

AGENDA

CITY COUNCIL MEETING

MONDAY, DECEMBER 3, 2018

7:00 P.M.

CITY COUNCIL CHAMBERS, CITY HALL - 45 LYON TERRACE  
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

Adoption of City Council Rules

Appointment of City Council Standing Committees

**MINUTES FOR APPROVAL:**

Approval of City Council Minutes: November 5, 2018

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 01-18** Communication from City Attorney re: Proposed Settlement of Pending Litigation with NM PPA Maxine Gordon, et al, referred to Miscellaneous Matters Committee.
- 02-18** Communication from Public Facilities re: Proposed Agreement with ENCON regarding Solar Roof Panels on the Cart Barn located at Fairchild Wheeler Golf Course, referred to Contracts Committee.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

- \*198-17** Miscellaneous Matters Committee Report re: Settlement of Pending Litigation with Horace Jennings, et al.
- \*202-17** Miscellaneous Matters Committee Report re: Workers' Compensation Settlement with the Estate of Carney Freddino.
- \*149-17** Education and Social Services Committee Report re: Resolution requesting the Establishment of a Bullying Prevention Task Force in the Bridgeport Public School District, **DENIED**.
- \*175-17** Education and Social Services Committee Report re: Resolution Authorizing Bridgeport Board of Education to provide a Safe School Climate and to report bullying, harassment, discrimination and intimidation, **DENIED**.
- \*185-17** Education and Social Services Committee Report re: Grant Application Authorizations for School Construction Work at Luis Munoz Marin School located at 479 Helen Street for Roof Replacement.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR) CONTINUED:**

- \*195-17** Budget and Appropriations Committee Report re: Amendments to the FY 2019-2023 Capital Plan Budget for Approval of Additional Capital Project Authorization.

**MATTER TO BE ACTED UPON:**

- 193-17** Budget and Appropriations Committee Report re: Approval of General Obligation Bonds – To Fund Certain Capital Improvement Projects.

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, DECEMBER 3, 2018 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

**NAME**

**SUBJECT**

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Cecil C. Young  
99 Carroll Avenue  
Bridgeport, CT 06607

Labor Relations.

John Marshall Lee  
30 Beacon Street  
Bridgeport, CT 06605

Governance – City Fiscal.

**CITY COUNCIL MEETING  
PUBLIC SPEAKING  
MONDAY, DECEMBER 3, 2018  
6:30 PM  
City Council Chambers, City Hall  
45 Lyon Terrace  
Bridgeport, CT**

Council President Nieves called the Public Speaking Session to order at 6:41 p.m.

**ROLL CALL**

The City Clerk Lydia Martinez called the roll.

130<sup>th</sup> District: Christina Smith, Pete Spain  
131<sup>st</sup> District: Denese Taylor-Moye, Jack O. Banta  
132<sup>nd</sup> District: Marcus Brown, Kyle Langan  
133<sup>rd</sup> District: Jeannette Herron  
134<sup>th</sup> District: Michelle Lyons  
135<sup>th</sup> District: Rosalina Roman-Christy, Mary McBride-Lee  
136<sup>th</sup> District: Alfredo Castillo, Maria Zambrano Viggiano  
137<sup>th</sup> District: Maria Valle, Aidee Nieves  
138<sup>th</sup> District: Karen Jackson, Nessah Smith  
139<sup>th</sup> District: Ernest Newton

RECEIVED  
CITY CLERKS OFFICE  
18 DEC 12 PM 1:26  
ATTEST  
CITY CLERK

A quorum was present. Council President Nieves stated that Council Member Vizzo-Paniccia was not present due to illness.

**THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, DECEMBER 3, 2018 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.**

**NAME**

**SUBJECT**

**Cecil C. Young**  
99 Carroll Avenue  
Bridgeport, CT 06607

Labor Relations.

Mr. Young came forward and wished everyone a Merry Christmas. He thanked Council President Nieves and went on to speak about his termination from the City of Bridgeport. Mr. Young said that he had spoken to Council Member Newton about his situation. If the Council Members were forced to go through the injustice and civil rights violations, along with being unjustly terminated, they would not like it either. Mr. Young said that he deserves a break, he deserves reparations and justice. He then spoke about the court session that he had attended in New Haven.

City of Bridgeport  
City Council  
Regular Meeting  
December 3, 2018

Mr. Lee came forward and read the following statement into the record.

Who Cares for the Least of Us?? Who is our Neighbor?  
(Comments to City Council 12-3-2018)

Does the Life you are living these days seem good for you? Personally I am happy for you if so. I never intend to reduce your satisfaction with life one bit. Remember two weeks ago, on the Thanksgiving holiday we stopped along with family and friends, reflected on that which we had received and extended gratitude in our own way and in our own words? It is a wonderful practice. So I want to ask you.....

Are there folks here in Bridgeport who are literally at their wit's end, who are our neighbors, some of whom are especially sought after on Election Days, but whose situation is ignored, forgotten or kept hidden most days from the rest of us. American history looks back on slave times where people of color on plantations were kept with no concern for their quality of life, education or rights as human beings. These were truly poor people, poor in opportunity, acknowledgement of rights and ability to earn a fair return on their work among other things. In the late 20th Century many urban citizens of color were kept from pursuing their human rights by being sentenced to prison in ways dissimilar to punishments for drug activities meted out to neighbors in surrounding towns for similar infractions.

Has public housing today chained those in our community to a last step before homelessness for people who were neighbors at one time? How are we currently managing public housing if our primary goal is "providing a clean and safe place to call home for ....children and families?" Those words are from Mayor Ganim in the past few days. He says he has "fought for the residents who have lived in these unsuitable conditions for a long time." Has he made this priority clear to all in the past three years? The article had to do with tearing down the Greene Homes, but elevator unsuitability for tenants has been only one continuing problem throughout the properties administered by Park City Communities (PCC) Board and staff.

PCC Chairman Cowlis Andrews agrees in the assessment of problems at the Greene Homes, but no reference to what goes on at PT Barnum, Trumbull Gardens and other properties shows the problem to solely be "elevators in continuous need of repair". Rather than spend funds on decommissioning Greene Homes and then "work towards the development of better public housing in Bridgeport". Why not do the latter work first? How many vacancies exist in each of Park City Community properties? What is the financial status of the housing authority today? Do they pay their bills on time to the WPCA and other vendors in the same manner they expect to be paid? What have the most recent Annual reports and post- inspections of properties told Bridgeport about the state of caring for the most vulnerable? Council person Castillo is liaison for this body. What has he reported in writing to you or the public? Are Section 8 tenants also HUD

and PCC clients better served than those in the apartment projects? Does anyone know? Aren't we about people first; and buildings only incidentally?

What goes on when the US Department of Justice sues Park City Communities for failure to extend reasonable accommodations to those in need? And what happens when policy, processes, and practices of PCC employees viciously target certain residents in such ways that trust in PCC is lost and homelessness seems a better alternative?? Those are questions for your serious consideration. Time will tell.

**Robert Halstead**

Sterling Place  
Bridgeport, CT

Pequonnock Bike Trail

Mr. Halstead came forward and thanked the Council Members for sending flowers when his mother passed away recently.

Mr. Halstead said that he was not speaking in favor of the CMEC grant. Many of the City streets are not safe for biking and more money should be allocated for a safe bike path, which would involve Land Acquisition. There is funding available for this type of project. The creation of a bike path from Seaside Park to Beardsley Park would be wonderful, but the way that the path is currently planned, it is not a good plan. He reminded everyone that there had been a plan for a bike share program in 2010, but eight years later, it has not been done. Mr. Halstead then listed a potential safe bike path along an old railroad route. The currently proposed path goes through the desolate and very busy area of the City. OPM and MetroCog have approved this plan, but it makes the City look bad. The City of Waterbury spent \$10 million dollars on their bike path.

He concluded by wishing everyone to have a Merry Christmas.

**Kevin Blagys**

115 Harbor Avenue  
Bridgeport, CT

Bike Trail

Mr. Blagys came forward and read the following statement into the record:

Hello City Council. My name is Kevin Blagys and I live at 115 Harbor Avenue in Bridgeport and am a small business owner. This is my first time speaking to the Council and I would like to thank you for your service to Bridgeport.

I am speaking tonight about the Pequonnock River Trail Bike Path. I'm asking that the proposed trail decision be delayed for further study and public input.

I am a member of the Urban Bike Tours of Bridgeport, a group organized by Bob Halstead. We do two big rides throughout Bridgeport in the spring and fall, following the Bridgeport Art Trail. It was Bob Halstead that pointed out the value of this proposed trail and I agree that alternatives to the proposed trail need to be created and the public should have another opportunity to help create alternatives.

The Pequonnock River Trail will be a fixture, an attraction and has a greater purpose of connecting Bridgeport with the surrounding communities.

Bridgeport has been cut up by highways and this is a chance to make up for that and make a real contribution.

The two public hearings on this were March 2, 2015 and March 26, 2015, three years ago.

The trail is called the Pequonnock River Trail but only follows or crosses the River in 2 areas.

Sharing the road with vehicles is a last resort. But this plan follows busy roads without divided bike lanes.

The Trail will bring economic value to the City by providing a safe trail that could be shared with a walking trail with Historical information kiosks along the way telling Bridgeport history.

Make this trail ore than what is proposed, make it a signature of where Bridgeport has been and where it is going . Please do not settle on the proposed Pequonnock River Trail.

**Claude Young**

First Avenue  
Stamford, CT

Rails to Trails Grant

Mr. Claude Young came forward to speak about the Rails to Trails program. This is about a cultural change for the City. He said that he had been involved in the Trails System which is intended to run from Greenwich to Rhode Island and from Bridgeport to Massachusetts. He said that the bike share program was supposed to be self-sustaining but there is no real plan for that. He spoke about the build out of the trail system and pointed out that a simple change would provide a safer trail.

**ADJOURNMENT**

Council President Nieves closed the public speaking portion at 7:09 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Services

**CITY OF BRIDGEPORT**  
**CITY COUNCIL MEETING**  
**MONDAY, DECEMBER 3, 2018**

**7:00 PM**

**City Council Chambers, City Hall - 45 Lyon Terrace**

**Bridgeport, Connecticut**

Mayor Ganim called the meeting of the City Council to order at 7:15 p.m.

**PRAYER**

Mayor Ganim requested Council Member Lyons open the meeting with a prayer.

Council Member McBride-Lee requested a moment of silence for a recent death that occurred on Saturday.

**PLEDGE OF ALLEGIANCE**

Mayor Ganim requested that Council Member Smith lead those present in reciting the Pledge of Allegiance.

**ROLL CALL**

The City Clerk called the roll.

130<sup>th</sup> District: Christina Smith, Pete Spain  
131<sup>st</sup> District: Denese Taylor-Moye, Jack O. Banta  
132<sup>nd</sup> District: Marcus Brown, Kyle Langan  
133<sup>rd</sup> District: Jeannette Herron  
134<sup>th</sup> District: Michelle Lyons  
135<sup>th</sup> District: Rosalina Roman-Christy, Mary McBride-Lee  
136<sup>th</sup> District: Alfredo Castillo, Maria Zambrano Viggiano  
137<sup>th</sup> District: Maria Valle, Aidee Nieves  
138<sup>th</sup> District: Karen Jackson, Nessah Smith  
139<sup>th</sup> District: Ernest Newton

A quorum was present.

**MINUTES FOR APPROVAL:**

**Approval of City Council Minutes: November 5, 2018**



- \*\* COUNCIL MEMBER NEWTON MOVED THE MINUTES OF THE NOVEMBER 5, 2018 COUNCIL MEETING.**
- \*\* COUNCIL MEMBER BROWN SECONDED.**
- \*\* THE MOTION TO APPROVE MOVED THE MINUTES OF THE NOVEMBER 5, 2018 COUNCIL MEETING AS SUBMITTED PASSED UNANIMOUSLY.**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**01-18      Communication from City Attorney re: Proposed Settlement of Pending Litigation with NM PPA Maxine Gordon, et al, referred to Miscellaneous Matters Committee.**

**02-18      Communication from Public Facilities re: Proposed Agreement with ENCON regarding Solar Roof Panels on the Cart Barn located at Fairchild Wheeler Golf Course, referred to Contracts Committee.**

**\*\* COUNCIL MEMBER BROWN MOVED THE FOLLOWING COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**01-18      COMMUNICATION FROM CITY ATTORNEY RE: PROPOSED SETTLEMENT OF PENDING LITIGATION WITH NM PPA MAXINE GORDON, ET AL, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**02-18      COMMUNICATION FROM PUBLIC FACILITIES RE: PROPOSED AGREEMENT WITH ENCON REGARDING SOLAR ROOF PANELS ON THE CART BARN LOCATED AT FAIRCHILD WHEELER GOLF COURSE, REFERRED TO CONTRACTS COMMITTEE.**

**\*\* COUNCIL MEMBER LYONS SECONDED.**  
**\*\* THE MOTION PASSED UNANIMOUSLY.**

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

**\*198-17      Miscellaneous Matters Committee Report re: Settlement of Pending Litigation with Horace Jennings, et al.**

**\*202-17      Miscellaneous Matters Committee Report re: Workers' Compensation Settlement with the Estate of Carney Freddino.**

**\*149-17      Education and Social Services Committee Report re: Resolution requesting the Establishment of a Bullying Prevention Task Force in the Bridgeport Public School District, DENIED.**

**\*175-17 Education and Social Services Committee Report re: Resolution Authorizing Bridgeport Board of Education to provide a Safe School Climate and to report bullying, harassment, discrimination and intimidation, DENIED.**

**\*185-17 Education and Social Services Committee Report re: Grant Application Authorizations for School Construction Work at Luis Munoz Marin School located at 479 Helen Street for Roof Replacement.**

**\*195-17 Budget and Appropriations Committee Report re: Amendments to the FY 2019-2023 Capital Plan Budget for Approval of Additional Capital Project Authorization.**

Mayor Ganim asked if there was any Council Members who would like to remove an item from the Consent Calendar. Council Member Newton requested that Agenda Item 198-17 be removed from the Consent Calendar. Council Member Jackson requested 195-17 be removed from the Consent Calendar.

**\*\* COUNCIL MEMBER BROWN MOVED THE FOLLOWING ITEMS AS THE CONSENT CALENDAR:**

**\*202-17 MISCELLANEOUS MATTERS COMMITTEE REPORT RE: WORKERS' COMPENSATION SETTLEMENT WITH THE ESTATE OF CARNEY FREDDINO.**

**\*149-17 EDUCATION AND SOCIAL SERVICES COMMITTEE REPORT RE: RESOLUTION REQUESTING THE ESTABLISHMENT OF A BULLYING PREVENTION TASK FORCE IN THE BRIDGEPORT PUBLIC SCHOOL DISTRICT, DENIED.**

**\*175-17 EDUCATION AND SOCIAL SERVICES COMMITTEE REPORT RE: RESOLUTION AUTHORIZING BRIDGEPORT BOARD OF EDUCATION TO PROVIDE A SAFE SCHOOL CLIMATE AND TO REPORT BULLYING, HARASSMENT, DISCRIMINATION AND INTIMIDATION, DENIED.**

**\*185-17 EDUCATION AND SOCIAL SERVICES COMMITTEE REPORT RE: GRANT APPLICATION AUTHORIZATIONS FOR SCHOOL CONSTRUCTION WORK AT LUIS MUNOZ MARIN SCHOOL LOCATED AT 479 HELEN STREET FOR ROOF REPLACEMENT.**

**\*\* COUNCIL MEMBER ROMAN-CHRISTY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**198-17 Miscellaneous Matters Committee Report re: Settlement of Pending Litigation with Horace Jennings, et al.**

**\*\* COUNCIL MEMBER N. SMITH MOVED THE ITEM.**

**\*\* COUNCIL MEMBER NEWTON SECONDED.**

Council Member Newton said that he needed clarification because he found it hard to vote on settlements because the rules now only allow the members of the Committee to attend the Executive Session. Previously, the Council Members were allowed to attend the Executive Session in order to express their concerns and then excuse themselves. He asked Atty. Anastasi to clarify this.

Mayor Ganim asked Atty. Anastasi to provide a written opinion. Mayor Ganim asked if the Council Members were comfortable voting on this now.

Council Member Lyons said that she agreed with Council Member Newton about voting on something that the Council Members have no knowledge of. For years, the Council Members were allowed to attend Executive Sessions, but they are not allowed to anymore.

Council Member Newton said that he wanted clarification on this but they would have an executive session and then bring it back to a vote.

**195-17 Budget and Appropriations Committee Report re: Amendments to the FY 2019-2023 Capital Plan Budget for Approval of Additional Capital Project Authorization.**

**\*\* COUNCIL MEMBER ZAMBRANO VIGGIANO MOVED THE ITEM.  
\*\* COUNCIL MEMBER CASTILLO SECONDED.**

Council Member Jackson said that she was not allowed to debate this at the Budget and Appropriations Committee she was not allowed to speak because she was asking too many questions. She then cited Council Rule #7.

Only members of the City Council may speak on any matter before the Council at a Council meeting unless by a majority vote of all the members of the City Council, or at a duly scheduled Public Hearing. At City Council committee meetings only members of the particular committee may first speak on any matter pending before the committee. Thereafter, any other City Council person in attendance may speak as of right. No other persons may speak at a committee meeting except at a duly scheduled Public Hearing or as permitted by the Councilperson chairing the meeting when in the exercise of the chairperson’s discretion it is deemed to be in the best interest of the committee to do so. When a member is about to speak in debate he shall respectfully address the presiding officer; shall confine himself to the question under debate and avoid personalities or imputing to any member improper motives. No member shall speak more than once on a question until each member choosing to speak shall have spoken. It shall be unnecessary for a member to rise from his seat either to be recognized or to speak.

Council Member Jackson said that she was not allowed to ask questions or make comments. Council Member Jackson said that she had been told that she was not allowed to tell the Board of Education what to do.

Council Member Jackson said that she wanted to introduce a resolution about rebuilding Bassick High School. She said that she wanted to see something in writing and was only told about it

verbally. Council Member Jackson said she had submitted a plan for renovating it with a football field.

Council Member Zambrano Viggiano said that Council Member Jackson was a valid member of the Council and had been allowed to speak a number of times that night. The Council Members who were Committee members had come to a basic consensus about the issue. Council Member Zambrano Viggiano said that the Committee had heard from many of the stakeholders. Council Member Zambrano Viggiano said that the building was over 100 years old and that there were teachers who could not go into certain classrooms because of respirator problems.

Council Member Zambrano Viggiano said that Council Member Jackson was welcomed at Budget and Appropriations and has been very active at the Committee. However, she was sorry that Council Member Jackson felt this way.

Council Member Taylor-Moye said that she was in concurrence with Council Member Zambrano Viggiano's statement and was sorry that Council Member Jackson felt the way she did.

Council Member Jackson said that the Council Rules were violated and there was no 2/3rd vote, so she has still not been answered. She said that Harding needed to be addressed and there was crab grass in the lawn. The sewer lines have problems.

Council Member Jackson said that she wanted to read a document titled "Rebuild Bassick High School as a Campus, Focused on the Original Building" into the record. (See attached 3-page document).

**\*\* THE MOTION PASSED WITH SIXTEEN (16) IN FAVOR (C. SMITH, SPAIN, BANTA, TAYLOR-MOYE, BROWN, LANGAN, HERRON, LYONS, MCBRIDE-LEE, ROMAN-CHRISTY, ZAMBRANO VIGGIANO, CASTILLO, NIEVES, VALLE, N. SMITH AND NEWTON) AND ONE (1) AGAINST (JACKSON).**

**MATTER TO BE ACTED UPON:**

**193-17 Budget and Appropriations Committee Report re: Approval of General Obligation Bonds – To Fund Certain Capital Improvement Projects.**

**\*\* COUNCIL MEMBER ZAMBRANO VIGGIANO MOVED THE ITEM.**

**\*\* COUNCIL MEMBER CASTILLO SECONDED.**

Council Member Spain said that he would like clarification on the term "new". Council President Nieves said that the purpose of putting this into resolution would clarify that this project would not include a renovation and the entire structure would be demolished and built new construction.

Mr. John Stafstrom, the City's Bond Counsel, came forward and explained that this was renovation, "as new" renovations, but this proposal would be all new construction.

Council Member Langan said that he was looking for clarification on what the State would reimburse. In the past, he had heard that the State was in favor of a new buildings. Mr. Ken Flatto, the City's Financial Director, came forward and said that the State had indicated to him that new construction would be less expensive than renovating.

Council Member Langan said that he did not feel that he had enough time to review all the documentation. He said that what he was hearing from the Bassick community that they want a new structure. The two-structure plan was not workable. It will also be important to support the upgrade for Winfield Park.

**\*\* THE MOTION PASSED WITH FIFTEEN (15) IN FAVOR (C. SMITH, BANTA, TAYLOR-MOYE, BROWN, LANGAN, HERRON, LYONS, MCBRIDE-LEE, ROMAN-CHRISTY, ZAMBRANO VIGGIANO, CASTILLO, NIEVES, VALLE, N. SMITH AND NEWTON) AND TWO (2) AGAINST (SPAIN AND JACKSON).**

### ADOPTION OF CITY COUNCIL RULES

**\*\* COUNCIL PRESIDENT NIEVES MOVED THE ADOPTION OF THE CITY COUNCIL RULES WITH THE CONDITION THAT THE COMMITTEE ON RULES CONTINUE TO REVIEW THE EXISTING RULES.**

Council Member Nieves said that there were some rules that were still in Committee. Rather than make the changes piece meal, the Committee will present the entire updated document to the Council.

**\*\* COUNCIL MEMBER BROWN SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

### APPOINTMENT OF CITY COUNCIL STANDING COMMITTEES

**\*\* COUNCIL PRESIDENT NIEVES MOVED THE APPOINTMENT OF CITY COUNCIL STANDING COMMITTEES TO REMAIN AS THEY ARE CURRENTLY ASSIGNED.**

**\*\* COUNCIL MEMBER BROWN SECONDED.**

Council Member Newton said that he would hope that people would show up when the meetings were scheduled.

Council Member Jackson said that as a Council Member she would be attending the majority of Committee meetings.

**\*\* THE MOTION PASSED UNANIMOUSLY.**

Mayor Ganim said that there was a discussion for renewing a contract for a City Lobbyists. Mayor Ganim said that the contract with the City Lobbyist was up for renewal.

**\*\* COUNCIL MEMBER HERRON MOVED TO SUSPEND THE RULES TO ADD AN ITEM REGARDING THE PROPOSED STATE LOBBYING SERVICE AGREEMENT BETWEEN THE CITY OF BRIDGEPORT AND REYNOLDS STRATEGY GROUP, LLC., TO THE AGENDA FOR REFERRAL TO THE CONTRACTS COMMITTEE.  
\*\* COUNCIL MEMBER BROWN SECONDED.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

**Proposed State Lobbying Service Agreement between the City of Bridgeport and Reynolds Strategy Group, LLC.**

Council Member Herron said that she had been on the Council for 3 years and Kevin Reynolds has done a fantastic job. She said that it would be good to be consistent.

Council Member Spain asked why this was an issue if there wasn't a problem.

Council Member Lyons said that in the past, the lobbyist would come in to talk about what is going on in Hartford. She would like to see it done again.

Council Member Newton said that this was his first year on the Council and he would like to see some proof that the lobbyist were doing their job for Bridgeport.

**\*\* COUNCIL MEMBER HERRON MOVED TO REFER PROPOSED STATE LOBBYING SERVICE AGREEMENT BETWEEN THE CITY OF BRIDGEPORT AND REYNOLDS STRATEGY GROUP, LLC TO THE CONTRACTS COMMITTEE.  
\*\* COUNCIL MEMBER NEWTON SECONDED.  
\*\* THE MOTION PASSED UNANIMOUSLY. (ITEM #03-18)**

*Mayor Ganim left the meeting at 8:05 p.m.*

**EXECUTIVE SESSION**

**\*\* COUNCIL MEMBER NEWTON MOVED TO ENTER INTO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING AGENDA ITEM 198-17 MISCELLANEOUS MATTERS COMMITTEE REPORT RE: SETTLEMENT OF PENDING LITIGATION WITH HORACE JENNINGS, ET AL.  
\*\* COUNCIL MEMBER N. SMITH SECONDED.**

The Council Members and Atty. Anastasi entered into Executive Session at 8:05 p.m.

