

RESOLUTION OF THE CITY COUNCIL

No. 41

Approved January 29, 2021

RESOLVED, That the Members of the Providence City Council
hereby Authorize Approval of the following Contract Extension Award by the
Board of Contract and Supply in accordance with Section 21-26(b) of the Code of
Ordinances.

AEP Onsite Partners, LLC
(Water Supply Board)

\$24,846,266.38 for 10 years

IN CITY COUNCIL

JAN 21 2021

READ AND PASSED


PRES.


CLERK

I HEREBY APPROVE


Mayor

Date:

1/29/21

Office of the Internal Auditor
City of Providence



November 17, 2020

Mr. Shawn Selleck
City Clerk's Office
City of Providence
25 Dorrance Street
Providence, RI 02903

Dear Shawn:

I am writing to request that the following requested contract awards be submitted to the City Council and the Finance Committee for approval:

▪ **Water Supply Board:**

- Approval to extend the contract for ten (10) years with **AEP Onsite Partners, LLC** in the amount of **\$6,306,348.78** for an amount not to exceed **\$24,846,266.38** for renewable energy projects in accordance with the Code of Ordinance, Section 21-26 (b);

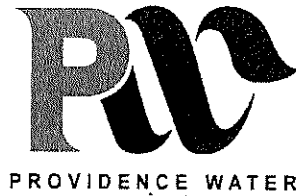
Sincerely,

A blue ink signature of Gina M. Costa, written in a cursive style.

Gina M. Costa

Internal Auditor

Cc: Brenda Almonte, Director of Public Property
Alejandro Tirado, Associate Director of Purchasing
James J. Lombardi, III, Treasurer/Senior Advisor to City Council
Ricky Caruolo, General Manager, WSB



November 10, 2020

The Honorable Mayor Jorge O. Elorza
Chairman, Board of Contract and Supply
City Hall
25 Dorrance Street
Providence, RI 02903

RE: Requesting Approval of a Contract Extension with AEP Onsite Partners LLC

ID Number: **29767**

Original ID Number: 18464

Amendment ID Number: 29355

Minority Participation: 0% MBE, 0% WBE

Account Code: 601-410-52430

Dear Mayor Elorza,

The department of Providence Water (PW) respectfully requests approval to extend its contract with AEP Onsite Partners LLC for Renewable Energy Projects for an additional 10 years, in an amount not to exceed \$6,306,348.78 for years 26-35. The contract was originally awarded on September 17, 2018, in the amount of \$18,208,039.05 and had an original term of 25 years with a 10-year option from the original contract.

The purpose of the solar array is to classify PW as 100% green while producing 100% of our electrical needs. As part of the original contract, PW has the option to extend the contract up to ten years if deemed beneficial. This 10-year option is available within the first 6 months of the system becoming operational. The 10-year time extension provides a further reduced fixed KWH rate of \$0.08226 which will generate approximately \$16M. in savings over the 10-year option at an added cost of \$6,306,348.78. The contract extension has been reviewed by PW legal counsel.


It is therefore recommended that the Mayor approve and the Board of Contract and Supply grant a ten-year extension to AEP Onsite Partners, LLC with the addition cost of \$6,306,348.78 for a total amount not to exceed \$24,846,066.38 (\$18,208,039.05 years 1-25 + \$6,306,348.78 years 26-35).

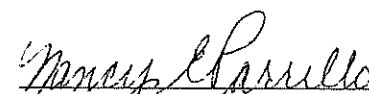
AEP Onsite Partners LLC has agreed to the further reduced KWH pricing while honoring the terms and conditions as outlined in the original contract.

Funds in the amount of \$24,846,066.38 are available in 601-410-52430.

AEP Onsite Partners LLC - 1 Riverside Plaza Columbus, OH 43215-2372

Respectfully Submitted,


Ricky Caruolo, General Manager


Financial Approval:



Rhode Island
Department of City Clerk

MEMORANDUM

DATE: July 20, 2020

TO: Purchasing Director

SUBJECT: **APPROVAL OF AMENDMENT #1 OF THE
RENEWABLE ENERGY PROJECTS CONTRACT,
WITH EDF RENEWABLE DISTRIBUTED
SOLUTIONS, INC. (EDF) TO CHANGE THE
VENDOR TO AEP ONSITE PARTNERS LLC (AEP) –
WATER SUPPLY BOARD**

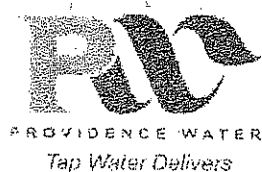
CONSIDERED BY: Board of Contract and Supply

DISPOSITION: VOTED: that the Purchasing Director hereby authorizes Approval of Amendment #1 of the Renewable Energy Projects Contract, with EDF Renewable Distributed Solutions, Inc. (EDF) to change the vendor to AEP Onsite Partners LLC (AEP), due to the sale (transfer) of the project responsibilities, in the original total amount of \$18,208,039.05, originally awarded on September 17, 2018 for a Twenty Five Year contract, all in accordance with the request of Ricky Caruolo, General Manager, in communication dated July 9, 2020.

AT
cc Pur.Dir.
Contr.
WSB
File

A handwritten signature in cursive script, reading "Shawn Sellick".

City Clerk



MT#29355

July 9, 2020

The Hon. Jorge O. Elorza
Mayor

Ricky Caruolo
General Manager

The Honorable Mayor Jorge O. Elorza
Chairman, Board of Contract and Supply
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Re: Amendment to Renewable Energy Projects Award

Original MT Number: 18464

BOARD OF DIRECTORS

Xaykham Khamsyvavong
Chairperson

Joseph D. Cataldi
Vice Chairperson

Michael J. Correia
Council President Pro Tempore

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Councilperson

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Cristen L. Raucchi, Esq.
Member

Dr. Alma M. Guerrero Bready
Member

Carissa R. Richard
Secretary

William E. O'Gara, Esq.
Legal Advisor

Dear Mayor Elorza:

Providence Water (PW) is requesting the mayor to approve, and the Board of Contract and Supply to authorize amending the September 17, 2018 award issued for Renewable Energy Projects by changing the vendor from "EDF Renewable Distributed Solutions, Inc." (EDF) to "AEP Onsite Partners, LLC" (AEP).

On September 17, 2018, the Board of Contract and Supply awarded a twenty five-year contract to EDF, the lowest bidder, for the construction of a thirty-acre solar array, in an amount not to exceed \$18,208,039.05.

On March 5, 2020, EDF notified PW that they have sold the project to AEP. AEP will honor the pricing and terms of the award. As part of the original project PW had the the right to extend this contract up to ten years if deemed beneficial.

The purpose of this solar array is to make PW 100% green while producing 100% of our electrical needs. Additionally, this project will generate approximately twenty-five Million in net savings over the contract term.

It is therefore recommended the Board of Contract and Supply amend the contract to AEP Onsite Partners, LLC with the option to extend if deemed in PW's best interest.

Funds are available in Account: 601-410-52430

Minority Participation: MBE 0% WBE 0%

Respectfully Submitted,
PROVIDENCE WATER


Ricky Caruolo
General Manager



MEMBER

Rhode Island Water Works Assn.
New England Water Works Assn.
American Water Works Assn.
Water Research Foundation

An EPA WaterSense Partner

(401) 521-6300

125 Dupont Drive
Providence, RI 02907

www.provwater.com

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facebook.com/Providencewater

City of Providence



Rhode Island

Department of City Clerk

MEMORANDUM

DATE: September 17, 2018
TO: Purchasing Director
SUBJECT: **RENEWABLE ENERGY PROJECTS – WATER SUPPLY BOARD**
CONSIDERED BY: Board of Contract and Supply

DISPOSITION: VOTED: that the Purchasing Director be authorized to engage the following bidders, for Renewable Energy Projects, as a revenue positive award and the approximate energy cost savings of minimally Twenty Million (\$20,000,000.00) Dollars over 25 years, all in accordance with the offer of said firm submitted on June 25, 2018.

EDF Renewable Distributed Solutions, Inc.
\$18,208,039.05 over 25 years

Kleinschmidt Associates
\$200,000.00

cc: Pur.Dir.
Contr
WSB
File ,

A handwritten signature, possibly "JB", in dark ink.

A handwritten signature in cursive script, reading "Lori L. Hagen".
City Clerk

ESTOPPEL AGREEMENT

This ESTOPPEL AGREEMENT (this "Estoppel Agreement"), dated as of January 14, 2020, is made by the Providence Water Supply Board of the City of Providence Rhode Island ("PWSB") and Pine Hill Solar Partners, LLC, a Delaware limited liability company ("Developer"), for the benefit of AEP OnSite Partners, LLC, a Delaware limited liability company ("OnSite").

RECITALS

A. PWSB and Developer are parties to that certain Net Metering Credit Purchase Agreement, dated as of April 1, 2019 (the "NMCPA"); and

B. Pursuant to a Membership Interest Purchase Agreement (the "Purchase Agreement") between EDF Renewables Distributed Solutions, Inc. and OnSite, OnSite will acquire all of the membership interests in Developer and thereby will control the Developer's right, title and interest in and to the NMCPA, and will assume all of Developer's obligations thereunder upon the occurrence of a closing under the Purchase Agreement (the "Closing" and the date of such Closing, the "Closing Date"); and

C. PWSB and Developer are executing and delivering this Estoppel Agreement as a material inducement to OnSite entering into the Purchase Agreement.

AGREEMENT

1. Estoppel. To induce OnSite to enter into the Purchase Agreement and consummate the transactions contemplated thereby, PWSB hereby certifies and agrees as follows:

a. NMCPA. The NMCPA (i) attached hereto as Exhibit A is a true, correct and complete copy thereof as of the date hereof, subject to the agreements set forth in this Estoppel Agreement, (ii) was duly authorized, executed, and delivered by PWSB, (iii) is in full force and effect and is a valid and binding obligation of PWSB, enforceable in accordance with its terms, (iv) except as provided in this Estoppel Agreement, has not been assigned to any other party; (v) except as provided in this Estoppel Agreement, has not been amended or modified, and (vi) including the NMCPA amendments effected by this Estoppel Agreement, constitutes the entire NMCPA.

b. No Claims. To PWSB's knowledge, PWSB has no claims against Developer under, relating to the subject matter of, or arising out of the NMCPA.

c. No Default. Neither PWSB nor, to PWSB's knowledge, Developer is in breach of or default under the NMCPA.

d. Reliance. PWSB acknowledges that OnSite and its affiliates are relying on the estoppel provisions of this Section 1.

e. Power and Authority. PWSB has the requisite power, authority and capacity to execute and deliver this Estoppel Agreement and this Estoppel Agreement has been duly and validly executed and delivered by PWSB.

f. Performance. PWSB knows of no reason why it cannot perform its obligations under the NMCPA.

2. NMCPA.

a. Defined Terms. Capitalized words used in this Section 2 have the meanings assigned to them pursuant to the NMCPA.

b. Acknowledgments and Agreements under NMCPA. PWSB acknowledges and agrees as follows with respect to the NMCPA:

- i. As of the Closing Date, OnSite will control all of the Developer's right, title and interest in and to the NMCPA, and will assume all of Developer's obligations under the NMCPA.
- ii. As of the Closing Date, the contact information for Seller shall be as follows:

Seller:

Name and Address: PINE HILL SOLAR PARTNERS, LLC
303 Marconi Blvd., Suite 400
Columbus, OH 43215
Attn: Chief Operating Officer or Manager
Phone: 614-583-6472
Email: jhjansen@aepes.com

With a copy to:

American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
Attention: General Counsel

- iii. The definition of "Net Metering Credit" or "NMC" in NMCPA Exhibit 1, Section 3, is clarified to reflect that a Net Metering Credit or NMC shall have the meaning as defined in the Net Metering Provision.
- iv. The Production Model attached to this Estoppel Agreement as Exhibit B is hereby acknowledged and agreed as the Production Model delivered by Seller pursuant to NMCPA Exhibit 3, Article 14. The Production Model does not now incorporate adjustments for unpredictable future events that may occur in any period subject to the Production Guarantee; and the modeled production pursuant to the Production Model will be adjusted downward when and if needed to reflect any event outlined in NMCPA Exhibit 3, Article 14 that has not occurred and cannot now be predicted

(such as Force Majeure Events).

