

Office of the City Manager

TO: Mayor Dana S. Hilliard and City Council Members
FROM: Robert M. Belmore, City Manager
DATE: Friday, June 2, 2023
SUBJECT: City Manager's Report for Monday, June 5, 2023 City Council Meeting

Lay on the Table (under Section 14 of Agenda)

Resolutions

- A. Resolution No. 44-23: To Authorize the City Manager to Amend the Renewal Cable Television Franchise Agreement between the City of Somersworth and Comcast of Maine/New Hampshire, Inc. Again, the Government Operations Committee voted to move a Renewal Agreement to the full City Council for a vote. Attorney Kate Miller will be in attendance should there be any questions.

Unfinished Business (under Section 15 of Agenda)

Ordinance

- A. Ordinance No. 20-23: To Amend Chapter 4, Personnel Rules and Regulation Compensation Schedule. Again, the Government Operations Committee voted to recommend this Ordinance amendment to the full Council.
- B. Ordinance No. 21-23: To Amend Chapter 4, Personnel Rules and Regulations, Section 11.4.4 Longevity. Again, the Government Operations Committee voted to recommend this Ordinance amendment to the full Council
- C. Ordinance No. 22-23: Supplemental Appropriation for the Replacement of the Public Works Building Roof. Again, the Finance Committee recommends using ARPA funds to fund this expense.

Resolutions

- A. Resolution No. 45-23: To Authorize the City Manager to Contract with Triple Construction, LLC, of Hudson, New Hampshire for the Replacement of the Department of Public Works Building Roof. Again, the Finance Committee's recommendation is to award the contract to Triple Construction, LLC of Hudson, New Hampshire.

New Business (under Section 16 of Agenda)

Ordinance

- A. Ordinance No. 23-23: Transfer Between Departments.** The Finance Committee met on May 4th and voted to support this Ordinance. Finance Director Scott Smith confirmed the City's General Fund budget is forecasted to be approximately \$350,000 below the estimated Budget for fiscal year 2022-2023. The Police Department has projected unexpended funds. The recommended amount is from the Police Budget to cover the Fire Departments short fall in their Budget. I recommend a Public Hearing be scheduled for the next regular Council meeting on Tuesday, June 20, 2023

Resolutions

- A. Resolution No. 46-23: To Establish a Mental Health and Wellness Committee.**
- B. Resolution No. 47-23: To Authorize the City Manager to Execute a Lease Agreement Extension with the Pall Corporation of Port Washington, NY to Lease Building Space at the Somersworth Water Treatment Facility.** Attached is an email from Pall Corporation requesting approval from the City of Somersworth to extend their Lease at 9 Wells Street for an additional one (1) year. I have also included their current Lease extension that ends on June 20, 2023. Their Lease payment will increase from \$1,300/month to \$1,500/month starting July 1, 2023 should Council approve this extension. Copies of the proposed Lease Amendment is attached.
- C. Resolution No. 48-23: To Authorize the City Manager to Execute Agreements with Ameresco, Inc. of Framingham, Massachusetts, Operating as Blackwater Road Solar, LLC., to Develop a Solar Project Pursuant to RSA 362-A on the Closed Somersworth Sanitary Landfill Superfund Site on Blackwater Road.** Attached are copies of the three (3) Agreements that were negotiated with the assistance of the City's Special Legal Counsel. Gareth Orsmond of Pierce Atwood.
Lease payments are: a one-time \$5,000 development rent payment; a one-time \$15,000 construction rent payment and then \$37,000 per year with a 2% annual increase. *PILOT payments are:* \$7,028 per megawatt/AC, which is approximately \$14,000 per year.
- D. Resolution No. 49-23: Naming Storage Drive and Assigning Addresses, as Assigned.** The E911 Committee met on May 18th and voted to support this Resolution.
- E. Resolution No. 50-23: Annual Flag Pole Displays at Citizen's Place.** Attached is a copy of the Council's adopted "Citizen's Place Flag Policy" and "Flag Pole Reservation Request Form".
- F. Resolution No. 51-23: To Authorize the City Manager to Accept Easements Associated with the First Street Drainage Improvements and Road Reconstruction.** Attached are copies of the Easement documents. I respectfully request that Council consider waiving its' rules to provide a second reading and vote this evening. The contractor would like to schedule this work as soon as possible; it took Staff more time than anticipated to secure the Easements.

Other

- A. **Vote to Authorize the Sale of City Surplus Property-per Administrative Code, Chapter 29, Section 8.5, Disposal of City Property.** Attached is a copy of this Section of the City Ordinance as well as information pertaining to the Police Vehicle to be sold on GovDeals. The Finance Committee met on May 30th and expressed support of using GovDeals. The Finance Committee also voted to sponsor an Ordinance change to increase the authorization for the Manager to dispose of surplus property from \$1,000 to \$5,000. This will be introduced at a future Council meeting.
- B. **Vote to Waive the Bidding Requirement under Administrative Code, Chapter 29 and Sole Source Water Meters from TI-Sales of Sudbury, Massachusetts.** The Finance Committee met on May 30th and expressed support of this request. Council appropriated \$960,000 for a City-wide Meter Replacement Program. The City has used Neptune Meters for many years, therefore, Staff's recommendation is to continue with the same manufacturer. Attached is a copy of a letter from the TI-Sales representative.

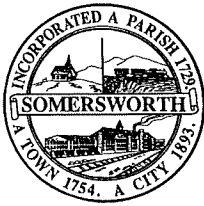
City Manager's Items (under section 12 of Agenda)

Informational Items

1. **NH Highway Safety Grant.** Without objection, I intend to give authorization to Police Chief Tim McLin to apply for a NH Highway Safety Grant in the amount of approximately \$8,200 of Grant funding. The City's in-kind match would be the use of Police Cruisers and other equipment. The Grant funds provide overtime reimbursement for officers to conduct safety patrols. Attached is a Memorandum from Police Chief Tim McLin along with breakdown of Grant funds.
2. **RFP for the Acquisition and Redevelopment of the Former National Guard Rediness Center.** The City receive one (1) Proposal for the redevelopment of this property from Chinburg Properties. Mayor Hilliard will be referring this Proposal to the Economic Development Committee for review. Attached is a copy of the Project Proposal from Chinburg Properties.

Attachments

1. **City Attorney Certifications: Seven (7)**



City of Somersworth – Resolution

Resolution No: 44-23

TO AUTHORIZE THE CITY MANAGER TO AMEND THE RENEWAL CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF SOMERSWORTH AND COMCAST OF MAINE/NEW HAMPSHIRE, INC.

May 15, 2023

WHEREAS, Comcast of Maine/New Hampshire, Inc. is the duly authorized holder of a Renewal Cable Television Franchise to operate a cable television system in the City of Somersworth, New Hampshire pursuant to NH RSA 53-C, as amended, said Renewal Franchise having commenced on June 18th, 2013; and

WHEREAS, Said Franchise shall expire on June 17th, 2023; and

WHEREAS, Comcast representative and representatives of the City have negotiated a new Franchise Agreement, with an effective date of June 18, 2023, and

WHEREAS, the City Council of the City of Somersworth as Franchising Authority is authorized to renew the Franchise, subject to a public hearing to allow members of the public to ask questions about the proposed new Franchise Agreement;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT: The City Manager is authorized to renew the Cable Television Franchise with Comcast of Maine/ New Hampshire, Inc., subject to a Public Hearing on June 5, 2023, and the proposed Franchise Agreement shall be available to the public at the City Clerk's office, prior to that hearing, and the City Manager is authorized to execute the Franchise Agreement and all other documents necessary and convenient to renew the Cable TV Franchise Agreement with Comcast of Maine/New Hampshire, Inc.

Authorization

Sponsored by Councilors:

Richard R. Michaud
Matt Gerding
Don Austin
Nancie Cameron

Approved:

City Attorney

City of Somersworth – Resolution 44-23

History

First Read Date:	5/15/2023	Tabled:	5/15/2023
Public Hearing:		Removed From Table:	
Second Read:	5/15/2023		

Discussion

5/15/2023

Clerk LaPanne performed a first reading of Resolution 44-23.

Mayor Hilliard called the Council to a brief recess at 7:32 p.m.

Mayor Hilliard returned the Council from recess at 7:34 p.m. and explained the reason for the call of a recess. He stated that the Council has been offered an amendment of Resolution 44-23 and in order to accept the amendment, the Council must follow parliamentary procedure by having the first reading of the Resolution followed with a request to suspend Council rules to allow for a second reading which must happen before the amendment may be offered. Once the amendment is adopted, Council can then move to table Resolution 44-23 which will allow for the regularly scheduled Public Hearing to take place at the next Council meeting on June 5th as required.

Councilor Gerding made a motion to suspend Council Rules to allow for a second reading of Resolution 44-23. The motion was seconded by Councilor Austin and passed 8-0 by voice vote.

Clerk LaPanne performed a second reading of Resolution 44-23.

Councilor Cameron made a motion to amended Resolution 44-23 and replace it in its entirety with the revised Resolution 44-23 provided by the special legal counsel, Kate Miller, Esq. The motion was seconded by Councilor Pepin.

Discussion:

Councilor Gerding felt it was important for the viewers at home to hear the amendments to Resolution 44-23 and read the following:

WHEREAS, Comcast of Maine/New Hampshire, Inc. is the duly authorized holder of a Renewal Cable Television Franchise to operate a cable television system in the City of Somersworth, New Hampshire pursuant to NH RSA 53-C, as amended, said Renewal Franchise having commenced on June 18th, 2013; and

WHEREAS, Said Franchise shall expire on June 17th, 2023; and

WHEREAS, Comcast representative and representatives of the City have negotiated a new Franchise Agreement, with an effective date of June 18, 2023, and

WHEREAS, the City Council of the City of Somersworth as Franchising Authority is authorized to renew the Franchise, subject to a public hearing to allow members of the public to ask questions about the proposed new Franchise Agreement;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT: The City Manager is authorized to renew the Cable Television Franchise with Comcast of Maine/New Hampshire, Inc., subject to a Public Hearing on June 5, 2023, and the proposed Franchise Agreement shall be available to the public at the City Clerk's office, prior to that hearing, and the City Manager is authorized to execute the Franchise Agreement and all other documents necessary and convenient to renew the Cable TV Franchise Agreement with Comcast of Maine/New Hampshire, Inc.

Councilor Gibson asked for clarification on the reasoning of the amendment. City Manager Belmore stated that special legal counsel, Attorney Kate Miller, reworked what the City drafted and provided the amended language that she recommends. Councilor Gibson questioned if the amended language would fully replace Resolution 44-23 or if it would be in addition to it. Mayor Hilliard confirmed that the amendment is meant to replace the Resolution in its entirety. Councilor Gibson wanted to ensure that the Council should not be concerned with the removal of the language of Section 2.2. Manager Belmore does not believe there is reason to worry, he added that the legal counsel who provided the recommendation, has great knowledge of Cable Television Federal and State regulations and have worked with multiple other municipalities on these types of agreements.

Manager Belmore stated that he provided each of the Council members with a copy of the new proposed 10-year franchise agreement and noted that the amendment states that the agreement is available in the City Clerk's office for review prior to the scheduled Public Hearing.

The motion passed 8-0 by voice vote.

Councilor Gerding made a motion to table Resolution 44-23 as amended. The motion passed 8-0 by voice vote.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Gibson		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Gerding		
At Large Councilor	Cameron		
At Large Councilor	Messier		
TOTAL VOTES:			
On	Resolution 44-23	PASSED	FAILED



City of Somersworth – Ordinance

Ordinance No: **20-23**

TO AMEND CHAPTER 4, PERSONNEL RULES & REGULATIONS, COMPENSATION SCHEDULE

May 15, 2023

THE CITY OF SOMERSWORTH ORDAINS THAT, the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 4 by deleting the Compensation Schedule in its entirety and replacing it with the following Compensation Schedule:

Personnel Rules and Regulations FY2023-2024 Compensation Schedule Effective July 1, 2023 - 7% Increase

GRADE	HIRE	1	2	3	4	5	6	7
6	13.08	13.60	14.15	14.71	15.30	15.91	16.54	17.21
7	13.71	14.25	14.83	15.42	16.04	16.68	17.34	18.04
8	14.40	14.98	15.58	16.20	16.85	17.53	18.22	18.95
9	15.13	15.74	16.36	17.02	17.70	18.40	19.14	19.91
10	15.87	16.50	17.16	17.85	18.56	19.30	20.07	20.89
11	16.68	17.34	18.04	18.77	19.52	20.30	21.11	21.96
12	17.53	18.23	18.96	19.72	20.50	21.33	22.18	23.06
13	18.40	19.14	19.90	20.70	21.53	22.40	23.28	24.21
14	19.28	20.05	20.85	21.69	22.56	23.45	24.40	25.37
15	20.29	21.10	21.95	22.82	23.73	24.68	25.67	26.70
16	21.25	22.10	22.98	23.90	24.86	25.85	26.89	27.96
17	22.35	23.25	24.17	25.15	26.15	27.20	28.28	29.41
18	23.47	24.41	25.38	26.40	27.45	28.55	29.69	30.88
19	24.60	25.58	26.61	27.67	28.78	29.93	31.13	32.37
20	25.92	26.95	28.03	29.15	30.31	31.53	32.80	34.10
21	27.18	28.27	29.39	30.57	31.79	33.06	34.39	35.76
22	28.58	29.72	30.91	32.15	33.44	34.78	36.17	37.61
23	29.98	31.18	32.43	33.73	35.07	36.48	37.93	39.45
24	31.45	32.71	34.02	35.37	36.79	38.26	39.79	41.39
25	33.03	34.35	35.73	37.15	38.64	40.19	41.79	43.46
26	34.72	36.11	37.56	39.06	40.62	42.24	43.93	45.69
27	36.38	37.84	39.34	40.93	42.56	44.27	46.03	47.87
28	38.22	39.75	41.33	42.99	44.72	46.50	48.36	50.30
29	40.13	41.73	43.40	45.13	46.94	48.81	50.77	52.80

Exempt Salary Schedule

Grade	Minimum	Maximum
25	70,337.41	89,652.11
30	89,302.22	108,878.90
31	97,557.06	118,697.25
32	98,470.64	119,972.33
33	103,462.68	125,812.72
34	108,683.12	132,207.76
35	114,131.99	138,765.96
36	119,874.45	145,715.66
37	125,747.48	152,893.77

Authorization

Sponsored by Councilors:

Richard Michaud
 Matt Gerding
 Don Austin
 Nancie Cameron

Approved:

City Attorney

City of Somersworth – Ordinance 20-23

History

First Read Date:	5/15/2023	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Discussion

5/15/2023

Councilor Austin made a motion to suspend Council rules to allow for a reading of Ordinance 20-23 by title only. The motion was seconded by Councilor Gibson and passed 8-0 by voice vote.

Clerk LaPanne performed a first reading of Ordinance 20-23 by title only.

Ordinance 20-23 will remain in first reading until the call of the Chair.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Gibson		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Gerding		
At Large Councilor	Cameron		
At Large Councilor	Messier		
TOTAL VOTES:			
On	Ordinance 20-23	PASSED	FAILED



City of Somersworth – Ordinance

Ordinance No: **21-23**

TO AMEND CHAPTER 4, PERSONNEL RULES AND REGULATIONS, SECTION 11.4.4 LONGEVITY

May 15, 2023

THE CITY OF SOMERSWORTH ORDAINS THAT, the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 4 by deleting sections 11.4.4 Longevity and replacing it with the following:

11.4.4 Longevity

Commencing on December 1, 2023, members will be eligible to receive a longevity stipend. Payment of a longevity stipend will be based on an employee's completion of the following number of consecutive years of full-time employment with the City as of December 1:

Completion of at least 3 years	-	\$1,000
Completion of at least 5 years	-	\$1,500
Completion of at least 10 years	-	\$2,000
Completion of at least 15 years	-	\$2,500
Completion of at least 20 years	-	\$3,000
Completion of at least 25 years	-	\$3,500

There will be no pro rata accrual or payment of this longevity stipend – an employee must be employed on December 1 to be eligible for the stipend. Payment will be made the first paycheck in December.

Authorization

Sponsored by Councilors:

Richard Michaud
Matt Gerding
Don Austin
Nancie Cameron

Approved:

City Attorney

City of Somersworth – Ordinance 21-23

History

First Read Date:	5/15/2023	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Discussion

5/15/2023

Clerk LaPanne performed a first reading of Ordinance 21-23.

Ordinance 21-23 will remain in first reading until the call of the Chair.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Gibson		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Gerding		
At Large Councilor	Cameron		
At Large Councilor	Messier		
TOTAL VOTES:			
On Ordinance 21-23		PASSED	FAILED



City of Somersworth – Ordinance

Ordinance No: 22-23

SUPPLEMENTAL APPROPRIATION FOR THE REPLACEMENT OF THE PUBLIC WORKS BUILDING ROOF

May 15, 2023

THE CITY OF SOMERSWORTH ORDAINS THAT pursuant to Section 7.7(A) of the City Charter:

The annual budget for the City of Somersworth for Fiscal Year 22-23 is amended as follows:

Appropriate \$168,000 (One Hundred Sixty-Eight Thousand dollars) from the American Rescue Plan Funds to the Capital Outlay Budget as follows:

Budget	Amendment	Revised Budget
\$ 440,351	\$ 168,000	\$ 608,351

Approved as to Funding:

Scott A. Smith
Director of Finance and Administration

Recorded by:

Kristen LaPanne
City Clerk

Background:

This Ordinance appropriates funding from the American Rescue Plan Funds (ARPA) for the replacement of the Public Works Building Roof. There is currently \$440,980 available in ARPA Funds.

This Ordinance requires a public hearing and requires a 2/3 majority vote of the City Council after the public hearing subject to Section 7.4.1 and Section 7.7 (A) of the City Charter.

Authorization

Sponsored by Councilors:

David A. Witham
Don Austin
Matt Gerding
Robert Gibson

Approved:

City Attorney

City of Somersworth – Ordinance 22-23

History

First Read Date:	5/15/2023	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

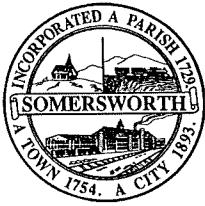
Discussion

5/15/2023

Clerk LaPanne performed a first reading of Ordinance 22-23.

Ordinance 22-23 will remain in first reading until the call of the Chair.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Gibson		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Gerding		
At Large Councilor	Cameron		
At Large Councilor	Messier		
TOTAL VOTES:			
On	Ordinance 22-23	PASSED	FAILED



City of Somersworth – Resolution

Resolution No: **45-23**

TO AUTHORIZE THE CITY MANAGER TO CONTRACT WITH TRIPLE CONSTRUCTION, LLC OF HUDSON, NH FOR THE REPLACEMENT OF THE PUBLIC WORKS BUILDING ROOF

May 15, 2023

WHEREAS, funding from the City of Somersworth ARPA funds are available for a metal roof replacement at the Somersworth Department of Public Works Building; and

WHEREAS, the existing roof has deteriorated beyond routine repairs and its useful life; and

WHEREAS, City staff requested bids and received a proposal for this project and recommends awarding the contract to Triple Construction, LLC of Hudson, New Hampshire, for a cost of \$ 152,913 (One Hundred Fifty-Two Thousand Nine Hundred Thirteen dollars); and

WHEREAS, the Finance Committee recommends including a contingency in the amount of \$15,087 (Fifteen Thousand Eighty-Seven dollars) for the project, and allow the City Manager to increase the contract to an amount not to exceed \$168,000 (One Hundred Sixty-Eight Thousand dollars) if needed, and it is determined to be in the best interest of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to contract with Triple Construction, LLC of Hudson, NH to replace the Public Works Building roof for an amount of \$152,913 (One Hundred Fifty-Two Thousand Nine Hundred Thirteen dollars); and

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT an amount of \$15,087 (Fifteen Thousand Eighty-Seven dollars) is included with the project total for contingencies and the City Manager is allowed to increase the contract to an amount not to exceed \$168,000 (One Hundred Sixty-Eight Thousand dollars) if needed, and it is determined to be in the best interest of the City.

Authorization

Sponsored by Councilors:

David A. Witham
Don Austin
Matt Gerding
Robert Gibson

Approved:

City Attorney

City of Somersworth – Resolution 45-23

History

First Read Date:	5/15/2023	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Discussion

5/15/2023

Clerk LaPanne performed a first reading of Resolution 45-23.

Resolution 45-23 will remain in first reading until the call of the Chair.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Gibson		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Gerding		
At Large Councilor	Cameron		
At Large Councilor	Messier		
TOTAL VOTES:			
On	Resolution 45-23	PASSED	FAILED



City of Somersworth – Ordinance

Ordinance No: **23-23**

TRANSFER BETWEEN DEPARTMENTS

June 5, 2023

BE IT ORDAINED BY THE CITY OF SOMERSWORTH, pursuant to Section 7.7 (D) of the City Charter, that the following General Fund unencumbered balance transfer be made:

<u>DEPARTMENTS</u>	<u>FROM</u>	<u>TO</u>
ELECTED LEADERSHIP		
CITY MANAGEMENT		
FINANCE AND ADMINISTRATION		
DEVELOPMENT SERVICES		
POLICE	200,000	
FIRE		200,000
PUBLIC WORKS		
OTHER EXPENSES (<i>CONTINGENCY</i>)		
CAPITAL OUTLAY		
INTERGOVT ASSESSMENTS-COUNTY TAX		
SCHOOL DEPARTMENT		
	<hr/>	<hr/>
TOTAL GENERAL FUND	200,000	200,000

This Ordinance shall take effect upon passage.

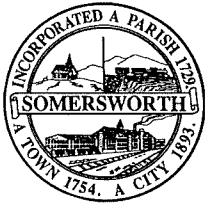
Authorization

Sponsored by Councilors:

David A. Witham
Don Austin
Matt Gerding
Robert Gibson

Approved:

City Attorney



City of Somersworth – Resolution

Resolution No: **46-23**

TO ESTABLISH A MENTAL HEALTH AND WELLNESS COMMITTEE

June 5, 2023

WHEREAS, there is a need to foster, promote and support mental health and wellness services and opportunities within the City; and

WHEREAS, the Mayor and City Council supports the ongoing education of, and outreach to, all City and School employees, students, and citizens of Somersworth to further efforts of wellness and recovery outreach; and

WHEREAS, the purpose of the Mental Health and Wellness Committee will be to provide an ongoing focus, and to examine, study and implement systems that support mental health, wellness and recovery opportunities within the City that foster community-wide coalitions to aid in the education, outreach and these service goals; and

WHEREAS, the Mental Health and Wellness Committee may recommend changes to policies in support of its mission to provide education and outreach to the Community; and

WHEREAS, the City will establish a Mental Health and Wellness Committee consisting of eleven (11) members, said membership established as follows:

- One (1) City Councilor appointed by the Mayor
- One (1) School Board Member appointed by the School Board Chair
- Mayor or designee
- City Manager or designee
- School Superintendent or designee
- One (1) member from the City's Public Safety Departments appointed by the City Manager
- Executive Director of the Chamber of Commerce or designee
- Four (4) additional members representing youth organizations, public health entities, community-based healthcare, and civic organizations appointed by the Committee Chair;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Mayor and City Council will establish a Mental Health and Wellness Committee to provide ongoing focus, and to examine, study and implement systems that support mental health, wellness and recovery opportunities within the City through the formation of community-wide coalitions that will aid in the education as well as outreach to facilitate these service goals.