*Council Member Brown left the Executive Session at 8:25 p.m.*

*Atty. Anastasi left Executive Session at 8:37 p.m.*

*Council Member Brown returned to Executive Session at 8:37 p.m.*

The Council returned to Public Session at 8:45 p.m.

Council President Nieves assumed the chairmanship.

**198-17      Miscellaneous Matters Committee Report re: Settlement of Pending Litigation with Horace Jennings, et al. CONT'D.**

**\*\* COUNCIL MEMBER N. SMITH MOVED TO APPROVE AGENDA ITEM 198-17 MISCELLANEOUS MATTERS COMMITTEE REPORT RE: SETTLEMENT OF PENDING LITIGATION WITH HORACE JENNINGS, ET AL.**

**\*\* COUNCIL MEMBER NEWTON SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* COUNCIL MEMBER N. SMITH MOVED TO SUSPEND THE RULES TO ADD AN ITEM REGARDING A PROPOSED SETTLEMENT OF PENDING LITIGATION IN THE MATTER OF LONNIE BLACKWELL V. THE CITY OF BRIDGEPORT, ET AL.**

**\*\* COUNCIL MEMBER BROWN SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* COUNCIL MEMBER N. SMITH MOVED TO SUSPEND THE RULES TO REFER AN ITEM REGARDING A PROPOSED SETTLEMENT OF PENDING LITIGATION IN THE MATTER OF LONNIE BLACKWELL V. THE CITY OF BRIDGEPORT, ET AL. TO THE MISCELLANEOUS MATTERS COMMITTEE.**

**\*\* COUNCIL MEMBER NEWTON SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY. (ITEM #04-18)**

**ADJOURNMENT**

**\*\* COUNCIL MEMBER BROWN MOVED TO ADJOURN.**

**\*\* COUNCIL MEMBER N. SMITH SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned 8:49 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Service

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, CT 06604-4328

CITY ATTORNEY  
R. Christopher Meyer

DEPUTY CITY ATTORNEY  
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Telephone (203) 576-7647  
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November 20, 2018

The Honorable City Council  
of the City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Proposed Settlement of Pending Litigation in the matter of  
NM PPA Maxine Gordon, et al v. City of Bridgeport, et al**

Dear Councilpersons:

The Office of the City Attorney respectfully recommends the following pending lawsuit be settled as set forth below. It is our professional opinion that resolving this matter for the consideration agreed to between the parties is in the best interests of the City of Bridgeport.

<u>Plaintiff</u>	<u>Nature of Claim</u>	<u>Plaintiff's Attorney</u>
NM PPA Maxine Gordon	Civil Litigation	Glenn L. Formica, Esq. Formica Williams, PC 195 Church Street, 11 <sup>th</sup> Floor New Haven, CT 06510

Kindly place this matter on the agenda for the City Council meeting on December 3, 2018 for referral to the Miscellaneous Matters Committee meeting on December 24, 2018. Thank you for your assistance in this matter.

Very truly yours,

R. Christopher Meyer  
City Attorney

cc: Joseph P. Ganim, Mayor  
Lydia Martinez, City Clerk  
Cindy Kane, Paralegal





OFFICE OF THE  
**DEPARTMENT OF PUBLIC FACILITIES**

999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7130

**JOHN K. RICCI**  
*Director Public Facilities*

JOSEPH P. GANIM  
Mayor

COMM. 02-18 Ref'd to Contracts Committee on 12/03/2018.

October 30, 2018

City Council  
Of the City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

RECEIVED  
CITY CLERKS OFFICE  
18 OCT 31 PM 2:34  
ATTEST  
CITY CLERK

**Re: Proposed Agreement for solar roof panels on the Cart Barn located at Fairchild Wheeler Golf Course between ENCON and City of Bridgeport  
FOR REFERRAL TO CONTRACTS COMMITTEE at the 11/5/18 Council Meeting**

Dear Honorable Council Members:

**PROJECT SUMMARY:**

The City of Bridgeport (owner of parkland at Fairchild Wheeler Golf Course) proposes to enter into an Agreement (draft copy attached hereto) with ENCON Solar Energy Division of ENCON Heating and Air Conditioning of Stratford, CT relative to Fairchild Wheeler Golf Course. Pursuant to the business terms of this solar project, ENCON will install, operate and maintain a solar power generation system at the location to meet the electrical energy demands of various Golf Course facilities.

On or about September 2018 at its monthly meeting this proposed project was approved by vote of the Bridgeport Board of Parks Commissioners (Parks Board) pursuant to its authority to manage, care for, and control all park property and to determine the places and manner within the parks for the erecting of wires and other infrastructure support. (SEE BPT Charter, Ch. 12, Sec.10, 11 and 14).

In furtherance of this *green* power initiative designed to provide clean, affordable and renewable energy for the Fairchild Wheeler Golf Course facilities, and in my capacity as Director of Public Facilities and on behalf of the City Administration (in conjunction with Dir. of Government Operations Daniel Roach and State Rep. Joseph Gresko, Green Projects Coordinator), I hereby respectfully submit the following proposed Resolution for the City Council's consideration.

**PROPOSED RESOLUTION:**

**WHEREAS**, the City of Bridgeport (owner of parkland known as Fairchild Wheeler Golf Course) proposes to enter into an Agreement (draft copy attached hereto) with ENCON Solar Energy Division of ENCON Heating and Air Conditioning for the installation, operation and maintenance of a solar roof panel power generation system on the Cart Barn at the golf course facilities.

**WHEREAS**, the proposed solar power project is designed to provide clean, green alternative energy towards meeting the energy demands of Fairchild Wheeler Golf Course, thereby rendering the golf course facilities more sustainable and furthering the goals of the City's *BGreen 2020 Sustainability Plan*.

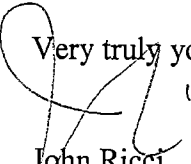
**WHEREAS**, the proposed project site is City owned parkland, and thus is under the jurisdiction of the Bridgeport Board of Park Commissioners (Park Board) pursuant to BPT Charter, Ch. 12, Sec.10, 11 and 14, and this proposed Agreement was approved on or about September 2018 at its monthly meeting by vote of the Bridgeport Board of Parks Commissioners (Parks Board) pursuant to its authority to manage, care for, and control all park property and to determine the places and manner within the parks for the erecting of wires and other infrastructure support.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Mayor and other appropriate City officials and employees hereby are authorized and empowered to enter into the attached proposed Agreement, and to execute any and all such other necessary and proper documents, as reasonably required for the implementation of the proposed solar power project at Fairchild Wheeler Golf Course, all in final form as satisfactory to the Mayor, the CAO, the Dir. of Public Facilities and the City Attorney.
2. This approval is subject to all necessary and appropriate authorizations and approvals, including those by and from the Park Board pursuant to its authority to manage, care for, and control all park property and to determine the places and manner within the parks for erecting wires and infrastructure support. (SEE BPT Charter, Ch. 12, Sec.10, 11 and 14).

Kindly refer this matter to the Contracts Committee at the November 5, 2018 City Council meeting. Thank you for your timely consideration of this matter.

Very truly yours,

  
John Ricci  
Dir. of Public Facilities

Cc: Mayor Joseph Ganim  
Lydia Martinez, City Clerk  
Frances Ortiz, Asst. City Clerk  
Kimberly Staley, CAO  
Daniel Shamas, Chief of Staff  
Daniel Roach, Dir. of Government Operations  
State Rep. Joseph Gresko, Green Projects Coordinator  
Ellen Gerrity, Parks Dept.  
Lisa Trachtenburg, Assoc. City Atty.  
R. Christopher Meyer, City Atty.

**POWER PURCHASE AND LICENSE AGREEMENT**

**BETWEEN**

[ ]

**AND**

[ ]

**DATED AS OF [ ]\_, 20[ ]**

## POWER PURCHASE AND LICENSE AGREEMENT

THIS POWER PURCHASE AND LICENSE AGREEMENT (this “**PPA**”) is made and entered into as of [ ] \_\_, 20[ ] (the “**Effective Date**”), by and between [ ], a [ ] limited liability company with offices at [ ] (“**Seller**”), and [ ], a [ ] with offices at [ ] (“**Buyer**”). Seller and Buyer are sometimes hereinafter referred to individually as a Party and collectively as the Parties.

### RECITALS

[A. Buyer is the fee simple owner of all that certain real property together with all improvements, buildings, and other structures thereon known as [ ], as more particularly described on Exhibit B attached hereto (the “**Premises**”).]<sup>1</sup>

[A. [ ], a [ ] (the “**Property Owner**”) is the fee simple owner of all that certain real property known as [ ], as more particularly described on Exhibit B attached hereto (the “**Premises**”), which includes the area on which the SEF (as defined below) will be installed.

B. Buyer leases a portion of the Premises from Property Owner pursuant to that certain [lease agreement] dated [ ] (“**Buyer’s Lease**”). The portion of the Premises covered by Buyer’s Lease, is referred to herein as **Buyer’s Leased Premises**. Buyer’s Leased Premises includes the area on which the SEF (as defined below) will be installed.]<sup>2</sup>

B. Seller agrees to finance, own and operate a solar energy facility, as more particularly described in Exhibit A (the “**SEF**”), on the Premises. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of the Energy generated by the SEF during the Term (as defined below) and otherwise in accordance with the terms of this PPA.

C. Seller desires to obtain, and Buyer desires to provide,[ with consent of Owner,] an exclusive license for Seller’s access to and use of the [Buyer’s Leased Premises / Premises] for the construction, installation, maintenance and operation of and sale of electricity from the SEF.

[D. Section 16a-40g of the Connecticut General Statutes, attached hereto as Exhibit J (as may be amended from time to time, the “**Act**”), authorized the Connecticut Green Bank, a Connecticut quasi-public agency (“**Green Bank**”), to establish and administer the Commercial Property Assessed Clean Energy Program (“**C-PACE Program**”) to facilitate financing for clean energy improvements to commercial properties by utilizing a local assessment mechanism to provide security for repayment of the financing.

E. Green Bank has entered into an agreement with the Town/City of [ ], Connecticut (the “**Municipality**”), where the Premises are located, pursuant to which the Municipality will file a Benefit Assessment Lien (as hereafter defined) against the Premises after the execution of this PPA, in accordance with the Act, and assign the rights and powers of the

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<sup>1</sup> Use this is Buyer is fee simple owner of the Premises.

<sup>2</sup> Use this is Buyer is a tenant of the Premises.

Benefit Assessment Lien to Seller (through the Green Bank) who has agreed to finance the SEF on the terms and conditions set forth herein.]<sup>3</sup>

## AGREEMENT

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this PPA and the Schedules and Exhibits hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

### ARTICLE 1. DEFINED TERMS; RULES OF INTERPRETATION

**1.1 Defined Terms.** Capitalized terms used in this PPA shall have the meanings ascribed to them in the Schedule of Definitions and Rules of Interpretation attached hereto as Exhibit C and made a part of this PPA by this reference, or elsewhere in this PPA.

**1.2 Rules of Interpretation.** The rules of interpretation in the Schedule of Definitions and Rules of Interpretation shall apply to this PPA unless expressly provided otherwise.

### ARTICLE 2. TERM

**2.1 Term.** The initial term of this PPA (the “*Term*”) shall commence on the Effective Date and shall be in effect until the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date, provided that, upon the subsequent mutual agreement in writing of the Parties, the Term may be extended for two (2) successive, additional terms of five (5) years each[, provided further that in no event shall the Term, as may be extended, exceed the term of the Buyer’s Lease].

**2.2 Conditions Precedent.** The respective rights and obligations of the Parties under this PPA (subject to Section 2.4) are conditioned upon the satisfaction in full (or waiver by Seller) within three hundred and sixty-five (365) days after the Effective Date of (i) the receipt by Seller of final approval from Buyer’s Serving Utility to operate and interconnect the SEF, and (ii) the following:

(a) Seller shall have received financing sufficient to enable it to purchase, construct, operate and maintain the SEF as required by this PPA on terms acceptable to the Seller in its sole discretion;

(b) Seller shall have obtained all Governmental Approvals and approvals from Buyer’s Serving Utility, which approvals shall include conditions and terms satisfactory to Seller in its sole discretion, which discretion shall include the right to terminate this PPA if capital improvements are required to be made as a condition to receiving an interconnection agreement from Buyer’s Serving Utility and such improvements exceed \$0.10/watt and/or are otherwise not economically acceptable to Seller;

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<sup>3</sup> Use these two sections only if PPA is C-PACE secured.

(c) Seller shall have entered into an Interconnection Agreement with Buyer's Serving Utility that qualifies under applicable net metering programs, under which any over-production of energy is carried as a credit on Buyer's utility bill against later shortfalls in production of the SEF compared to Buyer's electricity consumption; and

(d) Completion of a physical inspection of the Premises, including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Premises for the SEF.

(e) [Seller shall have entered into an Owner Consent Agreement with the Owner, in the form of Exhibit K attached hereto ("*Consent Agreement*").]

**2.3 Notice of Commercial Operation.** Unless otherwise agreed by the Parties, and subject to the remaining provisions of this PPA, Seller shall notify Buyer when the SEF has achieved Commercial Operation (the "*Notice of Commercial Operation*").

(a) **Construction Commencement Notice.** Seller shall provide Buyer with no less than three (3) days advance written notice of the commencement of construction of the SEF.

(b) **Construction Completion Deadline.** If Commercial Operation of the SEF does not occur on or before the date that is three hundred and sixty-five (365) days after the Effective Date, either Party hereto shall have the right to terminate this PPA by providing written notice to the other at any time prior to the date upon which Commercial Operation is achieved.

**2.4 Survival.** The terms and conditions of this PPA shall survive the termination or expiration of this PPA only (i) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations and with respect to indemnification; and/or (ii) as otherwise specified herein.

### **ARTICLE 3. PURCHASE AND SALE; DELIVERY, GOVERNMENTAL CHARGES**

**3.1 Purchase and Sale of Energy Output.** During the Term, Seller shall deliver to Buyer, and Buyer shall take delivery of and consume, at the Delivery Point, all of the Energy in accordance with the terms of this PPA.

**3.2 Price for Energy Output.** Buyer shall pay Seller for all of the Energy delivered to the Delivery Point, as metered at the Metering Device, and for any Imputed Energy, at the applicable Energy Payment Rate. The payment to be made by Buyer to Seller shall equal the Energy and Imputed Energy for the relevant period multiplied by the Energy Payment Rate for such period.

**3.3 Energy Payment Rate.** During the period commencing on the Effective Date and ending on the last day of the Term before the first anniversary of the Commercial Operations Date Buyer shall pay for Energy delivered to the Delivery Point at a rate (the "*Energy Payment Rate*") equal to [ ] cents (\$[ ]) per kilowatt hour. In addition, beginning on the first anniversary of the Commercial Operation Date and on each subsequent anniversary of the Commercial Operation Date thereafter, the Energy Payment Rate in effect during the prior twelve (12) month period shall

be increased by [ ]%. Seller shall not make or add any demand, delivery or other incidental charges to the Energy Payment Rate. In all cases, any adjustments in the Energy Payment Rate shall be made to the nearest thousandth (.001) of a cent.

**3.4 Title and Risk of Loss of Energy Output.** Title to and risk of loss of the Energy will pass from Seller to Buyer at the Delivery Point. As between the Parties, Seller shall be deemed to be in exclusive control of all Energy prior to the Delivery Point, and Buyer shall be deemed to be in exclusive control of all Energy at and from the Delivery Point. Except as otherwise provided herein, Seller warrants that it will deliver the Energy to Buyer at the Delivery Point, free and clear of all liens, security interests, claims, and other encumbrances created by Seller.

**3.5 Governmental Charges.**

(a) Except as set forth in Section 3.5(b), Seller is responsible for paying all local, state and federal income taxes attributable to Seller for income received under this PPA.

(b) Buyer is responsible for paying all sales & use taxes ("*SUT*") assessed against Buyer due to Buyer's purchase of Energy. Such SUT shall also be reimbursed to Seller, should Seller, not Buyer, be assessed such SUT due to the Buyer's purchase of Energy.

(c) The Parties shall use reasonable efforts to administer this PPA and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefor, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

**3.6 Insolation.** Buyer understands that unobstructed access to sunlight ("*Insolation*") is essential to Seller's performance of its obligations and a material term of this PPA. Buyer shall not in any way cause and, where possible, shall not in any way permit any interference with the SEF's Insolation. If Buyer becomes aware of any activity or condition that could diminish the Insolation of the SEF, Buyer shall notify Seller immediately and shall cooperate with Seller in preserving the SEF's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 3.6 against Buyer.

**3.7 Maintenance of [Premises/Buyer's Leased Premises]; Alterations to [the Premises/Buyer's Leased Premises].** Buyer shall, at its sole cost and expense, maintain the [Premises/Buyer's Leased Premises] in good condition and repair. Buyer will ensure that the [Premises/Buyer's Leased Premises] remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Premises from the local utility. Buyer is fully responsible for the maintenance and repair of the [Premises/Buyer's Leased Premises] electrical system and of all of Buyer's equipment that utilizes the SEF's outputs. Buyer shall properly maintain in full working order all of Buyer's electric supply or generation equipment that Buyer may shut down while utilizing the SEF. Buyer shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the SEF or that could reasonably be expected to adversely affect the SEF. Buyer shall not make any alterations or repairs to the



[Premises/Buyer's Leased Premises] which may adversely affect the operation and maintenance of the SEF without Seller's prior written consent. If Buyer wishes to make such alterations or repairs, Buyer shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Buyer in making such alterations or repairs in a manner that avoids damage to the SEF, but, notwithstanding any such advice, Buyer shall be responsible for all damage to the SEF caused by Buyer or its contractors. To the extent that temporary disconnection or removal of the SEF is necessary to perform such alterations or repairs, such work and any replacement of the SEF after completion of Buyer's alterations and repairs shall be done by Seller or its contractors at Buyer's cost. All of Buyer's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

#### **ARTICLE 4. ENVIRONMENTAL ATTRIBUTES AND TAX BENEFITS**

##### **4.1 Title to SEF, Environmental Attributes, Capacity Attributes and Tax Benefits.**

All Environmental Attributes relating to the SEF or the Energy will be and shall remain property of Seller including, without limitation, Solar Renewable Energy Certificates or any comparable instruments. All Capacity Attributes and Tax Benefits will be and shall remain property of Seller. Buyer shall assign to Seller all rights to and income from rebates, credits, or reimbursements attributable to the SEF. Buyer shall not report to a Person that any Environmental Attributes, Capacity Attributes, Tax Benefits, rebates, credits, or reimbursements as assigned to Seller herein belong to any Person other than Seller. Seller shall be the sole owner and title holder of the SEFs at all times during the Term of this Agreement, which SEFs shall (i) at all times retain the legal status of personal property of Seller as defined under Article 9 of the Uniform Commercial Code and (ii) not attach to or be deemed a part of, or fixture to, the [Premises/Buyer's Leased Premises]. Without limiting the generality of the foregoing, Seller may file one or more precautionary financing statements, including fixture filings in such jurisdictions as it deems appropriate with respect to the SEFs to protect Seller's rights therein. Buyer shall take no position on any tax return or other filings suggesting that it is anything other than a purchaser of electricity from the SEFs. In this regard, the Parties intend this PPA to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

**4.2 Further Assurances.** Promptly upon Seller's request and provided Seller is not in default hereunder, Buyer shall execute all such documents and instruments (including, but not limited to, assignments, consents and acknowledgments) reasonably necessary or desirable to (i) effect, evidence or transfer to Seller all right, title and interest in and to the Environmental Attributes and Tax Benefits, or (ii) effect, participate, or enroll the SEF, Environmental Attributes Capacity Attributes, or the utility account for the Meter, for the benefit of Seller, in any program administered by Buyer's Serving Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity. If the standards used to qualify the Capacity Attributes or Environmental Attributes to which Seller is entitled under this PPA are changed or modified, Buyer shall promptly upon Seller's request and without cost to Buyer use all commercially reasonable efforts to cause the Capacity Attributes or Environmental Attributes to comply with new standards as changed or modified.

**4.3 Promotion and Branding.** Nothing in this PPA is intended to preclude Buyer or Seller from distributing advertising or other promotional material highlighting the purchase and use of renewable energy from the SEF for commercial or branding purposes, provided that neither Party shall be permitted to release to the public any such material regarding the SEF or the use of renewable energy therefrom without the prior review and approval of the other Party, which approval shall not be unreasonably withheld, conditioned or delayed. Subject to the foregoing, Buyer and Seller are mutually permitted to use the SEF for promotional purposes, which shall be limited to distribution of written materials, and may not include site visits or signs. Notwithstanding the foregoing, neither Party will use the other Party's (or any Financing Party's) corporate name, logo or other identification in any marketing, promotion, branding or other written, spoken or electronic communications without the express written permission of the other Party.

## ARTICLE 5.

### LICENSE, CONSTRUCTION, MAINTENANCE AND MONITORING

#### **5.1 License, Construction, Maintenance, and Monitoring of SEF by Seller.**

(a) Seller shall, at its sole cost and expense, (i) on or before one (1) year after the Effective Date, construct the SEF and achieve Commercial Operation in a good and workmanlike manner and in accordance with all Laws and Prudent Utility Practices in all material respects, (ii) maintain the SEF in good condition (including any necessary cleaning of solar panels) and repair in accordance with Prudent Utility Practices and the terms of this PPA and all Laws in all material respects, and (iii) monitor the SEF's performance to ensure that any SEF malfunction causing a loss of Energy will be discovered and rectified in accordance with Prudent Utility Practices in all material respects. Buyer hereby consents[, subject to the Consent Agreement (which will be obtained by Seller),] to the construction of the SEF's connection to [the Premises/Buyer's Leased Premises], including, without limitation, mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering Devices and equipment and utility interconnections, and, in the case of metering equipment and utility interconnections, on portions of [the Premises/Buyer's Leased Premises] and surrounding property outside of [the Premises/Buyer's Leased Premises] so long as Seller does not unreasonably interfere with Buyer's ability to conduct its business or utilize [the Premises/Buyer's Leased Premises]. Seller shall have the right to take reasonable action to restrict the right of persons to obtain access to the portion of the SEF on [the Premises/Buyer's Leased Premises] and Buyer will cooperate with Seller in connection with these actions.

(b) Buyer grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the SEF; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the SEF to Buyer's electric system at the Premises and/or to the utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the SEF. Seller shall notify Buyer prior to entering the Premises except in situations where there is imminent risk of damage

to persons or property or otherwise requiring Emergency Repairs. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the “*License Term*”). During the License Term, Buyer shall ensure that Seller’s rights under the License and Seller’s access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by either Party. Buyer agrees that Seller, upon request to Buyer, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the parties.

(c) Seller shall provide Buyer reasonable notice of all activities conducted by or on behalf of Seller on the [Premises/Buyer’s Leased Premises]. During any such activities, Seller, and its sub-contractors, agents, consultants, and representatives shall comply with Buyer’s safety, insurance and security procedures (as may reasonably be promulgated from time to time), and Seller and its sub-contractors, agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to not unreasonably interfere with Buyer’s activities. This requirement of access shall not be construed to confer a leasehold on the Seller.

(d) Notwithstanding any provision of Section 5.1(b) or 5.1(c) to the contrary, Seller shall have access to the [Premises/Buyer’s Leased Premises] to effect Emergency Repairs of the Interconnection Equipment located on [the Premises/Buyer’s Leased Premises] immediately upon, or as soon as practicable after, notice to Buyer of the need for access. For purposes of this Agreement, “Emergency Repairs” means any maintenance or repair necessary to address or prevent an unplanned interruption or reduction of Energy transmitted through the Interconnection Equipment from the SEF.