- v. Exhibit 4 attached to this Estoppel Agreement is adopted and accepted as NMCPA Exhibit 4.

3. Governing Law. This Estoppel Agreement and the legal relations between the parties hereunder shall be governed by and construed in accordance with the laws of the State of Rhode Island, without regard to principles of conflicts of laws that would direct the application of the laws of another jurisdiction.

4. Validity. The invalidity or unenforceability of any provision of this Estoppel Agreement will not affect the validity or enforceability of any other provisions of this Estoppel Agreement, each of which will remain in full force and effect. If any term or other provision of this Estoppel Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Estoppel Agreement will nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated by this Estoppel Agreement is not affected in any manner materially adverse to either party hereto.

5. Electronic Signatures. The delivery of copies of this Estoppel Agreement and of the signature page by facsimile transmission, by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, will constitute effective execution and delivery of this Estoppel Agreement and may be used in lieu of the original Estoppel Agreement for all purposes. PWSB's signature transmitted by facsimile or other electronic means will be deemed to be its original signatures for all purposes.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have duly executed this Estoppel Agreement or caused this Estoppel Agreement to be duly executed on the date first written above.

Providence Water Supply Board of the
City of Providence Rhode Island

By:

Name

Title:

Rich Caruolo
General Manager
Providence Water

1/22/2020

Pine Hill Solar Partners, LLC

By: EDF Renewables Distributed Solutions,
Inc., manager

By:

Name: *James P. Resor*

Title: *CEO*

Exhibit 4

Purchaser Load Profile

See attached Schedule B and table below.

3-Yr Avg	7,833
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MWh						
Account	2016	2017	2018	2019	Sum	%
0 ASHBY ST	214	1,584	2,472	1,440	5,710	24.3%
0 HOPE-FURNACE RD	314	1,831	1,555	1,539	5,239	22.3%
0 BATH ST	250	1,527	933	1,270	3,980	16.9%
125 DUPONT DR	896	1,081	727	453	3,157	13.4%
0 SCITUATE AVE	119	954	994	935	3,002	12.8%
0 FRUIT-HILL AVE	36	142	196	196	569	2.4%
0 MELODY LN	30	173	177	179	558	2.4%
36 STARLINE WAY	14	93	92	85	285	1.2%
0 GREENVILLE AVE	14	85	85	72	255	1.1%
0 ATWOOD AVE	7	56	46	38	147	0.6%
1 PINWOOD DR LOT 109	6	40	42	41	129	0.6%
0 RIDGE RD	1	14	17	45	77	0.3%
0 ELMORE AVE	8	53	10	3	74	0.3%
0 HOOVER ST	4	25	23	17	70	0.3%
0 BASIL XING	3	18	18	16	56	0.2%
685 GREENVILLE AVE			19	27	45	0.2%
1835 MINERAL SPRING AVE	4	13	12	9	37	0.2%
0 CELLA LN	1	12	9	13	35	0.1%
730 PLAINFIELD PIKE	3	3	6	6	19	0.1%
0 BUDLONG RD	1	5	6	6	18	0.1%
Budlong- 63892-31001	3	12	1		16	0.1%
0 CARRIAGE WAY LOT 2	0	2	3	2	8	0.0%
30 SCARALIA RD	0	2	2	2	7	0.0%
40 FRNT CLINTON AVE	0	2	2	1	5	0.0%
0 WAKEFIELD ST	0	0	0	0	0	0.0%
Grand Total	1,929	7,729	7,447	6,394	23,499	100%

Schedule B – Additional Information Required for Net Metering Service

THE NARRAGANSETT ELECTRIC COMPANY
NET-METERING APPLICATION OF CREDITS

Customer Name: Providence Water Supply Board
Account Number: 678046301
Facility Address: Lot 4, Michelle Way
City: Johnston State: RI Zip Code: 02919

The Agreement is between Providence Water Supply Board, a Net-Metered Customer ("NMC") and The Narragansett Electric Company (the "Company") for application of credits earned through net-metering from the NMC located at Lot 4, Michelle Way, Johnston, Rhode Island.

The NMC agrees to comply with the provisions of the Net-Metering Provision, the applicable retail delivery tariffs and the Terms and Conditions for Distribution Service that are on file with the Rhode Island Public Utilities Commission as currently in effect or as modified, amended, or revised by the Company, and to pay any metering and interconnection costs required under such tariff and policies.

A.) NMC Address: 125 Dupont Drive

Providence, RI 02907

Nameplate rating (AC) of the Eligible Net Metering System 4,999 kW
Estimated annual generation in kWhs of Eligible Net-Metering System 8,521,000 kWhs

Net Metered Account(s)

The following information must be provided for each individual Net Metered Account in a proposed Eligible Net Metering site:

Name: Providence Water Supply Board (Except in the case of a Public Entity or Multi-municipal Collaborative, the customer of record must be the same as the NMC)

Service Address: Below _____

National Grid Account number: 678046301

Three (3) years average kWh usage for this account 7,833,106

Total three (3) years average kWh usage for all accounts listed as an Eligible Net Metering Site 7,833,106

Once this information is received, the Company will determine if the accounts listed are eligible for net metering.

B.) For any Billing Period in which the NMC earns Net Metering Credits, please indicate how the Distribution Company will apply them:

- ☐ Apply all of the Net Metering Credits to the account of the NMC (skip Items C and D below)
- ☐ Allocate all the Net Metering Credits to the accounts of eligible Customers (please fill out C and D below)
- ☒ Both apply a portion of the Net Metering Credits to the NMC's account and allocate a portion to the accounts of eligible Customers (please fill out C and D below)

The Company will notify the NMC within 30 days of the Company's receipt of Schedule B whether it will allocate or purchase Net Metering Credits. If the Company elects to purchase Net Metering Credits, the Company will render payment by issuing a check to the NMC each Billing Period, unless otherwise agreed in writing by the NMC and Company. If the Company elects to allocate Net Metering Credits, the NMC must complete Item C and submit the revised Schedule B to the Company.

C.) Please state the total percentage of Net Metering Credits to be allocated.

% Amount of the Net Metering Credit being allocated.

The total amount of Net Metering Credits being allocated shall not exceed 100%. Any remaining percentage will be applied to the NMC's account.

Please identify each eligible Customer account to which the NMC is allocating Net Metering Credits by providing the following information (attach additional pages as needed):

NOTE: If a designated Customer account closes, the allocated percentage will revert to the NMC's account, unless otherwise mutually agreed in writing by the NMC and the Company.

Name: Fruit Hill Pole 45
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 00526-34009
Amount of the Net Metering Credit: 2.42 %

Name: "Protection"
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 03892-31001
Amount of the Net Metering Credit: 0.08 %

Name: Mineral Spring
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 12794-37009
Amount of the Net Metering Credit: 0.16 %

Name: Starline Way
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 14719-18001
Amount of the Net Metering Credit: 1.21 %

Name: Pinewood Drive
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 16077-54004
Amount of the Net Metering Credit: 0.55 %

Name: Ridge Road Pole 84
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 25856-16004
Amount of the Net Metering Credit: 0.33 %

Name: Carriage Way
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 26758-89024
Amount of the Net Metering Credit: 0.03 %

Name: Plainfield Pike, PLE 151
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 26789-70013
Amount of the Net Metering Credit: 0.08 %

Name: Dupont Drive Solar
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 27144-85017
Amount of the Net Metering Credit: 13.44 %

Name: Basil Crossing
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 28269-12003
Amount of the Net Metering Credit: 0.24 %

Name: Scaralia Road
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 28288-61009
Amount of the Net Metering Credit: 0.03 %

Name: Front Clinton
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 31064-36009
Amount of the Net Metering Credit: 0.02 %

Name: Ashby Pump
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 37759-22009
Amount of the Net Metering Credit: 24.30 %

Name: Greenville Tank
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 51957-52012
Amount of the Net Metering Credit: 1.09 %

Name: Hoover Street
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 53353-93000
Amount of the Net Metering Credit: 0.30 %

Name: Atwood Pump
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 53518-69009
Amount of the Net Metering Credit: 0.63 %

Name: Melody Lane
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 53711-46007
Amount of the Net Metering Credit: 2.37 %

Name: Budlong
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 63892-31001
Amount of the Net Metering Credit: 0.07 %

Name: Hope Furnace
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 64204-56002
Amount of the Net Metering Credit: 22.29 %

Name: Greenville Ave
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 75186-54000
Amount of the Net Metering Credit: 0.19 %

Name: Scituate Avenue
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 77003-46002
Amount of the Net Metering Credit: 12.77 %

Name: Cella Lane
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 78095-24004
Amount of the Net Metering Credit: 0.15 %

Name: Elmore Avenue
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 87807-98001
Amount of the Net Metering Credit: 0.32 %

Name: Bath Street
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 90018-05008
Amount of the Net Metering Credit: 16.94 %

Name: Ridge Rd
Billing Address: 125 Dupont Drive, Providence, RI
Account number: 88194-66001
Amount of the Net Metering Credit: 0.29 %

- D.) The terms of this Schedule B shall remain in effect unless and until the NMC executes a revised Schedule B and submits it to the Company. Unless otherwise required herein or mutually agreed to in writing by the NMC and the Company, a revised Schedule B shall not be submitted more than once in any given calendar year.
- E.) A signature on the application shall constitute certification that (1) the NMC has read the application and knows its contents; (2) the contents are true as stated, to the best knowledge and belief of the NMC; and (3) the NMC possesses full power and authority to sign the application.

Notice

Execution of this agreement will cancel any previous agreement for the net-metered account under the Net-Metering Provision.

The Company or NMC may terminate this agreement on thirty (30) days written notice, which includes a statement of reasons for such termination. In addition, the NMC must re-file this agreement annually.

Agreed and Accepted – Please sign

[NAME OF NMC]

Date: 12/31/19

By:  - PW Principal Engineer

Name: Peter DiLorenzo

Title: Project Manager

The Narragansett Electric Company
d/b/a National Grid

Date: _____

By: _____

Name:

Title:

Exhibit A

Net Metering Credit Purchase Agreement

See attached.

Net Metering Credit Purchase Agreement

This Net Metering Credit Purchase Agreement (this "Agreement") is entered into by the parties listed below (each a "Party" and collectively the "Parties") as of the "Effective Date" noted below.

Purchaser:		Seller:	
Name and Address	Providence Water Supply Board of the City of Providence Rhode Island 125 Dupont Drive Providence, RI 02907 Attention: Gary Marino, Principal Engineer	Name and Address	Pine Hill Solar Partners, LLC c/o EDF Renewables Distributed Solutions, Inc 5 Commerce Avenue West Lebanon, NH 03784 Attention: Peter Bay, Senior Manager, Business Development
Phone	(401) 639 - 2984	Phone	(802) 272 - 6519
Fax	None	Fax	(802) 295 - 4417
E-mail	gmarino@pro.water.com	E-mail	peter.bay@edf-re.com Copy to: nilgelfert@edf-re.com
Site Location: Site Owner:	An approximately 90.46-acre area of land, composed of the parcels in Providence County, Rhode Island, owned by the City of Providence and controlled by Purchaser (together, the "Landowner") and assigned the Appraiser Parcel Numbers and having the approximate areas reflected below (collectively, the "Site"). 1. Parcel ID: 45-508 (67.18 Acres) 2. Parcel ID: 43-581 (15.53 Acres) 3. Parcel ID: 45-336 (7.75 Acres)	Effective Date:	April 1, 2019

This Agreement sets forth the terms and conditions of the purchase and sale of net metering credits from solar generated electric energy from the solar panel system described in Exhibit 2 (the "System").

The exhibits listed below are incorporated by reference and made part of this Agreement.