Authorization

Sponsored by:

Mayor Dana S. Hilliard

Sponsored by Councilor:

Don Austin

Approved:

City Attorney



City of Somersworth – Resolution

Resolution No: **47-23**

TO AUTHORIZE THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT EXTENSION WITH THE PALL CORPORATION OF PORT WASHINGTON, NEW YORK TO LEASE BUILDING SPACE AT THE SOMERSWORTH WATER TREATMENT FACILITY

June 5, 2023

WHEREAS, the Pall Corporation has a lease agreement with the City of Somersworth to lease building space at the Somersworth Water Treatment Facility that expires on June 30, 2023; and

WHEREAS, the Pall Corporation has informed the City they would like to terminate this lease in accordance with the terms and conditions of the lease, but also have requested a one (1) year extension to expire on June 30, 2024 to remove all equipment and fixtures as required by the lease terms and conditions; and

WHEREAS, the agreed lease amount for the one (1) year extension is \$1,500 (One Thousand Five Hundred dollars) per month;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to execute a lease extension through June 30, 2024 with the Pall Corporation of Port Washington, New York, for \$1,500 (One Thousand Five Hundred dollars) per month, for building space at the Somersworth Water Treatment Facility under terms and conditions deemed to be in the best interest of the City.

Authorization

Sponsored by Councilors:

David A. Witham
Donald Austin
Matt Gerding
Robert Gibson

Approved:

City Attorney

LEASE AMENDMENT #3

This Lease Amendment #3 (this "Amendment") is made and entered into as of May xx, 2023 (the "Effective Date") by and between the City of Somersworth of Somersworth, New Hampshire (hereinafter referred to as the "Landlord" or "Lessor") and Pall Corporation, a New York Corporation, have its place of business at 25 Harbor Park Drive, Port Washington, NY 11050 (hereinafter referred to as "Tenant" or "Lessee").

RECITAL

- A. On January 1, 2012 Landlord and Tenant entered into an Agreement of Lease (the "Lease") covering the Premises, which consists of Building A located at the Somersworth Water Treatment Plant along the Salmon Falls River in Somersworth, New Hampshire (the "Site").
- B. This Agreement was extended on November 10th, 2021 for 6 months and on June 21, 2022 for another 12 months.
- C. Landlord and Tenant desire to hereby extend the term of the Lease as set forth in this Amendment.

AGREEMENT

1. **Defined Terms.** Capitalized terms used in this Amendment have the same meaning given to such terms in the Lease unless otherwise defined.
2. **Lease Extension.** Landlord and Tenant acknowledge and agree that the term of the Lease shall be extended by twelve (12) months starting on July 01, 2023 and ending on June 30, 2024 (the "Extension Term").
3. **Rent.** During the Extension Term, Tenant agrees to pay to Landlord the monthly rental amount of \$1,500.00 per month, in advance on the first day of each calendar month of the Extension Term.
4. **Effect of Amendment.** Except as expressly amended herein, the Lease shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of the Lease and this Amendment, the provisions of this Amendment shall Control.
5. **Binding Effect.** This Amendment will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
6. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which will constitute an original, and all of which together shall constitute one and the same agreement. Executed copies may be delivered by email and, upon receipt, shall be deemed originals and binding upon the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as of the Effective Date.

LANDLORD:
CITY OF SOMMERSWORTH

TENANT:
PALL CORPORATION

By: _____

By: _____

Name: Robert M. Belmore, City Manager

**Name: Dave Friel, Dir. Global Supply Chain &
Ops – Arndt Nottrott, Dir. Glob. Eng and R&D**

NOTICE

DATE: 4/28/2023

TO: CITY OF SOMERSWORTH, NH, HEREINAFTER "LANDLORD"

FROM: PALL WATER, A DIVISION OF PALL CORPORATION

RE: NOTICE OF ASSIGNMENT

This notice ("Notice") is granted by Pall Water, a division of Pall Corporation of the following:

1. the undersigned and Pall Water, a division of Pall Corporation are party to that certain AGREEMENT OF LEASE, dated January 1, 2012 including any amendments thereto (the "Agreement");
2. this is notice that Pall Water, a division of Pall Corporation, is part of Danaher Corp.'s Environmental & Applied Solutions ("EAS") segment. Danaher Corp. has announced its intention to separate its EAS segment to create an independent, publicly traded company (the "Transaction") (see: [Danaher Announces Intention to Separate Environmental & Applied Solutions Segment to Create an Independent, Publicly Traded Company - Sep 14, 2022](https://investors.danaher.com/2022-09-14-Danaher-Announces-Intention-to-Separate-Environmental-Applied-Solutions-Segment-to-Create-an-Independent-Publicly-Traded-Company)⁽¹⁾). In connection with the Transaction, the Pall Water assets, including the AGREEMENT, will be assigned and transferred by Pall Corporation to Trojan Technologies Corporation or an affiliate thereof (the "Assignment"). Upon assignment, Trojan Technologies Corporation or an affiliate thereof will have all rights, and be liable for all obligations and responsibilities under the Agreement as if the original party. The anticipated Assignment date is scheduled to occur on or about August 21, 2023.
3. Trojan Technologies will follow up at a later date with any necessary additional information.

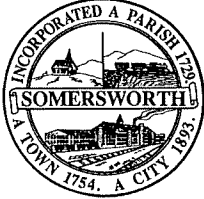
Pall Water, a division of Pall Corporation

By: 

Name: Daniel M. Benitez

Title: General Manager

⁽¹⁾ <https://investors.danaher.com/2022-09-14-Danaher-Announces-Intention-to-Separate-Environmental-Applied-Solutions-Segment-to-Create-an-Independent-Publicly-Traded-Company>

City of Somersworth – Resolution	
	Resolution No: 48-23
	TO AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENTS WITH AMERESCO, INC. OF FRAMINGHAM, MASSACHUSETTS, OPERATING AS BLACKWATER ROAD SOLAR, LLC., TO DEVELOP A SOLAR PROJECT PURSUANT TO RSA 362-A ON THE CLOSED SOMERSWORTH SANITARY LANDFILL SUPERFUND SITE ON BLACKWATER ROAD

June 5, 2023

WHEREAS, the City Council adopted Resolution 27-22 authorizing the City Manager to negotiate agreements, subject to the approval of the City Council, with Ameresco, Inc. of Framingham, Massachusetts to develop a solar project on the closed Somersworth Sanitary Landfill Superfund Site on Blackwater Road; and

WHEREAS, the City Manager negotiated agreements with Ameresco, Inc. for the design, installation, maintenance, and decommission of a community solar project pursuant to the New Hampshire Group Net Metering statute, RSA 362-A and locate it on the closed Somersworth sanitary landfill superfund site on Blackwater Road; and

WHEREAS, the Agreements consist of a Purchase Power Agreement (PPA), a Ground Lease, and a Payment in Lieu of Taxes (PILOT) agreement by and between the City of Somersworth and Blackwater Road Solar, LLC.;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to execute Agreements with Ameresco, Inc. of Framingham, Massachusetts, operating as Blackwater Road Solar LLC., to develop a solar project pursuant to RSA 362-A on the closed Somersworth Sanitary Landfill Superfund site on Blackwater Road and take any and all other such actions relative to this project determined to be in the best interest of the City.

Authorization	
<i>Sponsored by Councilors:</i> David A. Witham Donald Austin Matt Gerding Robert Gibson	<i>Approved:</i> City Attorney

AGREEMENT AS TO PAYMENT IN LIEU OF TAXES

This Payment in Lieu of Taxes (PILOT) Agreement (hereinafter “Agreement”) is made this ____ day of _____, 2023, pursuant to New Hampshire Revised Statutes Annotated (“RSA”) § 72:74, between the City of Somersworth, New Hampshire (the “City”) and Blackwater Road Solar LLC (the “Company”), a Delaware limited liability company with a business address of 111 Speen St, Framingham, MA 01701. The City and the Company are sometimes hereinafter referred to collectively as the “Parties”.

WHEREAS the Company seeks to develop a renewable solar power electric generating facility (the “Facility”) to be located at 15 Blackwater Road in Somersworth. The Company expects the final installed Nameplate Capacity to be approximately 1.992 megawatts (MW/Ac). For the purposes of this Agreement, the term “Nameplate Capacity” shall mean the sum of all of the nameplate capacities for the total solar inverters installed and operating at the Facility. Once the project has reached commercial operation, defined below, the parties will sign a letter amendment to this Agreement specifying the actual Nameplate Capacity of the Facility (if applicable).

WHEREAS the Facility will be built on land leased by the Company from the City, identified on City Tax Map 22, Lot 50AA. Under its lease agreement(s) with the City (the “Lease”), the Company will be responsible for the payment of local *ad valorem* real estate taxes on Facility structures and other improvements under RSA Chapter 72, but not for taxes on the value of the underlying land, which will continue to be the landowner’s responsibility.

WHEREAS the Facility will be a “renewable generation facility,” as defined in RSA §72:73. Under RSA §72:74, the owner of a renewable generation facility and the governing body of the municipality in which the facility is located may enter into a voluntary agreement to make payments in lieu of taxes (“PILOT payments”).

WHEREAS the Company and the City desire to enter into such a PILOT agreement under RSA § 72:74.

NOW THEREFORE, the parties hereto agree as follows:

Terms and Conditions

1. Payments in Lieu of Taxes. The Company will make PILOT payments to the City for each tax year (April 1 to March 31) during the term of this Agreement, in accordance with Sections 3 and 4 below. These PILOT payments will be in lieu of any and all *ad valorem* real estate taxes otherwise payable under RSA Chapter 72, including all city, county, and local school district taxes.

2. Term of PILOT.

(a) 20 Year Term. Mindful of RSA 72:74, VI and VII, the parties have determined that a long-term agreement providing predictability of tax revenues and expenses would be advantageous to both the City and the Company. Accordingly, the term of this Agreement shall be for twenty (20) years, beginning with the year in which the Commercial Operation Date occurs, as defined in subsection (b) of this section, and continuing thereafter for 20 additional years (the "Operating Term"). The Operating Term may be extended by mutual written agreement of the Parties for two (2) additional terms of up to five (5) years. If either Party terminates the Lease in accordance with the Lease terms, this Agreement shall be deemed void and of no effect.

(b) Commercial Operation Date. For the purposes of this Agreement, the term "Commercial Operation Date" shall have the same meaning as set forth in the Lease, i.e., the date that the Solar Facility begins regular, daily production. Tenant shall designate the Commercial Operation Date in a notice delivered under the Power Purchase Agreement ("PPA"). Said notice shall confirm the Facility's actual Nameplate Capacity. If the Company fails to deliver such notice, then the City may determine when Tenant began regular, daily production

3. PILOT Payments for 20-Year Operating Term. Subject to possible adjustments as to an increase or reduction under Section 4 below, annual PILOT payments to the City for the 20-year Operating Term shall begin at the rate of \$7,028 per megawatt/AC of Nameplate Capacity in the tax year that begins on April 1 following the Commercial Operation Date. If the Facility's actual Commercial Operation Date occurs after March 31, then the PILOT payments to the City shall be prorated for the first and the last tax year by multiplying the daily tax rate by "y". For the first partial year, "y" equals the number of days remaining in the tax year after the Commercial Operation Date divided by the total number of days in the tax year. For the last partial year, "y" equals the number of days remaining in the tax year after the end of the Operating Term divided by the total number of days in the tax year. In the event the Lease is terminated, then "y" equals the number of days remaining in the tax year after the end of the Operating Term divided by the total number of days in the tax year.

4. Potential Adjustment of PILOT Payments.

(a) Increase in Capacity. In the event the Company upgrades the Facility during the term of this Agreement in such a way as to increase the Facility's total capacity, then PILOT payments beginning in the next tax year will be adjusted upwards by the same percentage increase in capacity, using the same rate provided in Section 3.

(b) Reduction in Capacity: If the Facility's installed and operating capacity as of April 1 in any tax year is materially reduced due to causes beyond the Company's control from the previous tax year due to: (i) damage caused by natural forces, (ii) operational restrictions caused by a change in law, regulation, ordinance, or industry management standards, (iii) decommissioning and removal of inverters, or (iv) the permanent cessation of the Facility's operations, then the PILOT payment will be adjusted downward based on the total actual installed and operating Nameplate

Capacity after the reduction in capacity in the case of clauses (i) through (iii) of this Section 4(b). In the case of clause (iv) of this Section 4(b), then (i) this Agreement will terminate; (ii) the PILOT Payment for the year of termination shall be calculated as set forth in Section 3; and (iii) if the PILOT payments paid for the tax year in which this Agreement terminates, then the City shall return any overpayment to the Company within thirty (30) days of termination, and if the Company has underpaid the PILOT payments for that year, it shall pay the additional amount due within thirty (30) days of termination. This Section 4 shall survive termination of this Agreement.

5. Due Date of Payments. The Company shall make the PILOT Payments due hereunder for any given tax year in the Operating Term to the City in advance in two equal installments, at the City Tax Collector's office, on July 1st and December 1st, except for the first PILOT Payment, which the Company shall pay within ten (10) days after the Commercial Operation Date.

6. Non-Payment. Non-payment of any PILOT payment due the City shall constitute a default. Notice of non-payment or any other default shall be provided to the Company (and to the Company's Lender as further specified in Sections 7 and 9 below), in the manner and at the address provided for Notices in Section 9 of this Agreement. The Company shall have 30 days to cure the default after receiving such notice. In the event the condition causing the default is not cured within 30 days, the City any, or any combination of, the following: (a) commence an action to collect any non-payment under RSA 80:50; (b) seek specific performance of a non-monetary default or proceed against the real estate under RSA 80:58-80; or (c) deduct the amount owed from any payments owed by the City to the Company as Tenant under the Lease or as Developer under the PPA until such time as the delinquent PILOT payment has been paid in full. It shall not be a defense to such a proceeding that the Company is obligated under this Agreement to make payments in lieu of taxes rather than taxes.

7. Lender's Right to Cure. The City shall send a copy of any notice of default sent to the Company to the Company's Lender by certified mail at the same time such notice is sent to the Company, and no such notice of default to the Company shall be effective unless and until a copy of such notice has been delivered to the Company's Lender. The Company's Lender shall have the same time and rights to cure any default as the Company, but no additional time, and the City shall accept a cure by the Company's Lender as if such cure had been made by the Company. The Company shall provide written notice to the City as to the name and address of the Company's Lender for such notices to be sent.

8. Other Taxes Not Covered. This Agreement covers only ad valorem real estate taxes payable under RSA Chapter 72. It does not include or cover other local, state, or federal taxes which may be payable on account of Facility revenues or activities, including the Land Use Change Tax, Timber Tax, State Utility Property Tax, Business Profits Tax, Business Enterprise Tax, or Federal Income Tax.

9. Notices. Any notice to be provided under this Agreement shall be in writing and shall be deemed to have been given when delivered personally or by certified mail at the following addresses:

For the City:

Robert M. Belmore
City Manager
City of Somersworth
One Government Way
Somersworth, NH 03878
Email: bbelmore@somersworthnh.gov

Copy to:

Gareth I. Orsmond, Esq.
Pierce Atwood LLP
Pease International Tradeport
1 New Hampshire Ave. #350
Portsmouth, NH 03801
Email: gorsmond@pierceatwood

For the Company:

Blackwater Road Solar LLC
111 Speen Street
Framingham, MA 01701
ATT: Jonathan Mancini
Email: jmancini@ameresco.com

Copy to:

Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701
Attention: General Counsel

In the event that an email is sent simultaneously with notice delivered personally or by certified mail and the email is acknowledged received by the recipient or the sender can provide proof of receipt by the recipient, then the notice shall be deemed delivered as of the date of the email; otherwise notice will be deemed delivered when actually received.

The Parties may waive any additional notice requirements in writing upon receipt of notice by email. For purposes of this waiver, a responsive email expressly waiving any additional notice requirements shall be deemed a writing.

In the event of a change in the address of any party listed above, the responsible signatory (the Company in the case of itself, its Lender and/or its counsel) shall give the other party prompt written notice of such change of address, which shall be effective upon receipt.

10. Miscellaneous.

(a) This Agreement shall be construed and interpreted in accordance with the laws of the State of New Hampshire, and the Parties submit that all claims shall be brought in the appropriate state or federal courts located in New Hampshire. In the event any term of this Agreement or the application of any such term shall be held invalid by any court having jurisdiction, the other terms of this Agreement and their application shall not be affected thereby and shall remain in full force and effect, provided that the remaining terms continue to preserve the essential economic terms of this Agreement.

(b) The terms and provisions contained in this Agreement constitute the final Agreement between the Parties with respect to this Agreement and supersede all previous communications, representations or agreements, either verbal or written. No modification or amendment to this Agreement shall be valid unless it is in writing and signed by both parties hereto.

(c) The Company shall have the right as further described and limited in Article VII of the Lease, to assign this Agreement (i) to one or more Affiliates of the Company, (ii) to any person succeeding to all or substantially all of the assets of the Company, (iii) to an entity that acquires the Facility or, prior to the construction of the Facility, the development rights thereto, subject to the City's consent, not to be unreasonably delayed, conditioned or withheld (each, a "Permitted Transfer"). Notwithstanding any contrary provisions contained in this Agreement, without any further request for prior consent but with written notice to the City, the Company may collaterally assign, transfer or pledge its rights under this Agreement to a financing party for the purpose of obtaining financing or refinancing the Facility. All covenants, agreements, terms and conditions contained in this Agreement shall apply to and be binding upon the parties, their assigns and successors. The Company shall provide written notice to the City of any sale, transfer, or assignment.

(d) Section titles or subject headings in this Agreement are provided for the purpose of reference and convenience only and are not intended to affect the meaning of the contents or scope of this Agreement.

(e) Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next Business Day.

(f) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original instrument, but all of such counterparts together will constitute but one Agreement.

[Remainder of Page Intentionally Blank; Signature Page Follows]

CITY OF SOMERSWORTH

By: _____
Robert M. Belmore
City Manager

Blackwater Road Solar LLC

By: _____
Jonathan Mancini
Authorized Representative

SOLAR POWER PURCHASE AGREEMENT

THIS SOLAR POWER PURCHASE AGREEMENT ("*Agreement*") is made and entered into as of this _____, 2023 (the "*Effective Date*") by and between City of Somersworth, New Hampshire, with an address of One Government Way, Somersworth, NH 03878 ("*Buyer*") and Blackwater Rd Solar LLC, a Delaware limited liability company, with an address of 111 Speen Street, Suite 410, Framingham, MA 01701 ("*Developer*"). Buyer and Developer are sometimes hereinafter referred to individually as a "*Party*" and collectively as the "*Parties*".

- (A) Developer proposes to construct a solar photovoltaic generation facility (the "*Facility*") with an aggregate generating capacity of up to approximately 2.794 MW DC (1.992 MW AC) (the "*Project*") on the property described in Attachment B hereto (the "*Property*");
- (B) the Parties intend that, pursuant to the Net Metering Rules (defined below) the Project will be comprised of one or more Net Metering Facilities (defined below), and will generate Net Metering Credits (defined below);
- (C) Buyer is or shall be the Host Customer of the Facility.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises, representations, warranties, covenants, conditions herein contained, and the exhibits attached hereto, Buyer and Developer agree as follows.

Section 1. DEFINED TERMS; RULES OF INTERPRETATION

Capitalized terms used in this Agreement shall have the meanings ascribed to them in Attachment A hereto.

Section 2. SYSTEM DESCRIPTION

This Agreement provides the terms and conditions upon which the Developer may, subject to satisfaction or waiver of the conditions precedent below, construct and install the Facility. A preliminary description of the Facility is set forth in Attachment C hereto.

Section 3. TERM

- (a) Term. The term of this Agreement (the "*Term*") shall commence on the Effective Date and shall remain in effect until the twentieth (20th) anniversary of the Commercial Operation Date, or such earlier date provided herein. The Term may be extended by mutual written agreement of the Parties for two (2) additional terms of up to five (5) years each at an Electricity Price to be agreed upon by the Parties at the time of the extension (each an "*Additional Term*").
- (b) Without constituting a default under this Agreement, and without liability of either Party to the other Party (except for amounts then due under this Agreement), Developer shall have the right, but not the obligation, to terminate this Agreement prior to expiration of the Term upon the occurrence of an unstayed order of a court or administrative agency having the effect of subjecting the sales of Electricity to federal or state regulation of prices and/or services.

(c) Conditions Precedent. The obligation of Developer to commence construction hereunder (and with respect to subparagraph (c)(xii) below, the obligation of Developer to commence selling Electricity hereunder) is subject to the fulfillment of each of the following conditions precedent or waiver by Developer, though such waiver will not affect any right of Buyer to terminate this Agreement under Section 8 (Force Majeure):

(i) Developer shall have obtained financing on terms acceptable to Developer in its sole discretion. For the purposes of this subparagraph (c)(i), financing may include debt financing, equity financing, tax equity financing, loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, interest rate exchanges, or swap agreements, and any other documents relating to the development, bridge construction or the permanent financing for the construction and operation of the Facility;

(ii) Developer shall have obtained all permits, licenses and other approvals required by Applicable Legal Requirements and from the LDC and owner of the Property for construction, installation and operation of the Facility;

(iii) Developer shall have determined that no upgrades are required to Buyer's existing electrical infrastructure, it being acknowledged by both Parties that neither Party shall be under any obligation to pay for any required upgrades;

(iv) The LDC shall not have required material changes in plans and/or specifications to the Facility or the interconnection of Buyer's facilities which requires additional costs or fees for interconnection application costs, utility upgrade costs and utility impact study costs in excess of \$250,000 (said amount being the amount Developer reasonably anticipates as the cost of interconnection and upgrades, if any, as of the Effective Date); provided that Developer's right of termination hereunder may be exercised only if (1) Developer requests a reasonable adjustment to the Electricity Price for such interconnection costs and Buyer, in its sole discretion, does not agree within a reasonable time thereafter (not to exceed 30 days), such agreement to be evidenced by an amendment to this Agreement executed by the Parties; OR (2) Developer requests Buyer pay any such interconnection and utility costs over \$250,000 directly to the LDC (or as otherwise agreed) and Buyer does not agree to make such payment within a reasonable time thereafter (not to exceed 30 days);

(v) Buyer shall have entered into all contracts and delivered all other documents required by the LDC in connection with this Agreement and the transactions contemplated hereby (the "**Utility Documents**") to the reasonable satisfaction of Developer, or the LDC shall have waived the requirements for such Utility Documents;

(vi) Without limiting the foregoing condition, Buyer shall register with the LDC as a Group Host to aggregate municipal electric bills;

(vii) Developer shall have entered into all contracts for procurement, construction, installation and operation of the Facility;

(viii) Developer shall have satisfied itself that the Facility, if constructed, would not be in violation of zoning or land use laws applicable to the Property, it being acknowledged by Buyer that Developer is under no obligation to apply for or obtain zoning relief; and

(ix) Developer shall have confirmed that Developer will obtain all applicable Environmental Incentives.

Developer shall give Buyer written notice of Developer's intent to terminate this Agreement due to non-fulfillment or failure of any of the foregoing conditions, which notice must be given no later than two-and-one-half years after the Effective Date unless Buyer, as Landlord, terminates the Lease earlier. In the event Developer terminates this Agreement pursuant to the preceding sentence, the Parties shall have no further obligations under this Agreement except those which survive expiration or termination of this Agreement in accordance with the terms hereof. Developer shall notify Buyer when the conditions are met, and on or before such notice, Developer shall provide Buyer with the construction schedule.

The provisions of this Section 3(c) do not alter Developer's obligations, as Tenant, to pay Rent (as defined in the Lease) under Section 2.03 of the Lease, including, without limitation, its obligation to pay Annual Rent after the Development Period Expiration Date, as those terms are defined in the Lease, or any other obligations under the Lease.