(e) Seller may curtail deliveries (inclusive of discontinuing or reducing Energy) if Seller reasonably believes that curtailment is necessary to construct, install, repair, replace, remove, maintain or inspect any of its equipment or facilities; or in connection with an emergency or an event of Force Majeure. To the extent practical, all maintenance and repairs shall be performed during off-peak hours and in a manner that would not require a complete interruption in Energy of the SEF. Seller shall notify Buyer of any curtailments of which Seller has advance knowledge, and will endeavor to mitigate the time periods and causes of such curtailments to the extent that such cause is within Seller’s reasonable control. Subject to available sunlight, Seller shall resume deliveries of Energy as soon as is reasonably possible and safe in accordance with Prudent Utility Practices.

(f) Seller may modify, alter, expand or otherwise change the SEF without the prior written consent of Buyer as required by Prudent Utility Practices or applicable Law, so long as such modifications, alterations, expansions or other changes would not reasonably be expected to result in a material change in the capacity of the SEF or a material adverse impact on the operations of the SEF or the SEF’s capability to operate. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

## **5.2 Buyer’s Obligations.**

(a) Buyer shall maintain [the Premises/Buyer's Leased Premises as provided in Buyer's Lease] and shall not take any actions on [the Premises/Buyer's Leased Premises] that would cause shading of the SEF or otherwise interfere with the operation of the SEF, reduce the production of Energy from the SEF or damage or otherwise increase the cost of maintenance of the SEF.

(b) Buyer shall provide or assist Seller and its agents and contractors in obtaining convenient access to and from the Interconnection Equipment located on [the Premises/Buyer's Leased Premises] during normal business hours as is reasonably necessary or appropriate for Seller to complete the electrical interconnection to the Premises.

(c) Buyer shall assist Seller and cooperate with Seller, as reasonably necessary and appropriate, to acquire and maintain the Governmental Approvals required for the construction, operation, maintenance and repair of the SEF's connection to [the Premises/Buyer's Leased Premises], including, but not limited to, signing the Interconnection Agreement or any applications or consents for permits, local utility interconnection, SREC creation and verification, and rebate applications as are required to be signed by a person in the position of Buyer and reasonably approved by Buyer's counsel.

(d) Buyer shall maintain the Site Electrical System in good condition and repair so as to be able to receive the Energy. Buyer will maintain its connection and service contract(s) with Buyer's Serving Utility or any successors thereto, so that the SEF may continuously generate and deliver Energy and so that Buyer may procure its full requirements for electricity that are not served by the SEF.

(e) Buyer shall not cause, or allow any Person under Buyer's control to cause the SEF's equipment on [the Premises/Buyer's Leased Premises] to be disconnected or shut down, temporarily or otherwise, unless in the case of emergency or as a result of an event of Force Majeure. In the event of a disconnect or shut down on [the Premises/Buyer's Leased Premises] of a portion of the SEF caused by Buyer or a Person under Buyer's control, damages and lost revenue will be assessed pursuant to the terms of Section 7.5, which is the sole measure of damages. At the request of Buyer, Seller may consent, such consent not to be unreasonably withheld, conditioned or delayed, to temporarily shut down all or a portion of the SEF for a predetermined period of time; provided that nothing herein shall require Seller's consent to a shutdown of the SEF if necessary as a result of an emergency. Seller will be compensated in connection with any such shutdown in accordance with Section 7.5. No damages will be due if the shutdown is due to a Force Majeure event.

**5.3 Telemetry.** Seller shall provide a means for Buyer to access real-time data or telemetry with respect to the SEF's performance [through means that may reasonably be incorporated into advertising and promotional materials]. Subject to Section 4.3 above, Seller retains the right to use telemetry and monitoring other data concerning the performance of the SEF for evaluative, maintenance, and promotional purposes.

**ARTICLE 6.**  
**METERING DEVICE AND METERING**

**6.1 Metering Equipment.** Seller shall provide, install, own, operate and maintain the Metering Device with the ability and right for Buyer to access real-time via internet connection to monitor the Metering Device. Buyer shall provide Seller with high-speed internet access at [the Premises/Buyer's Leased Premises] during the entire Term. Buyer grants Seller a right of access to the Metering Device on [the Premises/Buyer's Leased Premises] as needed to inspect, repair and maintain such Metering Device. Buyer shall allow for the installation of necessary communication lines in connection with the Metering Device and shall reasonably cooperate in providing access for such installation. The Metering Device shall be kept under seal, such seal to be broken only by Seller when the Metering Device is to be tested, adjusted, modified or relocated. In the event that Seller or Buyer breaks a seal, the applicable Party shall notify the other as soon as practicable.

**6.2 Measurements.** Readings of the Metering Device shall be conclusive as to the amount of Energy output; *provided, however*, that if the Metering Device is out of service, is discovered to be inaccurate pursuant to Section 6.3, or registers inaccurately, measurement of Energy to the Delivery Point shall be determined in the following sequence: (a) by estimating by reference to quantities measured during periods of similar conditions when Metering Device was registering accurately; or (b) if no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction under Section 6.3 was equal to (i) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (ii) if the period of inaccuracy cannot be determined, one-half of the period from the date of the last previous test of such Metering Device through the date of the adjustments; *provided, however*, that, in the case of clause (ii), the period covered by the correction under Section 6.3 shall not exceed twelve (12) months.

**6.3 Testing and Correction.**

(a) Upon Buyer's reasonable request, but in no event more than once every twelve (12) months, Seller shall inspect and test the Metering Device for accuracy. Each Party and its consultants and Representatives shall have the right to witness each test of the Metering Device to verify the accuracy of its measurements and recordings. Seller shall provide at least ten (10) days prior written notice to Buyer of the date upon which any such test is to occur. Seller shall prepare a written report setting forth the results of each such test, and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test. Subject to Section 6.3(b) below, Seller shall bear the cost of the testing of the Metering Device and the preparation of the Metering Device test reports.

(b) The following steps shall be taken to resolve any disputes regarding the accuracy of the Metering Device:

- (i) If either Party disputes the accuracy or condition of the Metering Device, such Party shall so advise the other Party in writing.

- (ii) Seller shall, within thirty (30) days after receiving such notice from Buyer or Buyer shall, within such time after having received such notice from Seller, advise the other Party in writing as to its position concerning the accuracy of such Metering Device and state reasons for taking such position.
- (iii) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause the Third Party Monitor to test the Meter.
- (iv) [If the Metering Device is found to be inaccurate by not more than five percent (5%), any previous recordings of the Metering Device shall be adjusted in accordance with Section 6.2(b)(i) and the party claiming such inaccuracy shall bear the cost of inspection and testing of the Metering Device.
- (v) If the Metering Device is found to be inaccurate by more than five percent (5%) or if such Metering Device is for any reason out of service or fails to register, then (A) Seller shall promptly cause any Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (B) 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 6.2, and (C) Seller shall bear the cost of inspection and testing of the Metering Device. If as a result of such adjustment the quantity of Energy output for any period is decreased, Seller shall reimburse Buyer within thirty (30) days for the amount paid by Buyer in consideration for the decrease. If as a result of such adjustment the quantity of Energy output for any period is increased, Buyer shall pay Seller within thirty (30) days for the additional quantity of Energy at the Energy Payment Rate applicable during the applicable period.]

**6.4 Live Meter Maintenance.** Buyer acknowledges and understands that the SEF is installed behind the current electric utility meter located on [the Premises/Buyer's Leased Premises] (the "*Meter*") and that the Meter remaining live is critical to the proper operation of the SEF. Therefore, Buyer agrees that, in the event Buyer defaults in an obligation to Buyer's Serving Utility, becomes insolvent, Bankrupt, or enters into any condition that threatens the live nature of the Meter, Seller shall have the unilateral and exclusive right to transfer the account for the Meter into Seller's name for the duration of the Term.

## **ARTICLE 7.**

### **LOSS, DAMAGE OR DESTRUCTION OF SEF; INSURANCE; FORCE MAJEURE; PAYMENTS FOR TEMPORARY SHUT DOWN**

#### **7.1 SEF Loss.**

(a) Seller shall bear the risk of any SEF Loss excluding, however, any SEF Loss arising out of or resulting from (i) any acts or omissions of Buyer or Buyer's agents,

Representatives, customers, vendors, visitors, or invitees or (ii) any breach of the PPA by Buyer (collectively, the circumstances set forth in clause (i) or (ii), "**Buyer Act**").

(b) In the event of any SEF Loss that, in the reasonable judgment of Seller, results in less than total damage, destruction or loss of the SEF and more than five (5) years remains in the Term, this PPA will remain in full force and effect and Seller will, at Seller's sole cost and expense, subject to Section 7.1(c) below, repair or replace the SEF as quickly as practicable.

(c) To the extent that any SEF Loss, which in the reasonable judgment of Seller, results in less than total damage or destruction or loss of the SEF, is caused by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement.

(d) In the event of any SEF Loss that, in the reasonable judgment of Seller, results in total damage, destruction or loss of the SEF, or to the extent the SEF is damaged during the last five (5) years of the Term, Seller shall, within thirty (30) Business Days following written notice from the Buyer of the occurrence of such SEF Loss, notify Buyer whether Seller is willing, notwithstanding such SEF Loss, to repair or replace the SEF, it being understood that in such instance Seller shall have no obligation to restore the SEF.

(e) In the event that Seller notifies Buyer that Seller is not willing to repair or replace the SEF, this PPA will terminate automatically effective upon the effectiveness of such notice unless Buyer agrees to pay the restoration cost. If such SEF Loss has been caused solely by Buyer Act, Buyer shall, within ten (10) Business Days following such termination, pay to Seller, as liquidated damages, the Termination Payment applicable as of such termination date.

(f) In the event that Seller notifies Buyer that Seller is willing to repair or replace the SEF, the following shall occur: (A) this PPA will remain in full force and effect, and (B) Seller will repair or replace the SEF as quickly as practicable but in any event within six (6) months of the casualty and, in addition, if such SEF Loss has been caused, in total or partially, by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement caused by such Buyer Act.

## **7.2 Insurance.**

(a) Each Party will, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$3,000,000 for injury to or death of one or more persons in any one occurrence and \$1,000,000 for damage or destruction to property in any one occurrence, with aggregate limits of \$5,000,000. Limits may be satisfied with a combination of primary and excess or umbrella policies.

(b) Buyer will name the Seller as an additional insured in each such policy provided in this Section 7.2 using the form CG 2010 or an equivalent satisfactory to Seller.

(c) Buyer shall furnish to Seller a certificate of insurance from the insurer, which certificate shall evidence the insurance coverage required by this Section 7.2. At Seller's request Buyer shall furnish to Seller copies of applicable endorsements evidencing the required coverages.

(d) The provision of this PPA shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

**7.3 Performance excused by Force Majeure.** To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this PPA and such Party (the “*Claiming Party*”) gives notice and details of the Force Majeure event to the other Party as soon as practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, then the Claiming Party will be excused from the performance of its obligations under this PPA affected by the Force Majeure event (other than the obligation to make payments under this PPA) for a period equal to the effect of the disabling Force Majeure circumstances. The Party affected by Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; *provided, however*, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

**7.4 Termination due to Force Majeure.** If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, the non-Claiming Party may terminate this PPA, in whole or in part, without any liability to the Claiming Party as a result of such termination (except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination) by providing written notice of such termination at any time prior to the date upon which the obligation prevented by such Force Majeure has been satisfied. Without limiting the generality of the foregoing, if Seller does not deliver Energy from the SEF to Buyer for a continuous period of twelve (12) months for any reason other than Buyer’s default hereunder, Buyer shall have the right to terminate this PPA by delivering written notice of such termination at any time prior to the date upon which the SEF resumes the production of Energy.

**7.5 Payment for Temporary Shutdown of SEF or Reduced Energy Output.** In the event (a) Buyer needs to conduct any type of work on the [Premises/Buyer’s Leased Premises] or Site Electrical System that will require the shutdown of the SEF, (b) Buyer or any Person within Buyer’s control causes any disruption on [the Premises/Buyer’s Leased Premises] which will require, or otherwise causes, Seller to cease making deliveries of Energy, or otherwise causes the SEF to shut down, or (c) Buyer or any Person in Buyer’s control causes a reduction in Energy output from the SEF, whether from disruption on the [Premises/Buyer’s Leased Premises] or otherwise, Buyer’s payments due hereunder shall be adjusted to compensate Seller for the Imputed Energy during the period in which Energy cannot be or is not generated and delivered to Buyer during such shutdown, together with the value of Environmental Attributes and Tax Benefits relating to such Imputed Energy. The payment adjustment shall be equal to the sum of: (1) the value of Imputed Energy determined on the basis of the historical performance of the SEF during the applicable time period during the calendar year immediately prior to the suspension (i.e. based on seasonality and actual performance, e.g. if the interruption is from June 1 through June 10 then the lost revenue shall be based on the SEF’s performance from June 1 – June 10 of the previous year – and if such interruption occurs during the first calendar year following the Commercial Operation Date, such lost revenue shall be measured using the Expected System Output for the applicable time period); (2) the value of Environmental Attributes relating to such Imputed Energy; (3) the value of lost Tax Benefits; and (4) Seller’s actual costs of connecting or disconnecting the



SEF from or to the Premises. For purposes of this PPA, the value of Environmental Attributes shall be determined based on the greater of the value at which Seller had contracted to sell those Environmental Attributes or the spot market value.

## **ARTICLE 8. EVENTS OF DEFAULT; REMEDIES**

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

(a) the failure to make, when due, any payment required under this PPA if such failure is not remedied within ten (10) Business Days after receipt of written notice from the Party claiming the failure (a “*Non-Defaulting Party*”);

(b) any representation or warranty made by such Party in this PPA is intentionally false or misleading in any material respect when made or when deemed made or repeated;

(c) the failure to perform any material covenant or obligation set forth in this PPA if such failure is not remedied within thirty (30) days after receipt of written notice from the Non-Defaulting Party; provided, however, that, if despite due diligence such default is not capable of cure within thirty (30) days, the Defaulting Party shall have such additional time as is reasonably necessary to cure such default, provided the Defaulting Party diligently pursues such cure and completes same within ninety (90) days after the receipt of such notice;

(d) such Party becomes Bankrupt; or

(e) solely as to Buyer, (i) the closure or shutdown of Buyer’s operations or other shutdown of the SEF caused by the action or inaction of Buyer or of any Person under Buyer’s control; (ii) Buyer loses its rights to occupy and enjoy the Premises; (iii) Buyer prevents Seller from installing the SEF or otherwise fails to perform in a way that prevents the delivery of electronic energy from the SEF; or (iv) Property Owner failure to perform any material covenant or obligation set forth in the Consent Agreement.

**8.2 Buyer Remedies.** Upon the occurrence and during the continuance of an Event of Default where Seller is the Defaulting Party (a “*Seller Event of Default*”), Buyer shall have all rights available to it at law and in equity; however, notwithstanding the foregoing, it is agreed that Buyer shall have the right to terminate this PPA as a result of a Seller Event of Default only in the event such Seller Event of Default is a monetary Event of Default or a material non-monetary Event of Default that has resulted in substantial harm, economically or otherwise, to Buyer (each such default being a “*Seller Termination Default*”). In the event any Seller Termination Default remains uncured following any applicable notice and cure period, Buyer shall have the right to provide Seller with written notice of its intent to terminate this PPA. In the event such specified Seller Termination Default and any other subsequent termination event is not cured within forty five (45) days of Seller’s receipt of such notice of intent to terminate (which notice shall specify the exact Seller Termination Default and any other being claimed) then thereafter, and only thereafter, Buyer shall have the right to terminate this PPA as of such date by providing written notice of such termination to Seller.

**8.3 Seller Remedies.** (a) If an Event of Default of Buyer has occurred and is continuing, Seller has the right in its sole discretion, without obligation, to take any and all action reasonably necessary to cure such Buyer Event of Default. In the event that Seller exercises such right, Buyer shall promptly reimburse Seller for any and all reasonable costs and expenses incurred by Seller (including reasonable attorney's fees) in connection with the exercise of Seller's rights hereunder.

(b) Upon the occurrence and during the continuance of an Event of Default where Buyer is the Defaulting Party (a "**Buyer Event of Default**"), Seller shall have the right to [(i) exercise any remedies available under the Benefit Assessment and Benefit Assessment Lien, including but not limited to foreclosure and any remedies contemplated by the Act, and]<sup>4</sup> (ii) terminate this PPA by providing five (5) days prior written notice of such termination to Seller and (iii) in the event that Seller terminates this PPA subject to (ii) herein, Buyer shall pay a Termination Payment to Seller.

**8.4 Termination Payment Notice.** In the event that Seller elects to require payment of the Termination Payment by Buyer as provided in Section 8.3, then, as soon as practicable after calculation of the Termination Payment by Seller, Seller will notify Buyer of the amount of the Termination Payment and any amount otherwise due and outstanding under this PPA. Such notice will include a written statement explaining in reasonable detail the calculation of such amount. Buyer shall be required to pay the Termination Payment and any amount otherwise due and outstanding under this PPA to Seller within ten (10) Business Days after the effectiveness of such notice.

**8.5 Remedies Cumulative.** Except as specifically provided to the contrary, the rights and remedies contained in this Article 8 are cumulative with the other rights and remedies available under this PPA or at law or in equity.

**8.6 Unpaid Obligations.** The Non-Defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this PPA. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any amount payable by the Defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

## ARTICLE 9. INVOICING AND PAYMENT; C-PACE LIEN; TRUE-UP

**9.1 Invoicing and Payment.** Buyer shall pay Seller, through the Municipality, for Energy in levelized [quarterly/semiannual] installments, based on the amount of Energy expected to be generated over the course of a year multiplied by the then-applicable Energy Payment Rate, with such payments secured by a benefit assessment lien against the Premises pursuant to the Act (the "**Benefit Assessment**"). The terms of the Benefit Assessment are set forth in the Certificate of Levy and Lien of Benefit Assessment (the "**Benefit Assessment Lien**"), attached hereto materially in the form of Exhibit F, which will be levied by the Municipality against the Premises after the

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<sup>4</sup> C-PACE only

execution of this PPA. The Municipality shall assign to Green Bank all powers and rights under the Benefit Assessment Lien by filing an Assignment of Benefit Assessment Lien, attached hereto materially in the form of Exhibit G, on the land records of the Municipality. The Green Bank shall assign to Seller all powers and rights under the Benefit Assessment Lien by filing an Assignment of Benefit Assessment Lien, attached hereto materially in the form of Exhibit H, on the land records of the Municipality. Payments are due and payable in equal installments as set forth in Exhibit E hereto, provided that the first payment shall be due and payable on the first due date for property taxes in the Municipality after sixty days from the Commercial Operation Date (the "***Repayment Start Date***"). All payments made by Buyer under this PPA must be made to the Municipality, unless otherwise notified in writing by Seller. The Benefit Assessment Lien may, at Seller's sole discretion, be amended, after the Commercial Operation Date, or at any other time, to reflect the Repayment Start Date, maturity date of the Benefit Assessment Lien pursuant to this PPA. Such amendment may be made by the Seller causing Green Bank to file a Confirmation and Amendment of Benefit Assessment Lien and Payment Schedule, which shall include the final repayment schedule and any other terms not set forth in the originally filed Benefit Assessment Lien, attached hereto materially in the form of Exhibit I, on the land records of the Municipality. Any amounts not paid by the applicable due date will accrue interest at the Late Payment Interest Rate until paid in full.

**9.2 True-Up.** Annually, but no later than fifteen (15) Business Days after the end of each calendar year, Seller shall deliver to Buyer a statement that shall set out the amount of Energy delivered in kWh during the past calendar year, the then-applicable Energy Payment Rate, and the total amount paid to Seller during that calendar year. The amount due shall be prorated for any partial month. Such statement shall include sufficient details so that Buyer can reasonably confirm the accuracy of the statement including, among other details, beginning and ending meter readings. The statement shall describe the amount due from Buyer to Seller for any overproduction of Energy versus that estimate used in the calculation of the levelized repayment schedule, as described in Section 9.1 above, or the amount due from Seller to Buyer for any underproduction of Energy versus that estimate. Buyer shall directly pay the amount due to Seller, or Seller shall pay the amount due to Buyer, within ten (10) Business Days after receipt of each statement. If Buyer does not pay Seller the amount due within (10) Business Days after receipt of each statement, such amount shall accrue interest at the Interest Rate from the date due to the date paid.

**9.3 Late Payment Interest Rate.** The Benefit Assessment Lien levied pursuant to the Act and this PPA shall be collected in the same manner as the property taxes of the Municipality on real property, including, in a Buyer Event of Default or delinquency, with respect to any penalties, fees and remedies. In conforming to Connecticut General Statute Sections 12-145 and 12-146, as may be amended, interest on delinquent payments shall accrue on the delinquent amount from the date the same became due until paid in full at an interest rate equal to 1.5% per month, or 18% per annum (the "***Late Payment Interest Rate***"). Any fractional part of a month in which any portion of any Benefit Assessment Lien payment remains unpaid is considered equivalent to a whole month. Further, any partial installment payment will first be applied to the total accrued interest before any reduction in the Benefit Assessment. If Connecticut General

Statute Sections 12-145 and 12-146 are amended, the interest and delinquent payment calculations described in this section shall conform to the amended language.]<sup>5</sup>

**9.4 Invoicing and Payment.** Seller will issue monthly invoices within ten (10) days after the conclusion of the preceding calendar month for deliveries made during that month. Except as specifically provided to the contrary herein, all invoices under this PPA will be due and payable not later than twenty (20) days after receipt of the applicable invoice. Each Party will make payment by check, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the applicable due date will accrue interest at the Late Payment Interest Rate until paid in full.]<sup>6</sup>

**9.5 Disputed Amounts.** A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this PPA at any time within twelve (12) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full amount of the applicable invoice or invoice adjustment (except any portions thereof that are manifestly inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise elsewhere in this PPA, and to give notice of the objection to the other Party. Any required payment will be made within ten (10) Business Days after resolution of the applicable dispute, together with interest accrued at the Late Payment Interest Rate from the due date to the paid date.

**9.6 No Setoff.** Except as otherwise set forth herein, each Party hereby waives all rights to set-offs of amounts due hereunder. The Parties agree that all amounts due hereunder are independent obligations and shall be made without set-off for other amounts due or owed hereunder.

**9.7 Records and Audits.** Each Party will keep, for a period not less than two (2) years after the expiration or termination of any Transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such Transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to Transactions during such other Party's normal business hours. Notwithstanding the foregoing, in the event that Buyer conducts an audit and discovers an inaccuracy in Seller's invoices, charges, computations and payments required for a Transaction in an amount in excess of five percent (5%), Buyer shall be entitled to recover the cost and expense of the audit in addition to the other corrective actions required as a result of said audit.

**9.8 Currency.** All pricing offered, payments made and amounts referenced hereunder are and will be in U.S. dollars.

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<sup>5</sup> Insert Sections 9.1-9.3 for C-PACE-secured PPAs only

<sup>6</sup> Insert this Section for non-C-PACE-secured PPAs only.

**ARTICLE 10.**  
**REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENTS;**  
**ADDITIONAL COVENANTS**

**10.1 Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this PPA are within its powers, have been duly authorized by all necessary action, do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it and do not require the consent of any third party; (c) this PPA and each other document executed and delivered in accordance with this PPA constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court; (d) it is acting for its own account, and has made its own independent decision to enter into this PPA, and is not relying upon the advice or recommendations of the other Party in so doing; (e) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this PPA; and (f) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates. Buyer represents and warrants to Seller that: (i) to its knowledge, there are no site conditions or construction requirements (including any Environmental Condition) that would increase the cost of installing the Interconnection Equipment at the planned locations or increase any liabilities in connection with the Interconnection Equipment; (ii) the information provided to Seller pursuant to this PPA as of the Effective Date is true and accurate in all material respects; (iii) [Buyer has a leasehold interest in the Buyer's Leased Premises; Owner has fee simple and clear title to the Premises, subject only to the Permitted Encumbrances; none of the Permitted Encumbrances would reasonably be expected to adversely impact Seller's rights hereunder or under this PPA; Buyer is not in default or material breach of Buyer's Lease; Buyer is not aware of any facts which would cause Owner or Buyer to be in default or material breach of Buyer's Lease][Buyer has fee simple and clear title to the Premises, subject only to the Permitted Encumbrances; and none of the Permitted Encumbrances would reasonably be expected to adversely impact Seller's rights hereunder or under this PPA]; (iv) no electricity generated by the SEF will be used to heat a swimming pool; (v) Buyer is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company and (vi) each Party has no knowledge of any facts or circumstances that could materially and adversely affect their respective ability to perform their obligations hereunder.