<u>Exhibit 1</u>	Summary of Key Terms and Conditions
<u>Exhibit 2</u>	System Description
<u>Exhibit 3</u>	General Terms and Conditions
<u>Exhibit 4</u>	Purchaser Load Profile

Purchaser: PROVIDENCE WATER SUPPLY BOARD
of the City of Providence Rhode Island

Seller: PINE HILL SOLAR PARTNERS, LLC
By: EDF Renewables Distributed Solutions, Inc.
Manager

Signature: 

Signature: 

Printed Name: RICKY CARUOLO

Printed Name: Red Viens

Title: GENERAL MANAGER, Providence Water

Title: Senior Vice President of Manager

Date: APRIL 8, 2019

Date: April 5, 2019

Exhibit 1
Summary of Key Terms and Conditions

1. **Term:** Twenty-Five (25) years, beginning on the Commercial Operation Date, subject to limited, early termination as expressly provided in the Agreement.
2. **Additional Terms:** Up to two (2) Additional Terms of five (5) years each, upon mutual agreement of Seller and Purchaser.
3. **Net Metering Credit or NMC:** A "Renewable Net Metering Credit" or "NMC" shall mean a credit issued by the Utility (defined on Exhibit 2) to Purchaser or for Purchaser's customer account in accordance with the Net Metering Provision and the Net Metering Regulations for each kilowatt hour of electricity generated from and after the Commercial Operation Date during the Term by the System. The "Net Metering Regulations" means Rhode Island General Law Chapter 39-26.4, as amended, and the "Net Metering Provision" means RI PUC No. 2207 Net Metering Provision, as amended.
4. **Purchaser Utility Account:** Purchaser's Utility Account(s) are listed on Exhibit 4. The value of each Net Metering Credit reflected on Utility statements issued for the Purchaser Utility Account may be higher or lower than the Contract Price for such NMC set forth in this Agreement. Utility values for NMCs are established in accordance with the Net Metering Regulations.
5. **Capacity Attributes, Tax Credits:** Accrue to Seller.
6. **Environmental Attributes:** Accrue to Seller and transferred to Purchaser for Contract Price. .
7. **Contract Price:** Purchaser shall pay Seller the Price for Net Metering Credits allocated to Purchaser and measured in kWhs set forth below:

Contract Year	Price for Net Metering Credits (NMCs) \$/kWh
1	\$0.0914/kWh
2	\$0.0914/kWh
3	\$0.0914/kWh
4	\$0.0914/kWh
5	\$0.0914/kWh
6	\$0.0914/kWh
7	\$0.0914/kWh
8	\$0.0914/kWh
9	\$0.0914/kWh
10	\$0.0914/kWh
11	\$0.0914/kWh
12	\$0.0914/kWh
13	\$0.0914/kWh
14	\$0.0914/kWh
15	\$0.0914/kWh
16	\$0.0914/kWh
17	\$0.0914/kWh
18	\$0.0914/kWh
19	\$0.0914/kWh
20	\$0.0914/kWh
21	\$0.0914/kWh
22	\$0.0914/kWh
23	\$0.0914/kWh
24	\$0.0914/kWh
25	\$0.0914/kWh

Contract Year	Price for Net Metering Credits (NMCs) \$/kWh
<i>First Extension Term**</i>	
26	
27	
28	
29	
30	
<i>Second Extension Term**</i>	
31	
32	
33	
34	
35	
** Price for Net Metering Credits for the first Extension Term and the Second Extension Term shall be as negotiated by Purchaser and Seller. However, if either Party seeks to secure an agreement to a 10-year Extension Term 180 days prior to the first anniversary of the Commercial Operation Date, then the Parties will negotiate in good faith to agree to such Extension Term which shall include a discounted price for Net Metering Credits equal to <u>\$0.08226/kWh</u> .	

8. Condition Satisfaction Date: January 31, 2020
9. Commencement of Construction: Construction of the System is expected to begin approximately six (6) months before the date identified by the Utility for completion by the Utility of interconnection facilities for the System.
10. Posting of \$3,000,000 Surety. Upon commencement of System construction, Seller will deliver to Purchaser a payment and performance bond (or other surety reasonably acceptable to Purchaser) in the amount of \$3,000,000 as a surety and support for the performance by Seller under, and payment when due of all obligations of Seller to Purchaser under this Agreement, including the Seller's production guarantee obligations and the Seller's obligations to remove the System, from the Site and restore (reasonable wear and tear accepted) the Site (the "Surety").
11. Target Commercial Operation Date: June 1, 2020
12. Guaranteed Commercial Operation Date: The "Guaranteed Commercial Operation Date" means July 1, 2020, subject to extension to the extent: (a) Purchaser fails to timely and materially fulfill its obligations under this Agreement; or (b) the interconnection work by Utility is not completed by June 15, 2020 for any reason, other than the Seller's breach of this Agreement or Seller's willful misconduct, nonfeasance, or gross negligence. To the extent the Commercial Operation Date occurs after the Guaranteed Commercial Operation Date, Seller shall pay Liquidated Damages (defined in the Agreement) as provided in the Agreement.
13. Production Guarantee. From the earlier of (a) the sixth month after the Commercial Operation Date, and (b) the Guaranteed Commercial Operation Date, as adjusted pursuant to Paragraph 12 above, through the last day of the Term, Seller guarantees (the "Production Guarantee") that the total annual Energy Output of the System, in kWh, will equal or exceed 90% of the modeled production of the System over the Term, based on the "Production Model" (defined in Exhibit 3, section 14).
14. Limitation on Tax Assessment. Seller shall have the right to terminate the Agreement if the assessed value of the System, and any related assets owned or controlled by Seller at the Site exceeds \$5,00/kW AC with respect to personal property taxes, or similar taxes or assessments payable by Seller with respect to the System or related assets.
15. Interconnection. The System will interconnect with the Utility's distribution system at the Utility's 18-F6 Feeder (12.47 kV) ("Point of Interconnection"), located adjacent to the Site. Seller will oversee and manage, and shall be responsible for, the work required to interconnect the System to the Utility's distribution system.

Exhibit 2
System Description

1. System Location ("Site"): An approximately 90.46-acre area of land, composed of the parcels in Providence County, Rhode Island, owned by the City of Providence and controlled by Purchaser (together, the "Site Owner") and assigned the Appraiser Parcel Numbers and having the approximate areas reflected below:
 - a. Parcel ID: 45-508 (67.18 Acres)
 - b. Parcel ID: 43-581 (15.53 Acres)
 - c. Parcel ID: 45-336 (7.75 Acres)
2. System Size (AC MW): Approximately 4.99 MW AC
3. Expected System Structure: A fixed-tilt, ground-mount photovoltaic, solar electricity generation system and supporting equipment including but not limited to an inverter and the interconnection facilities and equipment.
4. Utility: National Grid
5. Delivery Point: Revenue grade meter (the "System Meter") installed at the high side (12.47 kV) of the System transformer. For purposes of determining the Contract Price payable for any month during the Term, the NMCs generated by the System shall be established based on the kWhs of electricity delivered by the System at the Delivery Point, subject to the provisions of this Agreement.

Exhibit 3
Net Metering Credit Purchase Agreement
General Terms and Conditions

1. Definitions and Interpretation: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. Purchase and Sale of Net Metering Credits and Environmental Attributes.
 - (a) Transfer of NMCs. In consideration of the payment to Seller of the Contract Price (defined below), Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of Seller's right, title, and interest in and to 100% of the Net Metering Credits generated by the System during the Initial Term and any Additional Term (as defined in Exhibit 1, and collectively the "Term"). Title to the NMCs will pass from Seller to the Purchaser upon allocation to Purchaser's customer account(s) by the Utility. For purposes of verifying the Net Metering Credits produced by the System, Seller shall measure the electricity produced by the System (the "Energy Output") based on the readings of the meter installed as part of the System and located at the Delivery Point that shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility (the "System Meter"). Seller is not hereby selling or transferring to Purchaser any Energy Output.
 - (b) Schedule B. To facilitate delivery of the Net Metering Credits purchased and sold pursuant to this Section 2, Seller shall request that the Utility shall allocate the Net Metering Credits generated by the System to Purchaser's customer account(s) as set forth on Exhibit 1 (collectively, "Purchaser Utility Account"). Purchaser understands and agrees that the Net Metering Credits received by Purchaser for any month during the Term will be reflected on the monthly Utility Bill (defined below) provided to Purchaser as a monetary credit amount and not as a quantity of electricity, and that such credit will be reflected on Purchaser's monthly Utility Bill(s) for the Purchaser Utility Account according to the Utility's Billing Period (defined below) cycle, which may be approximately one month after the Net Metering Credits are generated by the System. Purchaser acknowledges and agrees that Purchaser will enter into, execute, and deliver and that Seller shall maintain Schedule B - Additional Information Required for Net Metering Service between Customer and Utility ("Schedule B") such that the Utility shall allocate the Net Metering Credits purchased by Purchaser under this Agreement to Purchaser's customer account(s) with the Utility. Purchaser may request not more than quarterly that Seller update the Purchaser's accounts with the Utility. Purchaser authorizes Seller to modify Schedule B or take any other actions with the Utility to ensure that the Facility continues to qualify as an "Eligible Net Metering System" and that this Agreement qualifies as a "Net Metering Finance Arrangement", as each is defined under the Net Metering Regulations.
 - (c) System Environmental Attributes. In addition, in consideration of the payment to Seller of the Contract Price, Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of Seller's right, title, and interest in and to 100% of the all Environmental Attributes (defined below). During the Term, Purchaser and Seller shall cooperate with each other in obtaining, securing and transferring all Environmental Attributes in a manner necessary to qualify for any such available Environmental Attributes.
 - (d) Products. As used herein, "Products" means the Net Metering Credits generated by the System, measured based on electric energy delivered at the Delivery Points reflected on Purchaser's monthly Utility statement(s), and all Environmental Attributes. Title to Net Metering Credits will pass from Seller to Purchaser upon allocation to Purchaser Utility Account by the Utility.
 - (e) Eligibility of the System and Site. Prior to the Commercial Operation Date, Seller will confirm to Purchaser that the System qualifies as an "Eligible Net Metering Resource" and that this Agreement qualifies as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations. In addition, Seller will provide reasonable cooperation to Purchaser to qualify the System as a renewable energy resource under the applicable renewable energy standard or environmental compliance program for which the System may qualify in order that Purchaser may sell or transact Environmental Attributes through Rhode Island's program, provided that such qualification and related compliance with such standard or program shall be Seller's sole responsibility in respect of any sale or transaction of Environmental Attributes. Subject to the provisions of this Agreement, each Party will take all reasonable actions to facilitate and expedite all approvals necessary for the System to qualify as an "Eligible Net Metering System" and this

Agreement to qualify as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations. During the Term, neither Party will take any action that is inconsistent with the System qualifying as an "Eligible Net Metering System" and this Agreement qualifying as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations. Each Party will agree to an amendment of this Agreement that is necessary to assure that the System qualifies as an "Eligible Net Metering System" and that this Agreement qualifies as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations, unless such amendment would alter the financial arrangements contemplated by this Agreement.

- (f) **Capacity Attributes.** As between Seller and Purchaser, any benefit associated with the Capacity Attributes for the System shall exclusively and solely accrue to and be owned by Seller. Purchaser is under no obligation to take any action other than reasonable cooperation with Seller to obtain any such benefit, and Seller shall reimburse Purchaser for any reasonable costs incurred by Purchaser at Seller's request to obtain such benefit.
- (g) **Definitions.** As used in this Section 2 and the balance of this Agreement, the following capitalized terms have the following meanings:
 - (i) "Capacity Attributes" means any defined characteristic, certificate, tag, credit or accounting construct associated with the amount the capacity of the System that can be purchased or sold pursuant to the rules of the Independent System Operator (ISO-NE).
 - (ii) "Tariff" means the tariff for net metering services, as approved by the Rhode Island Public Utility Commission (RIPUC), as amended and supplemented by the RIPLIC.
 - (iii) "Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances (but specifically excluding Capacity Attributes), howsoever entitled that are created or otherwise arise from the System's generation of energy using a zero or lower emissions fuel in contrast to the generation of electricity using fossil fuels, including, but not limited to, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, tags, certificates, air quality credits, offsets or other benefits, green tags tradable renewable credits and Green-e® products, or similar products or rights associated with such energy production as a "green" or "renewable" electric generation resource under any law and/or regulation. Environmental Attributes do not include Capacity Attributes, Tax Credits (defined below) or cash grants or any similar cash benefits.

