City of Biddeford
School Committee
July 14, 2021 5:00 PM Little Theater at BHS

Public Instructions for Meeting

Public Viewing:
Local Public Access Station
City of Biddeford Website

Please click the link below to join the webinar:
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Webinar ID: 922 3705 4920

Public Participation - Further Instructions

Further Instructions 7_14_2021.pdf

A. Call to Order:

B. Roll Call:

C. Pledge of Allegiance:

D. Adjustments to Agenda:

E. Consideration of Minutes:

E.1. Minutes 6/15/2021

F. Consent Agenda

F.1. Nominations:

Don Stanhope ~ Grade 7 & 8 STEM Science BMS ~ Replacing Robin Tiller
Marc Boissonnault ~ Special Education Teacher BMS ~ Replacing Jennifer Dame
Wesley Raines ~ BHS Vocal Music Director BHS ~ Replacing Christopher Ferrell
Jennifer Schauber ~ BPS School Counselor 1 year only ~ Replacing Wendy LeBlanc who moved to a new position in the district

Appointments:

Diane Sotir ~ Ed Tech II BMS ~ Replacing Ann Marie Duguay who moved to a new position in the district
Katherine Truman ~ Admin Assistant Full Year BMS ~ Replacing Sarah Ferrell
Pamela Emerson ~ Guided Study Ed Tech III BHS ~ Replacing Jennifer Daigle
Angela Rowe ~ Ed Tech II BPS ~ New Position
Anthony Zarate ~ BRCOT Ed Tech III ~ Replacing Scott Hardy
Kayla Coniaris ~ Ed Tech II BPS ~ Replacing Jessica Maywalt who moved to a new position in the district
Megan Tenney ~ Ed Tech II BIS ~ Replacing Robert Martens who moved to a new

position in the district
Sarah Lafortune ~ Ed Tech II Regular Ed Support BIS ~ New Position

Resignations:
Robin Tiller ~ Grade 7 & 8 STEM Science BMS ~ Resignation
Angela Avery ~ BMS School Counselor ~ Resignation
Marianne Collins ~ BIS Classroom Teacher ~ Resignation
Courtney Mann ~ Ed Tech II BMS ~ Resignation
Selina St. Amand ~ Admin Secretary/Bus Driver ~ Resignation

Transfers:
Crystal Blais ~ 6th Grade Teacher BMS ~ Transferring to Technology Integrator for the district
Robert Martens ~ Special Education Ed Tech ~ Transferring to Ed Tech II Regular Ed BIS ~ Replacing Theresa Lamontagne who retired
Marci Dionne ~ Adult Ed Student Advisor/Program Coordinator District Wide ~ Replacing Jeanne MacDonald
Stephen True ~ Ed Tech II Special Education ~ Transferring to Ed Tech III SEL JFK/BIS

G. Superintendent's Report:

H. Committee Reports: Finance/Building, Grounds; Curriculum; Policy; Waterhouse Advisory Committee

I. Old Business:

J. New Business: Public participation opportunity after each item listed below (3 minutes per item)

J.1. Solar Energy Proposal - Revision Energy
Savings Document
Contract
School Subsidy Update
School Committee Yearly Meeting Calendar
Vote Concerning Mandatory 403(b) Plan Amendment
Vote To Adopt an Amended and Restated Cafeteria Plans, Medical Reimbursement Plans, and Dependent Care Assistance Plans

Biddeford Proposal.pdf
Revision Energy Contract Biddeford Schools- NEB Credit PSA_2021.06.10.pdf
Final School Budget Memo - New Subsidy FY 21.pdf
Biddeford School Committee 2021.pdf

K. Public Participation: (3 minutes; any item)

L. Communications:

M. Executive Session:

M.1. Labor contract negotiations pursuant to 1 M.R.S.A § 405(6)(D)

N. Adjournment:

Instructions for Public Participation

The Biddeford School Committee will hold a meeting on Wednesday, July 14, 2021, at 5:00 PM.

This meeting will be held in person by the School Committee only in the Little Theater. The meeting for the public will be conducted using Zoom Webinar, a web-based video conferencing tool, under 1 M.R.S.A. § 403-A, which authorizes the school department to hold remote meetings during the state of emergency declared by the Governor due to the outbreak of COVID-19.

Topic: Biddeford School Committee Meeting

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As a meeting viewer, you will not be shown on the camera, and your microphone will be muted by default.