**10.2 Buyer Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366.** Buyer acknowledges and agrees that, for purposes of this PPA, Seller is not a "utility" as such term is used in Section 366 of the United States Bankruptcy Code and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

**10.3 [Buyer Acknowledgment Regarding C-PACE Act.** The Buyer has read the Act and will comply in all respects with the provisions of the Act, including but not limited to the following:

(a) Buyer represents and warrants that an energy audit or renewable energy system feasibility analysis has been performed on the SEF that assesses the expected energy cost savings of the energy improvements over the useful life of such improvements.

(b) Upon the execution of this PPA, Green Bank will provide notice to the Municipality and the Municipality will levy the Benefit Assessment and record the Benefit Assessment Lien in the land records of the Municipality. The Buyer covenants that it will not contest the amount or the validity of the Benefit Assessment that is levied or the Benefit Assessment Lien that is filed against the Premises in accordance with the terms of this PPA.

(c) Seller will impose requirements and conditions on the financing to ensure timely repayment of the Benefit Assessment, including, but not limited to, placing a lien on the Premises as security for the repayment of the Benefit Assessment as provided in (b) above.

(d) Buyer represents and warrants that Seller has disclosed to the Buyer the costs and risks associated with participating in the C-PACE program, including risks related to the failure of the Buyer to pay the Benefit Assessment. Seller has notified the Buyer that the Buyer may rescind this PPA not later than three business days after the execution of this PPA.

(e) The Benefit Assessment levied pursuant to the Act and this PPA, and the payments, fees and any penalties thereon shall constitute a lien against the Premises on which they are made until they are paid. Such lien and each of the installment payments on the Benefit Assessment shall be collected in the same manner as the property taxes of the Municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies. Each such lien may be recorded and released in the manner provided for property tax liens and, subject to the consent of existing mortgage holders, shall take precedence over all other liens or encumbrances except a lien for taxes of the Municipality on the Premises, which lien for taxes shall have priority over such benefit assessment lien. To the extent that any Benefit Assessment installment payment is not paid by the Buyer when due, the Benefit Assessment Lien on the Premises may be foreclosed to the extent of any unpaid payments and any penalties, interest and fees related thereto. In the event such benefit assessment lien is foreclosed, such benefit assessment lien shall survive the judgment of foreclosure to the extent of any unpaid installment payments of the Benefit Assessment secured by such benefit assessment lien that were not the subject of such judgment.

(f) The Municipality may assign to Green Bank any and all liens filed by the tax collector, as provided in the agreement between the Municipality and Green Bank. Green Bank may sell or assign to Seller, for consideration, any and all liens received from the Municipality. Seller may sell or assign, for consideration, any and all liens received from Green Bank. The consideration received by Green Bank or any subsequent lienholder shall be negotiated between Green Bank and Seller (or such other assignee). The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as Green Bank and the Municipality and its tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on the Premises, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable

attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been properly made by the assignee.

**10.4 Integrity of the Property as a Single Parcel.** The Buyer shall not, without the express written consent of the Seller, which consent may not be unreasonably withheld, by act or omission impair the integrity of the Premises as a single, separate, subdivided and zoned lot separate and apart from all other property which is owned by Buyer, or not.

**10.5 Partial Release.** If the Seller has provided its written consent to a subdivision or lot split relating to the Premises in accordance with Section 10.4 hereof, subject to the terms of this section, provided no Buyer Event of Default exists and is continuing, Seller agrees to release the Benefit Assessment Lien on one or more of the lots or parcels comprising the Premises provided that such lot or parcel that the Buyer is requesting the release of the Benefit Assessment Lien does not contain the SEF, or any part thereof, and provided further that the Seller has determined, in its sole discretion, that the partial release of the lien of the Benefit Assessment Lien on such lot or parcel is satisfactory to the Seller. The intent of this Section 10.5 is that the Seller shall not consent to or provide any partial release if the Seller shall determine in its sole and absolute discretion in good faith upon a commercially sound reason that the prospect of repayment is impaired or threatened by reason of a requested partial release by the Buyer.

**10.6 Transfer of the Premises; Binding on Future Owners.** The sale, transfer, pledge or hypothecation of the Premises (each being a “**Transfer of Premises**”) or any reconstitution of the Buyer ownership structure shall only be permitted if such transfer is fully subject to the Benefit Assessment Lien and the terms of this PPA. Any and all Transfers of Premises shall be subject to this PPA and the Benefit Assessment Lien. Buyer shall deliver notice of any Transfer of Premises to Seller in writing no later than thirty (30) days before such Transfer of Premises. All obligations under this PPA shall run with the land and shall bind all future owners of the Premises, or any interest therein, as if the same were expressly assumed by such parties. Buyer and any future owners of the Premises, or any interest therein, shall execute an assumption agreement and other documents, if reasonably requested by Seller, and to provide such information, as is requested by Seller, in connection with any Transfer of Premises]<sup>7</sup>

## ARTICLE 11. INDEMNITY; LIMITATIONS

**11.1 Indemnity.** To the fullest extent permitted by law, each Party (the “**Indemnitor**”) hereby indemnifies and agrees to defend, protect, and hold harmless the other Party and its Representatives (the “**Indemnified Parties**”) from and against any and all claims, losses, liabilities, damages, costs and expenses (including attorneys’ fees) (“**Indemnity Claims**”) caused by, resulting from, relating to or arising out of any breach of this PPA by the Indemnitor or any of its Representatives or any negligence or misconduct on the part of the Indemnitor or any of its Representatives; *provided, however*, that the Indemnitor will not have any obligation to indemnify

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<sup>7</sup> 10.3 -10.6 (inclusive) C-PACE Secured PPAs only.

the Indemnified Parties from or against any Indemnity Claims to the extent caused by, resulting from, relating to or arising out of the negligence or misconduct of the Indemnified Parties, or material breach of this PPA by the Indemnitee. In addition to the foregoing, to the fullest extent permitted by law, Buyer, as the Indemnitor, hereby indemnifies and agrees to defend, protect, and hold harmless Seller and its Representatives, as the Indemnified Parties, from and against any and all Indemnity Claims related to any and all Environmental Conditions, except to the extent that the same are caused by the gross negligence or willful misconduct of Seller and/or its Representatives, where, as used in this PPA, the term (a) “*Environmental Conditions*” means (i) the violation or alleged violation of any Environmental Law at or on the [Premises/Buyer’s Leased Premises]; (ii) the release or potential release of any Hazardous Material at, on or from the [Premises/Buyer’s Leased Premises], unless such Hazardous Material was brought onto the [Premises/Buyer’s Leased Premises] by Seller or its Representatives in violation of any Environmental Law; and/or (iii) any other environmental matter adversely affecting the [Premises/Buyer’s Leased Premises] that was not directly caused by Seller or its Representatives; (b) “*Hazardous Material*” means any chemical, waste, pollutant, or contaminant defined as or deemed hazardous or toxic under any Environmental Law; and (c) “*Environmental Law*” means all applicable federal, state or local law, regulation, or ordinance relating to the protection of human health and/or the environment.

**11.2 Limitation of Remedies, Liability and Damages.** The Parties confirm that with respect to the matters specified herein and to the extent specified the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. Without prejudice to the calculation of the amount of any Termination Payment, payment for Imputed Energy, and/or indemnity claims arising out of claims by third parties, neither Party will be liable for consequential, incidental, punitive, special exemplary or indirect damages, by statute, in tort or under contract under any indemnity provisions or otherwise; provided however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for intentional misconduct. The limitations imposed herein or remedies and the measure of damages are without regard to the applicable cause or causes, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding any provision of this agreement to the contrary, Seller’s maximum liability to the Buyer, except for indemnity obligations in respect of personal injury, property damage and intellectual property infringement claims, under this Agreement will be limited, in the aggregate to the difference between the amount Buyer actually pays to utility for electricity used by Buyer and the amount Buyer would have had to pay to Seller for electricity supplied by Seller over the remaining term of the Agreement.

**11.3 Limitations on Warranties.** Except as expressly provided in this PPA, Seller hereby disclaims any and all representations, warranties and guarantees, express or implied, including warranties of merchantability and fitness for a particular purpose.

**11.4 Duty to Mitigate.** Buyer and Seller shall each have a duty to mitigate damages pursuant to this PPA, and each shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party’s non-performance of this PPA, including with respect to termination of this PPA.



**ARTICLE 12.**  
**[CONFIDENTIALITY][CONNECTICUT FREEDOM OF INFORMATION ACT &  
CONFIDENTIALITY]**

[The price, other material terms, and text of this PPA shall be deemed Confidential Information, and Buyer and Seller shall take commercially reasonable steps to ensure that Confidential Information shall not be disclosed by Buyer or Seller to any other person. Neither Party will use any Confidential Information for any purpose except such Party's performance under this PPA. Furthermore, neither Party will disclose any Confidential Information to any third party (other than (and then only for purposes permitted by this PPA) the Party's or the Party's Affiliates' officers, employees, lenders, counsel, accountants, advisors or Financing Parties who have a need to know such information for the purposes permitted by this section and who have agreed to keep such terms confidential or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein) except in order to comply with the requirements of any applicable Law or any exchange, control area or independent system operator rule, tariff or agreement or in connection with any judicial or regulatory proceeding or request by a Governmental Entity; provided, however, that each Party will use reasonable efforts to prevent or limit any such disclosure. "**Confidential Information**" further includes, without limitation, any nonpublic confidential or proprietary information of a Party or its Affiliates or any of its or their Representatives relating to this PPA and the SEF and revealed to the other Party or its Affiliates or any of its or their Representatives during the Term. The obligations of the Parties under this Article will survive for a period of two (2) years from and after the termination of the Transaction to which any Confidential Information relates. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article 12 by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Article 12. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article 12, but shall be in addition to all other remedies available at law or in equity. Confidential Information does not apply to information that (i) becomes publicly available other than through the receiving Party's or its Representatives' breach of this PPA, (ii) is independently developed by the receiving Party or (iii) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. Nothing in this paragraph shall be construed to limit either Party's obligation or ability to disclose information pursuant to subpoenas, investigation, litigation or the like.]<sup>8</sup>

[Seller is an Affiliate of Green Bank, Green Bank is a "public agency" for purposes of the Connecticut Freedom of Information Act ("FOIA"). Accordingly, this PPA and information received pursuant to this PPA will be considered public records and will be subject to disclosure under the FOIA, except for information falling within one of the exemptions in Conn. Gen. Stat. § 1-210(b) and § 16-245n(d).

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<sup>8</sup> Insert this section when the Seller is any Person other than CEFIA Holdings LLC.

Because only the particular information falling within one of these exemptions can be withheld by Seller pursuant to an FOIA request, Buyer should specifically and in writing identify to Seller the information that Buyer claims to be exempt. Buyer should further provide a statement stating the basis for each claim of exemption. It will not be sufficient to state generally that the information is proprietary or confidential in nature and not, therefore, subject to release to third parties. A convincing explanation and rationale sufficient to justify each exemption consistent with General Statutes §1-210(b) and § 16-245n(d) must be provided.

Buyer acknowledges that (1) Seller has no obligation to notify Buyer of any FOIA request received by Seller, (2) Seller may disclose materials claimed by Buyer to be exempt if in Seller's judgment such materials do not appear to fall within a statutory exemption, (3) Seller may in its discretion notify Buyer of FOIA requests and/or of complaints made to the Freedom of Information Commission concerning items for which an exemption has been claimed, but Seller has no obligation to initiate, prosecute, or defend any legal proceeding, or to seek to secure any protective order or other relief to prevent disclosure of any information pursuant to an FOIA request, (4) Buyer will have the burden of establishing the availability of any FOIA exemption in any such legal proceeding, and (5) in no event shall Seller or any of its officers, directors, or employees have any liability for the disclosure of documents or information in Seller's possession where Seller, or such officer, director, or employee, in good faith believes the disclosure to be required under the FOIA or other law.]<sup>9</sup>

### **ARTICLE 13. NOTICES**

**13.1 Notices.** All notices, requests, statements or payments will be made to the addresses and persons specified below. All notices, requests, statements or payments will be made in writing. Notices required to be in writing will be delivered by hand delivery, [electronic mail,] overnight delivery or regular, certified, or registered mail, return receipt requested. All notices shall be deemed to have been properly given or made upon the earliest to occur of (a) actual delivery, (b) two (2) days after being sent by overnight courier service, (c) five (5) days after being deposited in the mail addressed as aforesaid and (d) one (1) day after being sent by e-mail; provided that in the case of notice by e-mail such notice is followed promptly by the sending of the original of such notice by overnight courier service. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Buyer:

[ ]

If to Seller:

[ ]

With copy to:

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<sup>9</sup> Insert this section when the Seller is CEFIA Holdings LLC.

[ ]

**ARTICLE 14.**  
**ASSIGNMENT AND FINANCING**

**14.1 Assignment; Binding Effect.**

(a) Except for assignments to Affiliates, neither Buyer nor Seller shall, without the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this PPA, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void.

(b) Notwithstanding the foregoing, Seller may, without the prior written consent of Buyer, assign, mortgage, pledge or otherwise directly or indirectly transfer all or any part of, or any right or obligation under this PPA (i) to any party that acquires Seller or all or substantially all of Seller's assets; (ii) for security purposes in connection with any financing or other financial arrangements regarding SEF; (iii) to any Financing Party; (iv) to any Qualified Assignee or (v) to an entity that enters into an agreement with a Qualified Assignee pursuant to which (1) such Qualified Assignee shall be responsible for SEF operation and maintenance under this PPA and (2) Seller shall have granted to the Qualified Assignee all other rights granted to Seller herein necessary for operation and maintenance of SEF (each, a "*Permitted Transfer*"). Seller shall deliver notice of any Permitted Transfer to Buyer in writing as soon as reasonably practicable. Buyer agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by Seller in connection with any Permitted Transfer.

(c) [Notwithstanding the foregoing, Buyer may, without the prior written consent of Seller, assign all rights and obligation under this PPA to a Person who acquires title to the entire Premises pursuant to a Transfer of Premises. Buyer shall deliver notice of any such assignment associated with such Transfer of Premises to Buyer in writing as soon as reasonably practicable.]<sup>10</sup>

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

**14.2 Cooperation with Financing.** Buyer acknowledges that Seller will be financing the construction of the SEF and Buyer agrees that it shall reasonably cooperate with Seller and its Financing Parties in connection with such financing for the SEF, including (a) the furnishing of such public information; (b) the giving of such certificates; (c) providing of an officer's certificate of Buyer or its affiliate that this PPA was duly authorized, executed and delivered by Buyer, (d) the obtaining of any lien waivers, the execution of commercial law forms and such other documents, all as reasonably requested by Seller or any Financing Party to secure such Financing Party's collateral position in the SEF or in Seller's rights under this PPA; *provided, however*, that the foregoing undertaking shall not obligate Buyer to change any rights of benefits, or increase

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<sup>10</sup> Insert clause for C-PACE Secured PPAs only.

any burdens, liabilities or obligations of Buyer, under this PPA to the Financing Parties except as specifically provided herein.

## **ARTICLE 15. FINANCING PARTY ACCOMMODATIONS**

**15.1 Buyer Acknowledgment.** Buyer acknowledges that Seller shall have the right to finance the SEF with financing accommodations from a Financing Party and that Seller's obligations will be secured by, among other collateral, a pledge or collateral assignment of this PPA and a first security interest in the SEF. In order to facilitate such necessary financing, Buyer agrees as set forth below.

**15.2 Consent to Assignment.** Notwithstanding any contrary term or provision of this PPA, Seller shall have the right to assign this PPA in connection with the financing or refinancing of the SEF, and Buyer consents to the assignment by Seller to the Financing Party of Seller's right, title and interest in and to this PPA. Notwithstanding any contrary term or provision contained in this PPA, any assignment of this PPA to a Financing Party for financing or refinancing of the SEF shall not require Buyer's consent. In addition, Buyer shall in good faith work with Seller and Seller's Financing Party upon request to agree upon consent by Buyer to the assignment of this PPA, provided that any such consent does not require Buyer to alter its rights and obligations pursuant to this PPA in any way.

**15.3 Financing Party's Rights Following an Event of Default.** Notwithstanding any contrary term or provision of this PPA:

(a) The Financing Party, as assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this PPA in accordance with the terms of this PPA, provided that such Financing Party also satisfies the obligations of Seller hereunder. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this PPA and the SEF.

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

(c) Upon the exercise of remedies under its security interest in the SEF, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to the Financing Party, Buyer's consent shall not be required, however, the Financing Party will give notice to Buyer of the transferee or assignee of this PPA; *provided, further*, that any sale, transfer or other disposition of the SEF by the Financing Party, whether by judicial proceeding or otherwise, shall be made solely to a Qualified Assignee. Any such exercise of remedies shall not constitute an Event of Default.

(d) Upon any rejection or other termination of this PPA pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of

Financing Party made within sixty (60) days of such termination or rejection, Buyer will enter into a new PPA with Financing Party or its Qualified Assignee, on the same terms and conditions as hereunder.

(e) In the event that a Financing Party becomes the owner of the SEF as a result of the exercise of remedies under subsections (c) or (d) above, whether as a result of the exercise of its remedies as a secured party or in connection with the bankruptcy of Seller, the Financing Party shall agree not to disturb the Buyer's rights to purchase Energy under this PPA, pursuant to the terms and conditions hereof, and further agrees to sell its right in the SEF or the PPA to a Qualified Assignee purchaser only if such purchaser agrees to continue to provide Buyer with Energy under this PPA in accordance with the terms and conditions thereof.

#### **15.4 Financing Party's Right to Cure.**

(a) Upon receipt from Financing Party of its invocation of the rights provided for in this Section 15.4 and the name and address of the Financing Party entitled to notice, Buyer will not exercise any right to terminate this PPA unless Buyer has given the Financing Party prior written notice at the address provided to Buyer in writing of any event giving rise to Buyer's right to terminate this PPA. Buyer's notice of an intent to terminate this PPA must specify the condition giving rise to such right. Notwithstanding any contrary term or provision in this PPA, Financing Party shall have forty-five (45) days beyond the cure period provided to Seller pursuant to this PPA to cure the condition. Buyer's and Seller's obligations under this PPA will otherwise remain in effect and required to be fully performed during any cure period.

(b) If the Financing Party or its Qualified Assignee (including any purchaser which meets the definition of a Qualified Assignee) has commenced and is diligently pursuing judicial proceedings to acquire title to or control of the SEF, or has acquired title to or taken control of the SEF, and in either event cures all existing Seller Events of Default that are capable of being cured by Financing Party or its Qualified Assignee subject to and within the time allowed by Section 15.4(a) and assumes in writing the obligations of Seller hereunder, then this PPA will continue in full force and effect.

**15.5 Notice of Defaults and Events of Default.** Upon and at any relevant time after receipt of the notice provided for in Section 15.4(a), Buyer agrees to deliver to the Financing Party a copy of any notice of a Seller's default simultaneously with the delivery of such notice by Buyer to Seller.

### **ARTICLE 16. MISCELLANEOUS**

**16.1 Governing Law.** This PPA will be governed by the Laws of the State of Connecticut, without giving effect to principles of conflicts of laws.

**16.2 Entire Agreement; Amendments.** This PPA (including the exhibits, any written schedules, supplements or amendments) constitutes the entire agreement between the Parties, and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Without limiting the generality of the foregoing, the Parties acknowledge and agree that, as of the Effective Date of the PPA, (a) any and all prior agreements between the Parties

relating to the subject matter of the PPA (collectively, the “*Prior Agreements*”) are superseded in their entirety by the PPA, (b) the Prior Agreements are of no further force or effect and no longer the legal obligation of either Party, (c) no Party had, nor now has, any claim against, or liability or obligation to, the other Party under the Prior Agreements, and (d) no asset or property of either Party was, or now is, bound by, or subject to, any encumbrance, lien or other restriction by reason of the Prior Agreements. Except as otherwise expressly provided in this PPA, any amendment, modification or change to this PPA will be void unless in writing and executed by both Parties.

**16.3 Non-Waiver.** No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing and signed by the waiving Party. No consent by either Party to, or waiver of a breach by either Party, whether express or implied, shall be construed operate as or constitute a consent to waiver of, or excuse of any other or subsequent or succeeding breach by either Party.

**16.4 Severability.** If any part, term, or provision of this PPA, is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality or enforceability of any other part, term, or provision of this PPA, and shall not render this PPA unenforceable or invalid as a whole. Rather the part of this PPA that is found invalid or unenforceable will be amended, changed, or interpreted to achieve as nearly as possible the same objectives and economic effect as the original provision, or replaced to the extent possible, with a legal enforceable, and valid provision that is as similarly in tenor to the stricken provision, within the limits of applicable Law, and the remainder of this PPA will remain in full force.

**16.5 No Third-Party Beneficiaries.** Nothing in this PPA will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind.

**16.6 No Recourse to Affiliates.** This PPA is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary, partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder unless such obligations were assumed in writing by the Person against whom recourse is sought.

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

**16.8 Attorneys’ Fees; Costs.** In the event of any action, claim, suit, proceeding, or arbitration between the Parties relating to this PPA or the subject matter hereof the prevailing Party will be entitled to recover its reasonable attorneys’ fees and expenses and costs of such action claim, suit, proceeding, or arbitration in addition to any other relief granted or awarded. Each Party will bear its own costs and expenses relating to negotiating this PPA and any additional documents relating hereto or thereto.

**16.9 Counterparts.** This PPA may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this PPA received by either Party by facsimile or other electronic transmissions (such as an email .pdf file) is binding upon the other Party as an original.

**16.10 Further Assurances.** The Parties shall at their own cost and expense do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this PPA.

**16.11 General Interpretation.** The terms of this PPA have been negotiated by the Parties hereto and the language used in this PPA shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This PPA shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument of any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the PPA. No rule of strict construction will be applied against any person.

**16.12 Removal of Liens.** Buyer will ensure that no liens of whatever type will be filed, lodged or attached to the SEF (other than those created by Seller or its creditors). If any such liens are filed, lodged or attached to the SEF, Buyer shall immediately notify Seller in writing, will promptly do all acts and things at the Buyer's expense to remove such liens and agrees to fully indemnify Seller for any loss and damage (including reasonable attorneys' fees) that Seller incurs as a result of any lien on or over the SEF. Seller shall be entitled to, and is hereby authorized to, file one or more precautionary Uniform Commercial Code financing statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the SEF in order to protect its rights in the SEF.

**16.13 Forward Contract.** The Parties acknowledge and agree that this PPA and the transactions consummated under this PPA constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

**16.14 Dispute Resolution.**

(a) In the event that any question, dispute, difference or claim arises out or in connection with this Agreement, including any question regarding its existence, validity, performance or termination (a "Dispute"), then senior management personnel from both Seller and Buyer shall meet and diligently attempt in good faith to resolve the Dispute for a period of thirty (30) days following one Party's written request to the other Party for such a meeting. If, however, either Party refuses or fails to so meet, or the Dispute is not resolved by negotiation, the provisions of Sections 16.14(b) shall apply.

(b) In the event the Parties are unable to resolve a Dispute pursuant to the provisions of Sections 16.14(a), the Parties agree that any State or Federal court located in Hartford County, Connecticut shall have exclusive jurisdiction and venue to hear all disputes arising out of or relating to this Agreement. Further, notwithstanding anything in this Agreement to the contrary,

in the event a Party fails to perform as agreed upon hereunder, the non-breaching Party has the right to seek such injunctive relief and other equitable relief from that any State or Federal court located in Hartford County, Connecticut.

**16.15 Rescission Period.** Either Party may rescind this PPA, without penalty, by written notice delivered to and received by the other Party not later than three (3) Business Days after the Effective Date (the "*Rescission Period*").

