning bylaw amendments and street acceptance articles to the Planning Board. Board Member Russo seconded the motion.

It was on motion 5-0; Kouchakdjian-aye, Roberts-aye, Russo-aye, Carty-aye, Dretler-aye

VOTED: To accept the 2024 Town Meeting articles submitted by January 31, 2024 and refer all articles to Town Counsel for review; also to refer any zoning bylaw amendments and street acceptance articles to the Planning Board.

Chair Dretler noted that at the next Select Board meeting members would discuss the order of articles and determine which articles would be included in the Consent Calendar.

Board Member Roberts inquired about the process involved with zoning articles #31 and #33. Town Manager Sheehan confirmed the Planning Board would be holding a public hearing regarding zoning articles to include Articles #31 and #33; and will submit a related report for Town Meeting before May 6, 2024. Board Member Roberts stated that the Planning Board could also attend Select Board informational hearing for considered zoning articles.

Chair Dretler indicated that two different names for Article #33 was confusing. Board Member Russo noted that the article title should define the propose/intent of the bylaw.

Board Member Roberts motioned to title Article #33 in the Warrant and the Bylaw, the "Firearms Safety Business Use" Bylaw. Board Member Carty seconded the motion.

It was on motion 3-2; Kouchakdjian-no, Roberts-aye, Russo-aye, Carty-aye, Dretler-no

VOTED: To title Article #33 in the Warrant and the Bylaw, the "Firearms Safety Business Use" Bylaw.

**Discussion and possible vote on Firearms Safety Business Use Bylaw public forum, including potential dates, time, venue, agenda, and related matters**

Town Manager Sheehan provided a short list of available dates and locations for the Firearms Safety Business Use Bylaw public hearing.

Chair Dretler suggested a back-up location and public hearing date in consideration of stormy weather or increased participation. She mentioned several years ago the Quarry North Public Hearing had to be changed due to increased attendance.

Board Member Roberts recommended a hybrid meeting format be used for the public forum, as has been done with the last several forums. Members discussed the parking factor as well.

Members agreed with a hybrid-style public forum.

Members considered possible forum agenda and panel. Vice-Chair Kouchakdjian recommended that Town administration present the article at the Public Forum with panelists to include town Manager Sheehan, Director of Planning and Community Development Adam Burney, Town Counsel Lee Smith, and Police Chief Scott Nix. She indicated that Select Board members should not be part of the proposed panel; and someone should be handling the direction of questions and related logistics.

Board Member Russo stated he would follow what the majority of the Board would like to do, adding that Article #33 is a Select Board article. Chair Dretler indicated that she would prefer that Article #33 not be presented as a Select Board article, and wanted to learn more about what the community was thinking about the article.

Board Member Carty opined that this is a Select Board article and should be presented by the Board. He stressed that the Forum would serve as an informational session.

Board Member Roberts concurred that Article #33 was a Select Board driven-article, and wanted the Forum to be reflective of a public information session. She acknowledged that many residents are seeking additional information regarding the article.

Board Member Russo agreed to present a draft Forum agenda well in advance of the Forum, on behalf of the Select Board, adding that he would be open to including any adjustments as being presented as a Select Board article. He suggested the Town Manager be the Forum moderator. Chair Dretler commented she would prefer a non-staff moderator. Vice-Chair Kouchakdjian agreed that non-staff moderator would be best.

Board Member Russo commented the Forum presentation could perhaps be best driven by an expert in the field, which might not be possible. He confirmed he would explore that search further, and would come back to the Board with a draft agenda and Forum presentation in three weeks. Board Member Russo stated he would share his findings with the Town Manager and would also reach out to the League of Women Voters who might have thoughts about a possible moderator.

Board Member Roberts stated that an objective moderator would be best, adding that she was the moderator for the Fairbank Center Forum, though that Forum was the result of the Town Manager's Fairbank Center Working group. She indicated that her preference would be a presentation by the Select Board and Staff sharing their knowledge about the topic. Board Member Roberts noted that KP Law Attorney Janelle Austin should also be included in the Forum panel.