What controls should I use to participate in the meeting?
If you would like to participate during the meeting, click the “raise your hand” button at the bottom of the screen at the appropriate time for comment. The host of the meeting will see that you would like to participate and will be able to turn your mic on for you when it is your turn to speak.

If you have joined the meeting by phone only, you will need to use the following codes:
***6-Toggle mute/unmute**
***9-Raise hand**

Do I have to use Zoom to watch the meeting?
No, you will still be able to watch a live stream of the meetings as you usually would on Public Access Channel 1301 or on the city website.

Watch Video: **City of Biddeford Website**

Due to the COVID-19 PANDEMIC, the Biddeford School Committee will meet in person but will conduct the public hearing and meeting telephonically. The public will not be allowed to attend the meeting in person. However, the meeting may be viewed live on the City’s Public Access Channel or on the City’s website: www.biddefordmaine.org, selecting the Government tab and then clicking on “Video/Agendas/Minutes”. Copies of the agenda and minutes are available on the City’s website and School website www.biddefordschools.me. Questions or comments may be emailed prior to the meeting to School Committee Members, Superintendent, Jeremy Ray, Assistant Superintendent, Christopher Indorf, or Director of Instruction & Innovation, Mandy Cyr.

REVISION ENERGY

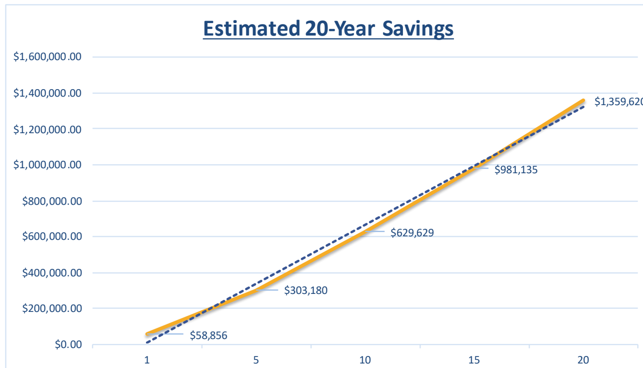
Biddeford Public Schools - Proposal Overview

Net Energy Billing Proposal

Current Annual Electric Cost	$	346,210
Recommended % of Cost Offset		85%
Total Value of NEB Credits Required	$	294,279
Value of Utility NEB Credit	$	0.1239
Number of NEB Credits Required		2,375,129
NEB Credit Discount Offer		20%
Cost of Discount NEB Credit	$	0.0991
Savings per NEB Credit	$	0.0248

Utility & Cost Assumptions

Utility Company		Central Maine Power
Utility Rate Class		Multiple
Value of Utility NEB Credit	$	0.1239
Annual NEB Credit Escalator		2%
Annual Derate of NEB Credits Required		0.5%



Dashed line represents potential variability in savings based on system performance.

Estimated Savings

Total Year 1 Annual Savings	$	58,856
Total Year 5 Cumulative Savings	$	303,180
Total Year 10 Cumulative Savings	$	629,629
Total Year 15 Cumulative Savings	$	981,135
Total Year 20 Cumulative Savings	$	1,359,620

Biddeford Public Schools - Proposal Terms & Overview

Under Maine's new Net Energy Billing regulations, monetary credits can be generated by solar arrays and allocated to utility customers' electric accounts in order to provide energy cost savings. This proposal provides the opportunity to purchase the energy output from a solar project currently under development. Under the terms of the proposal, the customer purchases a specificed percentage allocation of the solar generation and in turn receives a commensurate allocation of utility bill credits. To the extent that the energy bill credit value exceeds the customer's rate paid, energy savings are created.

The following terms highlight the specifics of this proposal:

Project Location	Central Maine Power utility service territory. The exact project location is to be determined.
Contract Term	20 years, which matches the term of the Net Energy Billing agreement with the electric utility. There can be options to extend the contract term by 5 or 10 years.
Value of Utility NEB Credit	$0.1239 - this is the Year 1 Utility NEB credit value.
NEB Credit Discount Offer	20% - this is the percent discount offer that will be applied to the current Utility NEB credit value.
Cost of Discount NEB Credit	$0.09912 - this is the Year 1 cost of the discounted NEB credit value that the customer will pay for each kilowatt-hour of solar production purchased.
Renewable Energy Certificate (REC) Ownership	Investor (project owner) retains ownership of the RECs and environmental attributes.