Section 4 FACILITY OWNERSHIP, INSTALLATION, OPERATION, MAINTENANCE, AND REMOVAL

(a) Title to Facility. Except as otherwise set forth in this Agreement, as between the Parties during the Term of this Agreement, all ownership of and title to the Facility, permits, approvals, Environmental Attributes, Environmental Incentives, Reporting Rights and tax benefits associated with the Facility shall be with the Developer. Developer shall be the legal and beneficial owner of the Facility, which Facility will at all times retain the legal status of personal property of Developer as defined under Article 9 of the Uniform Commercial Code. The Facility will not attach to or be deemed a part of, or a fixture to, the Property notwithstanding the manner in which the Facility is or may be affixed to real property of Buyer. If there is any mortgage or fixture filing against the Property which could reasonably be construed as prospectively attaching to the Facility as a fixture, Buyer shall provide a disclaimer or release from such lienholder. Buyer shall not directly or indirectly permit, create, incur, assume or suffer to exist any Lien attributable to Buyer on the Facility, and if Buyer shall nonetheless have caused there to be such a Lien, Buyer hereby agrees that it shall, at its expense, cause the same to be duly discharged and removed within thirty (30) days of notice of such lien. Buyer will not take a position on any tax return or in other filings suggesting that it is anything other than a purchaser of Electricity from the Facility. Buyer authorizes Developer to file a precautionary UCC financing statement which shall disclaim the fixture status of the Facility. The Parties intend this Agreement to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

(b) Cooperation Regarding Authorizations. Developer will prepare, file and manage applications for all permits, approvals, registrations and other related matters under the SREC-II program and with the LDC and any other Governmental Authority and, to the extent necessary, Developer will do so on behalf of Buyer. Buyer agrees to reasonably cooperate with Developer in preparing such applications and securing such permits, approvals and registrations, including without limitation, timely executing and delivering all documentation required from Buyer relating thereto. Where allowed by law and if necessary, and subject to Applicable Legal Requirements, Buyer shall designate Developer as its agent in obtaining all permits, approvals, registrations and additional authorizations required of Buyer in connection with this Agreement and the transactions contemplated hereby.

(c) Lease; Access; Other Rights. Developer and Buyer have entered into a Lease for the Leased Area concurrently with the execution of this Agreement. Developer shall install, operate, insure, maintain, repair and remove the Facility on the Leased Area pursuant to and in strict conformance with this Agreement and the Lease.

(d) Operations Manual; Training. On or before the Commercial Operation Date, Developer shall deliver to Buyer an operation, maintenance and parts manual for the Facility. In addition, Developer will train

Buyer's representative(s) on Buyer operations and monitoring (for informational purposes only) and emergency preparedness and response, it being acknowledged by Buyer that Buyer shall not operate the Facility, except in the case of an emergency where immediate action on the part of the Buyer is reasonably necessary for safety reasons. In the event of an emergency where immediate action on the part of Buyer is reasonably necessary for safety reasons, Buyer may, but is not obligated to, shut down or disconnect the Facility and provide notice to Developer as soon as is practicable under the circumstances, but otherwise Buyer shall not be permitted to perform any maintenance or repair on the Facility. Any lost production resulting from Buyer's emergency shutdown shall not be the subject of a claim for lost revenue.

(e) Notice of Commercial Operation. Subject to the provisions of this Agreement, Developer shall notify Buyer when the Facility achieves Commercial Operation ("*Notice of Commercial Operation*"), and shall in such notice state the Commercial Operation Date and the Facility's actual nameplate capacity.

(f) Net Metering Provisions.

(1) Host Customer. At Developer's request, Buyer shall take any reasonable action and execute any documents that are necessary to designate Buyer as the LDC customer of record for the LDC Metering Device and otherwise establish Buyer as the Host Customer for such Facility for purposes of the Net Metering Rules. Developer shall prepare any such documents, including the LDC's net metering service application and Buyer shall reasonably cooperate with Developer's preparation of such documents, including, without limitation, by providing information on Buyer's existing other accounts with the LDC.

(2) Net Metering Facility. The Parties acknowledge their mutual intent that the Facility be classified as a Net Metering Facility, and, in the event that the Facility is so classified, each Party agrees not to take any action inconsistent with such regulatory status of the Project except insofar as such action is expressly authorized under this Agreement.

(3) No Resale of Electricity. The Electricity purchased by Buyer from Developer under this Agreement shall not be resold to any other Person, nor shall such Electricity be assigned or otherwise transferred to any other Person (other than to the LDC pursuant to the Net Metering Rules) without prior approval of Developer, such approval not to be unreasonably withheld, conditioned or delayed. The City reserves the right to allocate the Nameplate Capacity as appropriate.

Section 5. PURCHASE AND SALE; DELIVERY; GOVERNMENTAL CHARGES

(a) Purchase and Sale of Electricity. Commencing on the Commercial Operation Date and continuing throughout the remainder of the Term, Developer shall sell and make available to Buyer, and Buyer shall purchase and take delivery of at the Delivery Point, all of the Electricity generated by the Facility. Buyer acknowledges that Electricity produced by the Facility is intermittent as available energy product and that Buyer is solely responsible for meeting any and all of its energy needs not met from Facility-generated energy at Buyer's cost and expense.

(b) Price for Electricity. Notwithstanding any other provision of this Agreement, Buyer shall pay Developer for the Electricity, as metered at the Developer Metering Device, at the applicable Electricity Price set forth on Attachment D. In all cases, any adjustments in the Electricity Price shall be made to the nearest thousandth of a cent.

(c) Title and Risk of Loss of Electricity. Title to and risk of loss of the Electricity will pass from Developer to Buyer at the Delivery Point. Developer warrants that it will deliver the Electricity to Buyer at the Delivery Point free and clear of all liens, security interests, claims, and other encumbrances. Buyer shall be

responsible for installation and operation of equipment on Buyer's side of the Delivery Point necessary for acceptance and use of the Electricity.

(d) Governmental Charges.

(i) Developer is responsible for local, state and federal income taxes attributable to Developer for income received under this Agreement.

(ii) Buyer shall pay directly or reimburse Developer on an after-tax basis for all sales and use taxes that may be imposed by any Governmental Authority on the sale of Electricity to Buyer.

(iii) The assessment and payment of real and personal property taxes is addressed in the Lease and a payment-in-lieu-of taxes ("**PILOT**") agreement entered into concurrently with this Agreement.

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

(f) Guaranteed Annual Electric Output.

(i) Developer guarantees that the Facility will produce the Guaranteed Annual Electric Output, as adjusted by the annual facilities degradation factor of 0.5% as shown in Attachment D (the "**Annual Facilities Degradation Factor**"), under standard insolation conditions at the Property and measured on a rolling, three-year, cumulative basis. On the first anniversary of the Commercial Operation Date and each anniversary of the Commercial Operation Date thereafter during the Term, the Guaranteed Annual Electric Output shall be decreased by the Annual Facilities Degradation Factor.

(ii) Subject to clause (iii) below, if, as of any anniversary of the Commercial Operation Date beginning on the third anniversary of such date, a Production Shortfall exists with respect to such three-year period, Developer will be required to pay Buyer a "**Shortfall Payment**" equal to the product of:

(A) the difference between the Electricity Price and the LDC Default Service Rate of electricity for such three-year period, multiplied by

(B) the Production Shortfall during such three-year period.

(iii) For purposes of calculating a Shortfall Payment under clause (ii) above, the Production Shortfall shall be adjusted as reasonably determined by Developer due damage or downtime attributable to third parties or Buyer, inverter failure, delayed repairs, utility outages affecting the ability of Developer to deliver Electricity to the Delivery Point, Force Majeure, or material breaches or omissions of Buyer of its obligations hereunder or under the Lease, and any temporary removal of the Facility under the Lease (other than to remedy damage caused by Developer). Any disagreement between the Parties as to adjustments claimed by Developer shall be resolved by a third-party mediator agreed to by the Parties or, if no such agreement, appointed by an organization of mediators. Developer may install additional equipment on the Property (including without limitation additional solar panels) to prevent or reduce future Production Shortfalls, upon advance notice to Buyer and subject to Buyer's consent, not to be unreasonably withheld, conditioned or delayed. Developer may at its option credit Buyer on future invoice(s) the amount of the Shortfall Payment instead of paying the Shortfall Payment out of pocket, or make the Shortfall Payment through a combination of credits and out-of-pocket payments. Provided

that Developer pays the Shortfall Payment or provided credits equal to the full Shortfall Payment within one year of the end of the three-year period for which the Shortfall Payment is due, Developer shall not be in default under this Agreement.

Section 6. ENVIRONMENTAL ATTRIBUTES

(a) Title to Environmental Attributes. All Environmental Attributes, Environmental Incentives and Reporting Rights relating to the Facility or the Electricity, other than Net Metering Credits, if any, will be and remain property of Developer. Developer shall have all right, title, and interest in and to any and all such Environmental Attributes, Environmental Incentives and Reporting Rights that relate to the Electricity during the Term.

(b) Reporting of Ownership of Environmental Attributes. Buyer shall not report to any Person that any Environmental Attributes, Environmental Incentives or Reporting Rights relating to the Electricity or the Facility belong to any Person other than Developer.

(c) Further Assurances. At Developer's request, Buyer shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Developer's right, title and interest in and to the Environmental Attributes, Environmental Incentives and Reporting Rights relating to the Electricity. If the standards used to qualify Environmental Attributes, or Environmental Incentives to which Developer is entitled under this Agreement are changed or modified, the Parties shall use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

Section 7. METERING DEVICE AND METERING

(a) Metering Equipment. Developer shall provide, install, own, operate and maintain the Developer Metering Device. Developer shall maintain and test the Developer Metering Device in accordance with Applicable Legal Requirements.

(b) Measurements. Readings of the Developer Metering Device shall be conclusive as to the amount of Electricity delivered to Buyer; *provided*, that if the Developer Metering Device is out of service, is discovered to be inaccurate, or registers inaccurately, measurement of Electricity shall be determined in the following sequence: (i) by estimating by reference to quantities measured during periods of similar conditions when Developer Metering Device was registering accurately; or (ii) if no reliable information exists as to the period of time during which such Developer Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction was equal to (A) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (B) if the period of inaccuracy cannot be determined, one-half (1/2) of the period from the date of the last previous test showing no inaccuracy of such Developer Metering Device through the date of the adjustments.

(c) Testing and Correction/Buyer's Right to Conduct Tests. Each Party and its consultants and representatives shall have the right to witness each test conducted by or under the supervision of Developer to verify the accuracy of the measurements and recordings of the Developer Metering Device. Developer shall provide at least ten (10) days prior written notice to Buyer of the date upon which any such test is to occur. Developer shall prepare a written report setting forth the results of each such test, and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test.

(d) Standard of Metering Device Accuracy; Resolution of Disputes as to Accuracy. The following steps shall be taken to resolve any disputes regarding the accuracy of the Developer Metering Device:

(i) If either Party disputes the accuracy or condition of the Developer Metering Device, such Party shall so advise the other Party in writing setting forth in reasonable detail the reasons it believes the Developer Metering Device is inaccurate including the dates it discovered same.

(ii) The non-disputing Party shall, within fifteen (15) days after receiving such notice from the disputing Party, advise the other Party in writing as to its position concerning the accuracy of such Developer Metering Device and state reasons for taking such position.

(iii) If the Parties are unable to resolve the dispute, then either Party may cause the Developer Metering Device to be tested by an independent third party to be mutually agreed upon by both Parties.

(iv) If the Developer Metering Device is found to be inaccurate by two percent (2%) or less, any previous recordings of the Developer Metering Device shall be deemed accurate, and the Party disputing the accuracy or condition of the Developer Metering Device shall bear the cost of inspection and testing of the Developer Metering Device.

(v) If the Developer Metering Device is found to be inaccurate by more than two percent (2%) or if such Developer Metering Device is for any reason out of service or fails to register, then (A) Developer shall promptly cause any Developer Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (B) the Parties shall estimate the correct amounts of Electricity delivered during the periods affected by such inaccuracy, service outage or failure to register in accordance with Section 7(b) above, and (C) Developer shall bear the cost of inspection and testing of the Developer Metering Device in accordance with Section 7(c). If as a result of such adjustment the quantity of Electricity for any period is less than the amount originally metered (such quantity, the "*Electricity Deficiency Quantity*"), Developer shall reimburse Buyer for the amount paid by Buyer in consideration for the Electricity Deficiency Quantity by crediting such amount against Buyer's payment obligations under this Agreement, except where such amount exceeds Buyer's payment obligations, in which case Developer shall reimburse Buyer in immediately available monetary funds. If as a result of such adjustment the quantity of Electricity for any period is more than the amount originally metered (such quantity, the "*Electricity Surplus Quantity*"), Buyer shall pay for the Electricity Surplus Quantity at the Electricity Price applicable during the applicable Contract Year.

Section 8. LOSS, DAMAGE OR DESTRUCTION OF FACILITIES; FORCE MAJEURE

(a) Facility Loss.

(i) Developer shall bear the risk of any Facility Loss, except to the extent such Facility Loss results from the gross negligence or intentional misconduct of Buyer or Buyer's agents, representatives, vendors, employees, or contractors (collectively, "*Buyer Misconduct*").

(ii) Partial Loss. In the event of any Facility Loss that results in less than total damage, destruction or loss of the Facility, this Agreement will remain in full force and effect and Developer will, at Developer's sole cost and expense, subject to the provisions below, repair or replace the Facility as quickly as practicable. To the extent of any Facility Loss that results in less than total damage, destruction or loss of the Facility, and is caused by Buyer Misconduct, Buyer shall pay Developer's necessary, actual and documented repair and replacement costs plus any reasonably estimated lost revenue from the sales of Energy and related net metering credits and Environmental Attributes, Environmental Incentives, and Reporting Rights during such outage based on the value of any reasonably estimated Energy not delivered (the "*Lost Revenue Amount*"). Lost Revenue Amount shall be determined based on actual lost revenue until it reaches the PPA Cap Rate and a renewable energy credit price of \$32/MWh and no other lost revenue (the "*Lost Revenue Cap*"). Buyer's responsibility for

the Lost Revenue Amount shall be paid/offset only as follows: (i) Developer shall be provided a credit on Rent otherwise due and payable by Developer under the Lease during the remainder of the Lease, and (ii) as of the date on which the Lease otherwise would have terminated, the Lease and this Agreement shall (subject to Applicable Legal Requirements) be extended on the same terms as set forth in this Agreement on a month-to-month basis until the Lost Revenue Amount has been offset (the "**Lost Revenue Extension Period**"). In the event Facility Loss is caused by Buyer Misconduct, then after written demand from Developer, Buyer shall pre-pay or post security acceptable to Buyer for any repair expenses reasonably estimated by Developer, provided that Developer shall promptly reimburse Buyer for the amount by which any estimated prepaid expenses exceed the actual expenses.

(iii) Total Loss. In the event of any Facility Loss that, in the reasonable judgment of Developer, results in total damage, destruction or loss of the Facility, Developer shall, within sixty (60) Business Days following the occurrence of such Facility Loss, notify Buyer whether Developer is willing, notwithstanding such Facility Loss, to repair or replace the Facility. In the event that Developer notifies Buyer that Developer is not willing to repair or replace the Facility following a total loss, this Agreement will terminate automatically effective upon such notice and Developer shall remove the Facility from the Premises within one hundred eighty (180) days after the expiration or earlier termination of the Lease in accordance with Section 5.02 of the Lease. If such Facility Loss occurs during the last five years of the Term, and if the repair or reconstruction is expected to take longer than twelve months to complete, then Developer may terminate and cancel this Agreement upon written notice to Buyer, without triggering any default and without further liability by reason of termination, and following termination neither Party shall have any further rights or obligations other than those arising prior to termination or stated in this Agreement to survive termination, such as (but not limited to) the responsibility of Developer to remove the Facility from the Property. If Developer terminates this Agreement due to total loss caused solely by Buyer Misconduct, then Developer may bring an action for direct damages as set forth in Section 9(d).

(iv) In the event that Developer notifies Buyer that Developer is willing to repair or replace the Facility following a total loss, the following shall occur, (A) this Agreement will remain in full force and effect, (B) Developer will repair or replace the Facility as quickly as practicable, (C) if such Facility Loss has been caused partially or totally by Buyer Misconduct, Buyer shall be responsible for the Lost Revenue Amount as provided in Section 8(a)(ii) above, prorated in accordance with the extent to which Buyer Misconduct caused such Facility Loss, and (D) if such Facility Loss has been caused partially or totally by the gross negligence or intentional misconduct of Developer, then Developer shall pay Buyer the difference between the Electricity Price and the market rate price of electricity for the period during which the Facility was inoperable

(b) Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "**Claiming Party**") gives written notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party will be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure, but the period of time to pay shall be extended if Buyer is prevented from paying due to Force Majeure). The Party affected by Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-Claiming Party will not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure for so long as the Force Majeure continues. For greater clarity, the Guaranteed Annual Electric Output shall be adjusted or pro-rated for any period of time the Facility are not generating Electricity due to Force Majeure.

(c) Termination Due to Force Majeure. If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, then either Party may terminate this Agreement without any liability to the Claiming Party as a result of such termination and Developer shall remove the Facility from the Property within one hundred eighty (180) days after the termination of the Lease in accordance with Section 5.02 of the Lease.

(d) Change in Law. In the event that a change in Law occurs, including without limitation, a change in the Net Metering Rules, or the administration of interpretation thereof by the New Hampshire Public Utilities Commission or the LDC ("*Change in Law*") which (a) materially restricts the ability of Developer to deliver Electricity generated by the Facility to Buyer or the ability of Electricity generated by the Facility to be delivered to the LDC or the ability of Buyer to receive Net Metering Credits, (b) results in more of the Facility for which Buyer is Host Customer being disqualified as a Net Metering Facility, or (c) otherwise materially impacts the ability of either Party to perform its obligations under this Agreement, including changes in Law that result in material increase in Developer's costs of construction and installation, or operation of one or more Facility, then, upon a Party's receipt of notice of such Change in Law from the other Party, the Parties shall promptly and in good faith endeavor to negotiate such amendments to or restatements of this Agreement as may be necessary to achieve the allocation of economic benefits and burdens originally intended by the Parties, subject to Applicable Legal Requirements. Without limiting the foregoing, such amendments may include an amendment and restatement of this Agreement in the form of a net metering credit purchase agreement. If the Parties are unable, despite good faith efforts, to reach agreement on an amendment or restatement within one hundred twenty days, either Party may terminate this Agreement.

Section 9. EVENTS OF DEFAULT; REMEDIES

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

(i) the failure to make, when due, any payment required under this Agreement if such failure is not remedied within fourteen (14) days after receipt of written notice;

(ii) any material representation or warranty made by such Party in this Agreement is knowingly false or misleading in any material respect when made or when deemed made or repeated;

(iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default); provided, that the Defaulting Party shall have sixty (60) days after receipt of written notice of default to cure the alleged breach, or additional time if the Defaulting Party has diligently commenced and is pursuing a cure of such breach during such sixty (60) day period;

(iv) such Party becomes Bankrupt, or any assignment shall be made by the Developer or by any guarantor of the Developer for the benefit of creditors, or if a petition is filed by the Developer or by any guarantor of the Developer for adjudication as a bankruptcy, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Developer and such involuntary petition is not discharged within ninety (90) days thereafter, in any of those events the Buyer may terminate this Agreement upon written notice to the Developer;

(v) such Party fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within ten (10) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party; or

(vi) the occurrence of an Event of Default of such Party under the Lease, subject to all notice and cure provisions of the Lease.

(b) Remedies for Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing beyond applicable notice and cure periods, the other Party (the “**Non-Defaulting Party**”) shall, without limiting the rights or remedies available to the Non-Defaulting Party under this Agreement or applicable Law, but subject to the provisions of Sections 9(c) and (d) and Section 19, have the right to any of the following: (a) by notice to the Defaulting Party, to designate a date, not earlier than twenty (20) Business Days after the date such notice is effective, an early termination date (“**Early Termination Date**”) in respect of this Agreement; (b) to withhold any payments due to the Defaulting Party under this Agreement; and (c) to suspend performance due to the Defaulting Party under this Agreement; and (d) exercise all other rights and remedies available at law or in equity to the Non-Defaulting Party. Each Party agrees that it has a duty, under law, to mitigate damages that it may incur as a result of the other Party’s non-performance under this Agreement. If Developer is the non-defaulting Party, in exercising its duty to mitigate, Developer shall have the right to sell Electricity (and/or associated Net Metering Credits) produced by the Facility to persons other than Buyer. Each Party agrees that it has a duty to exercise commercially reasonable efforts to mitigate damages that it may incur as a result of the other Party’s default under this Agreement.

(c) Buyer Rights Upon Termination for Default. In the event that Buyer is the Non-Defaulting Party and elects to terminate this Agreement as provided in Section 9(b), Developer shall remove the Facility as provided in Section 5.02 of the Lease, and Buyer shall have a right to bring an action against Developer for its actual, direct damages over the remainder of the Term (but not including any Additional Term not already underway) as result of Developer’s default, calculated in a commercially reasonable manner and taking into account Buyer’s duty to mitigate. By way of example, and subject to any court decision or decree, such damages may include (i) the present value of the excess, if any, of the reasonably expected cost of electricity from the utility over the Electricity Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all Costs reasonably incurred by Buyer by reason of the termination; and (iii) any and all other amounts previously accrued under this Agreement and then owed by Developer to Buyer. In the event that Buyer elects the foregoing remedy, such express remedy shall be the sole and exclusive remedy available to Buyer as a result of termination of this Agreement subject, however, to subsection (h) below, and subject to any remedies available to Buyer under the Lease. This Section 9(c) shall survive termination of this Agreement.

(d) Developer Rights Upon Termination for Default. In the event that Developer is the Non-Defaulting Party and elects to terminate this Agreement as provided in Section 9(b), Developer shall have a right to bring an action against Buyer for actual, direct damages over the remainder of the Term (but not including any Additional Term not already underway) as a result of Buyer’s default, calculated in a commercially reasonable manner and taking into account Developer’s duty to mitigate. By way of example, and subject to any court decision or decree, such damages may include, without limitation, (i) lost revenues in connection with any failure by Buyer to purchase Electricity or associated net metering credits from Developer hereunder in accordance with the terms hereof after accounting for any revenues that the Developer is able to receive from an alternative purchaser of the Electricity or Net Metering Credits generated by the Facility; (ii) lost revenues in connection with any inability of Developer to sell Environmental Attributes or Environmental Incentives associated with such Electricity or the reduction in value of such Environmental Attributes or Environmental Incentives; (iii) lost revenues in connection with the recapture or loss of Environmental Incentives (including without limitation loss or recapture of tax credits); and (iv) accelerated payments, fees, damages and penalties under Developer’s financing agreements. This Section 9(d) shall survive termination of this Agreement.

(e) Remedies Cumulative. Except as otherwise provided in Sections 9(c) and 9(d), the rights and remedies contained in this Section 9 are cumulative with the other rights and remedies available under this

Agreement, under the Lease and PILOT agreement, and at law or in equity. This Section 9(g) shall survive termination of this Agreement.

(f) Unpaid Obligations. The Non-Defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this Agreement. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any amount payable by the Defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies. This Section 9(h) shall survive termination of this Agreement.