Board Member Roberts suggested that the public be notified of the Forum at least three weeks before the scheduled date.

**Follow up discussion on Sewataro financial statements, including estimate of cost for independent audit**

Town Manager Sheehan explained the Town's audit firm had provided a related cost estimate regarding independent review of Sewataro financial statements, and the Town would be seeking additional cost estimates.

**Vote to review and possibly approve the open session minutes of 1/9/24**

Chair Dretler stated the open session minutes of 1/9/24 would be tabled for further Board review.

**Adjourn**

At 8:18 PM, Vice-Chair Kouchakdjian motioned to enter into Executive Session to discuss strategy with respect to collective bargaining (Civilian Dispatchers) if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares (exception 3); and to continue executive session to review, approve and possibly release executive session meeting minutes pursuant to G.L. c. 30A, § 21(a)(7) (Purpose 7), citing to the Open Meeting Law, G.L. c. 30A, §§ 22(f), (g). Board Member Roberts seconded the motion.

It was on motion 5-0; Kouchakdjian-aye, Roberts-aye, Russo-aye, Carty-aye, Dretler-aye

VOTED: To enter into Executive Session to discuss strategy with respect to collective bargaining (Civilian Dispatchers) if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares (exception 3); and to continue executive session to review, approve and possibly release executive session meeting minutes pursuant to G.L. c. 30A, § 21(a)(7) (Purpose 7), citing to the Open Meeting Law, G.L. c. 30A, §§ 22(f), (g).

The Select Board resumed in open session at 8:49 PM.

Vice-Chair Kouchakdjian motioned to approve the “Agreement Between International Brotherhood of Teamsters, Local 25 and Town of Sudbury, Massachusetts (Dispatchers Unit), dated this day, February 6, 2024; and to authorize the Town Manager to execute the same. Board Member Carty seconded the motion.

It was on motion 5-0; Kouchakdjian-aye, Carty-aye, Russo-aye, Roberts-aye, Dretler aye

VOTED: To approve the “Agreement Between International Brotherhood of Teamsters, Local 25 and Town of Sudbury, Massachusetts (Dispatchers Unit), dated this day, February 6, 2024; and to authorize the Town Manager to execute the same.

Town Manager Sheehan provided a summary of negotiations with the Town of Holbrook to join their regional dispatch organization which provides dispatch services for Holbrook, Sudbury and a number of other communities.

Town Manager Sheehan acknowledged that negotiations with the dispatch union began September 2023 in order to dissolve the union and implement certain incentives to retain the dispatchers in Sudbury until the transition to the Holbrook dispatch program which will be finalized sometime later this year. He thanked Sudbury dispatchers for their continued support during this time.

Chair Dretler thanked Town Manager Sheehan, Police Chief Scott Nix and Assistant Town Manager Maryanne Bilodeau for their efforts.

### **Adjourn**

Vice-Chair Kouchakdjian motioned to adjourn the Select Board meeting. Board Member Roberts seconded the motion.

It was on motion 5-0; Kouchakdjian-aye, Russo-aye, Carty-aye, Roberts-aye, Dretler-aye

VOTED: To adjourn the Select Board meeting.

There being no further business, the meeting ended at 8:52 PM.

SUDBURY SELECT BOARD  
 MONDAY FEBRUARY 12, 2024  
 7:00 PM, ZOOM

JOINT MEETING WITH FINANCE COMMITTEE AND  
 CAPITAL IMPROVEMENT ADVISORY COMMITTEE

(Meeting can be viewed at [www.sudburytv.org](http://www.sudburytv.org))

Present: Chair Janie Dretler, Vice-Chair Lisa Kouchakdjian, Select Board Member Daniel Carty, Select Board Member Jennifer Roberts, Select Board Member Charles Russo, Town Manager Andrew Sheehan

Staff Present: Assistant Town Manager Maryanne Bilodeau, Finance Director Dennis Keohane, Combined Facilities Director Sandra Duran, Public Works Director Dan Nason, SPS Superintendent Brad Crozier, LSRHS Superintendent Andrew Stephens, LSRHS Director of Finance and Operations Kirsteen Patterson, Planning & Community Development Assistant Marcia Rasmussen

The statutory requirements as to notice having been compiled with, the meeting was convened at 7:02 PM via Zoom telecommunication mode.