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, intending to be legally bound, Seller and Buyer have signed this PPA through their duly authorized representatives effective as of the date first set forth above.

[ \_\_\_\_\_ ]  
By: [ \_\_\_\_\_ ]

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

[ \_\_\_\_\_ ]

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

**EXHIBIT A**

**SOLAR ENERGY FACILITY**

The solar energy facility (SEF) shall consist of [ ] (the “*Expected System Output*”), installed [ ]. The SEF shall be interconnected electrically directly to the Delivery Point behind the meter installed on the [Premises/Buyer’s Leased Premises] by Buyer’s Serving Utility.

**EXHIBIT B**

**PREMISES**

The Premises shall consist of all that certain real property together with all improvements, buildings, and other structures thereon known as [ ], which area includes any Interconnection Equipment and the Delivery Point, being more particularly described as:

[Insert property description from title search]

## EXHIBIT C

### SCHEDULE OF DEFINITIONS AND RULES OF INTERPRETATION

1. **Definitions.** The definitions provided below and elsewhere in this PPA will apply to the defined terms used in this PPA:

(a) “**Act**” shall have the meaning ascribed to it in the Recitals.

(b) “**Affiliate**” means with respect to any entity, such entity’s general partner or manager, employee, or any other entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such entity. For purposes of this definition, “control” (including, with its correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any such person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise.

(c) “**Bankrupt**” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) is unable to pay its debts generally as they come due or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within sixty (60) days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

(d) [“**Benefit Assessment**” shall have the meaning ascribed to it in Section 9.1.]

(e) [“**Benefit Assessment Lien**” shall have the meaning ascribed to it in Section 9.1.]

(f) “**Business Day**” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

(g) “**Buyer**” shall have the meaning ascribed to it in the Preamble.

(h) “**Buyer Event of Default**” has the meaning ascribed thereto in Section 8.2.

- (i) “**Buyer Misconduct**” shall have the meaning ascribed to it in Section 7.1.
- (j) [“**Buyer’s Lease**” shall have the meaning ascribed to it in the Recitals.]
- (k) [“**Buyer’s Leased Premises**” shall have the meaning ascribed to it in the Recitals.]
- (l) “**Buyer’s Serving Utility**” means [The United Illuminating Company] [The Connecticut Light and Power Company d/b/a Eversource].
- (m) “**Buyer Termination Default**” has the meaning ascribed thereto in Section 8.3(b).
- (n) “**CAMD**” means the Clear Air Markets Division of the United States Environmental Protection Agency or any successor or other agency that is given jurisdiction over a program involving transferability of specific Environmental Attributes.
- (o) “**Capacity Attributes**” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the SEF, intended to value any aspect of the capacity of the SEF to produce Energy or ancillary services, which may be counted toward any measure, regulation, requirement, or program of Buyer’s Serving Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity.
- (p) “**Claiming Party**” shall have the meaning ascribed to it in Section 7.3.
- (q) “**Commercial Operation**” will begin on the day in which the entire SEF is operating on a sustained basis and producing not less than the Expected System Output and Seller is in receipt of all required approvals, signoffs and permits from any and all Governmental Entities and the Buyer’s Serving Utility for the production and sale of Energy (including the resale of Energy to Buyer’s Serving Utility).
- (r) “**Commercial Operation Date**” means the date upon which the SEF begins Commercial Operation, as set forth in the Notice of Commercial Operation.
- (s) [“**Confidential Information**” shall have the meaning ascribed to it in Article 12.]
- (t) [“**Consent Agreement**” shall have the meaning ascribed to it in Section 5.4]
- (u) [“**C-PACE Program**” shall have the meaning ascribed to it in the Recitals.]
- (v) “**Defaulting Party**” shall have the meaning ascribed to it in Section 8.1.
- (w) “**Delivery Point**” means the interconnection points on [the Premises/Buyer’s Leased Premises] behind the meters installed by Buyer’s Serving Utility and before the electrical systems serving [the Premises/Buyer’s Leased Premises] . No other delivery points are permitted under this PPA without the permission of the Buyer.
- (x) “**Discounted Revenue Forecast**” means the sum of the present values calculated at the per annum rate of interest equal to four percent (4%) of the following amounts for each year

(or part thereof) remaining between the [early Termination Date and the end of the Term]: (i) the applicable Energy Payment Rate for such year, if known, or a mutually agreed estimate of the Energy Payment Rate for such year, multiplied by (ii) the average annual output during the previous three (3) years.

(y) “**Effective Date**” shall have the meaning ascribed to it in the Preamble to this PPA.

(z) “**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the SEF. Energy does not include any attendant Environmental Attributes.

(aa) “**Energy Payment Rate**” shall have the meaning ascribed to it in Section 3.3.

(bb) “**Environmental Attributes**” means each of the following that is in effect as of the Effective Date: (i) credits, benefits, reductions, offsets and other beneficial allowances, including, to the extent applicable and without limitation, performance based incentives or renewable portfolio standard in the state in which the Premises are located or in other jurisdictions (collectively, “**Allowances**”) attributable to the ownership or operation of the SEF or the production or sale of Energy, (ii) other Allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy during the Term and in which Seller has good and valid title, including any credits to be evidence by Solar Renewable Energy Certificates or similar laws or regulations applicable in any jurisdiction, (iii) any such Allowances related to (A) oxides of nitrogen, sulfur, or carbon, (B) particulate matter, soot, or mercury, or (C) the United Nations Framework Convention on Climate Change (the “**UNFCCC**”) or the Kyoto Protocol to the UNFCCC or crediting “early action” with a view thereto, or involving or administered by the CAMD, and (iv) all reporting rights with respect to such allowances under Section 1605(b) of the Energy Policy Act of 1992, as amended from time to time or any successor statute, or any other current or future international, federal, state or local law, regulation or bill, or otherwise. Environmental Attributes shall also include Tax Benefits.

(cc) “**Environmental Conditions**” shall have the meaning ascribed to it in Section 11.1.

(dd) “**Environmental Law**” shall have the meaning ascribed to it in Section 11.1.

(ee) “**Event of Default**” shall have the meaning ascribed to it in Section 8.1.

(ff) “**Expected System Output**” shall have the meaning ascribed to it in Exhibit A.

(gg) “**Financing Party**” or “**Financing Parties**” shall mean any and all Persons or successors or assignees thereof lending money or extending credit to Seller or an Affiliate of Seller, or investing equity (including tax equity) in Seller or an Affiliate of Seller: (i) for the construction, term or permanent financing of the SEF; (ii) for working capital or other ordinary business requirement of the SEF (including but not limited to the maintenance, repair, replacement or improvement of the SEF); (iii) for any development financing, bridge financing, credit enhancement, credit support or interest rate protection in connection with the SEF; (iv) for the Seller’s operation of the SEF; or (v) for the purchase of the SEF and related rights and obligations of Seller.

(hh) [**“FOIA”** shall have the meaning ascribed to it in Article 12.]

(ii) **“Force Majeure”** means any event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) is not within the reasonable control, or is not the result of the negligence or willful misconduct, of the Claiming Party, and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided and shall be deemed to include, but not be limited to, acts of God, acts of civil or military authorities, acts of war or public enemy, insurrections, riots, strikes or other labor disturbances, fires, explosions, floods, interruption of transportation, embargoes, or other causes of a similar nature. Force Majeure will not be based on (i) Buyer’s inability economically to use Energy purchased hereunder or by for such Energy, or (ii) Seller’s ability to sell Environmental Attributes at any price or Energy at a price greater than the price of Energy under this PPA.

(jj) **“Governmental Approvals”** means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the SEF, the production and delivery of Energy, and Environmental Attributes, or any other transactions or matter contemplated by this PPA (including those pertaining to electrical, Premises, zoning, environmental and occupational safety and health requirements).

(kk) **“Governmental Charges”** means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, license fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this PPA.

(ll) **“Governmental Entity”** means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal, program administrator or other instrumentality of any government, whether federal, state or local, domestic or foreign, or any Person, owned, operated, managed or otherwise controlled thereby.

(mm) [**“Green Bank”** shall have the meaning ascribed to it in the Recitals.]

(nn) **“Hazardous Material”** shall have the meaning ascribed to it in Section 11.1.

(oo) **“Imputed Energy”** means Energy that the SEF is prevented from generating or delivering to, or that is not accepted at, the Delivery Point to the extent not caused by Seller or Force Majeure. In determining Imputed Energy for which Buyer is obligated to pay Seller, the Parties shall consider insulation, historical performance, projected output degradation or such other factors as Seller and Buyer shall in good faith agree.

(pp) **“Indemnified Parties”** shall have the meaning ascribed to it in Section 11.1.

(qq) “**Indemnitor**” shall have the meaning ascribed to it in Section 11.1.

(rr) “**Insolation**” shall have the meaning ascribed to it in Section 3.6.

(ss) “**Interconnection Agreement**” means the agreement for interconnection of the SEF with the distribution system of Buyer’s Serving Utility.

(tt) “**Interconnection Equipment**” means that portion of the SEF, including mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering Devices and equipment and utility interconnections, as required or appropriate to effect the interconnection of the SEF to the Premises or to Buyer’s Serving Utility[, including such as may be located on Buyer’s Leased Premises.]

(uu) “**ITC Credit**” means (i) the energy credit under Section 48 of the Internal Revenue Code of 1986, and (ii) the grant under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009, as each may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto.

(vv) [“**Property Owner**” shall have the meaning ascribed to it in the Recitals.]

(ww) [“**Late Payment Interest Rate**” shall have the meaning ascribed to it in Section 9.3.]

(xx) [“**Late Payment Interest Rate**” means, for any date, the lesser of (i) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or, if not published on such day, on the most recent proceeding day on which published), plus 2%, and (ii) the maximum rate permitted by applicable Law.]

(yy) “**Law**” means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this PPA or the transaction contemplated hereby.

(zz) “**License**” shall have the meaning ascribed to it in Section 5.1(b).

(aaa) “**License Term**” shall have the meaning ascribed to it in Section 5.1(b).

(bbb) “**Meter**” shall have the meaning ascribed to it in Section 6.4.

(ccc) “**Metering Device**” means any and all meters at or immediately before the Delivery Point needed for the registration, recording, and transmission of information regarding the Energy and delivered to the Delivery Point.

(ddd) [“**Municipality**” shall have the meaning ascribed to in the Recitals.]

(eee) “**Non-Defaulting Party**” shall have the meaning ascribed to it in Section 8.1(a).

(fff) “**Notice of Commercial Operation**” shall have the meaning ascribed to it in Section 2.3.



(ggg) “**PPA**” means this Power Purchase Agreement.

(hhh) “**Parties**” shall mean Buyer and Seller, collectively or individually, as the context may require.

(iii) “**Permitted Encumbrances**” means those encumbrances against the Premises listed in Exhibit D.

(jjj) “**Permitted Transfer**” shall have the meaning ascribed to it in Section 14.1(b).

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

(lll) “**Premises**” shall have the meaning ascribed to it in the Recitals.

(mmm)[“**Property Owner**” shall have the meaning ascribed to it in the Recitals.]

(nnn) “**Prudent Utility Practices**” means those practices, methods, and acts, that are commonly used by a significant portion of the solar powered electric generation industry in the United States using prudent engineering and operations to design and operate solar powered generating facilities and related electric equipment lawfully and with safety, dependability, efficiency, and economy, including all applicable requirements of Law. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible standards, practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers’ warranties and the requirements of governmental authorities of competent jurisdiction and the requirements of this PPA.

(ooo) “**Prior Agreements**” shall have the meaning ascribed to it in Section 16.2.

(ppp) “**Qualified Assignee**” means as it pertains to any assignment of this PPA by Seller, any entity that has competence and experience in the operation and maintenance of solar photovoltaic systems similar in size and type as the SEF and is financially capable of performing Seller’s obligations under this PPA, all as reasonably demonstrated to Buyer, and agrees in writing to assume Seller’s duties and obligations under the PPA.

(qqq) “**Rescission Period**” shall have the meaning ascribed to it in Section 16.2.

(rrr) “**Representatives**” means, in respect of a Person, the officers, directors, employees, agents, advisors, contractors, or other representatives of such Person.

(sss) “**SEF**” means the solar electric generating facility that produces the Energy sold and purchased under this PPA as more particularly defined in Exhibit A hereto, including the Interconnection Equipment.

(ttt) “**SEF Assets**” means each and all of the assets of which the SEF is comprised, including Seller’s solar energy panels, mounting systems, carports, tracking devices, inverters,

integrators and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the SEF.

(uuu) “**SEF Loss**” means loss, theft, damage or destruction of the SEF or SEF Assets, or any other occurrence or event that prevents or limits the SEF from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or other Force Majeure).

(vvv) “**Seller**” shall have the meaning ascribed to it in Preamble.

(www) “**Seller Event of Default**” has the meaning ascribed thereto in Section 8.2.

(xxx) “**Seller Termination Default**” has the meaning ascribed thereto in Section 8.2.

(yyy) “**Site Electrical System**” means Buyer’s existing electrical system for the supply and distribution of electricity to [the Premises/Buyer’s Leased Premises] , which system is interconnected with Buyer’s Serving Utility.

(zzz) “**Solar Renewable Energy Certificates**” or “**SRECs**” means the certificate representing the environmental attributes associated with Energy, as developed under the oversight and regulations of Connecticut’s Public Utilities Regulatory Authority, including any modifications or revisions thereof or any successor agency.

(aaaa) “**SUT**” shall have the meaning ascribed to it in Section 3.5(b).

(bbbb) “**Tax Benefits**” means ITCs attributable to the SEF or Energy (including the ITC Credit), accelerated depreciation attributable to the SEF or any SEF Asset, and any other tax credit or tax write-offs allowed under applicable law attributable to the SEF or Energy, irrespective of whether such Tax Benefits accrue for the benefit of Seller, any Affiliate, or any investor of Seller or any Affiliate of such investor.

(cccc) “**Term**” shall have the meaning ascribed thereto in Section 2.1.

(dddd) “**Termination Payment**” means an amount equal to the sum of (i) Discounted Revenue Forecast applicable through the end of the Initial Term or the applicable extension term, as the case may be, (ii) the value of Environmental Attributes relating thereto, such value determined based on the greater of the value at which Seller had contracted to sell those Environmental Attributes or the spot market value, and (iii) the value of any lost Tax Benefits.

(eeee) “**Third Party Monitor**” means an unaffiliated third party, selected in each case by Seller and reasonably approved by Buyer that provides, installs, operates or maintains the installation, operation, or maintenance of the Metering Device.

(ffff) “**Transaction**” means any transaction between the Parties under the terms of this PPA.

(gggg) [*“Transfer of Premises”* shall have the meaning ascribed to it in Section 10.6.]

2. **Rules of Interpretation.** In this PPA, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this PPA and a reference to a recital, Article, Section, subsection or paragraph of this PPA or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this PPA or other agreement in which it is used unless otherwise stated;

(b) references to this PPA, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) reference to any Article, Section, or Exhibits means such Article of this PPA, Section of this PPA, or such Exhibit to this PPA, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(d) a reference to this PPA, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this PPA or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a Person includes a reference to the Person’s executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) “including” means “including, but not limited to,” and other forms of the verb “to include” are to be interpreted similarly;

(j) references to “or” shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”);

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this PPA expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a day is a reference to a calendar day, (ii) a month is a reference to a calendar month, and (iii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) references to any date in this PPA shall be deemed to mean such date as adjusted from time to time as permitted hereunder due to Force Majeure unless expressly stated otherwise; and

(q) if any index used in this PPA at any time becomes unavailable, whether as a result of such index no longer being published or the material alteration of the basis for calculating such index, then Seller and Buyer shall agree upon a substitute index that most closely approximates the unavailable index as in effect prior to such unavailability. If the base date of any such index is at any time reset, then the change to the index resulting therefrom shall be adjusted accordingly for purposes of this PPA.

**EXHIBIT D**  
**PERMITTED ENCUMBRANCES**

[Insert from title search]

**EXHIBIT F**  
**FORM OF CERTIFICATE OF LEVY AND LIEN OF BENEFIT ASSESSMENT**

The undersigned Tax Collector of the \_\_\_\_\_, Connecticut ("Municipality"), with an office at \_\_\_\_\_, Connecticut, for and on behalf of the Connecticut Green Bank, formerly known as the Clean Energy Finance and Investment Authority (the "Green Bank"), with an office at 845 Brook Street, Rocky Hill, Connecticut 06067, pursuant to the Commercial Property Assessed Clean Energy Program established under Connecticut General Statutes Section 16a-40g, as amended (the "Act"), and the Municipal Agreement between the Municipality and Green Bank dated \_\_\_\_\_, HEREBY LEVIES A BENEFIT ASSESSMENT AGAINST AND LIEN UPON certain real property commonly referred to as \_\_\_\_\_ and described more particularly in the attached Exhibit A (the "Property"), situated in the Municipality and owned on the date hereof in whole or in part by \_\_\_\_\_ (the "Property Owner"), said levy and lien shall secure the repayment of financing for energy improvements made or to be made to the Property pursuant to that certain Solar Power Purchase Agreement between Property Owner and [ \_\_\_\_\_ ], dated \_\_\_\_\_, as may be amended (the "SPPA"). This levy and lien are subject to the terms and conditions of the SPPA and are made in accordance with the SPPA. Upon the transfer or conveyance of the Property, each subsequent owner of the Property, by accepting title to the Property, assumes and agrees to perform all of the obligations and covenants set forth herein and in the SPPA and each other document referenced therein, including, but not limited to, making the installment payments described below, from and after the date such owner acquires title to the Property. The amount and repayment of said levy and lien, as determined by Green Bank or any of its affiliates and provided to Municipality, are as follows: an installment payment plan is in effect for payment of the benefit assessment based on the principal amount of \$ \_\_\_\_\_, plus any additional fees, interest, and expenses pursuant to the SPPA, with equal installments due and payable pursuant to the SPPA. Pursuant to the SPPA, the final installment payment plan and maturity date of this levy and lien shall be provided to the Municipality by Green Bank, or any of its affiliates, and filed on the Land Records of the Municipality. In the event that any such installment shall remain unpaid for thirty days after the same shall become due and payable, interest and other charges shall be charged upon the unpaid installment(s) at the rate of 18% per annum, as provided by the Act and by law. At such time as the principal and interest payments of the benefit assessment have been satisfied and paid in full, a release of this Certificate shall be filed in the Land Records of the Municipality evidencing such release.

This Certificate constitutes a certificate of lien and is filed pursuant to the provisions of the Act to evidence a lien for the benefit assessment levied upon the Property for the special benefits conferred upon said Property by the renovation or retrofitting for energy improvements related thereto. Pursuant to the Act, this lien shall take precedence over all other liens or encumbrances except a lien for taxes of the Municipality on real property, which lien for taxes shall have priority over this lien. For the purposes of this lien, the Green Bank and any future successors, assigns or heirs of such lien shall be bound by and irrevocably subordinated to any environmental land use restriction recorded on the land records of the Municipality pursuant to Conn. Gen. Stat. § 22a-133o after this lien is filed on the land records of the Municipality.

The portion of this Certificate which constitutes a levy of benefit assessment and notice of installment payment of benefit assessments is filed pursuant to the provisions of the Act and the Connecticut General Statutes, as amended. This Certificate and the levy and lien set forth herein shall run with the land and shall be binding upon Property Owner and its heirs, executors, administrators, successors and assigns.

By order of the Tax Collector of the City/Town of \_\_\_\_\_.

Dated at \_\_\_\_\_, Connecticut this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Tax Collector

Received for Record: \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ A.M./P.M.

Recorded in the \_\_\_\_\_ Land Records at Volume \_\_\_\_\_, Page \_\_\_\_\_

\_\_\_\_\_  
City/Town Clerk

**EXHIBIT G**  
**FORM OF ASSIGNMENT OF BENEFIT ASSESSMENT LIEN TO GREEN BANK**

KNOW ALL PERSONS BY THESE PRESENTS, that the CITY/TOWN OF \_\_\_\_\_, a Connecticut municipal corporation (hereinafter referred to as "Assignor"), acting herein by \_\_\_\_\_, its Tax Collector, duly authorized pursuant to a Municipal Agreement dated \_\_\_\_\_, 20\_\_\_\_, between the Assignor and the Connecticut Green Bank, in consideration of One Dollar (\$1.00) and other valuable consideration paid to Assignor, the receipt of which is hereby acknowledged, hereby quit-claims, grants, bargains, sells, conveys, assigns, transfers and sets over unto [ \_\_\_\_\_ ] ("Assignee"), without warranty covenants and without recourse, all of its right, title and interest in and to that certain benefit assessment lien and the debts secured thereby together with such interest, fees, and expenses of collection as may be provided by law, filed by the \_\_\_\_\_ Tax Collector on the \_\_\_\_\_ Land Records, on property owned on the date hereof in whole or in part by \_\_\_\_\_ and as described on **Exhibit A** and also commonly referred to as \_\_\_\_\_, attached hereto and made a part hereof (the "Lien"), to have and to hold the same unto the said Assignee, its successor and assigns forever.

This Assignment is made, given and executed pursuant to the authority granted to Assignor as a municipality by Connecticut General Statutes Section 16a-40g, as amended.

By execution of this Assignment, the Assignor assigns to Assignee, and the Assignee assumes, all of the rights at law or in equity, obligations powers and duties as the Assignor and the Assignor's Tax Collector would have with respect to the Lien, if the Lien had not been assigned with regard to precedence and priority of such lien, the accrual of interest, charges, fees and expenses of collection, pursuant to Connecticut General Statutes Section 16a-40g, as amended.

This Assignment by the Assignor is absolute and irrevocable and the City/Town shall retain no interest, reversionary or otherwise, in the Lien.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

Assignor

By \_\_\_\_\_

Tax Collector

STATE OF CONNECTICUT)

ss.: \_\_\_\_\_

COUNTY OF \_\_\_\_\_)

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, Tax Collector, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained and that he/she acknowledged the same to be his/her free act and deed, before me, in his/her capacity as said Tax Collector.

\_\_\_\_\_  
Commissioner of the Superior Court

**EXHIBIT H**  
**FORM OF ASSIGNMENT OF BENEFIT ASSESSMENT LIEN TO SELLER**

KNOW ALL PERSONS BY THESE PRESENTS, that the CONNECTICUT GREEN BANK, a body politic and corporate, constituting a public instrumentality and political subdivision of the State of Connecticut ("Assignor"), acting pursuant to a \_\_\_\_\_ dated \_\_\_\_\_, 201\_ (the "Agreement"), by and among Assignor, \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"), in consideration of One Dollar (\$1.00) and other valuable consideration paid to Assignor by the Assignee, the receipt of which is hereby acknowledged, hereby quit-claims, grants, bargains, sells, conveys, assigns, transfers and sets over unto Assignee, without warranty covenants and without recourse (except as set forth in the Agreement), all of its right, title and interest in and to that certain [hereinafter defined Lien][benefit assessment lien] and the debts secured thereby together with such interest, fees, and expenses of collection as may be provided by law[, filed by the City/Town of \_\_\_\_\_ Tax Collector and assigned to Assignor on the \_\_\_\_\_ Land Records, on property owned on the date hereof in whole or in part by \_\_\_\_\_ and as described on Exhibit A, and also commonly referred to as \_\_\_\_\_, attached hereto and made a part hereof (the "Lien")], to have and to hold the same unto the said Assignee, its successor and assigns forever.

["Lien" means, as assigned and amended as set forth herein, that certain Certificate of Levy and Lien of Benefit Assessment filed by the Tax Collector of the City/Town of \_\_\_\_\_ (the "Municipality") against property located at \_\_\_\_\_, Connecticut and owned by \_\_\_\_\_, which Certificate is dated \_\_\_\_\_ and recorded in the Municipality Land Records at Volume \_\_\_\_\_, Page \_\_\_\_\_, including the debts secured thereby, together with such interest, fees, and expenses of collection as may be provided by law (the "Original Lien"), which Original Lien was assigned by the Municipality to Assignor by that certain Assignment of Benefit Assessment Lien dated \_\_\_\_\_ and recorded in the Municipality Land Records at Volume \_\_\_\_\_, Page \_\_\_\_\_, [which Original Lien was confirmed and amended by the Assignor by that certain Confirmation and Amendment of Benefit Assignment Lien and Payment Schedule dated \_\_\_\_\_ and recorded in the Municipality Land Records at Volume \_\_\_\_\_, Page \_\_\_\_\_].]