3. Incentives and Tax Credits.

- (a) **Ownership of Incentives and Tax Credits.** Unless otherwise specified on Exhibit 1 or Section 2 of this Agreement, Seller is the owner of all Incentives (defined below) and is entitled to the benefit of all Tax Credits (defined below). The Products transferred or transferable to Purchaser under this Agreement do not include the right to Tax Credits or Incentives. Seller's obligations are conditioned upon the ability of the Seller to fully utilize all Incentives and Tax Credits available as of the Effective Date. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Incentives are paid directly to Purchaser or any Tax Credit is received by Purchaser, Purchaser shall immediately pay such amounts over to Seller. Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication. Seller and Purchaser shall file tax returns and other tax-related information and documents consistent with this Section 3.
- (b) "Incentives" means any and all credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.
- (c) "Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the Rhode Island Public Utilities Commission (RIPUC), or any arbitrator with authority to bind a party at law.
- (d) "Tax Credits" means any and all (i) investment tax credits, including the federal investment tax credit equal to thirty percent (30%) of the System value as of the Effective Date; (ii) production tax credits, (iii) beneficial tax attributes

applicable to the System or the owner of the System, including federal MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, and (iv) similar tax credits or grants, as well as under federal, state or local law relating to the construction, ownership or production of energy from the System.

- (e) "Utility" means the Utility identified on Exhibit 1.

4. Term and Termination.

- (a) Initial Term. The initial term ("Initial Term") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in Exhibit 1, unless earlier terminated as provided for in this Agreement. The "Commercial Operation Date" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Points, the System and the Site are an Eligible Net Metering System and an Eligible Net Metering System Site under the Net Metering Regulations, and that the System is interconnected with the distribution system of the Utility. Such notice shall be deemed effective unless Purchaser reasonably objects within ten (10) business days of the date of such notice. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the Utility as identified on Exhibit 2. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide Net Metering Credits by not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.
- (b) Additional Terms. Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, either Seller or Purchaser may give the other Party written notice of the notifying Party's desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in Exhibit 1 (each such additional period, an "Additional Term"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. If a Party provides notice of extension for an Additional Term, the Parties shall negotiate in good faith and if the Parties mutually agree to extend this Agreement for an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current Additional Term on the same terms and conditions as set forth in this Agreement, except as otherwise agreed by the Parties or set forth in Section 4(c). If neither Party provides notice of its request for an Additional Term as required by this provision prior to the 60th day before the end of the then-current Term or if the Parties cannot mutually agree to extend this Agreement for an additional term, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
- (c) Early Negotiation of 10-Year Additional Term. By delivering a written notice to the other Party at least 180 days prior to first anniversary of the Commercial Operation Date, each of Purchaser or Seller may request an extension of the Initial Term for ten (10) years beginning the 25th anniversary of the Commercial Operation Date at a discounted Contract Price for such 10 years of \$0.08226/kWh. During the 90-day period following delivery of notice under this Section 4(c), the Parties will engage in good faith negotiations to mutually agree to extend the Agreement Term at such discounted Contract Price. Any agreement related to such extension shall be memorialized in writing and executed by the Parties hereto. For the avoidance of doubt, however, this Section 4(c) shall not be construed as an obligation on the part of either Party to enter into an extension of the Term.

5. Billing and Payment.

- (a) Monthly Charges. Purchaser shall pay Seller for the Products at the \$/kWh rate shown in Exhibit 1 (the "Contract Price") multiplied by the actual Net Metering Credits reflected on the Utility Bills (defined below) for each monthly Utility billing period (a "Billing Period") or portion thereof during the Term. Prior to the Commercial Operation Date and for the remainder of the Term thereafter, Purchaser will provide Seller full access to the billing data, invoices, and other statements provided by the Utility for the Purchaser Utility Account(s) (collectively, "Utility Bills") for all Billing Periods or portions thereof during the Term; and Purchaser shall take all reasonable action and shall execute and deliver all reasonable documents as necessary or appropriate to assure such Seller access. Purchaser's obligation to pay the Contract Price and provide access to Utility Bills shall survive termination of the Term to the extent that the Utility Bill is not issued by the Utility until after the last day of the Term if such Utility Bill is for a Billing Period or portion thereof during the Term or includes Net Metering Credits relating to Energy Output generated during the Term. Each Party shall keep, during the Term and for a period of not less than two (2) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of Utility Bills, invoices, charges, computations and payments under this Agreement. 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 such

transactions during the other Party's normal business hours. Throughout the Term, Purchaser authorizes Seller to pursue with the Utility reallocation of NMCs to Purchaser accounts if, as, and when necessary to ensure monetization of all NMCs generated by operation of the System.

- (b) **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH, for the Net Metering Credits allocated to the Purchaser Utility Account for the Billing Period immediately preceding the date the invoice is issued. Such monthly invoices shall state (i) the amount of Net Metering Credits produced by the System as reflected on the applicable Utility Bill, (ii) applicable Taxes and charges payable by Purchaser for the month as provided in this Agreement, and (iii) the total amount due from Purchaser.
- (c) **Taxes.** Purchaser shall pay all real estate Tax on the Site. Notwithstanding the foregoing, Seller shall pay all other taxes, including sales and use, property Taxes on the System and any related assets; provided, however, Seller will have the right to terminate this Agreement if the tax assessed on the System, and any related assets owned or controlled by Seller exceeds \$5.00/kW AC. For purposes of this Section 5(c), "Taxes" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of NMCs under this Agreement, which shall be Seller's responsibility.
- (d) **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the rates established by the State of Rhode Island General Laws Section 9-21-10.
- (e) **Invoice Disputes.** If a Party, in good faith, disputes an amount owed or paid as provided in this Agreement, it must promptly notify the other Party of the basis for the dispute and pay the undisputed portion of such invoice no later than the due date. Upon resolution of the dispute, any required payment shall be made within seven (7) Business Days. Any overpayments shall be returned by the receiving Party upon request or deducted from subsequent payments with interest accrued at the Interest Rate per annum at the option of the overpaying Party. The Parties shall only be entitled to dispute an amount owed or paid within twelve (12) calendar months from the date of issuance of such invoice. If the Parties are unable to resolve a payment dispute under this Section, the Parties shall pursue dispute resolution.

6. **Conditions to Obligations.**

- (a) **Conditions to Seller's Obligations.** Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:
 - (i) Satisfactory completion of a physical inspection of the Site upon which the System is located including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Site for the System;
 - (ii) Seller shall have control over the Site, whether by purchase, lease, or license, and shall have and control all real property rights with respect to the Site as are necessary to construct, install, and operate the System at the Site, including, without limitation, ingress and egress rights, utility interconnection rights, insulation rights, stormwater rights, right-of-way and curb-cut rights, and construction laydown rights;
 - (iii) Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller's Financing Parties. "Construction Agreement" as used in this subsection means an agreement between Seller and any contractor or subcontractor to install the System;
 - (iv) Confirmation that the System qualifies as an "Eligible Net Metering System" and that this Agreement qualifies as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations;
 - (v) Confirmation that the System is eligible and will qualify for all Capacity Attributes, Environmental Attributes and Tax Credits that reasonably should be available to the System or its owner, and that Seller will obtain all applicable Incentives and Tax Credits;

- (vi) Confirmation that the Seller has secured, and that the System will be afforded, Tax exemptions and beneficial Tax treatment that reasonably should be available to the Seller or for the System, including assessments at a level that excludes the value of Tax Credits;
 - (vii) Receipt of all zoning, land use, building, right-of-way, and environmental permits, approvals, and consents (collectively, "Permits") necessary or advisable in Seller's reasonable discretion to install, construct, and operate the System on the Site;
 - (viii) Purchaser has secured all authorizations required by it internally, by the City of Providence and the Public Utilities Commission to enable Purchaser to execute, deliver, and perform this Agreement;
 - (ix) Purchaser: (A)(1) is and will remain rated BBB or better by Standard & Poor's; (2) has and will have a Paydex index of no less than 65; (3) has and will retain a Credit Score Class of no less than 2; or (4) has and will retain a financial stress score of no less than 2; and (B) has not sought protection under bankruptcy or insolvency laws or had a petition filed against it under such laws; and
 - (x) Execution of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system.
- (b) **Failure of Conditions.** If any of the conditions listed in subsection (a) are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the Parties are unable to negotiate new dates, then Seller may terminate this Agreement upon ten (10) days written notice to Purchaser without liability for costs or damages or triggering a default under this Agreement, unless the failure of any such condition is attributable to a Seller Default Event. Further, if a Seller Default Event occurs and is not timely cured prior to the Condition Satisfaction Date, then, in addition to any other Remedy available to Purchaser, Purchaser shall have the right to terminate this Agreement.
 - (c) **Commencement of Construction.** Seller's obligation to commence construction and installation of the System is conditioned on Seller's receipt of: (A) proof of insurance for all insurance required to be maintained by Purchaser under this Agreement and (B) written confirmation from any person holding a mortgage, lien or other encumbrance over the Site, as applicable, that such person will recognize Seller's rights under this Agreement for as long Seller is not in default hereunder.
 - (d) **Conditions to Purchaser's Obligations.** If the Commercial Operation Date does not occur by the Guaranteed Commercial Operation Date (as the same may be extended pursuant to Exhibit 1), then Purchaser shall have the right to terminate this Agreement by delivering to Seller within 180 days after the Guaranteed Commercial Operation Date a written termination notice.

7. **Seller's Rights and Obligations.**

- (a) **Permits and Approvals.** Subject to Section 6, Seller shall be responsible for securing all Permits necessary to investigate, design, construct, interconnect, and operate the System. Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining Permits.
- (b) **System Construction, Interconnection, Operation, Repair and Maintenance.** Subject to satisfaction or waiver of the conditions in Section 6 and the other provisions of this Agreement, Seller shall construct and install the System. During the Term, Seller will operate and maintain the System. Seller shall be responsible to oversee the work of the Utility to interconnect the System to the Point of Interconnection (defined on Exhibit 1), and for the design, construction, and maintenance of the interconnection facilities and equipment from the Delivery Point to the Point of Interconnection.
- (c) **Tariff Schedule B:** Purchaser acknowledges and agrees that Seller shall maintain Schedule B such that the Utility shall allocate (i) the Net Metering Credits purchased by Purchaser to Purchaser's customer account(s) with the Utility. Purchaser may request not more than quarterly that Seller update the Purchaser's accounts with the Utility. Purchaser authorizes Seller to modify Schedule B or take any other actions with the Utility to ensure that the Facility continues to qualify as an "Eligible Net Metering System" and that this Agreement qualifies as a "Net Metering Finance Arrangement", as each is defined under the Net Metering Rules. Prior to the Commercial Operations Date, Purchaser shall take all actions necessary to allow Seller to access, for the Term, Purchaser's monthly Utility statements and account information solely for purposes of fulfilling Seller's obligations under this Agreement.

- (d) **Surety.** Upon commencement of System construction, Seller will deliver to Purchaser a payment and performance bond (or other surety reasonably acceptable to Purchaser) in the amount of \$3,000,000 as a surety and support for the performance by Seller under, and payment when due of all obligations of Seller to Purchaser under, this Agreement, including the Seller's Production Guarantee (defined below) obligations and the Seller's obligations to remove the System from the Site and restore (reasonable wear and tear excepted) the Site within 270 days following the last day of the Term, with the period from the last day of the Term through the date the System is removed from the Site and the Site is so restored or, if earlier, 270 days after the last day of the Term being referred to as the "Removal Period." Such surety shall be issued or provided by a bonding company, bank, or other financial institution reasonably acceptable to Purchaser and shall remain outstanding from the commencement of System construction through the last day of any Removal Period.
- (e) **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to construct, operate, or maintain the System due to the inaccuracy of any information provided by Purchaser and relied upon by Seller or the failure of Purchaser to materially comply with Purchaser's obligations under this Agreement, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.
- (f) **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.
- (g) **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of Net Metering Credits and the operation of the System for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in operation of the System and delivery of Net Metering Credits.
- (h) **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided however, that such contractors and subcontractors shall be duly licensed, insured at reasonable limits given the size and scope of the project and such contractors role, and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors.
- (i) **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.