NEXT STEPS

If you are interested in moving forward with this proposal, the next steps are to:

· Sign a Letter of Intent (LOI) formalizing your interest. This proposal will be included by reference, which will memorialize the above terms.

· Upon completion of the solar project's development, enter into a definitive contract agreement with the project owner.

· Begin receiving utility bill credits once the project is placed in service.

Solar Power and Net Energy Billing Credit
Purchase and Sale Agreement

This Solar Power and Net Energy Billing Credit Purchase and Sale Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Seller below (the "**Effective Date**").

Purchaser:	**Biddeford Public Schools,** a Maine school administrative unit acting by and through its School Board	**Seller:**	**ReVision Energy Inc.**, a Maine corporation
Name and Address	**Biddeford Public Schools** Attn: Jeremy Ray 20 Maplewood Avenue Biddeford, ME 04005	**Name and Address**	**ReVision Energy Inc.** 758 Westbrook Street South Portland, ME 04106
Phone	(207) 710-4080	**Phone**	(207) 613-6078
E-mail	jray@biddefordschools.me	**E-mail**	legal@revisionenergy.com

WHEREAS, Seller is in the business of financing, developing, owning, operating, and maintaining solar photovoltaic electric generation facilities;

WHEREAS, Seller is the lessee of the property located at TBD (the "**Premises**"), and has the right to develop renewable energy generation facilities at the Premises, as defined hereunder;

WHEREAS, Seller plans to finance, install, construct, own, operate, and maintain a solar photovoltaic electric generation facility at the Premises;

WHEREAS, the Purchaser, together with other entities yet to be determined (all together, the "**Purchasing Entities**"), intends to purchase the electrical energy and associated net energy billing credits ("**NEB Credits**", as defined in Exhibit 4, Section 9.b) associated with the electric energy generated from such solar photovoltaic electric generation facility, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the terms and conditions of the purchase by Purchaser and sale by Seller of the NEB Credits associated with the electric energy from the solar photovoltaic electric generation facility described in **Exhibit 2** (the "**System**") and interconnected to the utility grid as described in **Exhibit 2**.

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

Exhibit 1	Basic Terms and Conditions
Exhibit 2	System Description
Exhibit 3	Credit Information – omitted by agreement of the Parties
Exhibit 4	General Terms and Conditions

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be signed on their behalf by their duly authorized representatives who, by their signatures below, attest that they have the power and authority to bind their respective Party.

Purchaser: Biddeford Public Schools		**Seller**: ReVision Energy Inc.	
By (signature):	____________________	By (signature):	____________________
Printed Name:	____________________	Printed Name:	____________________
Title:	____________________	Title:	____________________
Date:	____________________	Date:	____________________

Exhibit 1
Basic Terms and Conditions

1. **Initial Term:** Twenty (20) years, beginning on the NEB Commercial Operation Date.
2. **Additional Terms:** First Additional Term of five (5) years, and up to two (2) Additional Terms of five (5) years each.
3. **Environmental Incentives and Environmental Attributes:** Accrue to Seller.
4. **Contract Price:** The Contract Price for the NEB Credits associated with the System energy production shall be eighty percent (80%) of the total aggregate monetary value of the NEB Credits allocated to each of Purchaser's accounts by the Utility in accordance with the Tariff Rate established under 35 M.R.S. § 3209-B and such Maine Public Utilities Commission rules enacted thereunder, including without limitation 65-407 C.M.R. ch. 313 (the "**NEB Credit Value"**) for each billing period during the Initial Term of this Agreement and any Additional Term of this Agreement if applicable.
5. **REC Price:** [Reserved]
6. **Estimated Energy Production:** The Estimated Total System Energy Production and the estimated Purchaser Percentage (in kWh) of the total production are set forth for each contract year below. The Purchaser Percentage is set forth in Exhibit 2, Section 11. Purchaser understands that actual System Production will vary from the estimates year to year based on weather, equipment, grid outages, and other operating conditions and agrees to purchase its entire Purchaser Percentage of the actual System Production.