Chair Dretler announced the recording of the meeting and other procedural aspects included in the meeting.

**Call to Order**

Select Board Roll Call: Kouchakdjian-present, Carty-present, Russo-present, Dretler-present

**Opening remarks by Chair**

- Wished all a happy Chinese Lunar New Year – Year of the Dragon
- Former resident Andrea Wang wrote a beautiful children’s book – “The Nian Monster”
- Announced Black History Month
- Announced Teen Dating Violence Awareness Month
- Advised everyone to drive carefully tomorrow morning in consideration of forecasted inclement weather

**Town Managers Report**

Nothing to report.

**Select Board Reports**

Vice-Chair Kouchakdjian and Board Member Roberts had nothing to report.

**Board Member Carty**

- Great Chinese New Year festival event at LSRHS
- LSRHS Girls Field Hockey team is moving on to the DCL (Dual County League) large school conference; won the division and stands as #4 in Division as they head to the State Tournament
- Select Board Office Hours to take place via Zoom Friday at 12:00 noon



- Mentioned possible discussion regarding Warrant Article regarding charging stations at the Goodnow Library

**Public comments**

None presented

**Vote to open a joint meeting with the Finance Committee (FinCom) and Capital Improvement Advisory Committee (CIAC) to review Town Meeting capital articles**

Vice-Chair Kouchakdjian motioned to open the joint meeting with the Finance Committee and Capital Improvement Advisory Committee to review Town Meeting capital articles. Board Member Roberts seconded the motion.

It was on motion 4-0; Carty-aye, Kouchakdjian-aye, Roberts-aye, Dretler-aye

VOTED: To open the joint meeting with the Finance Committee and Capital Improvement Advisory Committee to review Town Meeting capital articles.

FinCom Co-Chair Michael Joachim motioned to open in joint meeting with the Select Board and CIAC. FinCom Co-Chair Eric Poch seconded the motion.

It was on motion 8-0; Susan Berry-aye, Andrew Bertinelli-aye, Maura Carty-aye, Ryan Lynch-aye, Henry Sorett-aye, Colin Wang-aye, Eric Poch-aye, Michael Joachim-aye

VOTED: To open the joint meeting with the Select Board and CIAC.

CIAC Chair Matt Dallas motioned to open the joint meeting with the Select Board and FinCom. CIAC Vice-Chair Peter Iovanella seconded the motion.

It was on motion 7-0; Susan Asbedian-Ciaffi-aye, Ark Pang-aye, Lisa Saklad-aye, Thomas Travers-aye, Richard Winer-aye, Matt Dallas-aye, Peter Iovanella-aye

VOTED: To open the joint meeting with the Select Board and FinCom.

Town Manager Sheehan presented the “FY25 Town Manager’s Capital Operating Budget,” and outlined Capital Warrant Articles as presented by:

- Sudbury Public Schools
- Lincoln-Sudbury Regional High School
- Planning & Community Development
- Department of Public Works
- Combined Facilities Department

Select Board Member Charlie Russo joined the meeting at approximately 7:20 PM and mentioned his presence; Russo-present.



**Warrant Articles - Sudbury Public Schools**

SPS Superintendent Brad Crozier reviewed two SPS Warrant Articles:

**SPS – Haynes Elementary School Dehumidification HVAC**

Ms. Duran provided detailed aspects of the article, adding the cost was allocated at \$150,000.

**SPS – School Classroom Instructional Equipment Replacement**

Mr. Crozier provided related information, noting that the requested amount was \$100,000.

Questions and comments from CIAC and FinCom were addressed by Mr. Crozier.

**Warrant Articles - Lincoln-Sudbury Regional High School**

LSRHS Superintendent Andrew Stephens and LSRHS Director of Finance and Operations Kirsteen Patterson reviewed two LSRHS Warrant Articles:

**LSRHS Lighting Control Replacement**

Ms. Patterson provided related information, noting that the requested amount was \$144,585.