8. **Change in Law.**

- (a) "Change in Law" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation, including the Net Metering Provision, or the Net Metering Regulations; (ii) the imposition after the Effective Date of this Agreement of any material conditions on the issuance or renewal of any applicable permit or the continued qualification of the System as an "Eligible Net Metering System" and the continued qualification of this Agreement as a "Net Metering Financing Arrangement" pursuant to the Net Metering Regulations (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation); (iii) a change in any Utility rate schedule or tariff approved by any Governmental Authority, including the Tariff; or (iv) revocation of any Tax Credit, which establishes requirements or revokes beneficial laws or rules affecting owning, supplying, constructing, installing, operating, or maintaining the System, or other performance of the Seller's obligations hereunder or which has a material adverse effect on the cost to Seller of performing such obligations.
- (b) If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are

reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

9. Default, Remedies and Damages.

(a) Default. Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed to be the "Defaulting Party," the other Party shall be deemed to be the "Non-Defaulting Party", and each event of default shall be a "Default Event":

- (i) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("Payment Default");
- (ii) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (iii) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- (iv) Seller loses its rights to occupy and enjoy the Site;
- (v) a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect, and, if any such bankruptcy or other proceedings were initiated by a third party, if such proceedings have not been dismissed within sixty (60) days following receipt of a written notice from the Non-Defaulting Party demanding such cure;
- (vi) The amount of Liquidated Damages (defined below) exceeds the Liquidated Damages cap established pursuant to Section 13(d); or
- (vii) Purchaser prevents Seller from installing the System or otherwise fails to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

(b) Remedies.

- (i) Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement upon sixty (60) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages.
- (ii) Remedies for Failure of Purchaser. In the event that Purchaser fails to purchase and accept delivery of the Net Metering Credits from the System, except to the extent that Purchaser is entitled as specifically provided herein to not accept such NMCs, the ownership of any System Products then owned by Purchaser shall transfer from Purchaser to Seller, and Seller shall have the right to seek damages measured by the positive difference, if any, between: (A) the amount Seller would otherwise have been paid under this Agreement for such Net Metering Credits, the unrealized value to Seller of Capacity Attributes, and the value of Incentives and Tax Credits related to the Purchaser failure to acquire NMCs, to the extent unavailable due to Purchaser's failure to purchase NMCs, (2) the payments received by Seller in the event Seller is able to sell any such NMCs or any Environmental Attributes to a third party.

(iii) Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement or suspend its performance of its obligations under this Agreement, upon sixty (60) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this Agreement without cause prior to commencement of System construction, such cancellation will be a Default Event by Purchaser, and Seller shall be entitled to recover costs actually and reasonably incurred to perform this Agreement through such termination and any other remedy available to Seller.

(iv) Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "Termination Payment"):

A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty-five percent (35%) (or, if different, the blended federal and state corporate income tax rate applicable from the Effective Date through termination) for the loss or recapture of (a) Tax Credits, including the investment tax credit equal to thirty percent (30%) of the System value and MACRS accelerated depreciation equal to eighty-five percent (85%) of the System value, (b) loss of any Capacity Attributes or Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (c) other financing and associated costs not included in (a), (b) and (c), (2) the net present value (using a discount rate reasonably agreed by Purchaser and Seller as of the date of determination of net present value, which shall take into account Seller's cost of capital as of the determination date) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (3) the costs to remove the System from the Site; (4) costs associated with early termination of the site security agreement for the Site, and (5) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) the net present value (using a discount rate reasonably agreed by Purchaser and Seller as of the date of determination of net present value, which shall take into account Purchaser's cost of capital as of the determination date) of the excess, if any, of the reasonably expected cost of electrical service from the Utility over the Contract Price for the remainder of the Initial Term or the then current Additional Term, as applicable; (2) any removal costs incurred by Purchaser, and (3) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

(2) Obligations Following Termination. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

(c) Limitations; Damages. The rights and obligations of the Parties pursuant to this Article 9 are subject to the limitations set forth in this Agreement, including pursuant to Section 13(c).

10. Representations, Warranties and Covenants.

(a) General Representations and Warranties. Each Party represents and warrants to the other the following as of the Effective Date:

(i) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized

by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

- (ii) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.
- (b) **Purchaser's Representations, Warranties and Covenants.** Purchaser represents and warrants to Seller the following as of the Effective Date and covenants that throughout the Term:
 - (i) **Other Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
 - (ii) **Accuracy of Information.** All information provided by Purchaser to Seller, as it pertains to the Purchaser's estimated electricity requirements, is accurate in all material respects.
 - (iii) **Hazardous Substances.** There are no Hazardous Substances at, on, above, below or near the Site.
 - (iv) **Load Profile.** The load profile of Purchaser set forth on Exhibit 4 is true, correct, and complete as of the Effective Date or other date(s) reflected thereon, and does not omit any information necessary to make the information presented on Exhibit 4 not misleading.

11. **System and Facility Damage and Insurance.**

- (a) **System and Facility Damage.** If the System is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System "AS-IS" at the greater of (1) the Fair Market Value (defined below) of the System and (2) the sum of the amounts described in Section 9(b)(iv)(A).
- (b) **Insurance Coverage.** At all times during the Term, Seller shall maintain (A) property insurance on the System for the replacement cost thereof, (B) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (C) employer's liability insurance with coverage of at least \$1,000,000 and (iv) workers' compensation insurance as required by law.
- (c) **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (A) not less than thirty (30) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (B) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as in Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party.
- (d) **Certificates.** At Purchaser's request, Seller shall deliver to Purchaser a certificate of insurance evidencing the above required coverage.
- (e) **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.
- (f) **Fair Market Value.** "Fair Market Value" means, in Seller's reasonable determination, the greater of: (i) the amount that would be paid in an arm's length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the

valuation, and (ii) the present value (using a discount rate reasonably agreed by Purchaser and Seller as of the date of determination of net present value, which shall take into account the Purchaser's cost of capital and the Seller's internal rate of return on the System, as of the determination date) of all associated future income streams expected to be received by Seller arising from the operation of the System for the remaining term of the Agreement including but not limited to the expected price of electricity, Environmental Attributes, Incentives, and Tax Credits and factoring in future costs and expenses associated with the System avoided. If Purchaser undertakes to acquire the System, Seller shall give written notice to Purchaser of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Purchaser reasonably objects to Seller's determination of Fair Market Value within thirty (30) days after Seller has provided written notice of such determination, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

12. **Ownership.** Throughout the Term (except as otherwise permitted in Section 16), Seller shall be the legal and beneficial owner of the System at all times, and, as between Seller and Purchaser, all Capacity Attributes (unless otherwise expressly specified herein), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to the Site. Each of the Seller and Purchaser agree that the Seller (or the designated assignee of Seller permitted under Section 16) is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code.
13. **Indemnification; Limitations of Liability; Liquidated Damages.**
 - (a) **General.** Each Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "Indemnified Parties"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "Liabilities") resulting from any injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the grossly negligent acts or omissions of, the willful misconduct of, or a Default Event by the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party.
 - (b) **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "Claim"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 13(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 13(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.
 - (c) **Limitations on Liability.**
 - (i) **No Consequential Damages.** Except with respect to indemnification for third party claims pursuant to this Section 13, Liquidated Damages (defined below), and damages that result from the fraud or willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents, employees, subcontractors, or suppliers shall be liable for any indirect, special, incidental, exemplary, punitive, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even

if advised of such. The Parties agree that (i) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Purchaser, such recaptured amount shall be deemed to be direct and not indirect or consequential damages, and (ii) in the event that Seller owns the Incentives or any Capacity Attributes produced by the System, and a breach of this Agreement by Purchaser causes Seller to lose the benefit of sales of such Incentives or Capacity Attributes to third parties, the amount of such lost sales shall be direct and not indirect or consequential damages.

- (ii) Actual Damages. Except with respect to indemnification for third party claims pursuant to Section 13 and damages that result from the willful misconduct of Seller, Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed Six Million (\$6,000,000.00) Dollars, until Purchaser has made payments to Seller at or above said amount, at and after which time Seller's aggregate total liability shall be the sum total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section 13(c)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise.
- (iii) Survival of Claims. Any action by one (1) Party against another must be brought within eighteen (18) months after the cause of action accrues and, in any event no more than eighteen months after termination of this Agreement for any reason.
- (d) Liquidated Damages. Notwithstanding anything in this Agreement to the contrary, if the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as adjusted pursuant to Exhibit 1), then for each day after the Guaranteed Commercial Operation Date that the Commercial Operation Date does not occur, Seller will owe Purchaser "Liquidated Damages" equal to (i) the difference between the then-applicable National Grid Virtual Net-Metered credit value and the Contract Price per kWh (\$0.0914/kWh), multiplied by (ii) 90% of the modeled production of the System for each day of Commercial Operation Date delay (set forth on Exhibit 2); provided that total Liquidated Damages shall not exceed \$100,000. Once the total Liquidated Damages payable exceeds the monetary cap on Liquidated Damages, a Default Event as to which Seller is the Defaulting Party shall occur.
14. Production Guarantee. From the earlier of (a) the sixth month after the Commercial Operation Date, and (b) the Guaranteed Commercial Operation Date, as adjusted pursuant to Paragraph 12 of Exhibit 1, through the last day of the Term, Seller guarantees (the "Production Guarantee") that the total annual Energy Output of the System, in kWh, will equal or exceed 90% of the modeled production of the System over the Term, based on the "Production Model" (defined below). Prior to the start of the Production Guarantee period, Seller will prepare and provide to Purchaser a model (the "Production Model") of the annual System production over the 25-year Initial Term based on the PVSyst software package, which Production Model will reflect System equipment degradation over time, soiling losses, and downward adjustments to System production due to regular System maintenance for industry standard periods during each production year and due to events beyond the Seller's control that have an adverse impact on System generation, including Force Majeure events, periods during which System modules are completely or substantially covered with snow, unusually long periods of cloud cover (outside of standard weather patterns for the Site), inverter or transformer downtime outside of Seller control, Purchaser-caused shut-downs and shut-downs of the Utility distribution grid, and System damage not caused by Seller or its agents. The Production Guarantee will be applicable during the Term from the 6th month after the Commercial Operation Date through the 25th anniversary of the Commercial Operation Date (or earlier termination date of this Agreement), with the first guarantee year including the 18 months ending the 2nd anniversary of the Commercial Operation Date. If the Production Guarantee for any year is not satisfied, Seller will deliver to Purchaser NMCs (or equivalent cash value) attributable to the difference between the Production Guarantee in kWh for such year and the actual system production in kWh for such year. If the Production Guarantee is not satisfied, so long as Seller provides the NMCs (or equivalent cash value) pursuant to the preceding sentence, the failure to satisfy the Production Guarantee shall not be a Seller Event of Default.
15. Force Majeure.
- (a) "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any

such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence), curtailment of System production by any Governmental Authority, the Utility, or other authority having jurisdiction outside of the control of the Party claiming Force Majeure; and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- (b) Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
- (c) Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Purchaser's ability to make payment.
- (d) Notwithstanding the foregoing to the contrary, if Force Majeure event continue for an aggregate period of one hundred eighty (180) or more days within a twelve (12) month period and prevent a material part of the performance by a Party hereunder, then at any time during the continuation of the Force Majeure event, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

16. Assignment and Financing.

- (a) Assignment. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collateralize its interests in this Agreement and the System to any Financing Party, (ii) directly or indirectly assign this Agreement and the System to an affiliate or subsidiary of Seller, (iii) assign this Agreement and the System to any entity through which Seller is obtaining financing or capital for the System and (iv) assign this Agreement and the System to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee). In the event of any such assignment, the Seller shall be released from all its liabilities and other obligations under this Agreement. However, any assignment of Seller's right and/or obligations under this Agreement, shall not result in any change to Purchaser's rights and obligations under this Agreement. Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement and to observe the obligations set forth herein, and in either case, in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.
- (b) Financing. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. "Financing Parties" means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. In connection with an assignment pursuant to Section 16(a)(i)-(iv), Purchaser agrees to execute any reasonable consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties.
- (c) Successor Servicing. The Parties further acknowledge that in connection with any construction or long-term financing or other credit support provided to Seller or its affiliates by Financing Parties, that such Financing Parties may require that Seller or its affiliates appoint a third party to act as backup or successor provider of operation and

maintenance services with respect to the System and/or administrative services with respect to this Agreement (the "Successor Provider"). Purchaser agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement, including the posting and maintaining of the Surety identified on Exhibit 1.