Contract Year	Estimated Total Energy Production (kWh)	Estimated Purchaser Percentage (kWh)	REC Price ($/MWH)
1	TBD	2,442,519	N/A
2	TBD	2,430,306	N/A
3	TBD	2,418,155	N/A
4	TBD	2,406,064	N/A
5	TBD	2,394,034	N/A
6	TBD	2,382,064	N/A
7	TBD	2,370,153	N/A
8	TBD	2,358,303	N/A
9	TBD	2,346,511	N/A
10	TBD	2,334,778	N/A
11	TBD	2,323,105	N/A
12	TBD	2,311,489	N/A
13	TBD	2,299,932	N/A
14	TBD	2,288,432	N/A
15	TBD	2,276,990	N/A
16	TBD	2,265,605	N/A
17	TBD	2,254,277	N/A
18	TBD	2,243,005	N/A
19	TBD	2,231,790	N/A
20	TBD	2,220,631	N/A

7. **Condition Satisfaction Date:** TBD
8. **Anticipated Commercial Operation Date:** TBD. The "**Commercial Operation Date**" is the date Seller places the System in service, consistent with Treas. Reg. § 1.167(a)-11 and related sections.
9. **Outside Commercial Operation Date:** In the event of any delay due either to a Force Majeure event or other events outside the reasonable control of the Seller and provided that the Seller is continuing to diligently pursue the permitting, construction, interconnection, and installation, the Outside Commercial Operation Date shall be equitably extended to a date mutually agreed to by the Parties, taking into account the facts, circumstances and length of such delay.
10. **NEB Commercial Operation Date**: The NEB Commercial Operation Date is the date at which the utility begins allocating Net Energy Billing Credits to Purchaser's accounts pursuant to the Customer Net Energy Billing Agreement with the Utility. The NEB Commercial Operation Date is determined by the utility and is generally expected to occur shortly after the Commercial Operation Date.

End of Exhibit 1

Exhibit 2
System Description

1. **System Location:** TBD

2. **System Size:** TBD DC kW (panel nameplate capacity), TBD AC kW (inverter rating).

3. **Estimated First Year Energy Production (kWh):** TBD (which is expected to be plus or minus ten (10) percent annually, depending upon weather). Estimated energy production shall be de-rated by one half of one percent (0.5%) annually.

4. **Expected Structure:** [X] Ground Mount [ ] Roof Mount [_] Parking Structure [_] Other

5. **Expected Module(s):**

Manufacturer/Model	Quantity
TBD, or equivalent, with manufacturer's 25-year warranty	TBD

6. **Expected Inverter(s):**

Manufacturer/Model	Quantity
TBD, or equivalent, with manufacturer's 10-year warranty	TBD

7. **Preliminary System Layout:** See **Exhibit 2, Attachment A.** Seller may, at its sole discretion, modify the System layout and design as Seller deems necessary for purposes of permitting, procurement, construction and project implementation.

8. **Alternate Site:** To the extent needed to facilitate timely permitting, financing, site control, interconnection or other considerations, Seller may locate the System on an alternate site in the same utility service territory which, after written notice and consent from Purchaser, shall be deemed the Premises for purposes of this Agreement. The Parties shall cooperate to amend this Agreement to the extent necessary to reflect any such change to the Premises so long as the Purchaser Percentage of the Total Estimated Production in Contract Year 1 does not exceed the Purchaser's Not to Exceed Estimated Amount as set forth in Exhibit 2, Section 11.

9. **Utility:** Central Maine Power

10. **Participating Meters:**

    i. To be provided by Purchaser as part of the Net Energy Billing application pursuant to **Exhibit 4, Section 9.b.**

11. **Purchaser Percentage**: The Purchaser Percentage shall be TBD percent (TBD%) of the total amount of electric energy generated by System (the "**Purchaser Percentage**"). Seller may modify Purchaser's Percentage of the total NEB Credits generated by the System so long as Purchaser's Share of the estimated System Production projected for Contract Year 1 (i) does not exceed 2,442,519 kWh/year ("**Purchaser's Not to Exceed Estimated Amount**") and (ii) is not reduced by more than ten percent (10%) of Purchaser's Not to Exceed Estimated Amount**.** To the extent of any modification pursuant to this Section, the Agreement and Exhibits, including but not limited to the Estimated Purchaser Share of Bill Credits in kWh for Contract Years 1 through 20 in the table in Exhibit 1, shall be amended by the Parties to reflect such modifications.