This Assignment is made, given and executed pursuant to the authority granted to Assignor by Connecticut General Statutes Section 16a-40g, as amended (the "Act").

By execution of this Assignment and pursuant to the Act, Assignor assigns to Assignee, and Assignee assumes, as of the date hereof, all of the rights at law or in equity, obligations powers and duties as Assignor would have with respect to the Lien, if the Lien had not been assigned, including with regard to precedence and priority of such lien, the accrual of interest, charges, fees and expenses of collection. All monies collected in respect of the Lien shall be the sole and exclusive property of Assignee and Assignor shall have no interest therein.

This Assignment by the Assignor is absolute and irrevocable and Assignor shall retain no interest, reversionary or otherwise, in the Lien.

(Signatures appear on following page)

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_\_ of \_\_\_\_\_,  
20\_\_\_\_\_.



WITNESS:

ASSIGNOR:

CONNECTICUT GREEN BANK

\_\_\_\_\_  
  
\_\_\_\_\_

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

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

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

STATE OF CONNECTICUT)

)

ss.: \_\_\_\_\_

COUNTY OF \_\_\_\_\_)

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, \_\_\_\_\_ of Connecticut Green Bank, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained and that he acknowledged the same to be his free act and deed, before me, in his capacity as said President.

\_\_\_\_\_  
Commissioner of the Superior Court

**EXHIBIT I**  
**CONFIRMATION AND AMENDMENT OF BENEFIT ASSESSMENT LIEN**  
**AND PAYMENT SCHEDULE**

[ ], a [ ] limited liability company ("Seller"), is the assignee of that certain Benefit Assessment Lien (as described below). Seller and \_\_\_\_\_, a [ ] (the "Property Owner") are parties to that certain Power Purchase Agreement dated as of \_\_\_\_\_, as may be amended (the "PPA").

Pursuant to the PPA, the Property Owner and Seller have installed a solar photovoltaic system, as described in the PPA (the "Project"), on the property located at \_\_\_\_\_, Connecticut (the "Property"), in accordance with the requirements of the C-PACE program (as defined in the PPA) for which Seller has provided the financing for the Project through the PPA in the amount of \$ \_\_\_\_\_, which PPA has been secured by a benefit assessment against the Property.

The Property Owner is obligated to make benefit assessment payments required by that certain Certificate of Levy and Lien of Benefit Assessment (the "Benefit Assessment Lien") dated \_\_\_\_\_ and filed by \_\_\_\_\_, Connecticut (the "Municipality") and recorded in the Land Records of the Municipality in Volume \_\_\_ at Page \_\_\_; which Benefit Assessment Lien was assigned by the Municipality to Connecticut Green Bank, a Connecticut quasi-public agency ("Green Bank"), pursuant to that certain Assignment of Benefit Assessment Lien dated \_\_\_\_\_ and recorded in the Land Records of Municipality in Volume \_\_\_ at Page \_\_\_; which Benefit Assessment Lien was further assigned by Green Bank to Seller pursuant to that certain Assignment of Benefit Assessment Lien dated \_\_\_\_\_ and recorded in the Land Records of Municipality in Volume \_\_\_ at Page \_\_\_.

Property Owner and Seller have completed construction of the Project. Pursuant to the PPA, and the Benefit Assessment Lien shall be repaid in accordance with the installment payment plan attached hereto as Schedule 1 (the "Payment Schedule"). The Payment Schedule is based on the total amount of \$ \_\_\_\_\_ with installments coming due as set forth in the Payment Schedule.

Except as amended and modified hereby, the Financing Agreement and the Benefit Assessment Lien shall continue unmodified and in full force and effect and each is hereby ratified and confirmed.

Dated this \_\_\_ day of \_\_\_\_\_, 201\_\_.

WITNESSES

SELLER:

By: [ ]

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

\_\_\_\_\_  
Print Name:

Name: [ ]

Title: [ ]

\_\_\_\_\_  
Print Name:

STATE OF \_\_\_\_\_ )

) ss. \_\_\_\_\_

\_\_\_\_\_, 201\_\_

COUNTY OF \_\_\_\_\_ )

Personally appeared [ ], the [ ] of [ ], a [ ], signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of [ ], before me.

\_\_\_\_\_  
Commissioner of the Superior Court

Notary Public

My Commission Expires:

**EXHIBIT J**  
**THE ACT**

**Connecticut General Statutes Section 16a-40g. Commercial sustainable energy program.**

- (1) "Energy improvements" means (A) participation in a district heating and cooling system by qualifying commercial real property, (B) participation in a microgrid, as defined in section 16-243y, including any related infrastructure for such microgrid, by qualifying commercial real property, provided such microgrid and any related infrastructure incorporate clean energy, as defined in section 16-245n, (C) any renovation or retrofitting of qualifying commercial real property to reduce energy consumption, (D) installation of a renewable energy system to service qualifying commercial real property, or (E) installation of a solar thermal or geothermal system to service qualifying commercial real property, provided such renovation, retrofit or installation described in subparagraph (C), (D) or (E) of this subdivision is permanently fixed to such qualifying commercial real property;
- (2) "District heating and cooling system" means a local system consisting of a pipeline or network providing hot water, chilled water or steam from one or more sources to multiple Premises;
- (3) "Qualifying commercial real property" means any commercial or industrial property, regardless of ownership, that meets the qualifications established for the commercial sustainable energy program;
- (4) "Commercial or industrial property" means any real property other than a residential dwelling containing less than five dwelling units;
- (5) "Benefited property owner" means an owner of qualifying commercial real property who desires to install energy improvements and provides free and willing consent to the benefit assessment against the qualifying commercial real property;
- (6) "Commercial sustainable energy program" means a program that facilitates energy improvements and utilizes the benefit assessments authorized by this section as security for the financing of the energy improvements;
- (7) "Municipality" means a municipality, as defined in section 7-369;
- (8) "Benefit assessment" means the assessment authorized by this section;
- (9) "Participating municipality" means a municipality that has entered into a written agreement, as approved by its legislative body, with the bank pursuant to which the municipality has agreed to assess, collect, remit and assign, benefit assessments to the bank in return for energy improvements for benefited property owners within such municipality and costs reasonably incurred in performing such duties;
- (10) "Bank" means the Connecticut Green Bank; and
- (11) "Third-party capital provider" means an entity, other than the bank, that provides loans directly to benefited property owners for energy improvements.

(b) (1) The bank shall establish a commercial sustainable energy program in the state, and in furtherance thereof, is authorized to make appropriations for and issue bonds, notes or other obligations for the purpose of financing, (A) energy improvements; (B) related energy audits; (C) renewable energy system feasibility studies; and (D) verification reports of the installation and effectiveness of such improvements. The bonds, notes or other obligations shall be issued in accordance with legislation authorizing the bank to issue bonds, notes or other obligations generally. Such bonds, notes or other obligations may be secured as to both principal and interest by a pledge of revenues to be derived from the commercial sustainable energy program, including revenues from benefit assessments on qualifying commercial real property, as authorized in this section.

(2) When the bank has made appropriations for energy improvements for qualifying commercial real property or other costs of the commercial sustainable energy program, including interest costs and other costs related to the issuance of bonds, notes or other obligations to finance the appropriation, the bank may require the participating municipality in which the qualifying commercial real property is located to levy a benefit assessment against the qualifying commercial real property especially benefited thereby.

(3) The bank (A) shall develop program guidelines governing the terms and conditions under which state and third-party financing may be made available to the commercial sustainable energy program, including, in consultation with representatives from the banking industry, municipalities and property owners, developing the parameters for consent by existing mortgage holders and may serve as an aggregating entity for the purpose of securing state or private third-party financing for energy improvements pursuant to this section, (B) shall establish the position of commercial sustainable energy program liaison within the bank, (C) may establish a loan loss reserve or other credit enhancement program for qualifying commercial real property, (D) may use the services of one or more private, public or quasi-public third-party administrators to administer, provide support or obtain financing for the commercial sustainable energy program, (E) shall adopt standards to ensure that the energy cost savings of the energy improvements over the useful life of such improvements exceed the costs of such improvements, and (F) may encourage third-party capital providers to provide loans directly to benefited property owners in lieu of or in addition to the bank providing such loans.

(c) Before establishing a commercial sustainable energy program under this section, the bank shall provide notice to the electric distribution company, as defined in section 16-1, that services the participating municipality.

(d) If a benefited property owner requests financing from the bank or a third-party capital provider for energy improvements under this section, the bank shall:

(1) Require performance of an energy audit or renewable energy system feasibility analysis on the qualifying commercial real property that assesses the expected energy cost savings of the energy improvements over the useful life of such improvements before approving such financing;

(2) If financing is approved, either by the bank or the third-party capital provider, require the participating municipality to levy a benefit assessment on the qualifying commercial real property with the property owner in a principal amount sufficient to pay the costs of the energy improvements and any associated costs the bank or the third-party capital provider determines will benefit the qualifying commercial real property;

(3) Impose requirements and criteria to ensure that the proposed energy improvements are consistent with the purpose of the commercial sustainable energy program;

(4) Impose requirements and conditions on the financing to ensure timely repayment, including, but not limited to, procedures for placing a lien on a property as security for the repayment of the benefit assessment; and

(5) Require that the property owner provide written notice, not less than thirty days prior to the recording of any lien securing a benefit assessment for energy improvements for such property, to any existing mortgage holder of such property, of the property owner's intent to finance such energy improvements pursuant to this section.

(e) (1) The bank or the third-party capital provider may enter into a financing agreement with the property owner of qualifying commercial real property. After such agreement is entered into, and upon notice from the bank, the participating municipality shall (A) place a caveat on the land records indicating that a benefit assessment and a lien are anticipated upon completion of energy improvements for such property, or (B) at the direction of the bank, levy the benefit assessment and file a lien on the land records based on the estimated costs of the energy improvements prior to the completion or upon the completion of such improvements.

(2) The bank or the third-party capital provider shall disclose to the property owner the costs and risks associated with participating in the commercial sustainable energy program established by this section, including risks related to the failure of the property owner to pay the benefit assessment. The bank or the third-party capital provider shall disclose to the property owner the effective interest rate of the benefit assessment, including fees charged by the bank or the third-party capital provider to administer the program, and the risks associated with variable interest rate financing. The bank or the third-party capital provider shall notify the property owner that such owner may rescind any financing agreement entered into pursuant to this section not later than three business days after such agreement.

(f) The bank or the third-party capital provider shall set a fixed or variable rate of interest for the repayment of the benefit assessment amount at the time the benefit assessment is made. Such interest rate, as may be supplemented with state or federal funding as may become available, shall be sufficient to pay the bank's financing and administrative costs of the commercial sustainable energy program, including delinquencies.

(g) Benefit assessments levied pursuant to this section and the interest, fees and any penalties thereon shall constitute a lien against the qualifying commercial real property on which they are made until they are paid. Such lien, or if the financing agreement provides that the benefit assessments shall be paid in installments then each installment payment, shall be collected in the same manner as the property taxes of the participating municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies. Each such lien may be recorded and released in the manner provided for property tax liens and, subject to the consent of existing mortgage holders, shall take precedence over all other liens or encumbrances except a lien for taxes of the municipality on real property, which lien for taxes shall have priority over such benefit assessment lien. To the extent benefit assessments are paid in installments and any such installment is not paid when due, the benefit assessment lien may be foreclosed to the extent of any unpaid installment payments and any penalties, interest and fees related thereto. In the

event such benefit assessment lien is foreclosed, such benefit assessment lien shall survive the judgment of foreclosure to the extent of any unpaid installment payments of the benefit assessment secured by such benefit assessment lien that were not the subject of such judgment.

(h) Any participating municipality may assign to the bank any and all liens filed by the tax collector, as provided in the written agreement between the participating municipality and the bank. The bank may sell or assign, for consideration, any and all liens received from the participating municipality. The consideration received by the bank shall be negotiated between the bank and the assignee. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as the bank and the participating municipality and its tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been made by the assignee.

**EXHIBIT K**  
**OWNER CONSENT AGREEMENT**

THIS OWNER CONSENT AGREEMENT (this "Consent Agreement") is made and entered into as of [ ] \_\_, 20[ ] (the "Effective Date"), by and between [ ], a [ ] limited liability company with offices at [ ] ("Seller"), and [ ], a [ ] with offices at [ ] ("Owner"). Seller and Owner are sometimes hereinafter referred to individually as a Party and collectively as the Parties.

**RECITALS**

**Whereas**, Seller and [ ], a [ ] ("Buyer"), have entered into a certain Power Purchase Agreement of even date herewith, ("PPA"), pursuant to which Seller will install and operate a solar energy generation equipment and facilities ("SEF") at that certain property know as [ ] and as more specifically described in the PPA (the "Premises"), and sell the electricity generated from the SEF to Buyer;

**Whereas**, Owner is the fee simple owner of the Premises and Buyer leases a portion of the Premises from Owner pursuant to that certain [lease agreement] dated [ ] ("Buyer's Lease"), the portion of the Premises leased by Buyer includes the area on which the SEF (as defined below) will be installed;

**Whereas**, pursuant to the PPA and this Consent Agreement, Buyer grant Seller a non-exclusive license on, over, and across the Premises for the installation, maintenance, and operation of the SEF;

**Whereas**, Section 16a-40g of the Connecticut General Statutes, attached hereto as Exhibit J (as may be amended from time to time, the "Act"), authorized the Connecticut Green Bank, a Connecticut quasi-public agency ("Green Bank"), to establish and administer the Commercial Property Assessed Clean Energy Program ("C-PACE Program") to facilitate financing for clean energy improvements to qualifying properties by utilizing a local assessment mechanism to provide security for repayment of the financing.

**Whereas**, it is a condition to Seller's obligations under the PPA that Owner execute and deliver this Consent Agreement.

**In consideration of the terms and conditions of the foregoing**, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner hereby agrees as follows:

**AGREEMENT**

1. **Definitions.** Any terms used but not defined herein shall have the respective meanings given in the PPA as specified therein.
2. **Term.** The term of this Consent Agreement (the "Term") shall commence on the Effective Date and shall continue to the later of either (i) the termination or expiration of the PPA or

(ii) the full repayment of the Benefit Assessment Lien, inclusive of any fees and any penalties thereon.

3. **Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this Consent Agreement are within its powers, have been duly authorized by all necessary action, do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it and do not require the consent of any third party; (c) this Consent Agreement and each other document executed and delivered in accordance with this Consent Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court; (d) it is acting for its own account, and has made its own independent decision to enter into this Consent Agreement, and is not relying upon the advice or recommendations of the other Party in so doing; (e) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Consent Agreement; and (f) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates. Owner represents and warrants to Seller that: (i) the information provided to Seller pursuant to this Consent Agreement as of the Effective Date is true and accurate in all material respects; (ii) Owner has fee simple and clear title to the Premises, subject only to the Permitted Encumbrances; none of the Permitted Encumbrances would reasonably be expected to adversely impact Seller's rights hereunder or under this PPA; Owner is not in default or material breach of Buyer's Lease; Owner is not aware of any facts which would cause Owner or Buyer to be in default or material breach of Buyer's Lease (iii); an energy audit or renewable energy feasibility analysis has been performed on the SEF in accordance with the Act (iv) Seller has disclosed to the Owner the costs and risks associated with participating in the C-PACE program, including risks related to the failure of the Buyer or Owner to pay the Benefit Assessment.
4. **Owner Acknowledgment Regarding C-PACE Act.** The Owner has read the Act and will comply in all respects with the provisions of the Act, including but not limited to the following:
- (a) Upon the execution of this Agreement, Seller will provide notice to the Municipality and the Municipality will levy the Benefit Assessment and file a lien on the Premises. A copy of the Benefit Assessment Lien is attached to the PPA materially in the form of Exhibit F. The Owner covenants that it will not contest the amount or the validity of the Benefit Assessment that is levied or the Benefit Assessment Lien that is filed against the Premises in accordance with the terms of the PPA and this Consent Agreement. Owner shall make all payments when due pursuant to the Benefit Assessment Lien if such payment is not otherwise made by the Buyer.



(b) The Benefit Assessment levied pursuant to the Act, this Consent Agreement and the PPA, and the payments, fees and any penalties thereon shall constitute a lien against the Premises on which they are made until they are paid. Such lien and each of the installment payments on the Benefit Assessment shall be collected in the same manner as the property taxes of the Municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies. Each such lien may be recorded and released in the manner provided for property tax liens and, subject to the consent of existing mortgage holders, shall take precedence over all other liens or encumbrances except a lien for taxes of the Municipality on the Premises, which lien for taxes shall have priority over such benefit assessment lien. To the extent that any Benefit Assessment installment payment is not paid by the Buyer or Owner when due, the Benefit Assessment Lien on the Premises may be foreclosed to the extent of any unpaid payments and any penalties, interest and fees related thereto. In the event such benefit assessment lien is foreclosed, such benefit assessment lien shall survive the judgment of foreclosure to the extent of any unpaid installment payments of the Benefit Assessment secured by such benefit assessment lien that were not the subject of such judgment.

(c) The Municipality may assign the Benefit Assessment Lien to the Green Bank and Connecticut Bank may assign such lien to the Seller. Seller may sell or assign, for consideration, any and all liens received from the Municipality or the Green Bank. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as Seller and the Municipality and its tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on the Premises, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been properly made by the assignee.

5. **Consent to PPA and Benefit Assessment Lien.** Owner consents to the PPA, the granting of the rights thereunder, and the performance and enforcement by Seller and Buyer of their respective rights and obligations thereunder, including but not limited to foreclosure of the Benefit Assessment Lien.
6. **Cooperation with Permits and Approvals.** Owner shall cooperate with Seller, at Seller's sole expense, to obtain all necessary permits and approvals necessary to install and operate the SEF, including but not limited to utility approvals and approvals of applications for interconnection of the SEF with the local electric utility if applicable.

7. **Grant of License.** Owner grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "License") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the SEF; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in the PPA; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the SEF to Buyer's electric system at the Premises and/or to the utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the SEF. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of the PPA (the "License Term"). During the License Term, Owner shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access.
8. **Liens Against SEF.** Owner shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to the SEF or any portion thereof. Seller shall be entitled to, and is hereby authorized to, file one or more precautionary Uniform Commercial Code financing statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the SEF in order to protect its rights in the SEF.
9. **Ownership of SEF.** Owner acknowledges and agrees that Seller is the exclusive owner and operator of the SEF and all equipment, components and moveable property of Seller attached to or used in the operation of the SEF, and that in the event that the Premises are sold, leased, assigned, mortgaged, pledged, or otherwise alienated or encumbered (a "Transfer"), such Transfer shall not attach to or affect the SEF, or Seller's ownership rights to the SEF.
10. **Integrity of the Property as a Single Parcel.** The Owner shall not, without the express written consent of the Seller, which consent may not be unreasonably withheld, by act or omission impair the integrity of the Premises as a single, separate, subdivided and zoned lot separate and apart from all other property which is owned by Owner, or not.
11. **Partial Release.** If the Seller has provided its written consent to a subdivision or lot split relating to the Premises in accordance with Section 9 hereof, subject to the terms of this section, Seller agrees to release the Benefit Assessment Lien on one or more of the lots or parcels comprising the Premises provided that such lot or parcel that the Owner is requesting the release of the Benefit Assessment Lien does not contain the SEF, or any part thereof, and provided further that the Seller has determined, in its sole discretion, that the partial release of the lien of the Benefit Assessment on such lot or parcel is satisfactory to the Seller. The intent of this Section 10 is that the Seller shall not consent to or provide any partial release if the

Seller shall determine in its sole and absolute discretion in good faith upon a commercially sound reason that the prospect of repayment is impaired or threatened by reason of a requested partial release by the Owner.

12. **Transfer of Premises.** The sale, transfer, pledge or hypothecation of the Premises (each being a “**Transfer of Premises**”) or any reconstitution of the Owner ownership structure shall only be permitted if such transfer is fully subject to the Benefit Assessment Lien and the terms of the PPA and this Consent Agreement. Any and all Transfers of Premises shall be subject to the PPA, this Consent Agreement, and the Benefit Assessment Lien. Owner shall deliver notice of any Transfer of Premises to Seller in writing no later than thirty (30) days after such Transfer of Premises. All obligations under this Consent Agreement shall run with the land and shall bind all future owners of the Premises, or any interest therein, as if the same were expressly assumed by such parties. Owner and any future owners of the Premises, or any interest therein, shall execute an assumption agreement and other documents, if reasonably requested by Seller, and to provide such information, as is requested by Seller, in connection with any Transfer of Premises
  
13. **Termination of Buyer’s Lease.** If the Buyer’s Lease, or any renewal thereof, shall terminate before the expiration of the term of the PPA, as the PPA may be renewed in accordance with the terms thereof, for any reason other than condemnation, fire or other damage, the PPA, if then in existence, shall continue as an agreement between Owner, as Buyer, and Seller, as seller, with the same force and effect as if Owner, as purchaser, and Seller, as seller, had entered into the PPA as of the date of the termination of the Buyer’s Lease, containing the same terms, covenants and conditions as those contained in the PPA, for a term equal to the unexpired term of the PPA.
  
14. **Assignment; Binding Effect.**
  - (a) Except for assignments to Affiliates, neither Buyer nor Seller shall, without the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this Consent Agreement, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void.
  
  - (b) Notwithstanding the foregoing, Seller may, without the prior written consent of Buyer, Transfer all or any part of, or any right or obligation under this Consent Agreement (i) to any party that acquires Seller or all or substantially all of Seller’s assets; (ii) for security purposes in connection with any financing or other financial arrangements regarding SEF; (iii) to any Financing Party; (iv) to any Qualified Assignee or (v) to an entity that enters into an agreement with a Qualified Assignee pursuant to which (1) such Qualified Assignee shall

be responsible for SEF operation and maintenance under this Consent Agreement and (2) Seller shall have granted to the Qualified Assignee all other rights granted to Seller herein necessary for operation and maintenance of SEF (each, a "Permitted Transfer"). Seller shall deliver notice of any Permitted Transfer to Buyer in writing as soon as reasonably practicable. Buyer agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by Seller in connection with any Permitted Transfer.

(c) Notwithstanding the foregoing, Owner may, without the prior written consent of Seller, assign all rights and obligation under this Consent Agreement to a Person who acquires title to the entire Premises pursuant to a Transfer of Premises. Owner shall deliver notice of any such assignment associated with such Transfer of Premises to Buyer in writing as soon as reasonably practicable.

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

15. **Rescission Period.** Either Party may rescind this Consent Agreement, without penalty, by written notice delivered to and received by the other Party not later than three (3) Business Days after the Effective Date.
16. **Counterparts.** This Consent Agreement may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this Consent Agreement received by either Party by facsimile or other electronic transmissions (such as an email .pdf file) is binding upon the other Party as an original.

[Signature page follows]

**IN WITNESS WHEREOF**, Owner and Seller have executed and delivered this Consent Agreement as of the date first set forth above.

**OWNER:** [       ]

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

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

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

**SELLER:** [       ]

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

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

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

**Item# \*198-17 Consent Calendar**

Settlement of Pending Litigation with Horace Jennings, et al.