17. Confidentiality and Publicity.

- (a) Confidentiality. Notwithstanding any provision herein to the contrary, the parties acknowledge and agree that Purchaser is subject to Rhode Island General Laws §§38-2-1, *et seq.*, known as the "Access to Public Records Act" and that this Agreement, once executed, and many related documents, are considered public records as defined therein. Any specific information that Seller deems to be confidential must be clearly identified and marked as such by Seller. If a request is made to view such confidential information, the Purchaser will notify Seller of such request and the date that records relating to such confidential information will be released to the requester unless Seller obtains a court order enjoining such disclosure. If Seller fails to obtain that court order enjoining disclosure, Purchaser will release the requested information on the date specified. Such release of any such confidential information shall be deemed to be made with Seller's consent and will not be deemed to be a violation of law or this Agreement.
- (b) Publicity. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Incentives and any related reporting rights. Subject to the foregoing, each Party shall be permitted to refer to the other Party by name with respect to the System and the existence of this Agreement (though not its details) in any marketing literature, web sites, articles, press releases or any other document or communication published in electronic or paper form by or for such Party, and provided that the Party that uses such references for marketing purposes shall provide to the other Party a copy of all marketing materials that include such references or a link to the web site or web page that includes such references. Following any such notice or provision of electronic link, if either Party objects to any particular use of its trademarks or names by the other Party, the other Party shall immediately modify or cease the use as reasonably requested by the objecting Party.

18. Miscellaneous Provisions

- (a) Choice of Law. The formation, interpretation and performance of this Agreement between the Parties hereto shall be governed by and construed in accordance with the laws of the State of Rhode Island, excluding any of its conflicts of laws provisions that would require the application of the laws of another jurisdiction.
- (b) Venue. The Parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated only in the state or federal courts located in the State of Rhode Island. The Parties, to the extent they may legally do so, waive any right each may have to assert the doctrine of forum non conveniens or to object to venue to the extent any proceeding is brought in accordance with this section. The Parties acknowledge and agree that the terms and conditions of this Agreement have been freely, fairly, and thoroughly negotiated.
- (c) Notices. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified on the first page of this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.
- (d) Survival. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(d) (No Warranty), Section 11(b) (Insurance Coverage), Section 13 (Indemnification and Limits of Liability), Section 17(a) (Confidentiality), Section 18(a) (Choice of Law), Section 18 (b) (Venue), Section 18(c) (Notices), Section 18 (g) (Comparative Negligence), Section 18(h) (Non-Dedication of Facilities), Section 18(j) (Service Contract), Section 18(k) (No Partnership)

Section 18(f)(1) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 18(n) (No Third Party Beneficiaries).

- (e) Further Assurances. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- (f) Right of Waiver. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.
- (g) Comparative Negligence. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- (h) Non-Dedication of Facilities. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability.
- (i) Estoppel. Either Party hereto, without charge, at any time and from time to time, within ten (10) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- (j) Service Contract. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of NMCs originating from the operation of the System by Seller.
- (k) No Partnership. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

- (l) Full Agreement, Modification, Invalidity, Counterparts, Captions. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter including the December 3, 2018 Term Sheet between the Parties. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- (m) Forward Contract. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- (n) No Third-Party Beneficiaries. Except for assignees, Financing Parties permitted under Section 16, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

Exhibit 4
PURCHASER LOAD PROFILE

On or within ten (10) business days after the Effective Date, the Purchaser shall provide Seller access to Utility billing details for Purchaser's accounts with the Utility, which billing details shall include information about Purchaser's electricity usage spanning (at least) the thirty-six months preceding the Effective Date.

Based on such Purchaser information, within sixty (60) days after the Effective Date, Seller shall prepare and deliver to Purchaser a draft of this Exhibit 4, which will include a written list of each Purchaser Utility account and a description of Purchaser's Load Profile, in form consistent with the requirements of the Net Metering Regulations and of Schedule B. Within ten (10) business days after Seller delivers a draft Exhibit 4 to Purchaser, Purchaser will deliver to Seller any comments on such Seller draft of Exhibit 4. Within ten (10) business days after receipt from Purchaser of any comments, Seller shall use commercially reasonable efforts to incorporate such Purchaser comments into, and deliver to Purchaser, a revised draft of Exhibit 4. Such process will repeat until Exhibit 4 is agreed by Purchaser and Seller.

The form of Exhibit 4 on which Purchaser has no comments or that otherwise is finally agreed by Seller and Purchaser pursuant to the review process in the preceding paragraph shall be inserted as the final Exhibit 4 to this Agreement.

EXHIBIT B
Production Model

See attached. The Production Model includes an annual degradation factor of 0.54%.

PVSYST V6.83	AEP Onsite Partners (United States)			23/12/19	Page 1/6
Grid-Connected System: Simulation parameters					
Project :		RI Providence Water Johnston Solar			
Geographical Site		Johnston, RI		Country	United States
Situation		Latitude	41.85° N	Longitude	-71.55° W
Time defined as		Legal Time	Time zone UT-5	Altitude	97 m
		Albedo	0.20		
Meteo data:		Johnston Ri Cpsa Tmy 2	NREL NSRD : TMY3 - TMY		
Simulation variant :		RI PINE HILL_122019_OnSite Version_For Customer			
		Simulation date	23/12/19 12h44		
Simulation parameters		System type	Ground system (tables) on a hill		
Collector Plane Orientation		Tilt	20°	Azimuth	6°
Sheds configuration		Nb. of sheds	2995		
		Sheds spacing	17.6 m	Collector width	3.95 m
Shading limit angle		Limit profile angle	5.6°	Ground cov. Ratio (GCR)	22.4 %
Models used		Transposition	Perez	Diffuse	Imported
Horizon		Free Horizon			
Near Shadings		According to strings		Electrical effect	100 %
User's needs :		Unlimited load (grid)			
Grid power limitation		Active Power	4999 kW	Pnom ratio	1.331
PV Arrays Characteristics (2 kinds of array defined)					
PV module		Si-mono	Model	GCL-M6/72H-375	
Original PVsyst database			Manufacturer	GCL	
Sub-array "Sub-array #1"					
Number of PV modules		In series	27 modules	In parallel	273 strings
Total number of PV modules		Nb. modules	7371	Unit Nom. Power	375 Wp
Array global power		Nominal (STC)	2764 kWp	At operating cond.	2500 kWp (50°C)
Array operating characteristics (50°C)		U mpp	958 V	I mpp	2611 A
Sub-array "Sub-array #2"					
Number of PV modules		In series	27 modules	In parallel	384 strings
Total number of PV modules		Nb. modules	10368	Unit Nom. Power	375 Wp
Array global power		Nominal (STC)	3888 kWp	At operating cond.	3517 kWp (50°C)
Array operating characteristics (50°C)		U mpp	958 V	I mpp	3672 A
Total Arrays global power		Nominal (STC)	6652 kWp	Total	17739 modules
		Module area	35123 m²	Cell area	31917 m²
Sub-array "Sub-array #1" : Inverter					
Custom parameters definition		Model	FS2000KU_20180320_HEMK_600Vac_V668_P		
Characteristics		Manufacturer	Power Electronics		
		Operating Voltage	849-1310 V	Unit Nom. Power	2000 kWac
				Max. power (=>25°C)	2200 kWac
Inverter pack		Nb. of inverters	1 units	Total Power	2000 kWac
				Pnom ratio	1.38
Sub-array "Sub-array #2" : Inverter					
Custom parameters definition		Model	FS3000KU_20180420_HEMK_600Vac_V670_P		
Characteristics		Manufacturer	Power Electronics		
		Operating Voltage	849-1310 V	Unit Nom. Power	3000 kWac
				Max. power (=>25°C)	3300 kWac
Inverter pack		Nb. of inverters	1 units	Total Power	3000 kWac
				Pnom ratio	1.30

PVSYST Licensed to AEP Onsite Partners (United States)

Grid-Connected System: Simulation parameters

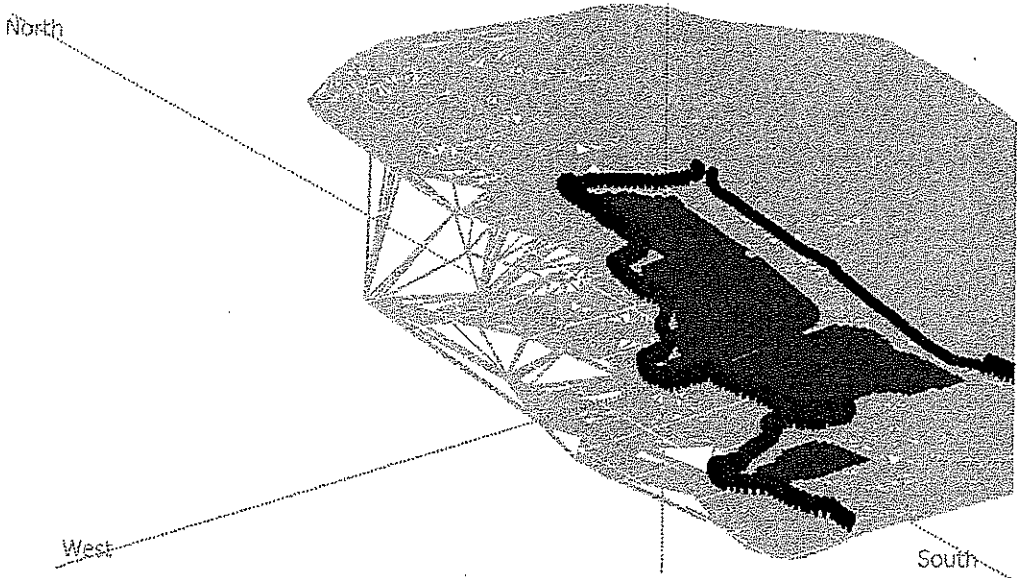
Total	Nb. of inverters	2	Total Power	5000 kWac
PV Array loss factors				
Array Soiling Losses			Loss Fraction	1.0 %
Thermal Loss factor	Uc (const)	29.0 W/m²K	Uv (wind)	0.0 W/m²K / m/s
Wiring Ohmic Loss	Array#1	8.2 mOhm	Loss Fraction	2.0 % at STC
	Array#2	5.8 mOhm	Loss Fraction	2.0 % at STC
	Global		Loss Fraction	2.0 % at STC
LID - Light Induced Degradation			Loss Fraction	1.1 %
Module Quality Loss			Loss Fraction	-0.8 %
Module Mismatch Losses			Loss Fraction	1.5 % at MPP
Strings Mismatch loss			Loss Fraction	0.10 %
Incidence effect, ASHRAE parametrization	IAM =	1 - bo (1/cos i - 1)	bo Param.	0.05
System loss factors				
AC wire loss inverter to transfo	Inverter voltage	600 Vac tri		
	Wires; 3x3000.0 mm²	88 m	Loss Fraction	1.0 % at STC
External transformer	Iron loss (24H connexion)	6548 W	Loss Fraction	0.1 % at STC
	Resistive/Inductive losses	0.550 mOhm	Loss Fraction	1.0 % at STC