Section 10. INVOICING AND PAYMENT

(a) Invoicing and Payment. Developer will bill Buyer on a monthly basis and Buyer shall pay such invoice not later than thirty (30) days after receipt of the applicable invoice (or, if such day is not a Business Day, then on the next Business Day). Each invoice shall state (i) the quantity of Electricity produced by the Facility and recorded at the Developer Metering Device during such billing period, (ii) the Electricity Price and (iii) the total amount due from Buyer. Each Party will make payment by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the applicable due date will accrue interest at the Interest Rate until paid in full.

(b) Disputed Amounts. A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this Agreement at any time within three (3) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full amount of the applicable invoice or invoice adjustment on the applicable payment due date, and to give notice of the objection to the other Party.

(c) Records and Audits. Notwithstanding any other record keeping provision of the New Hampshire Revised Statutes, each Party will keep, for a period not less than two (2) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to transactions during such other Party's normal business hours.

Section 11. REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENT

(a) Representations and Warranties. Each Party represents and warrants to the other Party that:

(i) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, or any Applicable Legal Requirements;

(ii) this Agreement, and each document executed and delivered in accordance with this Agreement, constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any bankruptcy, insolvency, reorganization and other Applicable Legal Requirements affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court;

(iii) it is acting for its own account, and has made its own independent decision to enter into this Agreement, and is not relying upon the advice or recommendations of the other Party in so doing;

(iv) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

(v) it understands that the other Party is not acting as a fiduciary for or an adviser to it or its Affiliates.

(b) Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366/Forward Contract. Buyer acknowledges and agrees that, for purposes of this Agreement, Developer is not a “utility” as such term is used in Section 366 of the United States Bankruptcy Code (the “**Bankruptcy Code**”), and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a “forward contract” within the meaning of the United States Bankruptcy Code, and that Developer is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

(c) Additional Representations by Buyer.

(i) Buyer is duly formed and validly existing under New Hampshire law and that the individual(s) executing this Agreement on behalf of Buyer is/are authorized and empowered to bind Buyer.

(ii) Buyer has the full right, power and authorization to enter into and perform this Agreement and each of Buyer’s obligations and undertakings under this Agreement, and Buyer’s execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of New Hampshire law.

(iii) All consents and approvals necessary to the Buyer’s execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

(iv) Buyer will execute and acknowledge when appropriate all documents and instruments and take all actions reasonably necessary to implement, evidence and enforce this Agreement.

(d) Additional Representations by Developer.

(i) Developer is duly formed and validly existing under its state of formation and is qualified to do business in the State of New Hampshire law and that the individual(s) executing this Agreement on behalf of Developer is/are authorized and empowered to bind Buyer.

(ii) Developer has the full right, power and authorization to enter into and perform this Agreement and each of Buyer’s obligations and undertakings under this Agreement, and Developer’s execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of New Hampshire law.

(iii) All consents and approvals necessary to the Developer’s execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

(iv) Developer will execute and acknowledge when appropriate all documents and instruments and take all actions reasonably necessary to implement, evidence and enforce this Agreement.

Section 12. LIMITATIONS

(a) Limitation of Remedies, Liability and Damages. The Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of

damages will be the sole and exclusive remedy, the obligor's liability will be limited as set forth in such provision and all other remedies or damages at law or in equity are waived, unless otherwise set forth herein. If no remedy or measure of damages is expressly provided herein, the obligor's liability will be limited to actual direct damages only, and such direct actual damages will be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. In no event shall either Party be liable to the other Party for consequential, incidental, punitive, exemplary or indirect damages, whether arising in tort, contract or otherwise. This Section 12 shall survive termination of this Agreement.

(b) THE ELECTRICITY PROVIDED TO BUYER WILL BE AS IS, WHERE IS, AND ALL OTHER WARRANTIES, IMPLIED OR EXPRESS, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY DEVELOPER, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. BUYER ACKNOWLEDGES THAT ELECTRICITY FROM THE FACILITY IS INTERMITTENT, AND BUYER IS RESPONSIBLE FOR MEETING ANY AND ALL OF ITS ENERGY NEEDS NOT MET FROM THE PROJECT-GENERATED ENERGY AT BUYER'S SOLE COST AND EXPENSE. BUYER IS RESPONSIBLE FOR INSTALLATION AND OPERATION OF ANY EQUIPMENT ON BUYER'S SIDE OF THE DELIVERY POINT NECESSARY FOR ACCEPTANCE AND USE OF THE ELECTRICITY.

Section 13. SYSTEM PURCHASE AND SALE OPTIONS

(a) For and in consideration of the payments made by Buyer under this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Developer hereby grants Buyer the right and option to purchase all of Developer's right, title and interest in and to the Facility Assets on the terms set forth in this Agreement (the "**Purchase Option**"). The Purchase Option shall be exercisable on the 7th, 10th and 15th anniversary of the Commercial Operation Date, or upon expiration of the Initial Term or expiration of any Extension Term (such date, the "**Purchase Option Date**"). To exercise the option User shall give advance written notice to the Owner during the Exercise Period (defined below) following a Final Determination (defined below).

(b) Buyer Request for Appraisal of Facilities Value. Not later than one hundred and eighty (180) days prior to the Purchase Option Date, provided Buyer is not then in default, Buyer shall have the right to provide a notice to Developer requiring a determination of the Fair Market Value of the Facilities. Fair Market Value shall be determined pursuant to Section 13(c) and (d) by the Independent Appraiser.

(c) Selection of Independent Appraiser. Within twenty Business Days after receipt of a notice provided under subsection (b), Buyer and Developer shall mutually agree upon an Independent Appraiser. If Developer and Buyer do not agree upon the appointment of an Independent Appraiser within twenty (20) Business Days, then at the end of such twenty (20) Business Day period, two proposed Independent Appraisers shall, within five (5) Business Days of each Party's notice, select a third Independent Appraiser (who may be one of the Independent Appraisers originally designated by the Parties or another Independent Appraiser) to perform the valuation and provide notice thereof to Developer and Buyer. Such selection shall be final and binding on Developer and Buyer.

(d) Determination of Purchase Price. The selected Independent Appraiser shall, within ninety (90) days of appointment, make a determination of the Fair Market Value (the "**Final Determination**") which shall specify the "Final Appraised Value" of the Facilities. Upon making such Final Determination, the selected Independent Appraiser shall provide such Final Determination to Developer and Buyer, together with all supporting documentation that details the calculation of the Final Determination. Except in the case of fraud or manifest error, the Final Appraised Value of the selected Independent Appraiser shall be final and binding on the Parties.

(e) Calculation of Purchase Price. The “**Purchase Price**” payable by Buyer for the Facility Assets shall be equal to the higher of the Early Termination Payment or the Final Appraised Value as determined by the Independent Appraiser.

(f) Costs and Expenses of Independent Appraiser. Developer and Buyer shall each be responsible for payment of one half of the costs and expenses of the Independent Appraiser.

(g) Exercise of Purchase Option. Buyer shall have twenty (20) Business Days from the date of the Final Determination (such period, the “**Exercise Period**”) to exercise the Purchase Option, at the Purchase Price. Buyer must exercise its Purchase Option during the Exercise Period by providing a notice (an “**Exercise Notice**”) to Developer, and specifying a closing date for the purchase and sale of the Facilities (the “**Transfer Date**”). Once Buyer delivers its Exercise Notice to Developer, such Exercise Notice shall be irrevocable.

(h) Terms of Facilities Purchase. On the Transfer Date (a) Developer shall surrender and transfer to Buyer all of Developer’s right, title and interest in and to the Facility Assets, and shall retain all liabilities arising from or related to the Facility Assets prior to the Transfer Date, (b) Buyer shall pay the Purchase Price, by wire transfer or other method agreed to by the Parties and shall assume all liabilities arising from or related to the Facility Assets from and after the Transfer Date, and (c) both Parties shall (i) execute and deliver a bill of sale and assignment and assumption of contract rights containing no representations or warranties, except as to title, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the Facilities in Buyer on an AS IS, WHERE IS basis, and (ii) deliver such other commercially reasonable ancillary documents as may be reasonably necessary to complete the sale of the Facility Assets to Buyer.

(i) Transfer Date. The Transfer Date pursuant to this Section 13 will occur no later than thirty (30) Business Days following the date of the Exercise Notice.

Section 14. INSURANCE

Attachment F hereto contains the insurance requirements under this Agreement for both Developer and Buyer, each of which are hereby incorporated by reference into and made a part of this Agreement.

Section 15. INDEMNIFICATION

Developer’s indemnification obligation shall be the same as set forth for Tenant with respect to Landlord Indemnified Parties under Article VI of the Lease.

Buyer’s indemnification obligations to Developer shall be the same as set forth for Landlord with respect to Tenant Indemnified Parties under Article VI of the Lease.

The provisions of this Section 15 shall survive the expiration or earlier termination of the Agreement.

Section 16. CONFIDENTIALITY

Any Confidential Information given by Developer to Buyer is subject to public disclosure.

Section 17. DISPUTE RESOLUTION

Disputes regarding changes in and interpretations of the terms or scope of the Agreement and denials of or failures to act upon claims shall be resolved according to the following procedures:

(a) Notice of Dispute/Negotiated Resolution. In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy, claim or dispute. During the forty-five (45) day period following a party's receipt of said written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute.

(b) In the event that any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, cannot be settled or resolved amicably by the Parties during the forty-five (45) day period of good faith negotiations provided for above, then the Parties may, but shall not be required to, mutually agree to one day of non-binding mediation, or, alternatively, may resort to a judicial forum, as provided in Article VIII of the Lease. The requirements of this Section 17 shall survive termination of the Agreement.

Section 18. NOTICES

(a) Notices. All notices, requests, statements or payments will be made to the addresses and persons specified below. All notices, requests, statements or payments will be made in writing. Notices required to be in writing will be delivered by hand delivery, overnight delivery. Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to the Buyer: City of Somersworth
 One Government Way
 Somersworth, NH 03878
 Attention: Robert M. Belmore, City Manager

With a copy to: Pierce Atwood LLP
 Pease International Tradeport
 1 New Hampshire Ave. #350
 Portsmouth, NH 03801
 Attention: Gareth I. Orsmond, Esq.

If to the Developer: Blackwater Rd Solar LLC
 111 Speen Street, Suite 410
 Framingham, MA 01701

With a copy to: Ameresco, Inc.
 111 Speen Street, Suite 410
 Framingham, MA 01701
 Attention: General Counsel

(b) Emergency. The Parties shall designate certain individual(s) as their respective points of contact to be available in emergencies (either Party may change the individuals by providing written notice of same in accordance with the provisions of this section).

Section 19. ASSIGNMENT; BINDING EFFECT; FINANCING PROVISIONS

(a) Assignment; Binding Effect. Except as provided in this Agreement, neither Party shall have the right to assign or transfer, whether voluntarily or by operation of law, any of its rights, duties or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Permitted Assignment by Developer. Notwithstanding anything to the contrary herein, Developer may assign all or a portion of its rights and obligations hereunder to (i) to one or more Affiliates of Developer that will be the owner of all or substantially all Project assets, (ii) an Affiliate of Developer in circumstances other than those described in clause (i), and (iii) to any person succeeding to all or substantially all of the assets of Developer (each, a “**Permitted Transfer**”). In the event of any such assignment, Developer shall provide advance written notice to Buyer of the existence of such assignment, together with the name and address of the assignee, and documentation establishing that the assignee has assumed (or as of the closing of such transaction will assume) all or a portion of the Developer’s rights and obligations under this Agreement. Buyer agrees to promptly execute any document reasonably requested in acknowledgement of such assignment and in consent thereto in accordance with the provisions hereof. If such assignment is a full assignment of all of Developer’s rights, and obligations under this Agreement, then Developer shall have no further liability arising under this Agreement after the effective date of the assignment. Subject to the foregoing restrictions on assignment, this Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

(c) Buyer agrees that this Agreement (including without limitation the license provisions) shall survive any transfer of the Property. In furtherance of the foregoing, Buyer agrees that it shall cause any purchaser, assignee, or mortgagee of the Property to execute and deliver to Developer an assignment and assumption of this Agreement simultaneously with the transfer of the Property to such purchaser, assignee or mortgagee. Such assignment and assumption agreement shall contain an acknowledgement by the purchaser, assignee or mortgagee that it has no interest in the Facility and shall not gain any interest in the Facility by virtue of the transfer, other than the rights of Buyer hereunder.

(d) Financing Provisions. Notwithstanding any contrary provisions contained in this Agreement, including without limitation Section 19(a) and 19(b), Buyer specifically agrees, without any further request for prior consent but with advance written notice to Buyer, to permit Developer to assign, transfer or pledge its rights under this Agreement and its rights and title to the Facility for the purpose of obtaining financing or refinancing in connection with the Project (including, without limitation, pursuant to a sale-leaseback or partnership flip transaction) and to sign any agreement reasonably requested by Developer or its lenders to acknowledge and evidence such agreement. The Buyer agrees to cooperate with Developer in the negotiation and execution of any reasonable amendment or addition to this Agreement required by the lenders so long as such amendment or addition does not in any way materially alter or amend the rights and obligations of the Buyer herein.

(e) Third Party Rights.

(1) Notice to Designated Third Party. Buyer agrees to give copies of any notice provided to Developer by Buyer under Section 9 to any assignee or transferee permitted pursuant to Section 19(b) (each, a “**Designated Third Party**”).

(2) Exercise of Developer Rights. Any Designated Third Party, as collateral assignee and if allowed pursuant to its contractual arrangements with Developer, shall have the right in the place of Developer, to any and all rights and remedies of Developer under this Agreement. Such Designated

Third Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement, subject to the terms of this Agreement.

(3) Performance of Developer Obligations. A Designated Third party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Developer hereunder or cause to be cured any default of Developer hereunder in the time and manner provided by and subject to the terms of this Agreement. Nothing herein requires the Designated Third Party to cure any default of Developer under this Agreement or (unless such party has succeeded to the Developer's interests under this Agreement) to perform any act, duty or obligation of Developer under this Agreement, but Buyer hereby gives such party the option to do so, provided any such cure, act, duty or obligation is performed in accordance with the terms of this Agreement.

(4) Exercise of Remedies. Upon the exercise of secured party remedies, including any sale of one or more of the Facility by a Designated Third Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Developer to the Designated Third Party (or any assignee of the Designated Third Party) in lieu thereof, the Designated Third Party shall give notice to Buyer of the transferee or assignee of this Agreement. Any such exercise of secured party remedies shall not constitute a default under this Agreement, unless the act of exercising such remedy itself constitutes an Event of Default provided, however, that the exercise of such remedies shall not itself serve as the cure of any default of Developer, unless cured by the Designated Third Party.

(5) Buyer agrees that each Designated Third Party is a third party beneficiary of the provisions of this Section.

(6) Buyer shall not exercise any rights to terminate or suspend this Agreement unless it shall have given the Designated Third Party a copy of prior written notice of its intent to terminate or suspend this Agreement specifying the condition giving rise to such right, and the Designated Third Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within fourteen (14) days after Developer's cure period expires with respect to payment defaults and thirty (30) days with respect to all other defaults. The parties' respective obligations will otherwise remain in effect during any cure period.

(7) If pursuant to an exercise of remedies by a Designated Third Party, such party or its assignee shall acquire control of the Facility and this Agreement, and shall within the time periods described in the preceding paragraph (6) cure all defaults capable of being cured under this Agreement existing as of the date of such change in control in the manner required by this Agreement, then such person or entity shall no longer be in default under this Agreement and this Agreement shall continue in full force and effect.

(f) Buyer agrees to cooperate reasonably with Developer and its financing parties in connection with any financing or refinancing of all or a portion of the Facility. In furtherance of the foregoing, as Developer or its financing parties request from time to time, Buyer agrees, subject to the other provisions of this Agreement, to (i) execute any reasonable consents to assignment or acknowledgements, (ii) negotiate and deliver such reasonable estoppel certificate as an existing or prospective Designated Third Party may reasonably require, and (iii) furnish such reasonable information as Developer and its financing parties may reasonably request.

Section 20. MISCELLANEOUS

(a) Amendment and Restatement; Contract Drafting. The Parties acknowledge that they jointly participated in the drafting of this Agreement, jointly participated in the choice of language used in this

Agreement, and have each reviewed all of the terms of this Agreement. This document has not been proffered by one Party to the exclusion of the other Party. If any ambiguous word or phrase is found in this Agreement, the canon of construction requiring that any such word or phrase be construed against the drafter shall not be applied to determine the true meaning of that ambiguous word or phrase.

(b) Waiver. No action or failure to act by either party shall constitute a waiver of a right or duty afforded to the other party under the Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by either party shall be construed as a waiver or in any way limit the legal or equitable remedies available to the other party. No waiver by one party of any default or breach by the Developer shall constitute a waiver of any subsequent default or breach by the other party.

(c) Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof. Any provisions adjudged to be invalid or unenforceable shall be severed from the Agreement and the remaining provisions shall continue in full force and effect to the extent permitted by law. The Parties shall negotiate promptly and in good faith to fashion contractual provisions to be observed in place of any provisions adjudged to be invalid or unenforceable to achieve as nearly as possible the commercial results contemplated by this Agreement.

(d) Headings. The headings of Sections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such Sections.

(e) Entire Agreement; Amendment. This Agreement and any Exhibits referenced herein shall constitute the entire agreement of the Parties as to the subject matter addressed herein, provided that the Lease and PILOT agreement entered into concurrently with this Agreement concern the same Project and Facility, and separately govern the subject matter addressed therein. With the exceptions of the Lease and PILOT agreement, there are no other agreements between the Parties concerning the subject matter of this Agreement. This Agreement and its Exhibits may not be altered, modified, supplemented, terminated or discharged except by way of an instrument in writing executed by both Parties.

(f) Good Faith. All rights, duties and obligations established by this Agreement shall be exercised in good faith and in a commercially reasonable manner.

(g) Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of New Hampshire, without resort to any principles of law that would call for the application of the laws of any other jurisdiction. Each of the Parties consents to the jurisdiction of the state or federal courts of the State of New Hampshire with respect to all disputes arising under or out of this Agreement.

(h) Consent to Service of Process. Each Party hereby consents to service of process in the State of New Hampshire in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.

(i) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. A signature on a copy of this Agreement received by either Party by facsimile transmission is binding upon the other Party as an original.

(j) No Third Party Beneficiaries. Nothing in this Agreement will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind other than each successor, permitted assignee and any Designated Third Party.

(k) Relationship of Parties. The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose, unless expressly stated otherwise herein. The Developer shall provide services under this Agreement as an independent contractor with the Buyer and not as an employee of the Buyer. No employee, agent or representative of the Developer shall be entitled to receive any benefits of employment with the Buyer, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

(l) Authority to Speak. Neither Party shall represent or purport to represent that it speaks for the other party vis-à-vis the media or the public at-large without the other party's express, written consent in advance.

(m) No Limitation of Regulatory Authority. The Parties acknowledge that nothing in this Agreement shall be deemed to be an agreement by Buyer to issue or cause the issuance of any Approval.

(n) Survival. The provisions of Sections 9(c), 9(d), 9(e), 9(f), 9(g) and 9(h), 12, 15, 16, and 17 shall survive the expiration or earlier termination of this Agreement.

(o) Capacity of Parties. As used herein, Buyer means buyer acting solely in its capacity as Buyer under this Agreement, and not in its capacity as Landlord under the Lease or Governmental Authority or any other capacity, and Developer means Developer acting solely in its capacity as Developer under this Agreement, and not in its capacity as Tenant under the Lease or any other capacity.

(p) Computation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next Business Day.

(q) Relationship of Termination Hereunder to Termination of the Lease. Wherever either Party has a right to terminate this Agreement and exercises that right, the Lease shall be deemed terminated as of the date on which the Party terminates this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this POWER PURCHASE AGREEMENT under seal as of the day and year first above written.

BUYER:

By: _____

DEVELOPER:

By:

By: _____
[SIGNATURE]

Printed Name: _____

Printed Title: _____

ATTACHMENT A

DEFINED TERMS

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person.

“Agreement” means this Power Purchase Agreement, including all Attachments and exhibits hereto, each of which are hereby incorporated by reference into and made a part of this Agreement.

“Applicable Legal Requirements” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, tariffs, and other governmental consents, which may at any time be applicable to the Facility, or any part thereof or to any condition or use thereof, or a Party’s rights and obligations hereunder and all leases, permits and other governmental consents which are or may be required for the use and occupancy of the Property and for the design, installation, operation, maintenance and removal of the Facility.

“Bankrupt” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within twenty (20) Business Days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Billing Cycle” means the monthly billing cycle established by the LDC.

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

“Buyer Additional Insured” means Buyer and its officials, agents, representatives, employees, and volunteers.

“Claiming Party” has the meaning set forth in Section 8.

“Commercial Operation” means with respect to a Facility, that the Facility is capable of producing Electricity, is ready for regular, daily operation, has approval to interconnect to the LDC system, and has all relevant governmental approvals.

“Commercial Operation Date” means the date that the Facility begins regular, daily production as designated in the Notice of Commercial Operation, provided that if Tenant fails to deliver such Notice

of Commercial Operation, then the Buyer may determine when Developer began regular, daily production.

“Contract Year” means a 365-day period commencing on the Commercial Operation Date, and each subsequent 365-day period thereafter, provided that an additional day shall be included if such period includes a leap day.

“Costs” means (i) all reasonable attorney’s fees and expenses incurred by the relevant Party in connection with the termination of this Agreement, and (ii) all reasonable costs and expenses incurred by the relevant Party in removal of the Facility; provided that in the case of (i) and (ii) above, the relevant Party uses commercially reasonable efforts to mitigate such Costs.

“Default Service Rate” shall have the meaning set forth in Puc 902.07

“Delivery Point” means, with respect to a Facility, the point behind which such Facility is interconnected to Buyer’s intertie with the LDC. The Delivery Point shall in all cases be on the Buyer’s side of the LDC Metering Device.

“Developer Metering Device” means with respect to the Facility, any and all revenue quality meters installed by Developer at or near the Delivery Point needed for the registration, recording, and transmission of information regarding the amount of Electricity generated by a Facility and delivered to the Delivery Point.

“Early Termination Date” shall have the meaning ascribed to it in Section 9.

“Early Termination Payment” means the payment amount as set forth in Attachment E.

“Effective Date” is the date first set forth in the introductory paragraph of this Agreement.

“Electricity” means the electricity generated by the Facility and delivered to Buyer at the Delivery Point, as metered in whole kilowatt-hours (kWh) at the Developer Metering Device. The Electricity delivered to Buyer at the Delivery Point shall be presumed to be equal to the electric energy measured at the Developer Metering Device.

“Electricity Price” shall mean the price per kWh of Electricity delivered to the Delivery Point, as set forth in Attachment D attached hereto.

“Environmental Attributes” means the characteristics of electric power generation by the Facility that have intrinsic value separate and apart from the energy and arising from the perceived environmental benefit of the Facility or the energy produced by the Facility including but not limited to all environmental attributes or renewable energy credits, including carbon trading credits, or certificates, emissions reduction credits, emissions allowances, green tags and tradable renewable credits, environmental and other attributes that differentiate the Facility or energy produced by the Facility from energy generated by fossil fuel based generation units, fuels or resources, characteristics of the Facility that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of nitrogen, sulfur or carbon or mercury, or other base or chemical, soot particulate matter or other substances attributable to the Facility or the compliance of the Facility or energy with the law, rules and standards of the United Nations Framework convention on Climate Changes or the Kyoto Protocol or the UNFCCC or crediting “early action” with a view thereto, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection

Agency or successor administrator of any state or federal entity given jurisdiction over a program involving transferability of rights arising from Environmental Attributes and Reporting Rights. Environmental Attributes does not include Environmental Incentives.