**Report  
of  
Committee  
on**

**Miscellaneous Matters**

City Council Meeting Date: December 3, 2018

Attest: *Lydia N. Martinez*  
Lydia N. Martinez, City Clerk

Approved by: \_\_\_\_\_  
Joseph P. Ganim, Mayor

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

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #198-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

RECEIVED  
CITY CLERKS OFFICE  
19 JAN -3 AM 11:46  
ATTEST  
CITY CLERK



# City of Bridgeport, Connecticut Office of the City Clerk

*To the City Council of the City of Bridgeport:*

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

**Item No. \*198-17 Consent Calendar**

**WHEREAS**, a lawsuit in the following name was filed against the City of Bridgeport and/or its employees and investigation disclosed the likelihood on the part of the City for which, in the event of suit and trial, the City might be held liable, and

**WHEREAS**, negotiations with the Plaintiff's attorney has made it possible to settle this suit for the figure set forth below, and the City Attorney, therefore, recommends the following settlement be accepted, Now, Therefore be it

**RESOLVED**, That the Comptroller be, and hereby is authorized, empowered and directed to draw his order on the City Treasurer payable as follows:

<u>NAME</u>	<u>ATTORNEY</u>	<u>NATURE OF CLAIM</u>
Horace E. Jennings, Jr. Margaret E. Jennings Bernard Jennings Dennis Jennings Eric Jennings	Sally A. Roberst, Esq. 11 Franklin Square New Britain, CT 06051	Civil Litigation

**BE IT FURTHER RESOLVED**, that the amount set forth as above are paid to the Plaintiff's attorney in full payment, settlement, release and discharge of all rights and cause of action described in the suit instituted by the above mentioned Plaintiff against the City and known as docket numbers in the courts set forth; provided, however, that the City's draft shall not be delivered to the Plaintiff's attorneys until the City Attorney has been furnished with a full release and discharge in writing in each case, approved by the City Attorney or Deputy City Attorney.



# City of Bridgeport, Connecticut Office of the City Clerk

**Report of Committee on Miscellaneous Matters**  
**Item No. \*198-17 Consent Calendar**

-2-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**MISCELLANEOUS MATTERS**

AmyMarie Vizzo-Paniccia, D-134<sup>th</sup> **Co-Chair**

Nessah J. Smith, D-138<sup>th</sup>, **Co-chair**

Marcus A. Brown, D-132<sup>nd</sup>

Michael A. Defilippo, D-133<sup>rd</sup>

Kyle Piché Langan, D-132<sup>nd</sup>

Denese Taylor-Moye, D-131<sup>st</sup>

Maria Zambrano Viggiano, D-136<sup>th</sup>

*Council Date: December 3, 2018*



**Item# \*202-17 Consent Calendar**

Workers' Compensation Settlement with the Estate of  
Carney Freddino.



**Report  
of  
Committee  
on**

**Miscellaneous Matters**

City Council Meeting Date: December 3, 2018

Attest: *Lydia N. Martinez*  
Lydia N. Martinez, City Clerk

Approved by: \_\_\_\_\_  
Joseph P. Ganim, Mayor

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

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #202-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

RECEIVED  
CITY CLERKS OFFICE  
19 JAN -3 AM 11:46  
ATTEST  
CITY CLERK



# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

**Item No. \*202-17 Consent Calendar**

**BE IT RESOLVED**, that the City Attorney, or Associate City Attorney, be authorized, empowered and directed to enter into on behalf of the City of Bridgeport, Settlement with the Estate of Carney Freddino upon approval by the Workers' Compensation Commissioner of the Fourth District, and the City shall pay the said employee the sum as provided for in settlement.

<u>NAME</u>	<u>NATURE OF CLAIM</u>	<u>ATTORNEY</u>
Estate of Carney Freddino	Workers' Compensation	Joseph Passaretti, Esq. Monstream & May Salmon Brook Corporate Park 655 Winding Brook Drive Glastonbury, CT 06033-6087

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**MISCELLANEOUS MATTERS**

\_\_\_\_\_  
AmyMarie Vizzo-Paniccia, D-134<sup>th</sup>, **Co-Chair**

\_\_\_\_\_  
Nessah J. Smith, D-138<sup>th</sup>, **Co-chair**

\_\_\_\_\_  
Marcus A. Brown, D-132<sup>nd</sup>

\_\_\_\_\_  
Michael A. Defilippo, D-133<sup>rd</sup>

\_\_\_\_\_  
Kyle Piché Langan, D-132<sup>nd</sup>

\_\_\_\_\_  
Denese Taylor-Moye, D-131<sup>st</sup>

\_\_\_\_\_  
Maria Zambrano Viggiano, D-136<sup>th</sup>

**City Council Date: December 3, 2018**

Item# \*149-17 Consent Calendar

Resolution requesting the establishment of a bullying prevention Task Force in Bridgeport Public Schools District. **DENIED**



Report  
of  
Committee  
on

Education and Social Services

City Council Meeting Date: December 3, 2018

Attest: Lydia N. Martinez  
Lydia N. Martinez, City Clerk

Approved by: \_\_\_\_\_  
Joseph P. Ganim, Mayor

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

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #149-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

RECEIVED  
CITY CLERKS OFFICE  
19 JAN -3 AM 11:46  
ATTEST  
CITY CLERK



# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Education and Social Services** begs leave to report; and recommends for **DENIAL** the following resolution:

### **Item No. \*149-17 Consent Calendar**

**WHEREAS**, there is a multitude of unreported of increased incidents of bullying in Bridgeport Public Schools; and

**WHEREAS**, these unreported cases are a direct result of the nonexistence of a in enacted Safe School Climate Plan nor advertising its existence to enable Parents and students anonymously or otherwise to report incidents of bullying; and

**WHEREAS**, which is mandated by Public Act No. 11-232 8(b)-12; and

**WHEREAS**, especially when Sec. 6 of the Public Act establishes appropriations for Sec.5(a)1-8; and

**WHEREAS**, in addition there is no existing safe school coordinator for our local education agency (LEA) mandated through Sec. 9 of Public Act No. 11-232 9(a)-(c)(1); and

**WHEREAS**, as of result of these legal provisions not being followed by the LEA/Bridgeport School District an establishment of a bullying prevention task force is necessary; and

**WHEREAS**, the task force would consist of public officials, Department of Education employees, and experts in conflict resolution, bullying prevention, mental health, school safety and education; and

**WHEREAS**, the task force would be required to meet at least quarterly and hold at least two public meetings; and

**WHEREAS**, the task force would be required to develop and submit a plan to the Mayor and the President of the Council to prevent and address bullying in schools; and



# City of Bridgeport, Connecticut Office of the City Clerk

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## Report of Committee on Education and Social Services Item No. \*149-17 Consent Calendar

-2-

**NOW, THEREFORE, BE IT RESOLVED** by the Bridgeport City Council that the City of Bridgeport establishing a bullying prevention task force of public officials, Department of Education employees, and experts in conflict resolution, bullying prevention, mental health, school safety and education; and

**BE IT FURTHER RESOLVED** the task force would be required to meet at least quarterly and hold at least two public meetings and the task force would be required to develop and submit a plan to the Mayor and the President of the Council to prevent and address bullying in schools.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**EDUCATION AND SOCIAL SERVICES**

ABSENT

\_\_\_\_\_  
Christina B. Smith, **Co-Chair**

\_\_\_\_\_  
Kyle Piché Langan, **Co-Chair**

\_\_\_\_\_  
Karen Jackson

\_\_\_\_\_  
Michelle A. Lyons

\_\_\_\_\_  
Mary A. McBride-Lee

\_\_\_\_\_  
Rosalina Roman-Christy

\_\_\_\_\_  
Peter D. Spain

*City Council Date: December 3, 2018*

**Item# \*175-17 Consent Calendar**

Resolution authorizing Bridgeport Board of Education to provide a safe school climate and reporting bullying, harassment, discrimination and intimidation. **DENIED**



**Report  
of  
Committee  
on**

**Education and Social Services**

City Council Meeting Date: December 3, 2018

Attest:

*Lydia N. Martinez*

Lydia N. Martinez, City Clerk

Approved by:

Joseph P. Ganim, Mayor

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

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #175-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

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# City of Bridgeport, Connecticut Office of the City Clerk

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*To the City Council of the City of Bridgeport:*

The Committee on **Education and Social Services** begs leave to report; and recommends for **DENIAL** the following resolution:

## **Item No. \*175-17 Consent Calendar**

**WHEREAS**, the Bridgeport Board of Education direct the Superintendent to Post website information regarding how to report incidents of bullying, harassment, discrimination, intimidation, including information about which school staff such reports maybe made; and

**WHEREAS**, the Bridgeport Board of Education direct the Superintendent to Post email addresses designated by BPS/BOE to receive reports of such incidents; and information guiding students parents and staff members to visit their individual schools website information regarding how to report incidents of bullying, harassment, intimidation or discrimination, the name email address and phone number of the schools Safe School Climate Coordinator; and any email addresses designated by BPS/BOE to receive reports of such incidents; and

**WHEREAS**, the Bridgeport Board of Education direct the Superintendent of Bridgeport Public Schools to report every three months to the City Council Education and Social Services Committee as well as the Anti Bullying Task Force on the number of material incidents of student to student bullying, harassment, intimidation, or discrimination; and

**WHEREAS**, the Bridgeport Board of Education direct the Superintendent to report and develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools which doesn't exist and on violation of Sec. 10-222d(b); and

**WHEREAS**, the Bridgeport Board of Education direct the Superintendent of Bridgeport Public Schools to follow CT State Statue Sec. 10-222k with authorizes a District safe school coordinator, Safe School climate specialist and implementation of Safe School Climate Committee in all Public schools; and



# City of Bridgeport, Connecticut

## Office of the City Clerk

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### **Report of Committee on Education and Social Services** **Item No. \*175-17 Consent Calendar**

-2-

**WHEREAS**, the Bridgeport Board of Education comply with CT state statue Sec. 10-221s to Post a Caroline telephone number in schools. Investigations of child abuse and neglect. Which states each local board of education shall post the telephone number for the Caroline operated by DCF, pursuant to section 17a-103a; and

**NOW, THEREFORE, BE IT RESOLVE**, that the City Council asks the Bridgeport Board of Education to direct the Superintendent to Post website information regarding how to report incidents of bullying, harassment, discrimination, intimidation, including information about which school staff such reports maybe made; and

**BE IT FURTHER RESOLVED**, that the Bridgeport Board of Education direct the Superintendent to Post email addresses designated by BPS/BOE to receive reports of such incidents; and information guiding students parents and staff members to visit their individual schools website information regarding how to report incidents of bullying, harassment, intimidation or discrimination, the name email address and phone number of the schools Safe School Climate Coordinator; and any email addresses designated by BPS/BOE to receive reports of such incidents; and

**BE IT FURTHER RESOLVED**, that the Bridgeport Board of Education direct the Superintendent of Bridgeport Public Schools to report every three months to the City Council Education and Social Services Committee as well as the Anti Bullying Task Force on the number of material incidents of student to student bullying, harassment, intimidation, or discrimination; and

**BE IT FURTHER RESOLVED**, that the Bridgeport Board of Education direct the Superintendent to report and develop and implement a safe school climate plan to address the existence of bullying and teen dating violence in its schools which doesn't exist and on violation of Sec. 10-222d(b); and

**BE IT FURTHER RESOLVED**, that the Bridgeport Board of Education direct the Superintendent of Bridgeport Public Schools to follow CT State Statue Sec. 10-222k with authorizes a District safe school coordinator, Safe School climate specialist and implementation of Safe School Climate Committee in all Public schools; and





# City of Bridgeport, Connecticut Office of the City Clerk

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**Report of Committee on Education and Social Services  
Item No. \*175-17 Consent Calendar**

-3-

**BE IT FURTHER RESOLVED**, that the Bridgeport Board of Education comply with CT state statute Sec. 10-221s to Post a Caroline telephone number in schools. Investigations of child abuse and neglect. Which states each local board of education shall post the telephone number for the Caroline operated by DCF, pursuant to section 17a-103a.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**EDUCATION AND SOCIAL SERVICES**

ABSENT

\_\_\_\_\_  
Christina B. Smith, **Co-Chair**

\_\_\_\_\_  
Karen Jackson

Karen Jackson

\_\_\_\_\_  
Mary A. McBride-Lee

Mary A. McBride-Lee

\_\_\_\_\_  
Kyle Piché Langan, **Co-Chair**

Kyle Piché Langan, **Co-Chair**

\_\_\_\_\_  
Michelle A. Lyons

Michelle A. Lyons

\_\_\_\_\_  
Rosalina Roman-Christy

Rosalina Roman-Christy

\_\_\_\_\_  
Peter D. Spain

Peter D. Spain

*City Council Date: December 3, 2018*

**Item# \*185-17 Consent Calendar**

Grant application authorizations for school construction work at Luis Munoz Marin School, located at 479 Helen Street for roof replacement.



**Report  
of  
Committee  
on**

**Education and Social Services**

**City Council Meeting Date: December 3, 2018**

Attest: *Lydia N. Martinez*  
**Lydia N. Martinez, City Clerk**

Approved by: \_\_\_\_\_  
**Joseph P. Ganim, Mayor**

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

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #185-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

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# City of Bridgeport, Connecticut Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Education and Social Services begs leave to report; and recommends for adoption the following resolution:

**Item No. \*185-17 Consent Calendar**

**RESOLVED**, that the Bridgeport City Council authorizes the Bridgeport Board of Education to apply to the Commissioner of Education and to accept or reject a grant for the Roof Replacement project at Luis Munoz Marin School.

**RESOLVED**, that the Bridgeport School Building Committee is hereby established as the building committee with regards to the Roof Replacement project at Luis Munoz Marin School.

**RESOLVED**, that the Bridgeport City Council hereby authorizes at least the preparation of schematic drawings and outline specifications for the Roof Replacement project at Luis Munoz Marin School.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
EDUCATION AND SOCIAL SERVICES

ABSENT

\_\_\_\_\_  
Christina B. Smith, *Co-Chair*

\_\_\_\_\_  
Kyle Piché Langan, *Co-Chair*

\_\_\_\_\_  
Karen Jackson

\_\_\_\_\_  
Michelle A. Lyons

\_\_\_\_\_  
Mary A. McBride-Lee

\_\_\_\_\_  
Rosalina Roman-Christy

\_\_\_\_\_  
Peter D. Spain

*City Council Date: December 3, 2018*

**Item# \*195-17 Consent Calendar**

Amendments to the FY 2019-2023 Capital Plan Budget for Approval of Additional Capital Project Authorization.



**Report  
of  
Committee  
on  
Budget & Appropriations**

**City Council Meeting Date: December 3, 2018**

Attest: *Lydia N. Martinez*  
Lydia N. Martinez, City Clerk

Approved by: \_\_\_\_\_  
Joseph P. Ganim, Mayor

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

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In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #195-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.



# City of Bridgeport, Connecticut

## Office of the City Clerk

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*To the City Council of the City of Bridgeport.*

The Committee on Budget and Appropriations begs leave to report; and recommends for adoption the following resolution:

**Item No. \*195-17 Consent Calendar**

### APPROVAL OF ADDITIONAL CAPITAL PROJECT AUTHORIZATION TO THE 2019-2023 CAPITAL PLAN

WHEREAS, the City Council of the City of Bridgeport (the "City") has previously adopted the City's Five Year Capital Plan for Fiscal Years 2019-2023 (the "2019-2023 Capital Plan"); and

WHEREAS, the City Council has determined it to be in the best interest of the City to add additional capital plan authorization in the amount of \$40,200,000, for the capital projects more particularly listed on Exhibit A attached hereto, to the City's 2019-2023 Capital Plan (the "Projects"); and now therefore, be it

RESOLVED, that the City's 2019-2023 Capital Plan, as adopted by the City Council, is hereby amended to incorporate the Projects as set forth herein.



# City of Bridgeport, Connecticut Office of the City Clerk

Report of Committee on Budget and Appropriations  
Item No. \*195-17 Consent Calendar

-2-

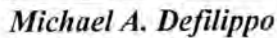
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
BUDGET AND APPROPRIATIONS

  
Denese Taylor-Moye, Co-Chair


  
Maria Zambrano Viggiano, Co-Chair

  
Jeanette Herron

  
Mary A. McBride-Lee

  
Michael A. Defilippo

ABSENT

  
Christina B. Smith

  
Nessah J. Smith

City Council Date: December 3, 2018

**Exhibit A**

**Additional Capital Projects**

<b><u>Project Description</u></b>	<b><u>Fiscal Year 2019 Capital Plan Authorization</u></b>	<b><u>Fiscal Year 2020 Capital Plan Authorization</u></b>
<i><u>Economic Development</u></i>		
Congress Street Bridge Replacement	\$12,000,000	
Preservation Block Acquisition/Demolition	1,000,000	
Civic Block Demolition/Clean Up	1,000,000	
City Wide Buildings Acquisition/Clean Up	4,850,000	
City Wide Streetscapes/Blight/Development	4,000,000	
<i><u>Public Facilities</u></i>		
Arena Rehabilitation	\$10,000,000	\$3,500,000
Producto Building Demolition/Remediation	3,000,000	
752 East Main Street Demolition	2,000,000	(2,000,000)
<i><u>Other Departments</u></i>		
WPCA Capital Improvements	<u>\$850,000</u>	
<b>Total</b>	<b><u>\$38,700,000</u></b>	<b><u>\$1,500,000</u></b>

CITY OF BRIDGEPORT							
OFFICE OF POLICY AND MANAGEMENT							
FY2019 - 2023 BUDGET AND APPROPRIATIONS COMMITTEE AMENDED FIVE YEARS CAPITAL PLAN (as adopted by "BAC" on 11/26/2018 meeting)							
PROJECT DESCRIPTIONS	FY2018 Capital Plan Amended	FY2019 BAC Amended Capital Plan	FY2020 BAC Amended Capital Plan	FY2021 BAC Amended Capital Plan	FY2022 BAC Amended Capital Plan	FY2023 BAC Amended Capital Plan	Total Amended Capital Plan 2019-2023
<b>BOARD OF EDUCATION:</b>							
BOE - Facilities Equipment					25,000		25,000
BOE Classroom Computers				1,500,000	1,500,000		3,000,000
BOE - Maintenance Veh. Dump Truck/4 vans/2 pickup					105,000		105,000
Central High School Renovation (2nd funding)	1,700,000						0
New Bassick High School(21% City Share)Council Resolution Purchase/Renov. BOE-Operations office/Garage	1,000,000	27,500,000			15,000,000		27,500,000
Nutrition Center-Roof Replacement (21% City Share)	231,000						0
Dunbar School-Elevator Repairs	37,000						0
Maintenance Equipment-Two New Mowers			35,000				35,000
Cesar Batallia-Steel Cat Walk To access HVAC Control			35,000				35,000
High Horizons-Playground	80,000						0
High Horizons - HVAC Controls		400,000					400,000
High Horizons-Exterior Door Replacement			25,000				25,000
Edison School - Playground	123,000						0
Black Rock - 4 Exterior Doors				150,000			150,000
Winthrop - Asbestos Abatement	50,000						0
Blackham - Asbestos Abatement	50,000						0
Columbus - Asbestos Abatement	50,000						0
Maintenance - Forklift				25,000			25,000
Maplewood School -Elevator Repairs/Upgrades			35,000				35,000
Multi-Cultural-HVAC Controls ( 2 roof top Units)		400,000					400,000
Read School -Elevator Repairs/Upgrades		120,000					120,000
Read School - HVAC Controls	100,000						0
Skane School - HVAC Controls	100,000						0
Cesar Batallia - Replace Ice Storage Syst.w/Chiller			400,000				400,000
Read - Renovate Students Bathroom		100,000					100,000
Read - New Fire Alarm System	160,000						0
Cross - Main Office HVAC System Replacement	20,000						0
JFK Air Handling Admin- 2 Roof Tops Units			450,000				450,000
JFK Air - Elevator Repair/Upgrades		85,000					85,000
Madison - Roof Top Heating Units Replace 4 units			225,000				225,000
Madison School - Elevator Repairs/Upgrades		182,000					182,000
Bryant - Masonry and Parapet			160,000				160,000
Edison School - Boiler Replacement (2 units)			160,000				160,000
Park City Magnet - HVAC Equip-Replace 2 boilers			250,000				250,000
Blackham - Masonry-Outside Pool Wall/Heating Syst.				125,000			125,000
Blackham - Elevator Repairs/Upgrades		40,000					40,000
Blackham - New Electrical Service	75,000						0
Beardsley School - Masonry			50,000				50,000
Marin - HVAC Equipment-Replace 3 A/C Units			300,000				300,000
Marin - Roof Replacement (21% City Share)		504,000					504,000
Marin School - Elevator Repair/Upgrades		33,000					33,000
JFK Admin - Replace 3 Fire Alarm Panels			45,000				45,000
Hallen - Elevator Repairs/Upgrades		51,000					51,000
Winthrop School - HVAC Repairs (piping)	200,000						0
Winthrop - Paving Play Yard and Around Back			85,000				85,000
<b>TOTAL BOARD OF EDUCATION</b>	<b>3,976,000</b>	<b>29,415,000</b>	<b>2,255,000</b>	<b>1,800,000</b>	<b>16,630,000</b>	<b>0</b>	<b>50,100,000</b>

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CITY OF BRIDGEPORT							
OFFICE OF POLICY AND MANAGEMENT							
FY2019 - 2023 BUDGET AND APPROPRIATIONS COMMITTEE AMENDED FIVE YEARS CAPITAL PLAN (as adopted by "BAC" on 11/26/2018 meeting)							
PROJECT DESCRIPTIONS	FY2018 Capital Plan Amended	FY2019 BAC Amended Capital Plan	FY2020 BAC Amended Capital Plan	FY2021 BAC Amended Capital Plan	FY2022 BAC Amended Capital Plan	FY2023 BAC Amended Capital Plan	Total Amended Capital Plan 2019-2023
<b>ECONOMIC DEVELOPMENT:</b>							
Land Management / Acquisition		1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	5,000,000
City Owned Properties-Development Ready Program		1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	5,000,000
Congress Street Bridge Replacement - City Share(Amendment)*	12,000,000	12,000,000		0			12,000,000
Downtown Parking Garage	3,500,000						0
Comm. Retail Corridor-Traffic Improve- State St./CT Ave	500,000						0
Master Plan Update and Zoning Update	300,000	150,000					150,000
Lafayette Blvd/Fairfield Ave./Redesign-(10 %City Match)	0	290,000		1,000,000			1,290,000
Site Improvement/Public Housing			600,000	600,000	600,000	600,000	2,400,000
Gateway To South End/Citywide Strategic Acquisition		1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	5,000,000
Blight / Demolition Clean Up/Property Management		1,000,000	3,000,000	2,000,000	3,000,000	4,000,000	13,000,000
Seaview Avenue Corridor/Waterfront Proj(20% city match)			3,000,000				3,000,000
Preservation Block Acquisition/Demolition (Amendment)*		1,000,000					1,000,000
Civic Block Demolition/ Clean Up (Amendment)*		1,000,000					1,000,000
City Wide Acquisition/Clean Up (Amendment)*		4,850,000					4,850,000
City Wide Streetscapes/Blight/Develoment(Amendment)*		4,000,000					4,000,000
<b>TOTAL ECONOMIC DEVELOPMENT</b>	<b>16,300,000</b>	<b>27,290,000</b>	<b>9,600,000</b>	<b>6,600,000</b>	<b>6,600,000</b>	<b>7,600,000</b>	<b>57,690,000</b>