Grid-Connected System: Near shading definition

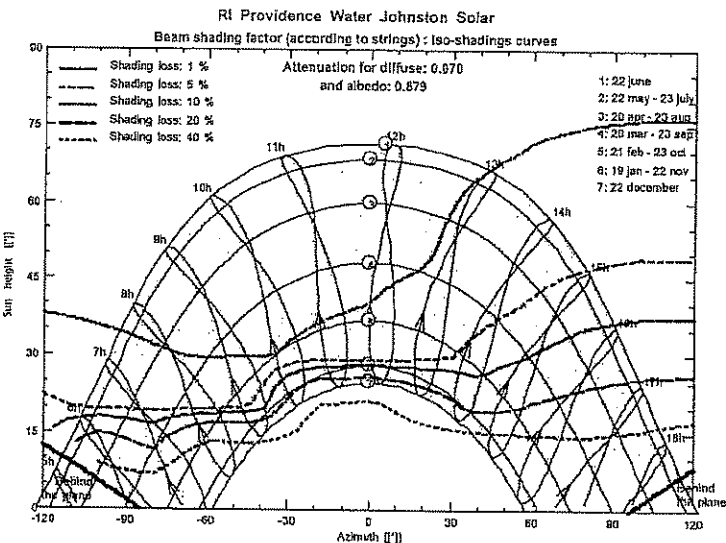
Project : RI Providence Water Johnston Solar
Simulation variant : RI PINE HILL_122019_OnSite Version_For Customer

Main system parameters	System type	Ground system (tables) on a hill	
Near Shadings	According to strings	Electrical effect	100 %
PV Field Orientation	tilt 20°	azimuth	6°
PV modules	Model GCL-M6/72H-375	Pnom	375 Wp
PV Array	Nb. of modules 17739	Pnom total	6652 kWp
Inverter	FS2000KU_20180320_HEMK_600Vac_V668_P	Pnom	2000 kW ac
Inverter	FS3000KU_20180420_HEMK_600Vac_V670_P	Pnom	3000 kW ac
Inverter pack	Nb. of units 2.0	Pnom total	5000 kW ac
User's needs	Unlimited load (grid)		

Perspective of the PV-field and surrounding shading scene



Iso-shadings diagram



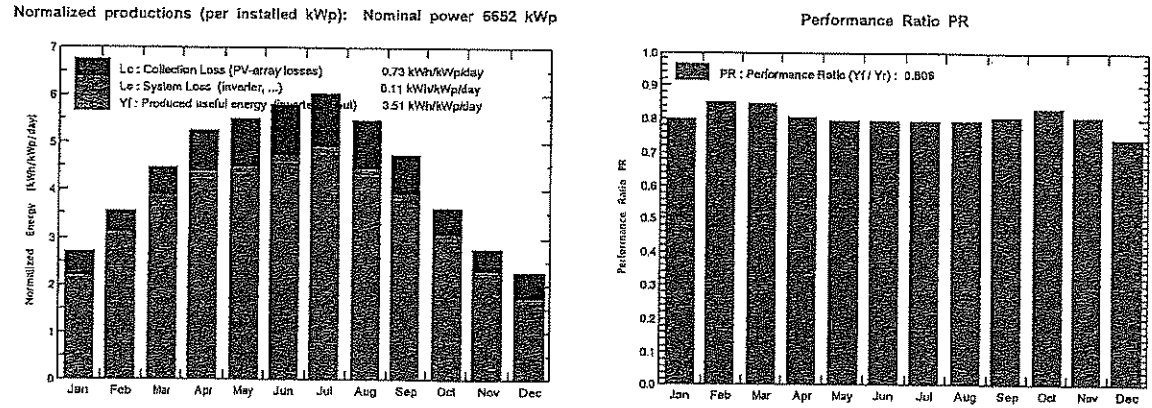
Grid-Connected System: Main results

Project : RI Providence Water Johnston Solar

Simulation variant : RI PINE HILL_122019_OnSite Version_For Customer

Main system parameters	System type	Ground system (tables) on a hill		
Near Shadings	According to strings	Electrical effect	100 %	
PV Field Orientation	tilt 20°	azimuth	6°	
PV modules	Model GCL-M6/72H-375	Pnom	375 Wp	
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Inverter	FS3000KU_20180420_HEMK_600Vac_V670_P	Pnom	3000 kW ac	
Inverter pack	Nb. of units 2.0	Pnom total	5000 kW ac	
User's needs	Unlimited load (grid)			

Main simulation results				
System Production	Produced Energy	8521 MWh/year	Specific prod.	1281 kWh/kWp/year
	Performance Ratio PR	80.63 %		



RI PINE HILL_122019_OnSite Version_For Customer

Balances and main results

	GlobHor	DiffHor	T_Amb	GlobInc	GlobEff	EArray	E_Grid	PR
	kWh/m²	kWh/m²	°C	kWh/m²	kWh/m²	MWh	MWh	
January	57.7	27.77	-3.19	83.4	72.9	459	443.0	0.799
February	75.2	34.22	0.57	99.5	89.6	584	564.6	0.853
March	118.4	57.72	-0.03	139.0	126.7	807	781.7	0.845
April	145.7	61.88	9.59	158.0	145.7	875	848.0	0.807
May	165.6	74.59	16.69	170.9	157.7	932	903.6	0.795
June	172.2	76.44	19.44	173.1	159.6	946	917.4	0.797
July	183.6	81.80	23.36	186.7	172.1	1016	986.0	0.794
August	158.9	66.72	20.93	169.0	155.5	925	896.8	0.798
September	123.7	51.59	18.97	143.0	131.2	790	765.6	0.805
October	88.0	39.26	10.86	112.0	101.8	640	619.0	0.831
November	59.7	29.37	5.78	83.0	73.8	461	445.9	0.808
December	47.6	23.46	0.73	71.2	61.3	362	349.5	0.738
Year	1396.3	624.82	10.35	1588.7	1447.8	8798	8521.1	0.806

Legends:

GlobHor

DiffHor

T_Amb

GlobInc

Horizontal global irradiation

Horizontal diffuse irradiation

Ambient Temperature

Global incident in coll. plane

GlobEff

EArray

E_Grid

PR

Effective Global, corr. for IAM and shadings

Effective energy at the output of the array

Energy injected into grid

Performance Ratio

Grid-Connected System: Special graphs

Project : RI Providence Water Johnston Solar

Simulation variant : RI PINE HILL_122019_OnSite Version_For Customer

Main system parameters

System type Ground system (tables) on a hill

Near Shadings

According to strings

Electrical effect 100 %

PV Field Orientation

tilt 20°

azimuth 6°

PV modules

Model GCL-M6/72H-375

Pnom 375 Wp

PV Array

Nb. of modules 17739

Pnom total 6652 kWp

Inverter

FS2000KU_20180320_HEMK_600Vac_V668_P

Pnom 2000 kW ac

Inverter

FS3000KU_20180420_HEMK_600Vac_V670_P

Pnom 3000 kW ac

Inverter pack

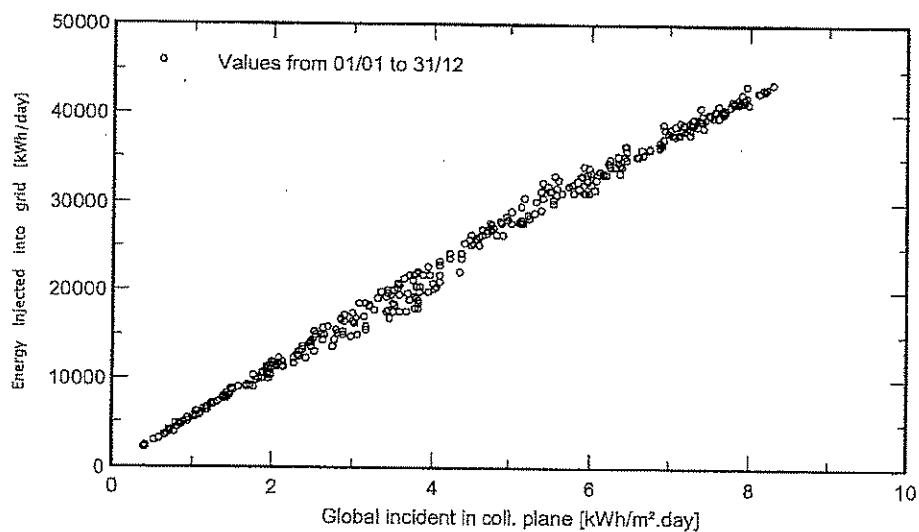
Nb. of units 2.0

Pnom total 5000 kW ac

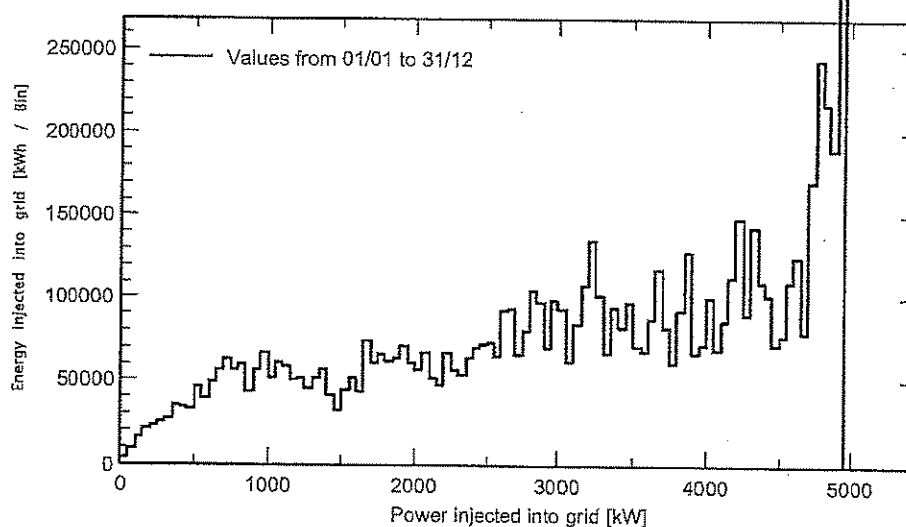
User's needs

Unlimited load (grid)

Daily Input/Output diagram



System Output Power Distribution



Grid-Connected System: Loss diagram

Project : RI Providence Water Johnston Solar

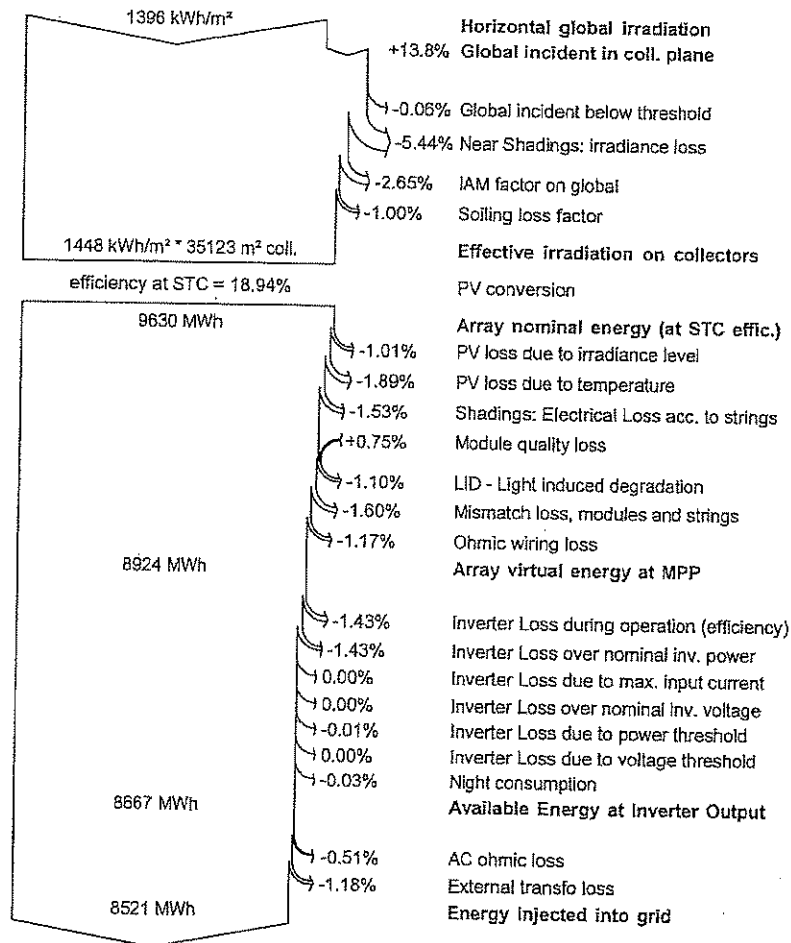
Simulation variant : RI PINE HILL_122019_OnSite Version_For Customer