“Environmental Incentives” means any credit, benefit, reduction, offset, financial incentive, tax credit and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (ii) tax credits, incentives or depreciation allowances established under any federal or state law, (iii) fuel-related subsidies or “tipping fees” that may be paid to accept certain fuels, and (iv) other financial incentives in the form of credits, tax write-offs, reductions or allowances under applicable Legal Requirements attributable to the Facility or Electricity, and all Reporting Rights with respect to such incentives.

“Events of Default” has the meaning set forth in Section 9.

“Facility” has the meaning set forth in the recitals. For avoidance of doubt, except as otherwise expressly provided herein, the term “Facility” as used in this Agreement shall correspond with the term “Facility as defined in Puc 902.13

“Facility Assets” means each and all of the assets of which a Facility is comprised, including solar energy panels, mounting systems, tracking devices, inverters, integrators and other related equipment and components installed on the Property, electric lines and conduits required to connect such equipment to the Delivery Point and the LDC Facility, protective and associated equipment, improvements, Metering Devices, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the Facility.

“Facility Loss” means loss, damage or destruction of a Facility or Facility Assets that prevents or limits the Facility from operating in whole or in part, resulting from or arising out of casualty, condemnation or Force Majeure.

“Fair Market Value” means the fair market value of the Facility determined by an Independent Appraiser. Fair Market Value means the price that would be established in an arm’s-length transaction between an informed and willing buyer and an informed and willing seller, neither being under any compulsion to act.

“Force Majeure” means any event or circumstance having an adverse effect upon a Party’s ability to perform pursuant to this Agreement if such event or circumstance is beyond the Party’s reasonable control and is not the result of willful or negligent act or omission of the Party relying thereon as justification for not performing any obligation or complying with any obligation required of such Party under this Agreement. “Force Majeure” events or circumstances may include but are not restricted to events of the following kinds: an act of God, an act of war, insurrection, riot or civil disturbance, fire, explosion, flood, quarantine, pandemic, epidemic, unusually severe and extraordinary prolonged weather conditions, acts of government or regulatory authorities, and strikes or lockouts which materially affect, impact or impede obligations under this Agreement. Force Majeure will not be based on (i) Buyer’s inability to economically use Electricity purchased hereunder, or (ii) Developer’s ability to sell Electricity at a price greater than the Electricity Price under this Agreement.

“Group Host” means a customer-generator that elects to assume the duties and obligations of RSA 362-A:9, XIV, who is, and who remains during the term of the agreement, a customer of the same distribution utility as the group.

“Guaranteed Annual Electric Output” means the amount of electricity that is guaranteed by the Developer to be generated by the Facilities in a particular period, as set forth in Attachment D.

“Governmental Authority” means the United States of America, the State of New Hampshire, and any political or municipal subdivision thereof (including but not limited to Buyer), and any agency, department, commission, board, bureau, or instrumentality of any of them, and any independent electric system operator.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, leases, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, LDC, or other similar entity, on or with respect to the Electricity or this Agreement.

“Host Customer” means a customer generator with a total peak generating capacity of greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a group consisting exclusively of one or more customers who are political subdivisions, provided that all customers are located within the same utility franchise service territory, as defined in House Bill 315 of 2021.

“Hazardous Materials” means those substances defined, classified, or otherwise denominated as a “hazardous substance”, “toxic substance”, “hazardous material”, “hazardous waste”, “hazardous pollutant”, “toxic pollutant” or oil in the Applicable Legal Requirements or in any regulations promulgated pursuant to the Applicable Legal Requirements.

“Independent Appraiser” means an individual qualified by education, certification, experience and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the Facility. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three (3) years before his appointment have been) a director, officer or employee of, or directly or indirectly retained as consultant or adviser to, Developer, any Affiliate of Developer, or Buyer.

“Interest Rate” means a fluctuating interest rate per annum equal to the lesser of (i) the sum of the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus two (2) percentage points, or (ii) ten percent (10%); or (iii) the maximum rate allowed under usury or other applicable laws. In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate selected by Buyer and reasonably acceptable to Developer. The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of three hundred and sixty-five (365) days and the actual number of days for which such interest is due.

“LDC” means the electric local distribution company that provides electric distribution service to the Buyer, as set forth in Attachment D.

“LDC Facility” means the electric distribution system operated and maintained by the LDC.

“LDC Metering Device” means one or more meters furnished and installed by the LDC for the purpose of measuring the Electricity delivered by the LDC to the Host Customer and delivered by the Host Customer to the LDC.

"Lease" means the lease agreement for the use of the Property granted by Buyer to Developer, as same may be amended or modified from time to time.

"Leased Area" means the area leased to Developer for installation and operation of the Facility, as set forth in Exhibit A of the Lease and the drawings attached thereto.

"Lost Revenue Amount" shall have the meaning set forth in Section 8 herein.

"Net Metering" shall have the meaning set forth in Puc 902.23

"Net Metering Credit" shall mean the applicable monetary value of an excess kilowatt-hour of electricity, determined in accordance with Puc 903 (k).

"Net Metering Facility" has the meaning set forth in the recitals. For avoidance of doubt, except as otherwise expressly provided herein, the term "Facility" as used in this Agreement shall correspond with the term "Facility as defined in Puc 902.13

"Net Metering Rules" means collectively, Chapter Puc 900 relating to Net Metering, and the associated net metering tariff of the LDC, as same may be amended.

"Person" means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company, or any other entity of whatever nature.

"PILOT" has the meaning set forth in Section 5 herein.

"PPA Cap Rate" shall mean the lower of (a) 0.1897 \$/kWh, and (b) 90 percent of the trailing 24-month average \$/kWh for basic service provided by the LDC.

"Production Shortfall" means the amount, expressed in kWh, by which the actual amount of Electricity generated by the Facility in any period is less than the Guaranteed Annual Electric Output for such period.

"Property" has the meaning set forth in Attachment A.

"Purchase Price" shall have the meaning ascribed to it in Section 13 of this Agreement.

"Release" means any release, migration, seepage, discharge, disposal, leak or spill of Hazardous Materials, including without limitation as any of the foregoing may be defined in or pursuant to any of the Applicable Legal Requirements.

"Reporting Rights" means the right of Developer to report to any federal, state or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, to the extent that such Acts provide such rights, or under any present or future domestic, international or foreign emissions trading program, that Developer owns the Environmental Attributes and the Environmental Financial Incentives associated with energy produced by the Facility.

"Term" shall have the meaning set forth in Section 3 herein.

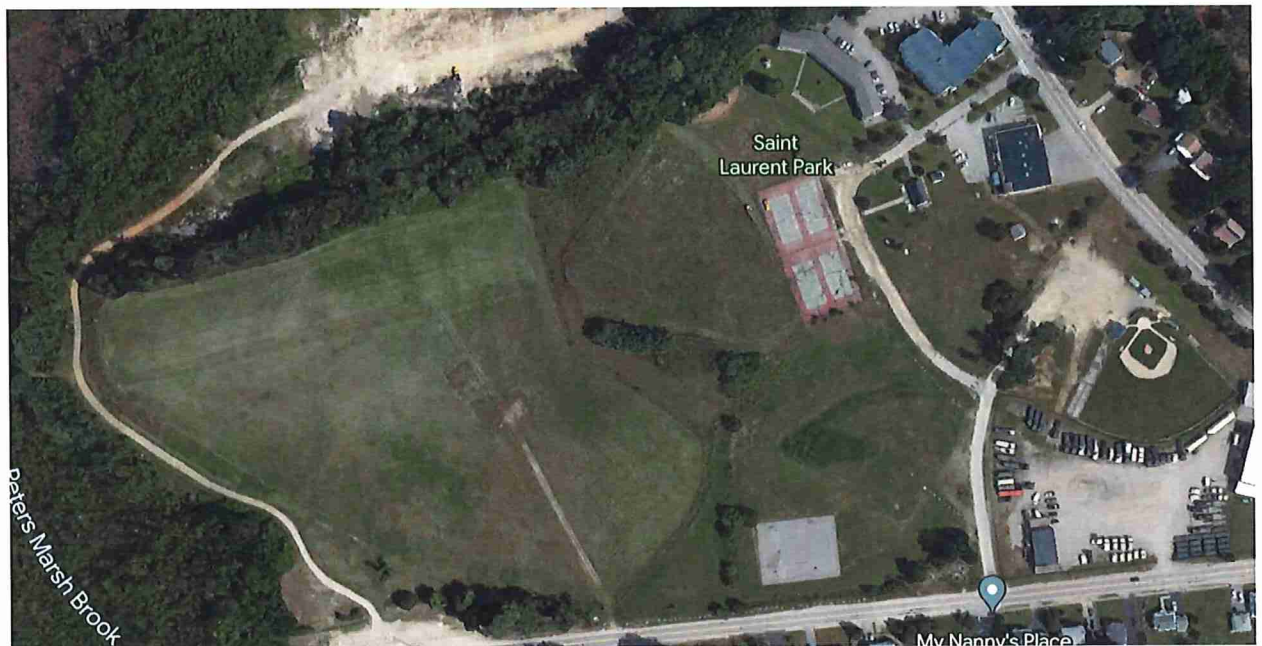
“Termination Date” means the earlier to occur of (i) the last day of the Term, (ii) the date of termination of this Agreement as the result of an Event of Default, and (iii) the date of termination pursuant to Section 8 herein.

ATTACHMENT B
DESCRIPTION OF PREMISES

Name: City of Somersworth, NH Landfill

Address: 15 Blackwater Road, Somersworth, NH

Site Photo:



ATTACHMENT C
PRELIMINARY DESCRIPTION OF FACILITIES

Name: Somersworth Landfill

Address: 15 Blackwater Road, Somersworth, NH 03878

The final Facility Description shall be the final As-Built drawings to be provided after Commercial Operation Date. The information below is preliminary and subject to change.

General Facility Description:

1. Facility Size DC:	2,794 kW_DC at STC capacity
2. Facility Size AC:	1,992 kW_AC

Solar PV Panels:

1. Manufacturer:	Q Cells
2. Model Number:	Q.PEAK DUO XL-G10.2
3. Module Wattage:	485W
4. Panel Count:	5,760
5. Type:	Monocrystalline
6. Array tilt:	15 degrees
7. Warranty Information:	25-year linear performance warranty

Inverters:

1. Manufacturer:	Solectria
2. Model Number:	XGI 1500 166 kW
3. Number and size to be installed:	166 kW; 12 Inverters
4. String size and Quantity:	20 modules per string, 24 strings per inverter
5. Warranty Information:	10-year extended warranty

Mounting Facility:

1. Manufacturer:	DCE Solar
2. Model Number:	Contour DB
3. Type:	Ballasted Ground-Mount

Data Acquisition Facility (DAS):

1. Manufacturer: InAccess
2. Model: Main Substation Unit (MSSU)

ATTACHMENT D

PERFORMANCE GUARANTEE AND ELECTRICITY PRICE

Performance Guarantee

Somersworth Landfill	
LDC	Eversource Energy
Estimated First Year's Solar PV Production (kWh)	3,483,375
Guarantee Amount (%)	85%
Annual Facility Degredation Factor	0.5%
Contract Year	Guarantee Amount (kWh)
1	2,960,869
2	2,946,064
3	2,931,334
4	2,916,677
5	2,902,094
6	2,887,584
7	2,873,146
8	2,858,780
9	2,844,486
10	2,830,264
11	2,816,112
12	2,802,032
13	2,788,022
14	2,774,081
15	2,760,211
16	2,746,410
17	2,732,678
18	2,719,015
19	2,705,419
20	2,691,892

Electricity Price

LDC: Eversource Energy

Electricity Price = LDC Default Service Rate * 0.90

ATTACHMENT E
EARLY TERMINATION PAYMENT

Year 7 \$6,742,6169

Year 10 \$5,776,286

Year 15 \$3,833,883

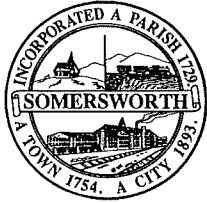
Year 20 \$1,444,884

ATTACHMENT F

Insurance Coverage

- (a) The Developer shall provide and maintain throughout the Term the following insurance with companies that are authorized and licensed in the [State] to issue policies for the coverages and limits so required.
- i. Workers' Compensation Insurance as required by the laws of the State of New Hampshire and employer's liability insurance in the amount of \$500,000 by accident, each accident/\$500,000 by disease, each employee/\$500,000 by disease, policy limit.
 - ii. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
 - iii. Automobile Liability Insurance - Combined single limit of \$1,000,000.
 - iv. Professional Liability Insurance, covering errors and omissions, \$1,000,000 each occurrence and \$2,000,000 aggregate limit.
 - v. Excess Liability Insurance, Umbrella Form - \$2,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, professional liability insurance, and employer's liability under workers' compensation insurance.
 - vi. The Buyer Additional Insureds shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
 - vii. Developer shall provide written notice to Buyer at least thirty (30) days prior to the effective date of any cancellation or material amendment of such policies. All insurance proceeds paid under the insurance policies maintained by Developer shall be paid to Developer.
 - viii. Certificates evidencing such insurance shall be furnished to Buyer upon execution of this Agreement. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement.
 - ix. Certificates evidencing such insurance shall be furnished to Buyer on the first anniversary of the Commercial Operation Date and each anniversary of the Commercial Operation Date thereafter during the Term (and any extension thereof).
- (b) Buyer shall maintain during the Term the coverage set forth in its Public Entity Coverage Documents and Declarations in effect as of the Effective Date.
- (c) On the fifth anniversary after the Effective Date and every five-year anniversary, the Parties shall revisit the above-listed insurance limits to ensure that they remain commercially reasonable in light of industry standards and economic conditions at the time. In the event that the Parties disagree that an adjustment is warranted or how much of an adjustment is warranted, they shall

jointly select an insurance agent or other insurance-industry professional to determine the appropriate adjustment.



City of Somersworth – Resolution

Resolution No: **49-23**

NAMING STORAGE DRIVE AND ASSIGNING ADDRESSES, IF REQUIRED

June 5, 2023

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the following road be named and addresses assigned, if required;

NAME

“STORAGE DRIVE”

EXPLANATIONS

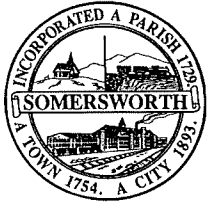
- 1) Name suggested by Developer of the Tara Fields Self Storage Facility and approved by the Rollinsford Planning Board in August 2022 as the property is in Rollinsford, however access is off of Royal Drive in Somersworth.
- 2) The E-911 Street Name and Address Committee recommended and approved the street name at their May 18, 2023 Committee meeting.
- 3) The Street name is required to be in compliance with E-911 standards due to the size and location of the storage units.
- 4) Storage Drive is a private road.
- 5) Developer is required to install a street sign and a “Private Way” sign per City condition of name acceptance.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT this action is in accordance with RSA 231:133; RSA 231:133-a; RSA 106-H; State of NH, Department of Safety, Division of Emergency Communications Addressing Standards, and Chapter 19, Section 23, City of Somersworth Ordinances.

Authorization

Sponsored by:
Councilor Martin Pepin

Approved:
City Attorney



City of Somersworth – Resolution

Resolution No: **50-23**

ANNUAL FLAG POLE DISPLAYS AT CITIZEN'S PLACE

June 5, 2023

WHEREAS, the City Council adopted Resolution 2-19 adopting a policy for flag raising at Citizen's Place that authorizes the Mayor to manage the flag pole displays at Citizen's Place; and

WHEREAS, Citizen's Place has become a focal point which celebrates and embraces Somersworth's rich history and commitment to cultural diversity; and

WHEREAS, the flag poles located on Citizen's Place are reserved for the City of Somersworth and its Citizens, for use by any person, group or organization that promotes benevolence, tolerance and diversity; and

WHEREAS, the City Council believes it is important to establish an annual flag pole display in an effort to raise awareness for certain events that closely demonstrates the City's rich history and cultural diversity; and

WHEREAS, the City Council has identified a list of annual flag pole displays that promote the history and cultural diversity within the City of Somersworth with a display schedule as follows:

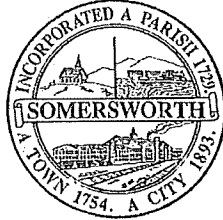
MONTH	FLAG RAISED	DATE CELEBRATED
January	Coexist Flag	All Month
March	Flag of Ireland	March 17 th
March	Flag of Greece	March 25 th
April	Earth Day Flag	April 22 nd
April	Flag of England	April 23 rd
April	Arbor Day Flag	April 24 th
April	POW Flag	Memorial Day
May	Police Memorial Flag	On Police Memorial Day – Week Recognition
May	EMS/Stewarts Ambulance Flag	On EMS Recognition Week

May	Firefighters Flag	On Firefighters' Recognition Week
May	Merchant Navy / Merchant Marines Flag	May 22 nd
June	Pride Flag	All Month
June	US Army Flag	June 14 th
June	Juneteenth Flag	June 19 th
June	Flag of Quebec	June 24 th
August	Coast Guard Flag	August 4 th
September	US Air Force Flag	September 18 th
September	Recovery Flag	All Month
October	US Navy Flag	October 13 th
November	US Marines Flag	November 10 th
November	Abenaki and Pennacook Indigenous People Flag	All Month
December	Peace Flag	All Month
December	Space Force Flag	December 20 th

AND, WHEREAS, other flags may be flown in addition to the aforementioned schedule, however, these requests will require a special permit and permission from the Mayor to be displayed at Citizens Place;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City will hereby display flags identified in this Resolution at the dates designated by the City Council at Citizen's Place.

Authorization	
Sponsored by: Mayor Dana S. Hilliard	Approved: City Attorney



Citizen's Place Flag Policy

Purpose:

The Somersworth City Council has voted to embrace Citizen's Place as a focal point which celebrates and embraces Somersworth's rich history and commitment to cultural diversity. As such, the Flag Poles located on Citizens Place at the intersection of High Street and Government Way is reserved for the City of Somersworth and its citizens for the display of a flag in support of its cultural heritage, or to observe an anniversary, or to honor a special accomplishment or event. The Flag Pole use is a welcome to any person, group, or organization that promotes benevolence, tolerance, and diversity.

Application Process:

Any organization, person, or group may submit an application to display their flag on the Citizens Flag Pole but must be sponsored by a Somersworth citizen who will be considered the applicant. Applicants must submit a completed application thirty (30) days prior to the first scheduled flag display.

Applications shall be accepted up to 1 year prior to a scheduled display. Applications will be accepted on a first come first serve basis. Applicants must provide the flag to be displayed.

Display:

A flag display may include one or more days and generally will be limited to a period of seven consecutive days. A flag may be displayed for an entire month, if it is related to a specific month; as such it will be displayed during that specific month only.

If appropriate, the City of Somersworth Flag may be lowered to allow for a second flag display at the Mayor's discretion.

The Mayor of Somersworth is solely authorized to approve, deny, modify, or halt any flag display schedule.



Citizen's Place Flag Pole Reservation Request

Applicant Information

Name: _____ Organization (if any): _____

Address: _____

Contact Phone #: _____

Date/s Flag Pole is Requested: _____

Brief explanation regarding Flag Pole use: _____

Applicant Signature: _____ Date: _____

Approved by: _____ Date: _____

Mayor

Please submit to:

Office of the Mayor, City Hall, One Government Way, Somersworth, NH 03878

Proud Past, Bright Future



City of Somersworth – Resolution

Resolution No: **51-23**

TO AUTHORIZE THE CITY MANAGER TO ACCEPT EASEMENTS ASSOCIATED WITH THE FIRST STREET DRAINAGE IMPROVEMENTS AND ROAD RECONSTRUCTION

June 5, 2023

WHEREAS, the City will be constructing infrastructure improvements at First Street as part of the FY2023 Road Resurfacing program; and

WHEREAS, to effectively and efficiently complete these projects the City needs to acquire permanent drainage easements on the following properties in the project areas:

First Street Project

<u>Parcel ID</u>	<u>Physical Address</u>
3-71	16 First Street
3-171	First Street
3-70	27 Second Street
3-71D	25 Second Street

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to accept the aforementioned easements associated with First Street construction project.

Authorization

Sponsored by Councilors:

Nancie Cameron
Don Austin
Richard Michaud
David A. Witham

Approved:

City Attorney

DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that SEAN OBRIEN, owner of 16 First Street in Somersworth, County of Strafford, State of New Hampshire, 03878, grants to the City of Somersworth, a New Hampshire body corporate and politic with offices at One Government Way, Somersworth, County of Strafford, State of New Hampshire, 03878 and its assigns, the following easement over a portion of a certain lot and area located at what is currently known as 16 First Street, also identified as Tax Map 3, Lot 71 in the City of Somersworth, County of Strafford, State of New Hampshire, 03878, and lying on the northeasterly side of First Street:

1. A permanent easement and right-of-way over 16 First Street, also identified as Tax Map 3, Lot 71, that is five (5) feet in width on the northwesterly side of the existing drainage swale, for a total of one hundred fifty nine (159) feet, which runs from the Grantor's side property boundary abutting 27 Second Street, also identified as Tax Map 3, Lot 70, along the Grantor's yard, as shown Exhibit A of this easement document.

The purpose of said easement is to facilitate proper operation of the City's drainage system, in furtherance of which the grantee and its assigns shall have the right in perpetuity to enter upon any and all of the easement area upon reasonable notice with people and equipment for the purpose of performing such maintenance and repair to the drainage systems as it may deem appropriate and said easement shall run with the land. By acceptance of this easement, the City of Somersworth agrees to assume the responsibility of maintaining said easement and the drainage facility constructed therein.

The Grantors agree to place no permanent structure or building within the permanent easement area which, in the judgement of the grantee, might interfere with the proper maintenance of the stormwater drain line or its service in connection therewith. The only exception to this shall be the existing driveway, which shall remain in place without disturbance.

The City of Somersworth shall restore the property to its prior condition following any work within the easement.