CITY OF BRIDGEPORT							
OFFICE OF POLICY AND MANAGEMENT							
FY2019 - 2023 BUDGET AND APPROPRIATIONS COMMITTEE AMENDED FIVE YEARS CAPITAL PLAN (as adopted by "BAC" on 11/26/2018 meeting)							
PROJECT DESCRIPTIONS	FY2018 Capital Plan Amended	FY2019 BAC Amended Capital Plan	FY2020 BAC Amended Capital Plan	FY2021 BAC Amended Capital Plan	FY2022 BAC Amended Capital Plan	FY2023 BAC Amended Capital Plan	Total Amended Capital Plan 2019-2023
<b>PUBLIC FACILITIES:</b>							
Roadway Paving, Bridges, Culverts, Intersections		0	3,000,000	1,200,000	2,100,000	4,750,000	11,050,000
Public Facilities Equipment		1,700,000	1,500,000	2,000,000	3,000,000	2,500,000	10,700,000
Muni Bldg. HVAC / Heating / Elec./ Facilities		0	1,450,000	750,000	500,000	800,000	3,500,000
City Wide Building & Security Improvements		1,500,000	2,000,000	2,000,000	3,000,000	5,500,000	14,000,000
Public Facilities Buildings at 990 Housatonic Avenue		875,000	1,545,000	1,500,000	1,500,000	450,000	5,870,000
Municipal Storm Sewer Separator System (MS4 Req.)		500,000					500,000
New East Side Senior Center-Old Engine 10/Putnam St.		500,000					500,000
Facilities Assessments /Planning Studies					100,000		100,000
Energy Conservation /Conversion Program	250,000		250,000		250,000		500,000
Harbor Yard Ballpark Upgrades			150,000	150,000	150,000	150,000	600,000
Arena Rehabilitation (Amendment)*		10,000,000	5,000,000	0	0		15,000,000
Producto Building Demolition/Remediation (Amendment)*		3,000,000					3,000,000
752 East Main Street Demolition (Amendment)*		2,000,000		4,000,000			6,000,000
Street Lights Wattage Upgrade			500,000	250,000		250,000	1,000,000
Various Airport Improvement Projects					275,000		275,000
Parks Maintenance Equip(Include Golf Course)		200,000	400,000	300,000	400,000	600,000	1,900,000
Various Park Improvement Projects		450,000	200,000		400,000	100,000	1,150,000
Barnum Museum				1,000,000			1,000,000
Bloom Bulkhead		2,500,000					2,500,000
Side Walks/Street scape Replacements		0	1,500,000	500,000	500,000	500,000	3,000,000
Pleasure Beach Bridge and Fishing Pier			3,200,000				3,200,000
Landfill Closure-Stewardship		1,000,000					1,000,000
Ferry Terminal Ramp/Loading Dock (20% City Match)		250,000	100,000	75,000	50,000		475,000
Citywide Signage		125,000	125,000	125,000	125,000		500,000
Citywide Deco Lights			500,000		500,000		1,000,000
Traffic Lights Upgrades			125,000	125,000			250,000
Perry Memorial Arch.		250,000	300,000	300,000	400,000	400,000	1,650,000
Veterans Memorial Park Improvements			100,000	100,000	100,000	50,000	350,000
Tennis Courts Improvement		100,000	100,000	150,000	150,000	130,000	630,000
Kennedy Stadium			150,000				150,000
Knowlton Park			85,000				85,000
Park Restrooms		100,000	120,000	70,000	100,000	170,000	560,000
Pleasure Beach Park		0	300,000	100,000	150,000		550,000
Golf Course Improvements		150,000	150,000	150,000	300,000	78,000	828,000
Beardsley Zoo Improvements			640,000	2,500,000	3,000,000		6,140,000
Lincoln Boulevard				500,000			500,000
Downtown Intermodal / Water St. Improv.(20% City)	456,000						0
Downtown Intermodal / Water St. Improv.11(20% City)	1,124,875						0
<b>TOTAL PUBLIC FACILITIES</b>	<b>1,830,875</b>	<b>25,200,000</b>	<b>23,490,000</b>	<b>17,845,000</b>	<b>17,050,000</b>	<b>16,428,000</b>	<b>100,013,000</b>
<b>OTHER DEPARTMENTS:</b>							
Police Fleet Upgrade					1,000,000	1,500,000	2,500,000
Police Equipment / Technology/VHF Portable Radios	2,645,600			1,000,000			1,000,000
FIRE Equipment / Technology/VHF Portable Radios	545,000						0
Fire Apparatus Replacement Program / Vehicles	1,765,000		705,000	1,606,000	1,128,500	846,000	4,285,500
Technology Enhancement / Systems Improvement	250,000			250,000			250,000
WPCA Capital Improvements (Amendment )*	821,000	2,095,000	890,000	1,085,000	1,390,000	1,215,000	6,675,000
Emergency Operations / Technology upgrade	2,510,000	300,000					300,000
IT Telephony & Computer Replacement Program	250,000		500,000	500,000	500,000		1,500,000
Citywide Departments -Fiber Optics Installation		3,500,000					3,500,000
<b>TOTAL OTHER DEPARTMENTS</b>	<b>8,786,600</b>	<b>5,895,000</b>	<b>2,095,000</b>	<b>4,441,000</b>	<b>4,018,500</b>	<b>3,561,000</b>	<b>20,010,500</b>
<b>TOTAL ALL DEPARTMENTS</b>	<b>30,893,475</b>	<b>87,800,000</b>	<b>37,440,000</b>	<b>30,686,000</b>	<b>44,298,500</b>	<b>27,589,000</b>	<b>227,813,500</b>
<b>FY19-2023 CITY COUNCIL ADOPTED CAPITAL BUDGET</b>		<b>49,100,000</b>	<b>34,940,000</b>	<b>30,686,000</b>	<b>45,298,500</b>	<b>27,589,000</b>	<b>187,613,500</b>
<b>FY19-2023 PROPOSED AMENDED CAPITAL BUDGET</b>		<b>87,800,000</b>	<b>37,440,000</b>	<b>30,686,000</b>	<b>44,298,500</b>	<b>27,589,000</b>	<b>227,813,500</b>
<b>PROPOSED AMENDMENTS VS COUNCIL ADOPTED</b>		<b>-38,700,000</b>	<b>-2,500,000</b>	<b>0</b>	<b>1,000,000</b>	<b>0</b>	<b>-40,200,000</b>

**Item #193-17**

Approval of General Obligation Bonds – To Fund Certain  
Capital Improvement Projects.



**Report  
of  
Committee  
on  
Budget & Appropriations**

**City Council Meeting Date: December 3, 2018**

**Attest:** Lydia N. Martinez  
**Lydia N. Martinez, City Clerk**

**Approved by:** Joseph P. Ganim  
**Joseph P. Ganim, Mayor**

**Date Signed:** \_\_\_\_\_

In accordance with the Charter of the City of Bridgeport, Chapter 5, Section 11, the following resolution #193-17 was approved by the City Council of the City of Bridgeport on December 3, 2018 and does not require Mayoral signature; said approval effective as of January 3, 2019.

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# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Budget and Appropriations begs leave to report; and recommends for adoption the following resolution:

**Item No. 193-17 Consent Calendar**

### **APPROVAL OF GENERAL OBLIGATION BONDS – To Fund Certain Capital Improvement Projects**

**WHEREAS**, the City Council of the City of Bridgeport (the “City”) has previously adopted various Five Year Capital Plans, including the City’s Five Year Capital Plan for Fiscal Year 2017-2021, as amended (the “2017-2021 Capital Plan”) and the City’s Five Year Capital Plan for Fiscal Year 2019-2023, as amended (the “2019-2023 Capital Plan”); and

**WHEREAS**, in the 2017-2021 Capital Plan, the City Council has approved capital plan authorizations in the amount of \$8,000,000 for the Harding High School Renovation project (the “Harding High School Renovation Project”); and

**WHEREAS**, in the 2019-2023 Capital Plan, the City Council has approved capital plan authorizations in the amount of \$27,500,000 for the Bassick High School Complete Renovation project (the “Bassick High School Renovation Project”); and

**WHEREAS**, the City Council has approved additional capital plan authorizations in the total amount of \$40,200,000 for various capital projects to the City’s 2019-2023 Capital Plan (the “Additional 2019-2023 Capital Plan Projects,” and together with the Bassick High School Renovation Project, the “2019-2023 Capital Plan Projects”); and

**WHEREAS**, the Charter of the City requires that authorization to borrow against any Five Year Capital Plan be approved by the City Council; and

**WHEREAS**, the City Council has determined it to be in the best interest of the City to approve borrowing authorization for the 2017-2021 Capital Plan in the amount of \$7,000,000 for the Harding High School Renovation Project and for the 2019-2023 Capital Plan in the amount of \$28,350,000 for the 2019-2023 Capital Plan Projects, all as more particularly listed on Exhibit A attached hereto (the “Projects”); and now therefore, be it



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Budget and Appropriations  
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**RESOLVED**, that having received the recommendation of the Mayor of the City with respect to the action authorized herein, the City Council hereby approves the appropriation of the amounts necessary to: (i) fund the Projects in an aggregate principal amount not to exceed \$35,350,000 and the issuance of general obligation bonds secured by the City's full faith and credit (the "Bonds"), in an aggregate principal amount not to exceed \$35,350,000 (exclusive of Financing Costs, as hereinafter defined) for the purposes of funding the Projects; and (ii) finance such additional costs and expenses, in an amount not to exceed two percent (2%) of such authorization, as the Mayor, the Finance Director, and the Treasurer (collectively, the "Officials") shall approve for the funding of necessary and appropriate financing and/or issuance costs including, but not limited to legal, advisory, credit enhancement, trustee, underwriters' discount, printing and administrative expenses, as well as the cost of the establishment and maintenance of any reserve pursuant to Chapter 109, Chapter 117 and other chapters of the Connecticut General Statutes (the "Financing Costs"); and be it further

**RESOLVED**, the Officials are further authorized on behalf of the City to make temporary borrowings as authorized by the Connecticut General Statutes and to issue temporary notes of the City in anticipation of the receipt of proceeds from the sale of the Bonds to be issued pursuant to this resolution and such notes shall be issued and renewed at such time and with such maturities, requirements and limitations as provided by statute; notes evidencing such borrowings shall be executed in the same manner as if they were bonds and the officials shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Connecticut General Statutes and shall have all powers and authority as in connection with the issuance of bonds; and be it further

**RESOLVED**, that the City Council authorizes and approves that the Bonds be secured by the City's property taxes, including interest, penalties and related charges, pursuant to Chapter 117 and other chapters of the Connecticut General Statutes, and, if deemed necessary or appropriate by the Officials and in the City's best interest, hereby authorizes the Officials: (i) to establish a property tax intercept procedure and a debt service payment fund pursuant to Chapter 117 of the Connecticut General Statutes, §7-560 et seq., and other Chapters of the Connecticut General Statutes, on such terms as the Officials deem necessary or appropriate, and (ii) all further actions which the Officials deem necessary or appropriate to so secure the Bonds or which are contemplated by law; and be it further



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Budget and Appropriations  
Item No. 193-17

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**RESOLVED**, that the Officials, if they determine it to be advisable, necessary or appropriate, hereby are authorized, on behalf of the City, to enter into an indenture of trust and/or a supplemental indenture of trust to the City's existing indenture (collectively, the "Indenture") with a bank or trust company located within or without the State of Connecticut (the "Trustee"), and to covenant: (i) if the Bonds are issued pursuant to such Indenture that all or a portion of the City's property taxes shall be paid to the Trustee and be held in trust for the benefit of the holders of the Bonds as provided in Chapter 117 and other Chapters of the Connecticut General Statutes, and (ii) the terms on which any payments or reserves securing the payment of the Bonds will be paid, and the terms of any reserve or other fund for the benefit of the holders of the Bonds; and, in any event, to amend or supplement the Indenture containing such terms and conditions as the Officials shall determine to be necessary or advisable and in the best interest of the City, the execution thereof to be conclusive evidence of such determination; and be it further

**RESOLVED**, that the City Council hereby authorizes the Officials, if the Officials determine it is in the City's best interest, to acquire, on behalf of the City, bond insurance or other forms of credit enhancement guaranteeing the Bonds on such terms as the Officials determine to be appropriate, such terms to include, but not be limited to, those relating to fees, premiums and other costs and expenses incurred in connection with such credit enhancement, the terms of payment of such expenses and costs and such other undertakings as the issuer of the credit enhancement shall require; and the Officials, if they determine that it is appropriate, are authorized, on the City's behalf, to grant security to the issuer of the credit enhancement to secure the City's obligations arising under the credit enhancement, including the establishment of a reserve from proceeds of the Bonds; and be it further

**RESOLVED**, that the City Council hereby authorizes the Officials to determine the date, maturity, prices, interest rates whether fixed or floating, form, manner of sale (whether by negotiation or public sale) or other terms and conditions of the Bonds, including the terms of any reserve that might be established as authorized herein, whether any of the Bonds issued will be issued as taxable bonds and whether the Bonds will be issued in one or more series on the same or one or more separate dates, all in such a manner as the Officials shall determine to be in the best interest of the City, and to take such actions and to execute such documents, or to designate other officials or employees of the City to take such actions and to execute such documents, as deemed to be necessary or advisable and in the best interests of the City by the Officials in order to issue, sell and deliver the Bonds; and be it further



# City of Bridgeport, Connecticut

## Office of the City Clerk

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Report of Committee on Budget and Appropriations  
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**RESOLVED**, that the City Council hereby authorizes the Officials in connection with the issuance of the Bonds to execute and deliver on behalf of the City such reimbursement agreements, remarketing agreements, standby bond purchase agreements, interest rate swap agreements, and other agreements for the purpose of managing the interest rate fluctuations and risks and any other appropriate agreements the Officials deem necessary, appropriate or desirable to the issuance of the Bonds and the Officials are hereby authorized on behalf of the City to secure the payment of such agreements with the full faith and credit of the City, if they deem it necessary, appropriate or desirable; and be it further

**RESOLVED**, that the Bonds shall be signed by the Officials provided that such signatures of any two of such officers of the City affixed to the Bonds may be by facsimiles of such signatures printed on the Bonds, and each of such Officers and any designee of any of them is authorized to take such actions, and execute such agreements, instruments and documents, on behalf of the City, that they deem necessary, appropriate or desirable to consummate the intendment of this and the foregoing resolutions; and be it further

**RESOLVED**, that the City Council hereby authorizes the Officials in connection with the issuance of the Bonds to allocate any unused bond proceeds to other City projects authorized for bonding, consistent with the applicable tax and other laws, as deemed to be necessary or advisable and in the best interests of the City by the Officials; and be it further

**RESOLVED**, that the Officials are hereby authorized to apply for and accept any available State or federal grant in aid of the financing of the Projects, and to take all action necessary or proper in connection therewith. All bonding within this authorization and all applications for grants in aid in connection with the Bassick High School Project are hereby conditioned upon acceptance by both the City School Building Committee and the Board of Education of a Project plan which incorporates construction of a new Bassick High School building.



City of Bridgeport, Connecticut  
Office of the City Clerk

Report of Committee on Budget and Appropriations  
Item No. 193-17

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RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
BUDGET AND APPROPRIATIONS

  
\_\_\_\_\_  
*Denese Taylor-Moye, Co-Chair*

  
\_\_\_\_\_  
*Maria Zambrano Viggiano, Co-Chair*

  
\_\_\_\_\_  
*Jeanette Herron*

  
\_\_\_\_\_  
*Mary A. McBride-Lee*

\_\_\_\_\_  
*Michael A. Defilippo*

ABSENT  
\_\_\_\_\_  
*Christina B. Smith*

  
\_\_\_\_\_  
*Nessah J. Smith*

*City Council Date: December 3, 2018*



Exhibit A  
Bonding Authorizations

PROJECT DESCRIPTIONS	Bonding Authorization
<b>BOARD OF EDUCATION:</b>	
Bassick High Sch. - New	1,500,000
Harding High Sch. Renovation	7,000,000
<b>TOTAL BOARD OF EDUCATION</b>	<b>8,500,000</b>
<b>ECONOMIC DEVELOPMENT:</b>	
Congress Street Bridge Replacement	6,000,000
Preservation Block Acquisition/Demolition	1,000,000
Civic Block Demolition/ Clean Up	1,000,000
City Wide Buildings Acquisition/Clean Up	4,000,000
City Wide Streetscapes/Blight/Development	4,000,000
<b>TOTAL ECONOMIC DEVELOPMENT</b>	<b>16,000,000</b>
<b>PUBLIC FACILITIES:</b>	
Arena Rehabilitation	5,000,000
Producto Building Demolition/Remediation	3,000,000
752 East Main Street Demolition	2,000,000
<b>TOTAL PUBLIC FACILITIES</b>	<b>10,000,000</b>
<b>OTHER DEPARTMENTS:</b>	
WPCA Capital Improvements	850,000
<b>TOTAL ALL DEPARTMENTS</b>	<b>35,350,000</b>

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY  
R. Christopher Meyer

DEPUTY CITY ATTORNEY  
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS  
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Richard G. Kascak, Jr.  
Bruce L. Levin  
John R. Mitola  
Lawrence A. Ouellette, Jr.  
Tyisha S. Toms  
Lisa R. Trachtenburg

ASSISTANT CITY ATTORNEYS  
Michael C. Jankovsky  
Eroll V. Skyers  
Tamara J. Titre

OF COUNSEL  
Russell Liskov  
Ronald J. Pacacha



Telephone (203) 576-7647  
Facsimile (203) 576-8252

COMM. 03-18 Ref'd to Contracts Committee  
on 12/03/2018 (Off The Floor)

December 3, 2018

City Council  
of the City of Bridgeport  
City Hall  
45 Lyon Terrace  
Bridgeport CT 06604

RECEIVED  
CITY CLERKS OFFICE  
18 DEC -4 AM 9:21  
ATTEST  
CITY CLERK

**Re: Proposed State Lobbying Services Agreement Between City of Bridgeport and Reynolds Strategy Group, LLC / For Referral to Contracts Committee**

Dear Honorable Councilpersons:

I am respectfully requesting that the City Council at its meeting of Monday, December 3, 2018, kindly refer the above-referenced matter **TO THE CONTACTS COMMITTEE**. Accordingly, I would greatly appreciate it if City Council President Aidee Nieves or one of the Contracts Committee Co-Chairpersons would make the two following motions at his evening's meeting:

1. **MOTION TO ADD** to the City Council Agenda an item entitled "Proposed State Lobbying Services Agreement" between the City and Reynolds Strategy Group LLC  
- **Requires a 2/3 vote of those present and voting required per CT FOIA.**
2. **MOTION TO REFER** this proposed Agreement for lobbying services to the Contracts Committee  
- **Requires a simple majority vote of those present and voting required.**

Enclosed for your reference is a copy of the proposed State Lobbying Services Agreement which is for the term from December 2018 through June 30, 2019 in the amount of \$45,000. Kindly be advised that pursuant to BPT Code of Ordinances § 3.08.140:

(a) express City Council approval is required for any lobbying services contract and

(b) OPM Director Nkwo has confirmed that funding for this purpose (in the amount of \$45,000) has specifically been appropriated in the City's FY 2019 budget.

Anastasi to City Council  
Re: Referral of Lobbyist Agreement  
12/3/18  
Page 2 of 2

In addition, I am hereby requesting that the Co-Chairs of the Contracts Committee schedule a Contracts Committee meeting on or before December 17, 2018, in order that this time sensitive Agreement may obtain full City Council approval at its December 17<sup>th</sup> meeting.

Thank you for your assistance in this matter.

Very truly yours,



Mark T. Anastasi, Esq.

Cc: Lydia Martinez, City Clerk  
Frances Ortiz, Asst. City Clerk  
R. Christopher Meyer, City Atty.  
Daniel Shamus, Chief of Staff  
Nestor Nkwo, OPM Dir.  
Kenneth Flatto, Finance Dir.  
Edward Adams, Dir. of Governmental Accountability & Integrity  
Thomas Gaudett, Aide to the Mayor for Ops. & Constituency Services  
Office of the Chief Administrative Officer

## **STATE LOBBYING SERVICES AGREEMENT**

By this Agreement entered into on or about December 2018 between Reynolds Strategy Group, LLC (hereinafter referred to as "Consultant") and the City of Bridgeport (hereinafter referred to as "CITY"), the Parties agree as follows:

### **Scope of Work**

Consultant will provide the following services:

1. Work with CITY officials on a needs assessment to identify priority interests and other areas of concern vis-à-vis the State of Connecticut (State). Review recent grant requests, funding status of projects and hold an in-depth discussion of potential funding opportunities. Develop a set of specific CITY objectives for State legislative sessions, including any reauthorizing legislation and any specific funding mechanisms for current projects.
2. Provide consultation to the CITY on potential funding available from, and contacts with the State government; particularly but not limited to, the Departments of Economic and Community Development (DECD), Department of Transportation (DOT), Department of Energy and Environmental Protection (DEEP), and Office of Policy and Management (OPM), as well as the Governor's Office and the various State Commissioners, as needed.
3. Develop with the CITY a set of specific State funding targets for projects, and monitor the activities to secure these targets.
4. Advise the CITY on how most effectively to work with the Connecticut Legislature and the staffs of the appropriate legislative committees to secure State appropriations and grants for projects of special interest to the CITY.
5. Assist in briefing the staffs of the State Legislature's Appropriations Committees and Bond Commission on the merits of appropriations for any funding requests for the CITY.
6. Assist in preparing and scheduling testimony, correspondence and written briefing materials by local officials in support of CITY legislation and requests initiated by the CITY or otherwise likely to impact the CITY's legal, financial, and/or operational interests.
7. Work with officials of the CITY and (upon the CITY's request) of non-profit agencies that apply for funds from the State government in order to have a coordinated listing of all requests and a managed plan to be successful in bringing additional funding to projects that will benefit the CITY.
8. Provide any additional consultation to the CITY on an as-needed basis. The Consultant shall advise, counsel, and represent the CITY in pursuing and opposing legislative initiatives and grant applications and awards at the State level in Hartford, CT and regional offices. The Consultant shall assist the CITY in preparing its State legislative, executive, and administrative agendas and shall strategize with the CITY on an ongoing basis as requested. The Consultant

shall identify topics and areas of need to State legislators serving the CITY, pertinent legislative leaders and committee chairs, and CITY Administrative officials.

The Consultant shall perform ministerial and discretionary functions, such as: prepare letters and verbal and written testimony; arrange and schedule appointments; monitor legislative, executive, and administrative activity; and communicate effectively with the CITY and its elected and appointed officials and their staff, as well as those interest groups identified by the CITY as sharing specific interests with the City, all in furtherance of the CITY's governmental agenda as determined by the City Administration.

### **Term of Contract**

The term of the contract will be for the period commencing December 2018 through June 30, 2019.

### **Cost of Services**

The fee for the contract term will be \$45,000 total, payable in five (5) installments of \$9,000 each, due at the conclusion of each month from February 2018 through June 2018.

In addition, there will be a charge for pre-approved direct expenses for travel, lodging, and meals during the initial term and the extension term.

### **Miscellaneous Provisions**

A. *Confidentiality.* The Consultant will keep confidential all strategies and policies. Policies will not be presented to anyone in the private sector, government officials or the news media without the CITY'S prior approval.

B. *Conflicts.* The Consultant will not pursue objectives of other clients that conflict with the CITY objectives. Potential conflicts that arise will be immediately disclosed to the CITY and proper conflict avoidance measures undertaken.

C. *Governing Law.* This Agreement shall be governed by the laws of the STATE, both as to interpretation and performance.

IN WITNESS WHEREOF, the Parties hereto, by their respective and duly authorized officers have hereunto set their names.

**REYNOLDS STRATEGY GROUP, LLC.**

By \_\_\_\_\_  
\_\_\_\_\_  
Its Chief Exec. Officer, Duly Authorized

**CITY OF BRIDGEPORT**

By \_\_\_\_\_  
Joseph P. Ganim  
Its Mayor, Duly Authorized

**CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY**

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Tyisha S. Toms



**ASSISTANT CITY ATTORNEYS**

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Eroll V. Skyers

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Facsimile (203) 576-8252

November 30, 2018

The Honorable City Council  
of the City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Proposed Settlement of Pending Litigation in the matter of  
Lonnie Blackwell v. City of Bridgeport, et al  
Civil Action No 3:17-cv-02027 (VLB)**

Dear Councilpersons:

The Office of the City Attorney respectfully recommends the following pending lawsuit be settled as set forth below. It is our professional opinion that resolving this matter for the consideration agreed to between the parties is in the best interests of the City of Bridgeport.

<u>Plaintiff</u>	<u>Nature of Claim</u>	<u>Plaintiff's Attorney</u>
Lonnie Blackwell	Administrative / Civil Action	Thomas Bucci, Esquire

Kindly place this matter on the agenda for the City Council meeting on December 3, 2018 for referral to the Miscellaneous Matters Committee meeting on December 24, 2018. Thank you for your assistance in this matter.

Very truly yours,

R. Christopher Meyer  
City Attorney

cc: Joseph P. Ganim, Mayor  
Lydia Martinez, City Clerk  
Cindy Kane, Paralegal

RECEIVED  
CITY CLERKS OFFICE  
18 DEC -4 AM 9: 21  
ATTEST  
CITY CLERK