Main system parameters

System type Ground system (tables) on a hill

Near Shadings	According to strings	Electrical effect	100 %
PV Field Orientation	tilt 20°	azimuth	6°
PV modules	Model GCL-M6/72H-375	Pnom	375 Wp
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Inverter	FS3000KU_20180420_HEMK_600Vac_V670_P	Pnom	3000 kW ac
Inverter pack	Nb. of units 2.0	Pnom total	5000 kW ac
User's needs	Unlimited load (grid)		

Loss diagram over the whole year



Narrative Outline of Estoppel Agreements
Providence Water Supply Board of the City of Providence, Rhode Island ("PWSB")
EDF Renewables Distributed Solutions, Inc. ("EDFR-DS")

- I. **Estoppel Agreement ("NMCPA Estoppel")** for Net Metering Credit Purchase Agreement dated as of April 1, 2019 ("**NMCPA**") between PWSB and Pine Hill Solar Partners, LLC ("**Pine Hill**" also "**Seller**");
 1. **Why the NMCPA Estoppel?** As a condition of providing financing for the Pine Hill Solar Project ("**Project**"), AEP Onsite Partners, LLC ("**Financing Partner**") has asked that PWSB confirm that the NMCPA is effective and that there are no defaults or claims under the NMCPA, to clarify certain NMCPA provisions and accept required NMCPA submittals exhibits. *Under NMCPA Section 16(b), PWSB agreed to execute financing documents like the NMCPA Estoppel if reasonably acceptable to PWSB.*
 2. **What the NMCPA Estoppel Provides:**
 - a. The NMCPA is effective and has not been amended.
 - b. There are no defaults or claims under the NMCPA.
 - c. The notice address for the Seller will be revised as of the closing of the Financing Partner's investment in Pine Hill to the Financing Partner's address.
 - d. The definition of "Net Metering Credit" under the NMCPA is clarified to refer to the Net Metering Provision. *This was the intention of Pine Hill and PWSB, but the Financing Partner pointed out that the definition text was garbled.*
 - e. The production model that Seller can provide under NMCPA Exhibit 3, Article 14, is attached to the NMCPA Estoppel. *The production model provided I under discussion between PWSB and EDFR-DS.*
 - f. The 3-year average load profile of PWSB is attached as Exhibit 4 to the Estoppel and serves as Exhibit 4 to the NMCPA. *The attachment of the load profile is required under the NMCPA. EDFR-DS has updated Exhibit 4 to address a mathematical error in the average PWSB load*

Elizabeth Paquin - Fwd: RE: [EXTERNAL] Providence Water Solar Conference Call

From: Gary Marino
To: Elizabeth Paquin
Date: 7/6/2020 11:00 AM
Subject: Fwd: RE: [EXTERNAL] Providence Water Solar Conference Call
Attachments: PHS_NMCPAEstoppel_2020 01 14.pdf; PHS_MIPA_AssignmentAssumption_2020.03.05..pdf

>>> Marti Bartos <wbartos@aepes.com> 6/30/2020 6:07 PM >>>
Gary,

Attached is the estoppel agreement between Providence Water, EDF and AEP OnSite that the sale of developer right and net metering agreement.

A bit of the background, EDF created a project company that owned the Pine Hill Solar developer rights and NMCPA, which are now owned by AEP Onsite Partners. This means Pine Hill Solar Partners is a wholly owned subsidiary of AEP OnSite Partners, LLC.

Thanks,
Marti



MARTI BARTOS | ACCOUNT MANAGER
WBARTOS@AEPES.COM | D: 614.583.6261
303 MARCONI BLVD. COLUMBUS, OH 43215

From: Gary Marino <gmarino@provwater.com>
Sent: Tuesday, June 30, 2020 5:11 PM
To: Marti Bartos <wbartos@aepes.com>
Cc: Michael J Buonaiuto <mjbuonaiuto@aepes.com>; Peter.Bay@edf-re.com; Tim.Dunford@edf-re.com; Alicia Mignanelli <amignanelli@provwater.com>; Duane Albro <dalbros@provwater.com>; Idowu Kuti <ikuti@provwater.com>; Joe Spremulli <jspremulli@provwater.com>; Mary Deignan-White <mdeignan-white@provwater.com>; Nancy Parrillo <NParrillo@provwater.com>; Peter DiLorenzo <pdilorenzo@provwater.com>
Subject: RE: [EXTERNAL] Providence Water Solar Conference Call

This is an **EXTERNAL** email. **STOP. THINK** before you **CLICK** links or **OPEN** attachments. If suspicious please click the '**Report to Incidents**' button in Outlook or forward to incidents@aep.com from a mobile device.

Thank you Marti,

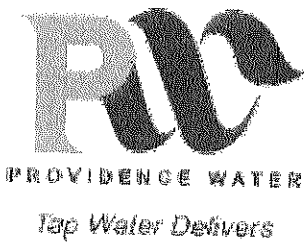
Attached is the City Council Resolution that Authorized the approval for Providence Water to enter into a 25 year contract with EDF Renewable Development which for the sake of the contract became Pine Hill Solar

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Partners, LLC. We will need to present to the City Board of Contract and Supply a letter requesting authorization to change this award to Pine Hill Solar Partners, LLC.

Can AEP or EDF supply us with documentation that the project is now owned by AEP so we can include this with our letter to our Board?

Gary



Gary Marino
Principal Engineer - Project Manager
Engineering

(401) 521-6300 Ext. 7232

(401) 632-4592 [Fax]

(401) 639-2984 [Mobile]

Providence Water Supply Board

125 Dupont Drive

Providence, RI 02907



>>> Marti Bartos <wbartos@aepes.com> 6/30/2020 2:36 PM >>>
Hello Gary,

Attached is the AEP OnSite Partners' W9 and payment information. For clarification, AEP OnSite Partners, LLC owns the project company Pine Hill Solar Partners, LLC

Thanks,
Marti

From: Gary Marino <gmarino@provwater.com>

Sent: Tuesday, June 23, 2020 2:28 PM

To: Marti Bartos <wbartos@aepes.com>

Cc: Alicia Mignanelli <amignanelli@provwater.com>; Duane Albro <dalbros@provwater.com>; Idowu Kuti <ikuti@provwater.com>; Joe Spremulli <jspremulli@provwater.com>; Mary Deignan-White <mdeignan-white@provwater.com>; Nancy Parrillo <NParrillo@provwater.com>; Peter DiLorenzo <pdilorenzo@provwater.com>

Subject: [EXTERNAL] Providence Water Solar Conference Call

This is an **EXTERNAL** email. **STOP. THINK** before you **CLICK** links or **OPEN** attachments. If suspicious please click the '**Report to Incidents**' button in Outlook or forward to incidents@aep.com from a mobile device.

file:///D:/Users/Bethp/AppData/Local/Temp/XPgrpwise/5F030468CRANDOMCRANPO10... 7/6/2020

ASSIGNMENT AND ASSUMPTION OF MEMBERSHIP INTEREST

THIS ASSIGNMENT AND ASSUMPTION OF MEMBERSHIP INTEREST (the “Assignment”) is made and effective as of March 5, 2020 (“Effective Date”), by and between EDF Renewables Distributed Solutions, Inc., a Delaware corporation (“Assignor”), AEP OnSite Partners, LLC, a Delaware limited liability company (“Assignee”), and Pine Hill Solar Partners, LLC, a Delaware limited liability company (“Company”).

RECITALS

WHEREAS, Assignor and Assignee, are parties to that certain Membership Interest Purchase Agreement dated as of the Effective Date (the “Agreement”);

WHEREAS, Assignor is the sole member of the Company and owns one hundred percent (100%) of the total membership interests in the Company (the “Membership Interest”); and

WHEREAS, pursuant to the Agreement, the Assignor has agreed to sell, assign, convey, and transfer to Assignee, and Assignee has agreed to purchase and assume the Membership Interest from Assignor;

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

AGREEMENT

1. **Capitalized Terms.** Capitalized terms used but not defined herein shall have the meanings for such terms that are set forth in the Agreement.

2. **Assignment.** Assignor does hereby sell, assign, transfer, convey, and deliver to Assignee all of Assignor’s right, title and interest in and to the Membership Interest. Assignor does hereby withdraw as a Member of the Company and, from and after the Time of Purchase, shall have no further rights or interests of any kind as a Member of the Company and holder of the Membership Interests.

3. **Assumption.** The Assignee hereby accepts the sale, transfer, and assignment to it set forth in Section 2 above. This Agreement shall be kept in the records of the Company to reflect the withdrawal of Assignor as the Member of the Company.

4. **Terms of the Membership Interest Purchase Agreement.** The terms of the Agreement, including but not limited to the representations, warranties, covenants, and agreements relating to any liabilities assumed pursuant to this Assignment, are incorporated herein by this reference. The parties acknowledge and agree that the representations, warranties, covenants, and agreements contained in the Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Agreement and the terms hereof, the terms of the Agreement shall govern.

5. **Further Actions.** Each of the parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of the other party hereto, such further instruments of transfer and assignment and to take such other action as such other party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Assignment.

6. **Non-Merger.** The agreements, obligations, assumptions and covenants of the parties under the Agreement are not merged into this Assignment and shall survive the execution and delivery of this Assignment, and the performance of the consummation of all transactions provided for in the Agreement.

7. **Assignments, Successors and No Third-Party Rights.** This Assignment will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the parties.

8. **Company's Consent to Assignment.** By executing this Assignment, the Company hereby consents to the assignment of Assignor's Membership Interest and Assignee's assumption of the same. The Assignee is hereby admitted as the sole member of the Company.

9. **Governing Law.** This Assignment shall be governed by the law of the State of New York as to all matters, including, but not limited to, matters of validity, construction, effect and performance, but without regard to principles of conflicts of law.

10. **Execution of Agreement.** This Assignment may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Assignment and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Assignment and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Assignment as to the parties and may be used in lieu of the original Assignment for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.


[SIGNATURE PAGE FOLLOWS]

EXECUTION

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption Agreement of Membership Interest effective as of the Effective Date.

ASSIGNOR:

**EDF RENEWABLES DISTRIBUTED
SOLUTIONS, INC.**

By: 
Name: James P. Resor
Title: CEO

ASSIGNEE:

AEP ONSITE PARTNERS, LLC

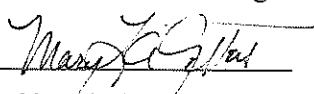
By: _____
Name: _____
Title: _____

COMPANY:

PINE HILL SOLAR PARTNERS, LLC,

a Delaware limited liability company

By: EDF Renewables Distributed
Solutions, Inc., its manager

By: 
Name: MaryLiz A. Geffert
Title: SVP of Manager

EXECUTION

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption Agreement of Membership Interest effective as of the Effective Date.

ASSIGNOR:

EDF RENEWABLES DISTRIBUTED
SOLUTIONS, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

AEP ONSITE PARTNERS, LLC

By: Joel H Jansen
Name: JOEL H. JANSEN
Title: COO



COMPANY:

PINE HILL SOLAR PARTNERS, LLC,
a Delaware limited liability company
By: EDF Renewables Distributed
Solutions, Inc., its manager

By: _____
Name: _____
Title: _____

**Request for Taxpayer
Identification Number and Certification**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

AEP ONSITE PARTNERS, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☒ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► **C**

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) **5**

Exemption from FATCA reporting code (if any) **E**

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

1 RIVERSIDE PLAZA

6 City, state, and ZIP code

COLUMBUS, OH 43215

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

____ - ____ - ____

or

Employer identification number

4 7 - 4 9 7 5 1 2 5

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Daniel E. Ernst

Date ►

01.16.2019

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.