Signed this 8 day of May, 2023

E O'Brien

Witness (signature)

By: Sean OB
Sean Obrien, Property Owner (signature)

-----BELOW TO BE FILLED OUT BY NOTARY-----

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

The foregoing instrument was acknowledged before me this 8 day of May, 2023 by

Sean OBrien

(print name)

Mary Theresa Michlik
Notary Public/Justice of the Peace

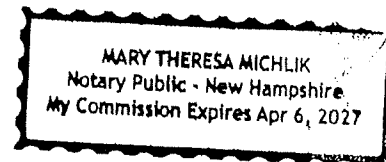
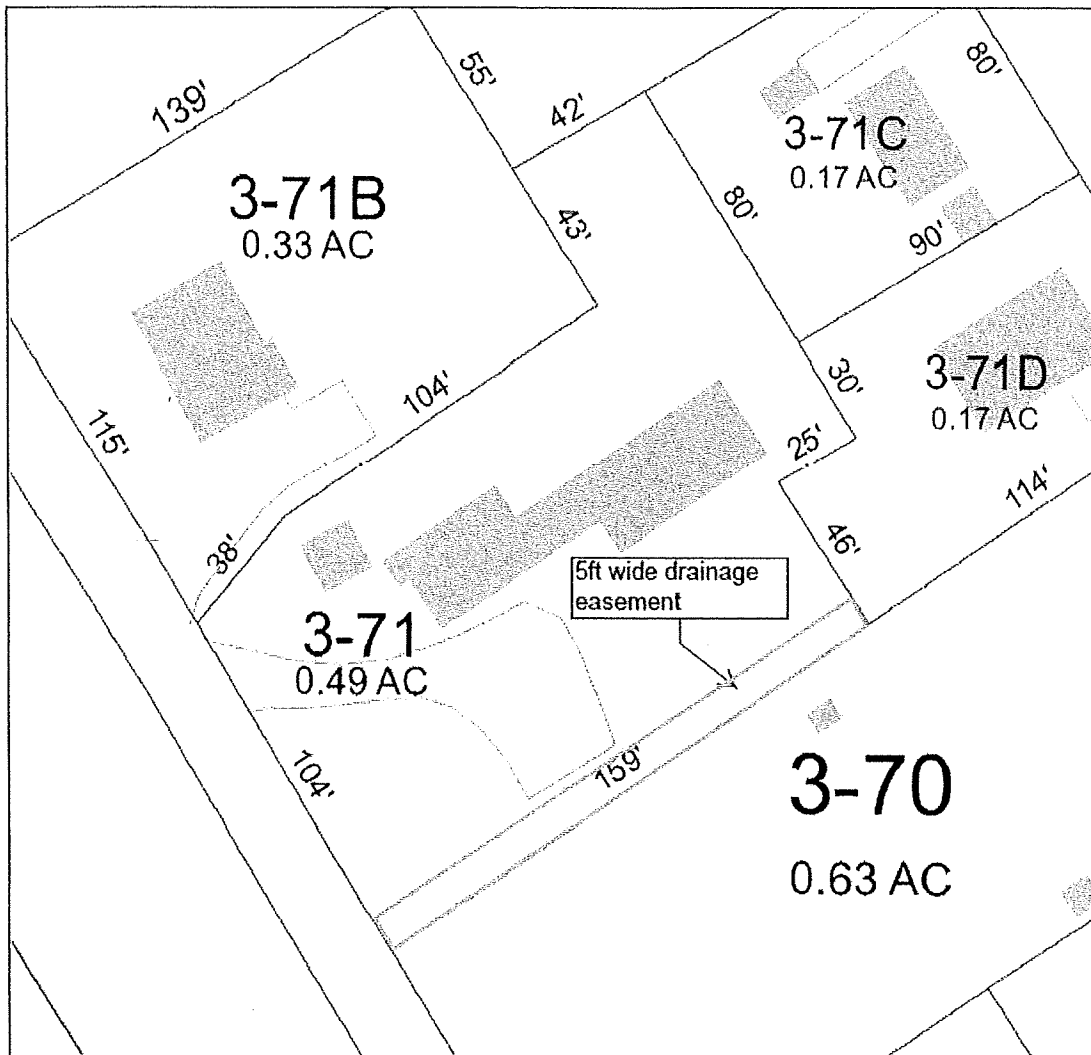


Exhibit A: Easement Map





16 First St Drainage Easement Sketch

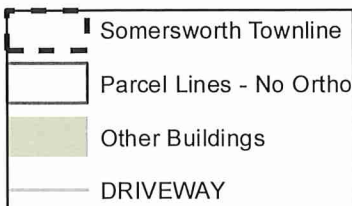
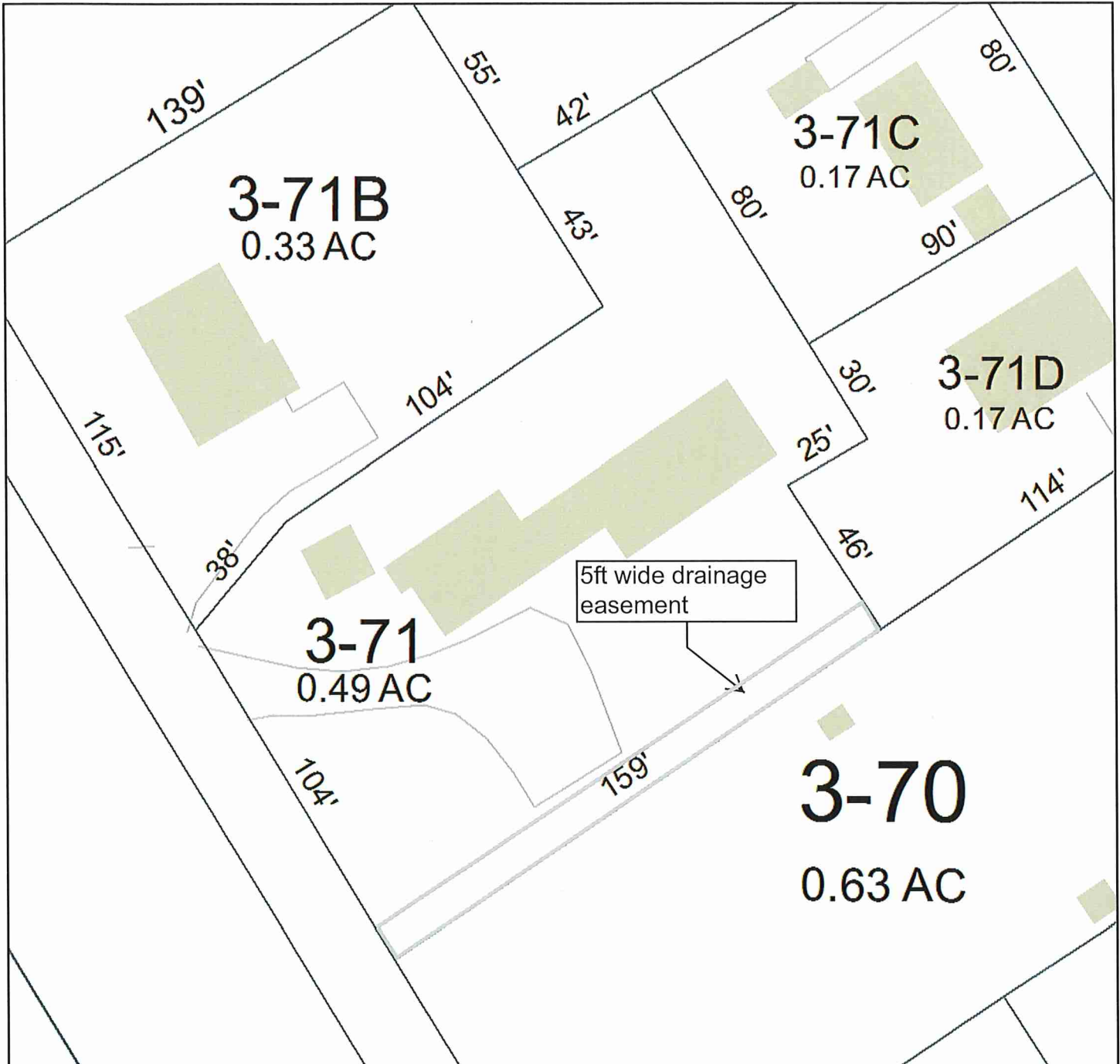
Somersworth, NH



December 12, 2022

1 inch = 40 Feet

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Return to:

PSNH dba Eversource
Attn: Eugenia N Snyder
780 N Commercial St
Manchester, NH 03101

EASEMENT DEED

Public Service Company of New Hampshire, doing business as Eversource Energy, a New Hampshire corporation, with its principal place of business and mailing address at 780 North Commercial Street, P.O. Box 330, Manchester, New Hampshire 03105-0330, ("Grantor"), for consideration paid, grants to **City of Somersworth**, a body politic and corporate, with a mailing address of One Government Way, Somersworth, New Hampshire 03878 ("Grantee"), and its successors and assigns, the following easement in the City of Somersworth, in the County of Strafford and State of New Hampshire:

The permanent, non-exclusive RIGHT and EASEMENT to lay, install, construct, reconstruct, operate, maintain, repair and replace a single underground drainage ditch, pipeline and culverts, consisting of the necessary underground pipes and related appurtenances, within under and across a fifteen (15) foot wide portion of certain land of the Grantor situated off the westerly side of First Street in the City of Somersworth, in the County of Strafford and State of New Hampshire (being Somersworth Tax Map 03, Lot 171), said easement being in the location shown as the "Proposed 15' Wide Drainage Easement" and hereinafter referred to as the "Easement Area" on an unrecorded plan titled "First Street – Drainage Easement," (the "Plan") located in the City Engineer's Office in Somersworth City Hall and attached herein as Exhibit A.

Said Easement Area is more particularly bounded and described as follows:

A permanent easement and right-of-way over a parcel, also identified as Tax Map 3, Lot 171, that is fifteen (15) feet in width on the northeasterly side of the existing drainage swale, for a total of one thousand, one hundred and ten (1,110) feet, which runs from the Grantor's side property boundary abutting the First Street right of way, as shown Exhibit A of this easement document.

Together with the permanent, non-exclusive right and easement to access, travel, pass and repass on, over and across said easement location, with personnel, vehicles and equipment, as reasonably necessary or required in the exercise of the foregoing easement rights.

Meaning and intending to describe and convey easement rights in a portion of the same premises conveyed to the Grantor by deed of the Boston and Maine Railroad, dated August 28, 1959, recorded at the Strafford County Registry of Deeds, in Book 710, Page 466 (the "Grantor's Premises").

This conveyance shall include the right to clear and keep clear the Easement Area of all trees and underbrush by such means as the Grantee may select, and to pass and repass in, on, and along the said Easement Area as reasonably required with personnel, vehicles and equipment for all purposes and at all times in the lawful exercise of the rights granted herein.

EXCEPTING and RESERVING to the Grantor, and its affiliates, successors and assigns, the rights at all times to use the land within the granted easement area location, in common with the Grantee and its successors and assigns, for all uses and purposes in connection with or related to Grantor's public utility business and operations, including but not limited to for the installation, construction, operation, inspection, maintenance, repair, replacement and removal of all existing and any future additional overhead and underground electric power and communication lines, facilities and equipment, for right of way maintenance activities, and for travel on, over and across said easement area location with personnel, vehicles and equipment in connection therewith; provided, however, that Grantor shall not interfere with the use of the easement by the Grantee, its successors and assigns, for the purposes for which it is granted herein.

By the acceptance and recording of this Drainage Easement Deed, the Grantee, for itself and its successors and assigns, covenants and agrees to and with the Grantor, and its successors and assigns, as follows:

- 1) That the Grantee shall use its best efforts to cause the drainage ditch and pipeline to be constructed within the first fifteen (15') of the Easement Area and to be maintained in a reasonable manner so that the Grantee does not interfere with or damage the towers, poles, cables or any other equipment or facilities now or hereafter owned, constructed or maintained by the Grantor, or prevent safe clearance at all times between its machinery and equipment and any electrical facilities of the Grantor. The Grantee further agrees to cover the full reasonable costs to Grantor in advance for any relocation, bracing, changing and raising of any towers, poles, cables or any other equipment or facilities now or hereafter owned constructed or maintained by Grantor as may be required to properly operate, maintain, repair, rebuild, patrol and remove the same as a result of drainage pipeline construction and maintenance.
- 2) Grantee will provide notification to Grantor prior to beginning construction, maintenance or repair of the drainage pipeline adjacent to Grantor's facilities and equipment. Notification to Grantor shall be addressed to Supervisor, T&D Rights and Survey or his

successor at P.O. Box 330, Manchester, New Hampshire, 03105 or at telephone number (603) 634-2278.

- 3) Grantee will not increase the grade of the land within the easement; and must comply with all applicable safety and clearance standards and requirements when working under and near Grantor's high voltage electric transmission lines. Grantor shall not be responsible or liable for any damage to the drainage pipeline to be located within the easement to serve Grantee's other land, or any related facilities or equipment placed or installed within the easement. All underground facilities installed within the easement must be constructed so as to withstand not less than an H-20 loading for truck traffic.
- 4) Grantee may not pile any snow or construction materials or store any equipment on or within the easement. Following construction and/or maintenance of the drainage pipeline, Grantee will dispose of all waste material outside Grantor's property; grade, resoil and reseed in a reasonable manner wherever necessary; employ any necessary erosion control measures; and restore and maintain the easement area in a condition reasonably acceptable to Grantor.
- 5) Grantee shall place all of its drainage pipeline facilities, except manholes (if any), fully underground. Any underground digging or excavation within the easement area shall require compliance with all applicable "Dig Safe" laws and requirements. If counterpoise is located via "Dig Safe" prior to trenching, it should be carefully exposed with hand tools and the counterpoise position staked or flagged to avoid severing it during excavation. **If counterpoise wire is severed during excavation, no attempt should be made to reconnect it.** The following procedures shall be complied with: Contact PSNH at (603) 634-3219 and ask for Manager, Transmission and Maintenance Describe to the aforesaid Department representative where the severed counterpoise is located. Stake or flag the position of the break to facilitate a quick repair. There will be no charge to the contractor or landowner for reconnection of counterpoise wire.
- 6) That the Grantee shall cause said drainage pipeline to be constructed and maintained such that it does not prevent Grantor from replacing, repairing, rebuilding, operating, patrolling and removing its towers, poles, cables or any other equipment or facilities now and hereafter owned, constructed or maintained by the Grantor, or from complete and unobstructed access to and along the Grantor's existing transmission lines or any new or additional lines.
- 7) That the Grantee shall own and be solely responsible, at Grantee's sole cost and expense, for the operation, maintenance, repair, replacement and removal of the drainage pipeline and related improvements installed and constructed by Grantee in the exercise of the easement rights granted herein and to assure the functioning thereof in accordance with their design and intended purpose.
- 8) Grantee shall be obligated, at Grantee's sole expense, to obtain and to keep in force any and all permits or approvals required by any authority having jurisdiction over Grantee's use of the easement or any construction or installations therein under any law, statute,

regulation or ordinance, including but not limited to any regulation of the alteration or removal of any stone walls found within the bounds of the easement as shown on the Plan.

- 9) Grantee agrees to indemnify, defend and save harmless Grantor from and against any and all loss, cost, damage, expense, and against any and all claims, actions or proceedings for property damage, personal injury or death of any kind or nature arising out of or resulting from the Grantee's negligent acts or omissions in respect to the easement.

This conveyance is made without any release or consent by the Trustee under the Grantor's First Mortgage Indenture dated as of August 15, 1978, to U.S. Bank Trust Company National Association, successor to U.S. Bank National Association, successor to Wachovia Bank, National Association, and to First Union National Bank, formerly known as First Fidelity Bank, National Association, New Jersey, successor to Bank of New England, National Association (formerly known as New England Merchants National Bank) and to New Bank of New England, National Association, Trustee, as amended and restated in the Eighteenth Supplemental Indenture, dated as of May 1, 2011, recorded at the Strafford County Registry of Deeds in Book 3927, Page 797, pursuant to and in accordance with Article Sixteen, Section 1602 (c) of the said First Mortgage Indenture as set forth in Schedule C to said Eighteenth Supplemental Indenture, which provision allows the Grantor to grant, without any release or consent by, or report to, the Trustee, and free from the lien of said First Mortgage Indenture, easements or rights-of-way in, upon, over and across the property of the Grantor, provided, in the opinion of the undersigned on behalf of the Grantor the grant of the easements described herein for a drainage pipeline and ditch and associated access will not materially impair the use of the Grantor's property for the purposes for which it is held by the Grantor.

EXECUTED this 11th day of May, 2023.

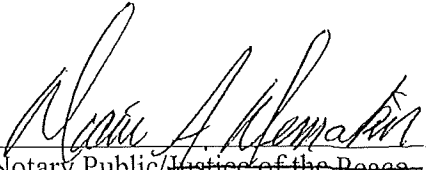
PUBLIC SERVICE COMPANY
OF NEW HAMPSHIRE doing business as
EVERSOURCE ENERGY

By: Patricia A. Quinn
Patricia A. Quinn, Supervisor
Transmission & Distribution Rights of Way

State of New Hampshire
County of Hillsborough

The foregoing instrument was acknowledged before me this 11th day of May, 2023, by Patricia A. Quinn, Supervisor of Transmission & Distribution Rights of Way of Public Service Company of New Hampshire dba Eversource Energy, a New Hampshire corporation on behalf of the corporation.

My commission expires: May 16th, 2023


Notary Public/Justice of the Peace

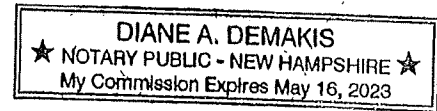


Exhibit A

Exhibit A





First Street Easements

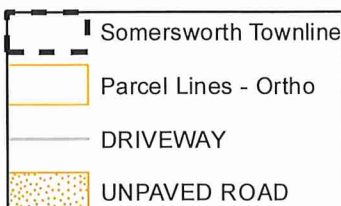
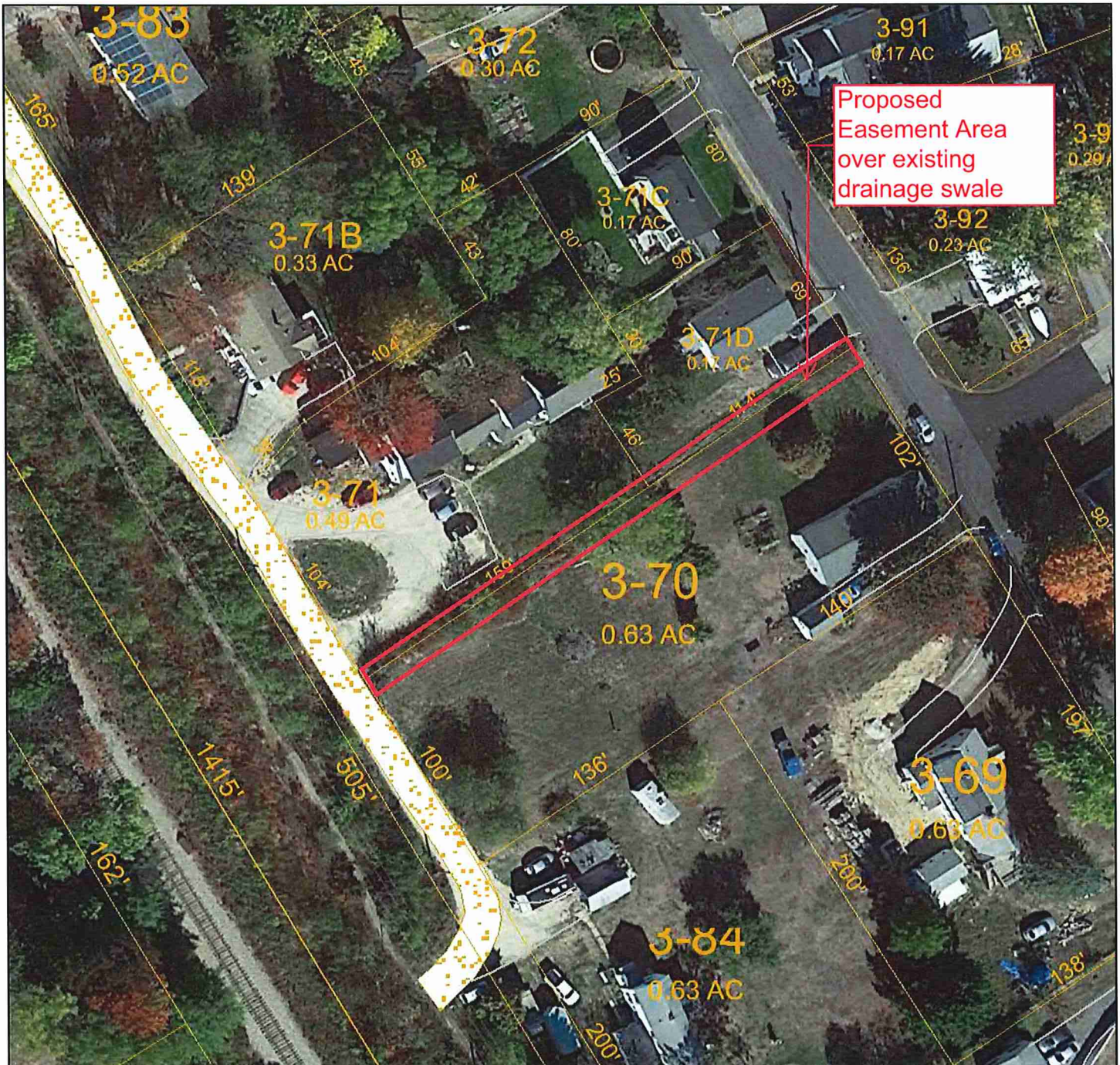
Somersworth, NH



January 6, 2023

1 inch = 68 Feet

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DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that REBECCA J STROUT and JACOB C LETOURNEAU, owners of 27 Second Street in Somersworth, County of Strafford, State of New Hampshire, 03878, grants to the City of Somersworth, a New Hampshire body corporate and politic with offices at One Government Way, Somersworth, County of Strafford, State of New Hampshire, 03878 and its assigns,

the following easement over a portion of a certain lot and area located at what is currently known as 27 Second Street, also identified as Tax Map 3, Lot 70 in the City of Somersworth, County of Strafford, State of New Hampshire, 03878, and lying on the southeasterly side of Second Street:

1. A permanent easement and right-of-way over 27 Second Street, also identified as Tax Map 3, Lot 70, that is fifteen (15) feet in width on the southeasterly side of the existing drainage swale, for a total of two hundred seventy three (273) feet, which runs from the Grantor's side property boundary abutting 25 Second Street and 16 First Street, also identified as Tax Map 3, Lot 71D, and Tax Map 3, Lot 71, respectively, along the Grantor's yard, as shown Exhibit A of this easement document.

The purpose of said easement is to facilitate proper operation of the City's drainage system, in furtherance of which the grantee and its assigns shall have the right in perpetuity to enter upon any and all of the easement area upon reasonable notice with people and equipment for the purpose of performing such maintenance and repair to the drainage systems as it may deem appropriate and said easement shall run with the land. By acceptance of this easement, the City of Somersworth agrees to assume the responsibility of maintaining said easement and the drainage facility constructed therein.

The Grantors agree to place no permanent structure or building within the permanent easement area which, in the judgement of the grantee, might interfere with the proper maintenance of the stormwater drain line or its service in connection therewith.

The City of Somersworth shall restore the property to its prior condition following any work within the easement.