**LSRHS Exterior Stairwell Replacement**

Ms. Patterson provided related information, noting that the requested amount was \$130,965.

Questions and comments from CIAC and FinCom were addressed by Mr. Stephens and Ms. Patterson.

**Warrant Articles - Planning & Community Development**

Ms. Rasmussen reviewed the Planning Department sponsored CPC articles:

**Community Preservation Act Fund – Bruce Freeman Rail Trail Phase 3**

Ms. Rasmussen explained the Article reflected the design of the last three miles of the Rail Trail towards Framingham. She detailed that Planning has submitted a MA grant application for related funding, noting that the article requests \$600.00.

**Community Preservation Act Fund – Parkinson Field Driveway Design**

Ms. Rasmussen provided related detail, noting that the requested amount was \$100,000.

Questions and comments from CIAC and FinCom were addressed by Ms. Rasmussen.

**Warrant Articles - Department of Public Works**

Mr. Nason reviewed the DPW Warrant articles:

Swap Body Trucks with Plow & Various Bodies – 2 of same vehicle

Mr. Nason confirmed the requested amount was \$560,000.

Pickup Truck with Plow

Mr. Nason confirmed the requested amount was \$120,000

Town Wide Culvert and Drainage Reconstruction

Mr. Nason confirmed the requested amount was \$625,000.

Community Preservation Act Fund – Wayside Inn Road Bridge Reconstruction

Mr. Nason confirmed the requested amount was \$400,000.

Questions and comments from CIAC and FinCom were addressed by Ms. Rasmussen.

**Warrant Articles - Combined Facilities Department**

Ms. Duran reviewed the Combined Facilities articles:

DPW Roof Top HVAC Unit Replacement

Ms. Duran confirmed the requested amount was \$200,000.

SPW Salt Shed Vinyl Cover Replacement

Ms. Duran confirmed the requested amount was \$125,000, via actual quote.

Atkinson Pool Renovation

Ms. Duran mentioned related roofing aspects, dehumidification equipment/controls and tile repair. She confirmed the requested amount was \$2,350,000.

Questions and comments from CIAC and FinCom were addressed by Ms. Duran.

Select Board Members lead discussion regarding budgeting, continued work on related policies and continued collaboration with CIAC and FinCom.

**Vote to close joint meeting and resume Select Board Meeting**

Vice-Chair Kouchakdjian motioned to close the joint meeting with FinCom and CIAC and resume Select Board Meeting. Board Member Roberts seconded the motion.

It was on motion 5-0; Roberts-aye, Kouchakdjian-aye, Carty-aye, Russo-aye, Dretler-aye

VOTED: To close joint meeting with FinCom and CIAC and resume Select Board Meeting

FinCom Co-Chair Michael Joachim motioned to close the FinCom meeting. FinCom Co-Chair Eric Poch seconded the motion.

It was on motion 8-0; Susan Berry-aye, Andrew Bertinelli-aye, Maura Carty-aye, Ryan Lynch-aye, Henry Sorett-aye, Colin Wang-aye, Eric Poch-aye, Michael Joachim-aye

VOTED: To close the FinCom meeting

CIAC Chair Matt Dallas motioned to close the CIAC meeting. CIAC Vice-Chair Peter Ionvanella seconded the motion.

It was on motion 7-0; Susan Asbedian-Ciaffi-aye, Ark Pang-aye, Lisa Saklad-aye, Thomas Travers-aye, Richard Winer-aye, Matt Dallas-aye, Peter Iovanella-aye

VOTED: To close the CIAC meeting

Select Board Members had discussion regarding budgeting, continued work on related policies and collaboration/meeting with CIAC and FinCom.

### **Adjourn**

Vice-Chair Kouchakdjian motioned to adjourn the Select Board Meeting. Board Member Carty seconded the motion.

It was on motion 5-0; Kouchakdjian-aye, Roberts-aye, Russo-aye, Carty-aye, Dretler-aye

VOTED: To adjourn the Select Board Meeting

There being no further business, the meeting ended at 10:55 PM.