Signed this 1st day of May, 2023

[Signature]
Witness (signature)

[Signature]
Witness (signature)

By: [Signature]
Rebecca J Strout, Property Owner
(signature)

By: [Signature]
Jacob C Letourneau, Property Owner
(signature)

-----BELOW TO BE FILLED OUT BY NOTARY-----

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

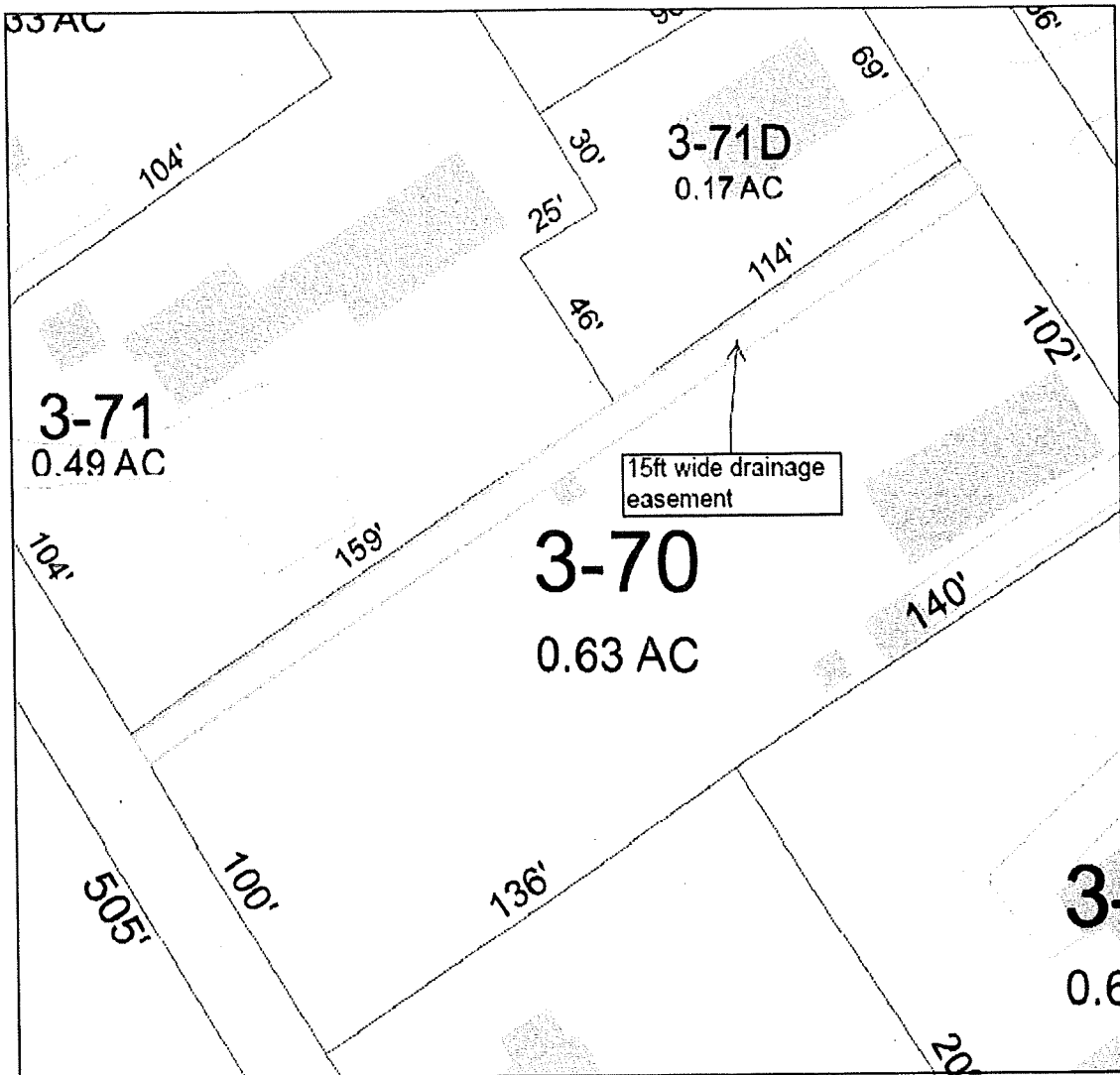
The foregoing instrument was acknowledged before me this 1 day of May, 2023 by

Jessica Veino
(print name)

JESSICA L VEINO
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
September 15, 2026

[Signature]
Notary Public/Justice of the Peace

Exhibit A: Easement Map





27 Second St Drainage Easement Sketch

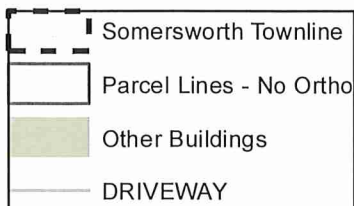
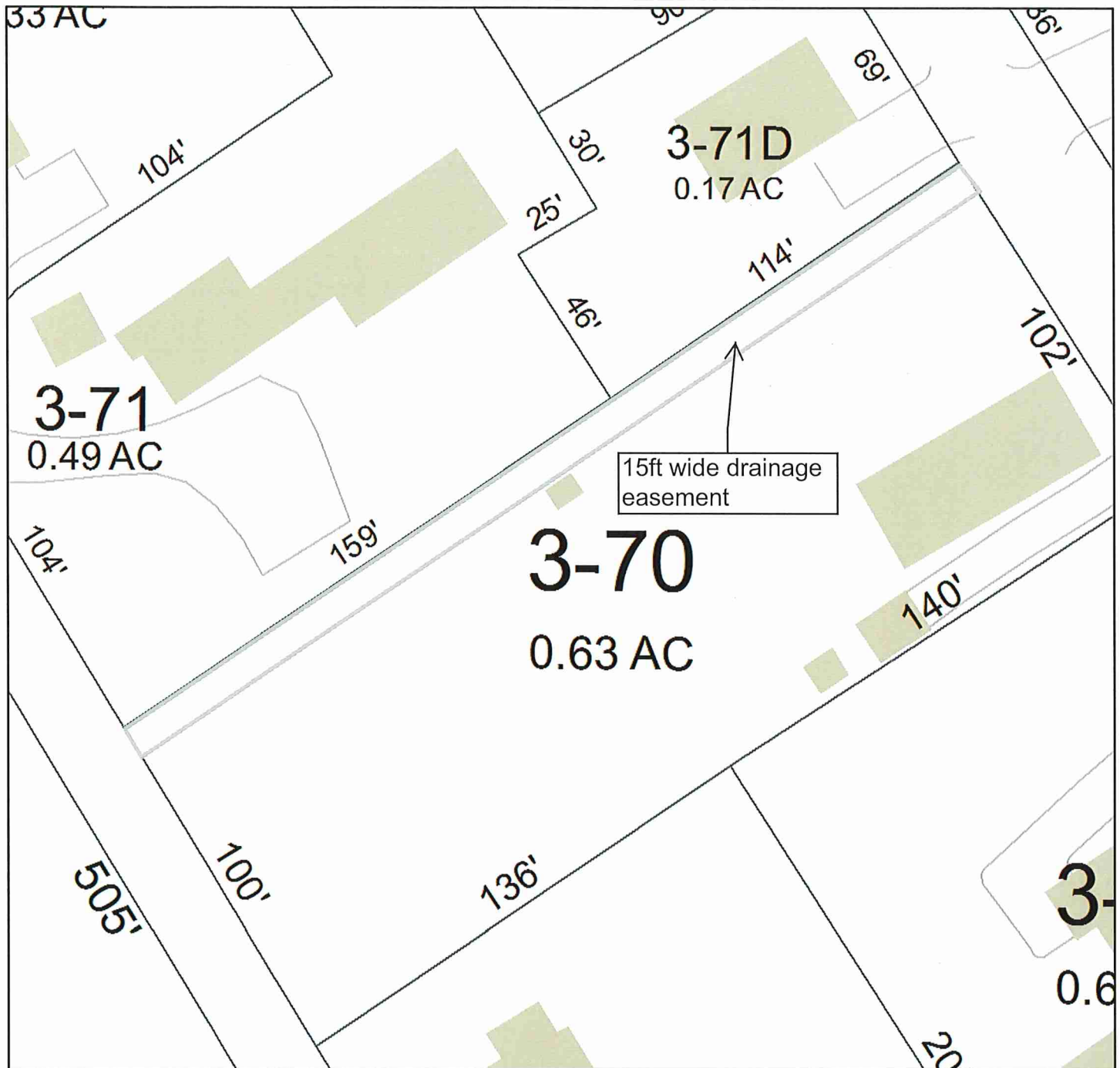
Somersworth, NH



December 12, 2022

1 inch = 40 Feet

www.cai-tech.com



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DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that BRIAN E BJORKMAN and JONI M LYONS, owners of 25 Second Street in Somersworth, County of Strafford, State of New Hampshire, 03878, grants to the City of Somersworth, a New Hampshire body corporate and politic with offices at One Government Way, Somersworth, County of Strafford, State of New Hampshire, 03878 and its assigns,

the following easement over a portion of a certain lot and area located at what is currently known as 25 Second Street, also identified as Tax Map 3, Lot 71D in the City of Somersworth, County of Strafford, State of New Hampshire, 03878, and lying on the southwesterly side of Second Street:

1. A permanent easement and right-of-way over 25 Second Street, also identified as Tax Map 3, Lot 71D, that is five (5) feet in width on the northwesterly side of the existing drainage swale, for a total of one hundred fourteen (114) feet, which runs from the Grantor's side property boundary abutting 27 Second Street, also identified as Tax Map 3, Lot 70, along the Grantor's yard, as shown Exhibit A of this easement document.

The purpose of said easement is to facilitate proper operation of the City's drainage system, in furtherance of which the grantee and its assigns shall have the right in perpetuity to enter upon any and all of the easement area upon reasonable notice with people and equipment for the purpose of performing such maintenance and repair to the drainage systems as it may deem appropriate and said easement shall run with the land. By acceptance of this easement, the City of Somersworth agrees to assume the responsibility of maintaining said easement and the drainage facility constructed therein.

The Grantors agree to place no permanent structure or building within the permanent easement area which, in the judgement of the grantee, might interfere with the proper maintenance of the stormwater drain line or its service in connection therewith. The only exception to this shall be the existing driveway, which shall remain in place without disturbance.

The City of Somersworth shall restore the property to its prior condition following any work within the easement.

Signed this 15 day of May, 2023

[Signature]
Witness (signature)

[Signature]
Witness (signature)

By: [Signature]
Brian E Bjorkman, Property Owner
(signature)

By: [Signature]
Joni M. Bjorkman, Property Owner
(signature)

-----BELOW TO BE FILLED OUT BY NOTARY-----

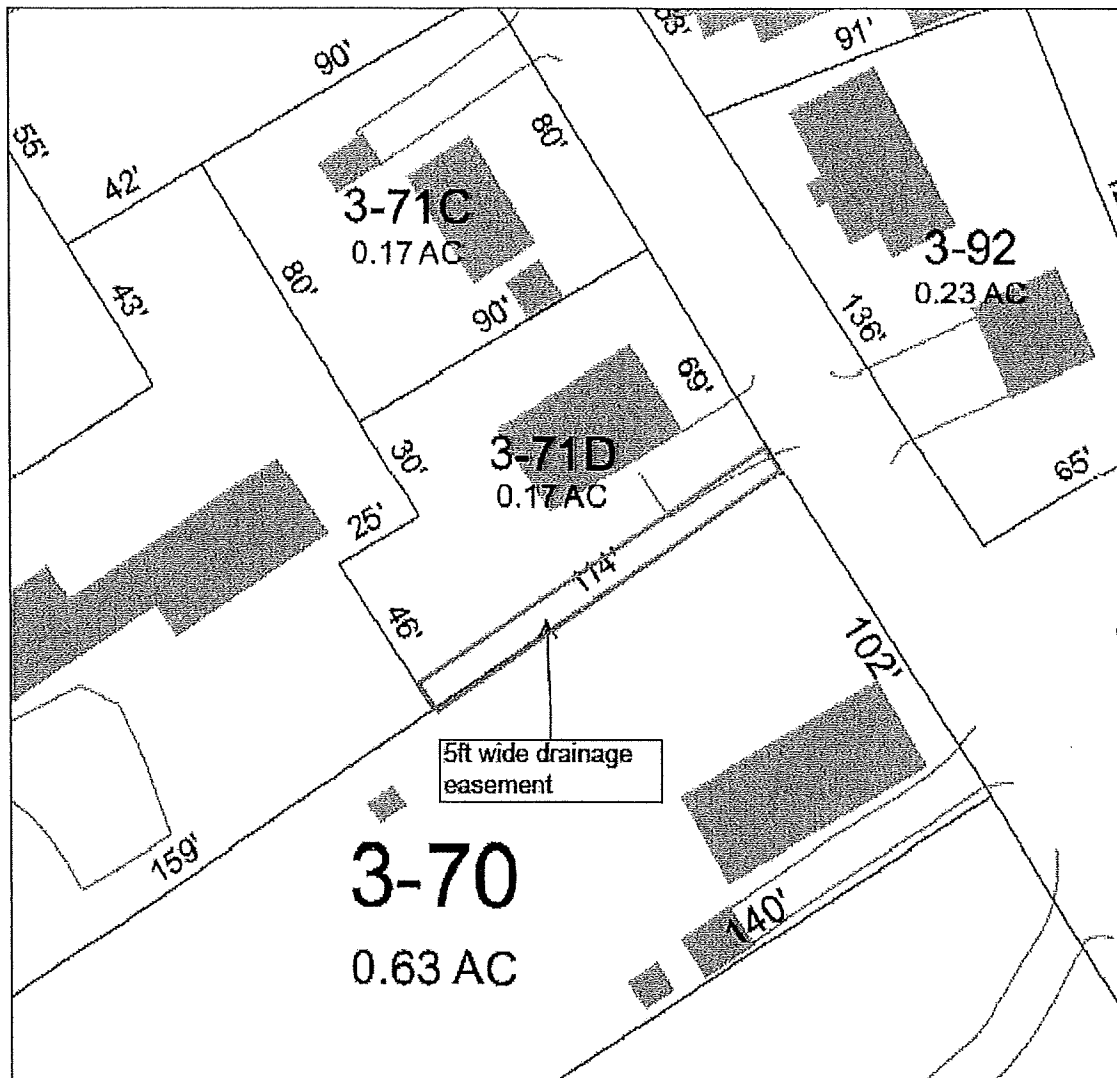
STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

The foregoing instrument was acknowledged before me this 15 day of May, 2023 by
Kristen LaPanne.
(print name)

[Signature]
Notary Public/Justice of the Peace

KRISTEN LAPANNE
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
November 2, 2027

Exhibit A: Easement Map





25 Second St Drainage Easement Sketch

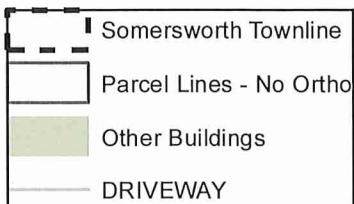
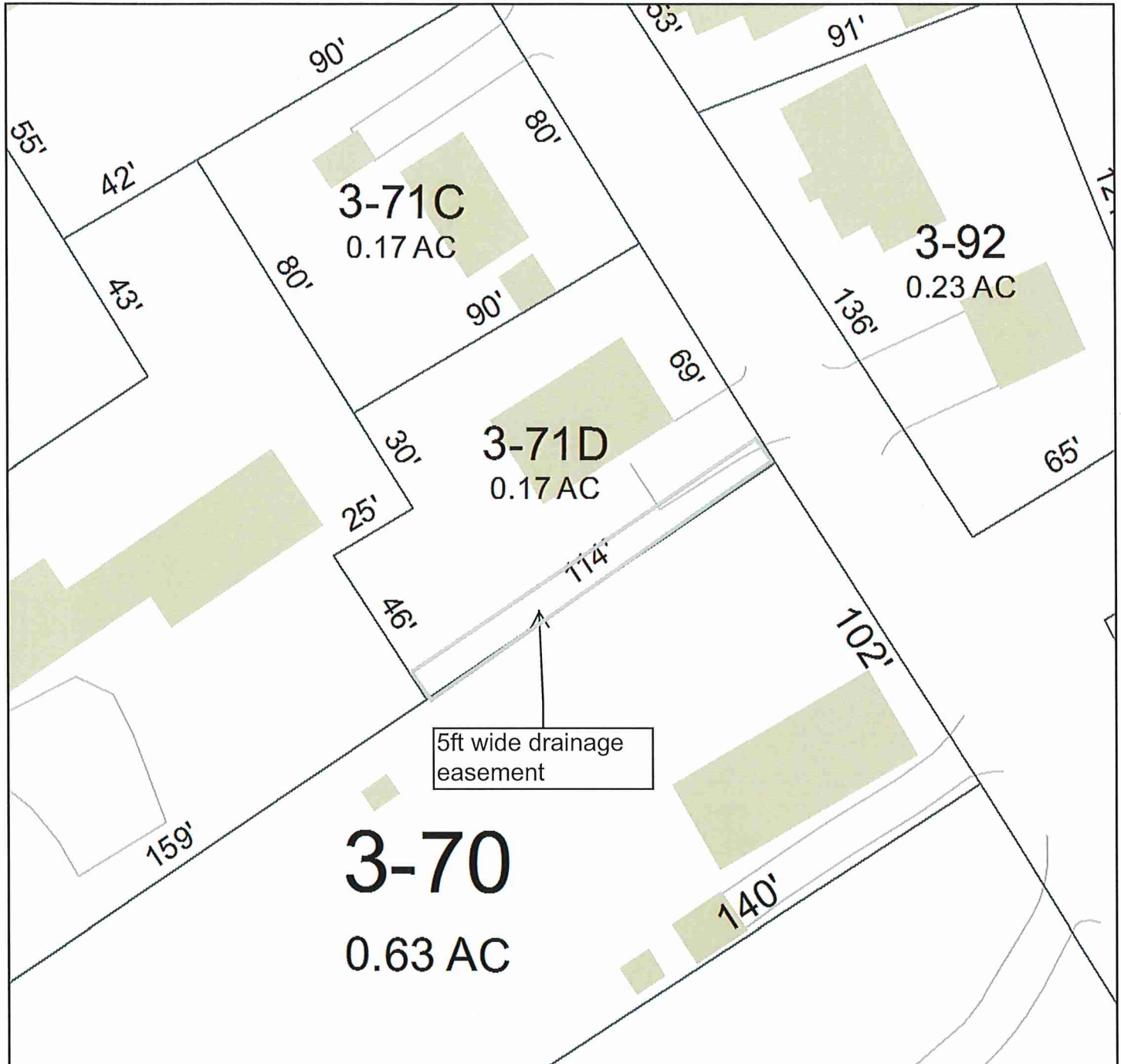
Somersworth, NH



December 12, 2022

1 inch = 40 Feet

www.cai-tech.com



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Brenda Breda

From: Scott A. Smith <sasmith@somersworthnh.gov>
Sent: Wednesday, May 31, 2023 1:12 PM
To: Bob Belmore
Cc: Brenda Breda
Subject: FW: car 316 Gov deals
Attachments: image0.jpeg; image1.jpeg; image2.jpeg; image3.jpeg; image4.jpeg; image5.jpeg; image6.jpeg; image7.jpeg; image8.jpeg; image9.jpeg; image10.jpeg

FYI, details for SUV

Scott A. Smith

Deputy City Manager/Finance Director

City of Somersworth
One Government Way
Somersworth, NH 03878

(603) 692-9504

sasmith@somersworthnh.gov Note new address – please update my contact information
www.somersworthnh.gov



From: Roy Remick <rremick@somersworthnh.gov>
Sent: Wednesday, May 31, 2023 1:10 PM
To: Michael Bobinsky <mbobinsky@somersworthnh.gov>
Cc: Scott A. Smith <sasmith@somersworthnh.gov>
Subject: car 316 Gov deals

Ford Explore for Gov deals

Ford Police Interceptor Utility -
3.7L V6 DOHC GAS

Year- 2016
Make- Ford
Model- Explore interceptor
Motor- 3.7L V6 DOHC GAS
Miles- 140,872
Engine hours- 16,550
Engine idle hours- 10,694

Comments,

For sale is a 2016 Ford Explore interceptor with a 3.7L V6 DOHC GAS engine. The current mileage is 140,872. The SUV runs and drives but will need some work. repairs needed are as followed

- Rear brake pads and rotors
- Clean up front brake rotors "surface rust from sitting".
- Driver's seat cover
- Wiper blades

The SUV is being sold as is, as seen. This vehicle will have no warranty. For Viewing please call Somersworth Public work's at 603-692-4266 and schedule an appointment, Monday to Friday 7am – 3pm



29.7.6 Maintenance of Seat Belts

Seat belts in any City owned vehicle/equipment required to be equipped with seat belt assemblies will be maintained in a serviceable condition and will be readily available for driver and passenger use.

Non-use or malfunction of city motor vehicle/equipment seat belt assemblies which result in a reportable personal injury shall be explained as to why seat belts were not used by the injured person or in cases of malfunction what caused the malfunction and what remedial actions were taken to prevent recurrence.

29.7.7 Physical Examination of Operators

All part-time and full-time employees of the City whose duties involve the operation of City-owned motor vehicles shall receive a physical examination, including an eye examination, by a licensed physician to determine their physical ability to safely operate such vehicles prior to initial employment and every three years thereafter. The results of each such examination (which shall include the physician's opinion as to fitness to operate) shall be reported to the City Manager. Any department head may require such an examination at more frequent intervals if there are grounds for believing that an employee's physical ability to safely operate a City-owned motor vehicle has become impaired.

Further, all employees who have not been so examined or whose condition is reported as unfit to operate shall not be permitted to drive a City-owned motor vehicle.

(Amended 06/06/1988.)

29.7.8 Requirement to Wear Seat Belts

All employees of the City of Somersworth are required to wear seat belts while operating or riding in any City-owned vehicle. This ordinance shall not apply in the case of vehicles for which the manufacturer has not installed seat belts. Any employee found in violation of this ordinance shall be given a written letter of reprimand in the first instance, and shall be subject to the disciplinary provisions of the Personnel Plan.

29.8 Purchasing Procedure

29.8.1 Purpose

The purpose of this purchasing procedure is:

- a) To procure materials, supplies, equipment and services best suited to the job which operating units are to perform.
- b) To procure the correct quantities of items required.
- c) To insure goods and services are in the hands of operating units when and where needed.
- d) To obtain goods, services and equipment at the lowest total price.
- e) To obtain critical materials when required to meet emergencies.

- f) To dispose of unneeded inventory.

29.8.2 Definitions

29.8.2.1 Competitive Procurement

Any process for acquiring goods or services in which more than one individual is solicited to propose price and delivery terms in such a manner as to encourage competition between prospective suppliers.

29.8.2.2 Sealed Bid

A form of competitive procurement in which sealed proposals are solicited which are opened and read at a specific time and place and in which the purchaser has no knowledge of the specific price and delivery proposal in the bid until the opening.

29.8.2.3 Negotiated Procurement

A process for acquiring goods and services in which the purchaser and seller negotiate any and all parts of the price and delivery terms. Negotiations may be a part of the procurement process along with bidding.

29.8.2.4 Specification

A description of the goods and services to be procured. For the purposes of this Administrative Code, a specification shall be as general as possible and shall describe the performance of the good or service as much as possible. Where a specification contains a reference to a specific product or firm, it shall be interpreted as being functionally equivalent to that firm or product unless explicitly stated otherwise.

29.8.2.5 Solicitation

Solicitation is the process by which vendors are requested to propose terms and conditions for an item or service which is proposed to be purchased.

29.8.2.6 Informal Procurement

Informal procurement is the process in which verbal quotations, proposals or bids are solicited for relatively small purchases. A written record shall be kept of such procurements consisting as a minimum of the names, dates and prices received as well as any other information required to document the competitive aspects of the purchase.

29.8.2.7 Formal Procurement

Formal procurement is characterized by written requests for prices and terms with written responses. The most formal procurement includes advertisement in appropriate publications, requirements for submission for sealed bids and public bid openings.

29.8.2.8 Best Knowledge Procurement

Purchases of small quantities of inexpensive materials or services may be made based on the department's knowledge of the best sources for such purchases when other forms of competitive procurement are not cost effective.

29.8.3 General Procedure

29.8.3.1 Specifications Required

Specifications will be prepared for all purchases whenever possible and in all cases where any single item in the purchase is estimated to have a cost in excess of \$10,000 or a total purchase in excess of \$20,000. Specifications shall be in writing for formally advertised bids.

29.8.3.2 Advertisement

Solicitations shall be given the widest advertisement appropriate for the proposed purchase. Due consideration shall be given to the nature of the item or service and the media which probable vendors might be expected to read or be exposed to. Advertisement over bidding or buying networks is encouraged. Advertisements shall contain a succinct summary of the item or service, the location of detailed specifications, if any, and the requirements for bid submittal.

29.8.3.3 Bid Opening and Tabulation

Bids shall be opened at the time and place designated in the solicitation and the bids shall become public record. Whenever advantageous to the city, summaries of bids shall be prepared and circulated to the bidders. All bids shall be public record unless specified otherwise prior to the bid opening.

29.8.3.4 Award

All purchases for which bids have been taken shall be formally awarded by the appropriate individual or governing body. In all cases the City shall reserve the right to award contracts to vendors whose combination of price, product and performance history are determined to be in the best interests of the City. The City may reject all bids at any time for any reason.

29.8.3.5 Bid and Performance Bonds

When specified in the solicitation, the successful vendor shall produce an acceptable bid bond at the time of bid opening. If a performance bond or surety is required, it shall be presented prior to execution of any contract.

29.8.4 Requirements for Competitive Procurement

29.8.4.1 Cost Thresholds

Competitive procurement is required for all purchases whenever practical. The table below contains the minimum requirements for complying with the various complexities of the procurement process:

<u>Amount Involved</u>	<u>Min. Competition</u>	<u>Approval by</u>
To \$250	Best knowledge	Department
\$250 to \$1,000	Informal	Department
\$1,001 to \$2,500	Informal	City Manager/Finance Dir.
\$2,501 to \$25,000	Formal	City Manager
\$25,001 to \$55,000	Formal	Finance Committee
Over \$55,000	Formal	City Council

(Updated 9/17/2018)

29.8.4.2 Emergency Buying

An emergency purchase is a purchase which is essential to prevent delays in work which might affect the safety, health or convenience of the community. Permission for emergency purchasing shall be obtained from the City Manager or his/her designee, if possible, and a written report of such action filed with the City Manager within five (5) days of such action.

29.8.4.3 Absence of Second Bid

No purchase will be made where there is no competition unless a determination can be made that the terms of purchase are fair, reasonable and in the best interests of the City. Approval for such purchase must be obtained from the next higher level off approval found in the table in Section 29.8.4.1.

29.8.4.4 Professional Services

Professional services, including engineering, architectural, auditing, and other services commonly considered professional, may be secured through negotiation. Professional service agreements should be on a fixed price basis for a clearly defined scope of work whenever possible.

29.8.4.5 Petty Cash Purchases

Items not carried in stock by a central stock point may be purchased through petty cash to the limit of the petty cash authorization which shall not exceed \$500 without explicit approval of the City Council. The contents of the petty cash drawer shall consist of the total amount of petty cash authorized or receipts. Petty cash shall be replenished by check upon submission of receipts and supporting documentation on form(s) to be prescribed by the Finance Department.

29.8.4.6 Cooperative Purchasing

Where prices on goods or services have been determined by competitive procurement by an agency of the State of New Hampshire or any other entity through which the City purchases cooperatively, that price shall be considered sufficiently competitive for the purchase of authorized items is obtained as outlined above. This specifically includes equipment and supplies available through bidding of the New Hampshire Department of Transportation and similar agencies for trucks, cars and related equipment.

29.8.5 Disposal of City Property

Where an item is surplus to the needs of a department, it shall be made available to other departments in the City for their use. Transfer of equipment between departments shall be recorded in the general Fixed Assets Group of Accounts (if applicable).

Property Valued at Less than \$1,000 other than Real Estate

Upon request of the proper department head, the City Manager may authorize the sale of any surplus municipal supplies, materials and equipment valued at less than \$1,000 and no longer required by any City Department. The method of disposal may include sealed bid, auction, trade-in, or any other method deemed appropriate to include worldwide auction sites such as EBay and/or other available mediums.

Property Valued at \$1,000 or More and Real Estate

No municipal supplies, materials and equipment valued at \$1,000 or more and no real estate whatsoever shall be offered for sale unless and until the City Council so orders. Any such sale authorized by the City Council may be conducted by competitive bidding, public auction, or any other means authorized by the City Council. The City may reject any and all bids or auction offers.

(Amended 05/03/2010.)

29.8.5.1 Disposal of City's Natural Resources

No transferral of the City's natural resources whether through barter, trade, or through sale, shall take place without authorization of the City Council.

(Passed 03/29/1988.)

May 31, 2023

Scott Smith, Deputy City Manager/Director of Finance & Administration
City of Somersworth
One Government Way
Somersworth, NH 03878

Ref.: Ti-SALES Inc.- Sole Authorized Distributor – State of New Hampshire

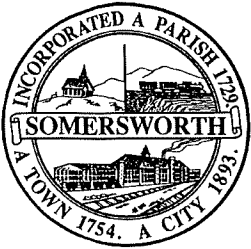
Neptune Technology Group Inc is pleased to affirm that Ti-SALES Inc., is the sole authorized distributor in the State of New Hampshire for Neptune RF meter reading equipment and software, Neptune water meters and Neptune parts.

Ti-SALES Inc. is authorized by Neptune to submit an offer for Neptune water meters and related products.

Thank you for your interest in Neptune products. If you have any questions, please contact your local Ti-SALES Inc. representative, Steve Clements, at (207) 215-4678, or your local Neptune representative, Brandon Boyle at (401) 318-2344.

Sincerely,

Brandon Boyle
Territory Manager



Somersworth Police Department

12 Lilac Lane

Somersworth, NH 03878

Business: (603) 692-3131 Fax: (603) 692-2111

Timothy J. McLin
Chief of Police

Memo To: Robert Belmore, City Manager
From: Timothy McLin, Chief of Police
Date: May 19, 2023
Subject: NH Highway Safety Grant

Bob,

I received notification from NH Highway Safety that they have opened the grant application process for the FY 2024 Traffic Enforcement overtime patrols. I was advised that we would be eligible for a maximum amount of \$8,200.00. This covers patrols in Speed, DWI, Distracted Driving, and specific mobilizations. As usual, the City in-kind match would be the use of police cruiser and other equipment. The funds provide overtime reimbursement for the officers to conduct the patrols. The deadline for the grant submission is June 7, 2023, and the patrols start in October 2023.

I am seeking permission to apply for the grant.

NHOHS Traffic Enforcement Patrols Grant Application

General Information

24-170

The grant awards below represent the **maximum award amounts** for each project that your agency has qualified for. These maximum award amounts have been determined by data driven calculations specific to your community. Please complete the requested information below in the blue boxes and blue boxes with **drop-downs**.

PROJECT	GRANT AMOUNT
SPEED	\$1,600.00
DUI	\$1,600.00
DISTRACTED DRIVING	\$1,600.00
PEDESTRIAN BICYCLE	\$0.00
MOBILIZATIONS	\$3,400.00
TOTAL GRANT AMT	\$8,200.00

Agency Name

SOMERSWORTH POLICE DEPARTMENT

Agency Address

Police Chief's Name

Police Chief's E-Mail

Grant Point of Contact

Grant Contact Phone

Grant Contact Email

UEI Number & SAMS Exp. Date
(screenshot must be provided)

Community Population

Total Sworn LEO's in Department

Number of LEO's Available to Participate in
Grant Patrols

Do you accept the maximum award amounts
offered above?

Please indicate project and lesser amount
desired or decline.

SPEED \$1,600.00

Please indicate project and lesser amount
desired or decline.

DUI \$1,600.00

Please indicate project and lesser amount
desired or decline.

DISTRACTED DRIVING \$1,600.00

Please indicate project and lesser amount
desired or decline.

Please indicate project and lesser amount
desired or decline.

MOBILIZATIONS \$3,400.00

Maximum aggregate match for all awards

\$2,050.00

Back

Next Page



Scott A. Smith
Finance Director
City of Somersworth
One Government Way
Somersworth, NH 03878

RE: Acquisition and Redevelopment - Somersworth former National Guard Readiness Center

Dear Mr. Smith,

Chinburg Properties is pleased to present this response to the RFP for the Acquisition and Redevelopment of the former National Guard Readiness Center located at 15 Blackwater Road in Somersworth, NH, the "Project."

DEVELOPER & TEAM

Chinburg Properties has over 30 years of development and construction experience that has transformed communities across Northern New England. Founded in 1987 by New Hampshire native Eric Chinburg, the company has grown to become a fully integrated development, property management, and construction firm. Chinburg has established deep expertise in mixed-use urban, multifamily, and single-family home development and is the largest home builder in New Hampshire's Seacoast region. Chinburg is committed to sustainability and is among a very select group of builders nationwide, and the only in New England, to have won for the coveted Sustained Excellence Award from Energy Star, having been awarded this honor 7 times in the past 9 years.

Chinburg Properties, "Chinburg," is a privately held corporation with 150 employees headquartered in Newmarket, NH. The company presently manages 1,600+ apartments and over 1 million square feet of commercial space with an additional 800 apartments and 150,000 square feet of commercial space in development.

Chinburg has deep roots in Somersworth having previously completed three projects in the city, The Great Falls School Apartments (2001), The Canal Street Mill (2008), and Hilltop School Apartments (2020). We know from experience the transformative power of providing housing and investment to places like Somersworth and hope to continue our 20+ year commitment to investing in Somersworth and supporting its community with National Guard Readiness Center Project.

For more details on the Project team and Chinburg's experience please see Exhibits 1 and 2.



PROPOSED PROGRAM

Design & Program:

Chinburg is proposing to proceed with Option B as presented in the RFP and to keep the existing baseball field and related infrastructure in its current location. Chinburg expects for the existing parcel to be subdivided and for the City to retain and maintain the baseball field and related infrastructure. The Project is proposing to remove the existing National Guard structures and replace them with two four-story multifamily buildings totaling approximately 250 apartment homes, with potential accessory commercial space for small scale amenity-based retail tenants. The apartments will consist of approximately 40% studios, 40% one bedrooms, and 20% two bedrooms.

The Project anticipates to be Energy Star rated and to provide residents with a variety of onsite amenities including clubroom rooms and lounges, a fitness center, onsite tenant storage, laundry facilities, a pet washing station, and bike storage. Site improvements are expected to include attractive landscaping, private patios with fire pits and grills, pet-friendly areas, beautification along public rights of way, and a publicly assessable greenspace as well as the code required improvements for stormwater management.

Rezoning:

Chinburg will support the City in the rezoning of the site to allow the construction of four story multifamily buildings with accessory commercial uses, including café and restaurant uses, and a minimum density of 250 apartments homes.

City Support:

The Project will require property tax relief under RSA 79-E, the Community Revitalization Tax Relief Incentive. The Project plans to proceed with all standard required internal staff and board reviews including review by the technical review committee and site plan review by the Planning Board.

The Project will further support the City in applying for demolition grant funds made available through InvestNH for housing projects. The funds would be used for the demolition of existing structures on the site enabling the construction of much needed housing.

Schedule:

Chinburg anticipates rezoning to be completed at the end of 2023 and to secure entitlements in the first half of 2024 with closing shortly thereafter. Construction commencement is expected by the end of 2024.

Structure and Budget:

The Project will be owned by a single purpose entity managed by Chinburg Properties and Eric Chinburg. Chinburg anticipates to engage local design consultants including CJ Architects, based



in Portsmouth, NH, and Civil Consultants, based in South Berwick, ME. Chinburg Builders, Inc will perform general contracting services and Chinburg Management will provide property management services.

Early Project cost estimates suggest a total development budget of approximately \$30 million dollars.

Public Benefits:

The Project will create significant public benefits by providing much needed housing, placing a previously tax-exempt parcel back on the tax rolls, enhancing Somersworth's economic vitality, greatly improving the beatification and sustainability of a deteriorating and largely military-industrial site, and creating a vibrant publicly accessible green space.

PURCHASE PRICE AND TERMS

Chinburg proposes to acquire the property from the City for \$200,000. All risk and costs of site redevelopment, including environmental and hazardous material remediation, shall be borne by Chinburg. Chinburg is prepared to immediately execute a purchase and sale agreement and to complete the purchase within 90 days following the fulfillment of the conditions below.

The Project's economic viability depends on several key factors that will require the City and Chinburg to work together on the following:

Rezoning: Successful City-initiated zoning changes to allow multi-family use with sufficient density to allow a minimum of 250 market rate apartments, sufficient height for 4-story buildings, and commensurate parking.

RSA 79-E: Successful City-initiated amendment to RSA 79-E to make the Project site eligible for tax relief. Then the Project shall enter into an agreement with the City to maximize use of RSA 79-E.

Waiver of Impact Fees: The city will waive all impact fees.

Entitlements: All entitlements are needed prior to closing. The Project proposes to subdivide the lot to separate the baseball field and related infrastructure from the Project site. The baseball field and related infrastructure are to be retained and maintained by the City. The Project will require site plan approval.

Grant Funding: The Project relies on the receipt of competitive grants to demolish the existing buildings. The Project requires the Commitment from the City to apply in a timely manner for demolition grant proceeds made available through InvestNH or other public grant programs.



Creating dynamic places for communities to live and work is what Chinburg does best. Our thoughtful developments have aided transformative revitalization efforts across the region and such projects contribute greatly to the fabric and vitality of those local communities. We look forward to continuing our track record of successful projects in Somersworth with the National Guard Readiness Center Project and to continuing to contribute to Somersworth's vibrant community.

Chinburg respectfully requests your consideration of our application.

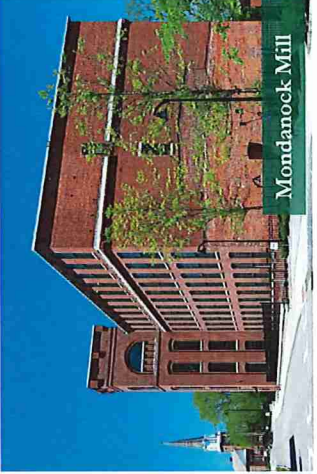
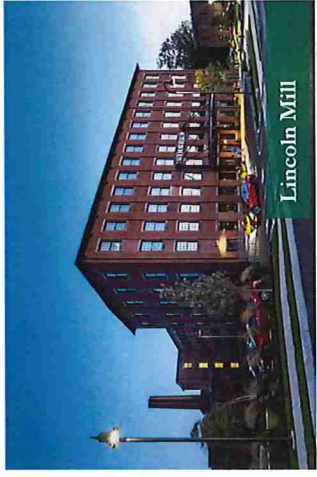
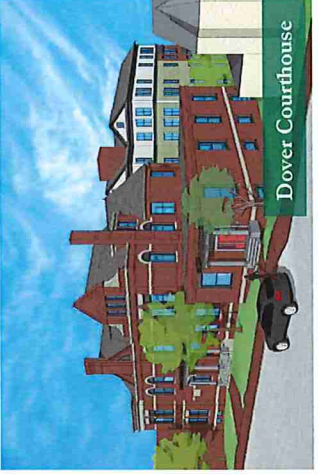
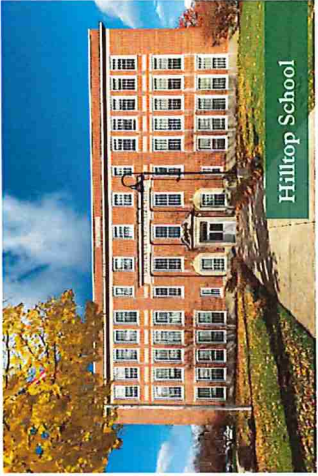
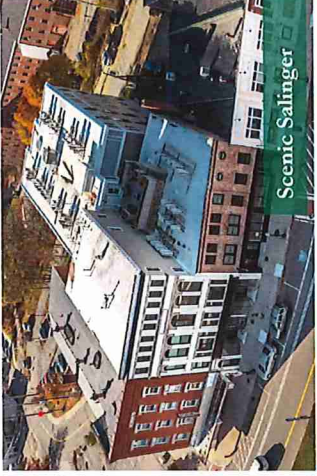
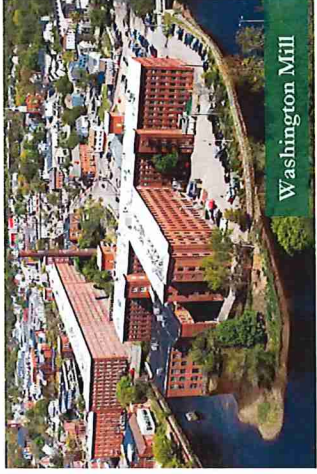
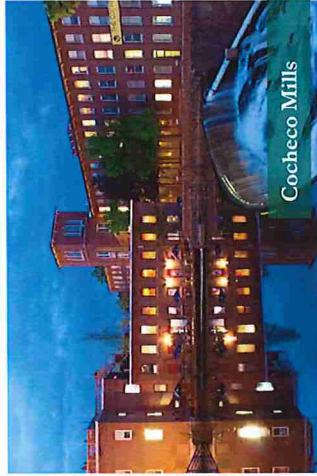
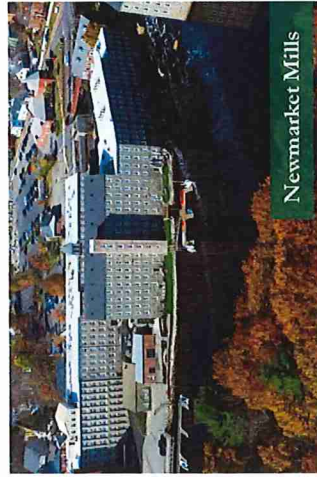
Sincerely,

Eric J. Chinburg
President, Chinburg Properties

Exhibit 1

Chinburg Experience

CHINBURG



Since 1996, Chinburg Properties has successfully completed numerous projects including many centered on the preservation of historic buildings in New Hampshire, Maine, and Massachusetts.

Chinburg Properties manages a portfolio of 1,600 apartments and over one million square feet of commercial space that is home to 350+ businesses of all sizes.

Exhibit 2

Project Team

CHINBURG



Eric J. Chinburg, President and founder of Chinburg Properties.

Experience:

Chinburg Properties is a land development, design, construction, and property management firm headquartered in Newmarket, NH. Since its inception in 1987, the company has created thousands of residences in New Hampshire, Massachusetts, Maine and Vermont. Over the past 30+ years, the company has preserved numerous historic mills and schools in such cities as: Amesbury and Haverhill, MA, Saco and Biddeford, ME, Portsmouth, Dover, Somersworth, Newmarket, Claremont, and Laconia, NH.

Education:

B.S. Civil Engineering, University of New Hampshire



Matt Assia, Vice President of Development and Asset Management.

Experience:

Matt oversees a team that leads the assessment, planning, permitting, and financing of new opportunities for adaptive re-use, acquisition, and land development. Under Matt's leadership, the team captains the projects through the development life cycle from acquisition to the successful project completion and transition to property management or new home sales. Matt has worked on a wide range of projects including multi-family, mixed-use, residential land development, office, and public works.

Education:

B.S. in Civil Engineering and MBA, University of Maryland



Geoff Spitzer, Vice President of Design & Development

Experience:

Geoff provides leadership, direction and coordination for Chinburg's commercial projects, overseeing Chinburg's talented in-house design and commercial preconstruction teams as well as working with outside architects and engineers. Geoff works closely with the Commercial Development and Asset Management Team to see projects through their entire life cycle. Geoff has nearly 40 years of construction experience with an expertise in historic preservation.

Education:

B.S. Business Science, University of New Hampshire



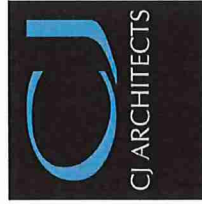
Paul Goodwin, Senior Development Manager

Experience:

Paul oversees day to day project management responsibilities of the Chinburg's commercial development pipeline across their life cycle, including due diligence, entitlements, financing, design development, construction administration, and leasing support. Paul's experience centers on urban mixed-used, multifamily, and adaptive-reuse projects.

Education:

B.A. Geography, University of New Hampshire, Master of City Planning and Master of Science in Real Estate Development, Massachusetts Institute of Technology



Architectural Services

Established in 2002, CJ Architects is a creative and highly productive firm dedicated to client service and timeless design. CJ's services include; home design, historic renovation, large scale multi-use, and office fit-ups. CJ has worked closely with Chinburg over the past decade, having lead design on several successful projects.

Civil Engineering Services

For over 40 years, municipalities, state and federal agencies, educational, commercial and industrial organizations, individuals and private developers have trusted Civil Consultants with a wide variety of civil engineering, structural engineering, and surveying projects across the US and New England.

General Contractor

Chinburg Buildings, Inc provides a full range of services for commercial and residential projects. CBI's development and general contracting capabilities include; planning and permitting, design, budgeting, value engineering, construction management of large-scale developments, historic restoration and renovation, tenant improvements, student housing, and health care facilities.

Property Management

Chinburg Management is the in-house property management company of Chinburg Properties. The property managers have extensive experience with residential multifamily management, commercial leasing and sales, including licensed broker and certified real estate professionals on staff.

MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246
www.mitchellmunicipalgroup.com

WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
JOSEPH H. DRISCOLL, IV
NAOMI N. BUTTERFIELD – OF COUNSEL

TELEPHONE (603) 524-3885

May 24, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 46-23

Title: **TO ESTABLISH A MENTAL HEALTH AND WELLNESS COMMITTEE**

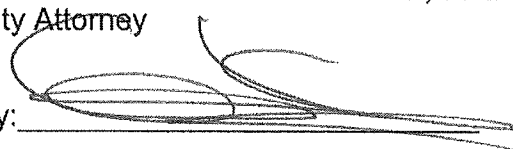
This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: _____

5/24/23

By: _____



MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246
www.mitchellmunicipalgroup.com

WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
JOSEPH H. DRISCOLL, IV
NAOMI N. BUTTERFIELD – OF COUNSEL

TELEPHONE (603) 524-3885

May 24, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 47-23

Title: **TO AUTHORIZE THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT
EXTENSION WITH THE PALL CORPORATION OF PORT WASHINGTON, NY TO
LEASE BUILDING SPACE AT THE SOMERSWORTH WATER TREATMENT
FACILITY**

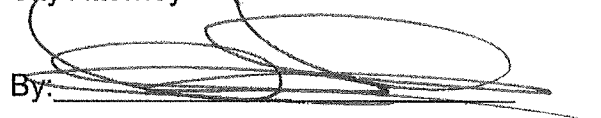
This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: _____

5/24/23

By: _____



MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246
www.mitchellmunicipalgroup.com

WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
JOSEPH H. DRISCOLL, IV
NAOMI N. BUTTERFIELD – OF COUNSEL

TELEPHONE (603) 524-3885

May 31, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 48-23

Title: **TO AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENTS WITH
AMERESCO, INC. OF FRAMINGHAM, MASSACHUSETTS, OPERATING AS
BLACKWATER ROAD SOLAR, LLC., TO DEVELOP A SOLAR PROJECT
PURSUANT TO RSA 362-A ON THE CLOSED SOMERSWORTH SANITARY
LANDFILL SUPERFUND SITE ON BLACKWATER ROAD**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: 5/31/23

By: 

MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
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TELEPHONE (603) 524-3885

May 25, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 49-23

Title: **NAMING STORAGE DRIVE AND ASSIGNING ADDRESSES, AS ASSIGNED**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

Date: 5/25/23

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

By: 

MITCHELL MUNICIPAL GROUP, P.A.

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May 24, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Ordinance No. 23-23

Title: **TRANSFER BETWEEN DEPARTMENTS**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced ordinance. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: 5/24/23

By: 

MITCHELL MUNICIPAL GROUP, P.A.

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May 31, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 50-23

Title: **ANNUAL FLAG POLE DISPLAYS AT CITIZEN'S PLACE**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: _____

5/31/23

By: _____



MITCHELL MUNICIPAL GROUP, P.A.

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June 1, 2023

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 51-23

Title: **TO AUTHORIZE THE CITY MANAGER TO ACCEPT EASEMENTS
ASSOCIATED WITH THE FIRST STREET DRAINAGE IMPROVEMENTS AND ROAD
RECONSTRUCTION**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.

City Attorney

Date: 6/1/23

By: 