Exhibit 2
Attachment A:
Preliminary System Layout

Aerial Image of Premises	See Site Map, below.
Conceptual Drawing of the System	See One Line Drawing, below.
Location of System Components	Solar array to be located at TBD as portrayed in site map. Inverters to be located inside perimeter fence.
Delivery Point (kWh)	Delivery of energy to Utility, pursuant to interconnection agreement.

Preliminary Site Map:

TBD.

End of Exhibit 2

Exhibit 3
Credit Information

Omitted by agreement of the Parties.

End of Exhibit 3

Exhibit 4
Net Energy Billing Credit Purchase Agreement
General Terms and Conditions

1. **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

2. **Purchase and Sale of Solar Power and Net Energy Billing Credits.** Purchaser shall purchase from Seller and Seller shall sell to Purchaser the NEB Credits associated with the Purchaser Percentage, as set forth in **Exhibit 2, Section 1111**, of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the "**Term**"). To deliver the NEB Credits, Seller shall deliver the System's energy to the Utility pursuant to the Interconnection Agreement with the Utility (the "**Delivery Point**"). Purchaser shall take title to Purchaser's Percentage of the electric energy and associated NEB Credits generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point, in proportion with the Purchaser Percentage. Purchaser understands that the NEB Credits delivered to Purchaser's Utility account in any particular month will be reflected on Purchaser's invoice from the Utility as a monetary credit amount; and that such credit will be issued according to the Utility's billing cycle, which may be approximately one (1) month after the energy associated with the NEB Credits is generated by the System. Purchaser shall pay for Purchaser's Percentage of all NEB Credits associated with energy delivered by Seller, regardless of when the NEB Credits appear on Purchaser's Utility statement and regardless of any Utility NEB Credits allocation error or Purchaser's ability to utilize such Net Metering Credits. The Parties agree to attempt to correct any Utility errors pursuant to the provisions in **Exhibit 4, Section 11.d**.

   a. Purchaser may purchase electric energy and/or NEB Credits from other sources provided that, in all cases, Purchaser purchases all of the Purchaser's Percentage of the electrical energy and associated NEB Credits generated by the System as contemplated herein.

   b. To the extent Purchaser's NEB Credits or payments from the Utility are anticipated to exceed ninety-five percent (95%) of the aggregate cost of Purchaser's electric requirements over a twelve (12) month period, and subject to Exhibit 4, Section 9(b) of this Agreement, the Parties shall negotiate in good faith to recruit one or more Purchasing Entities or a credit-worthy, not for profit, school administrative unit, municipal, or quasi-municipal third party entity to purchase a portion of the Purchaser Percentage under the terms and conditions herein. Until such Purchasing Entity(ies) or third party(ies) agrees to assume responsibility for a portion of the Purchaser Percentage or if adding an additional Purchasing Entity or third party would be prohibited by applicable law, Purchaser shall remain obligated to purchase its full Purchaser Percentage.

   c. Any purchase, sale and/or delivery of NEB Credits associated with the electric energy generated by the System prior to the Commercial Operation Date during testing shall not indicate that the System has been put in commercial operation by the purchase, sale and/or delivery of such test energy and associated NEB Credits.

3. **Purchase and Sale of Renewable Energy Credits.** If Purchaser elects the Renewable Energy Credit (REC) purchase option**,** Purchaser shall purchase from Seller and Seller shall sell to Purchaser the Purchaser's Percentage of the RECs generated by the System for the Contract Year at the rate specified in **Exhibit 1**.

4. **Term and Termination**.

   a. **Initial Term.** The initial term ("**Initial Term**") of this Agreement shall commence on the NEB Commercial Operation Date and continue for the length of time specified in **Exhibit 1,** unless earlier terminated as provided for in this Agreement. Seller shall provide Purchaser with written notice of the Commercial Operations within thirty (30) days of the NEB Commercial Operation Date and such notice shall be deemed effective unless Purchaser reasonably objects within five (5) days of the date of such notice. If the actual Commercial Operation Date falls after the Outside Commercial Operation Date specified in Section 8 of **Exhibit 1**, as may have been equitably extended pursuant to said Section 8, Purchaser may terminate this Agreement by providing thirty (30) days prior written notice to the Seller, without liability for costs or damages or triggering a default under this Agreement, and the termination date in such case shall be the date of said written notice. This Agreement is effective as of the Effective Date and Purchaser's intentional failure to enable Seller to provide the electric energy or NEB Credits by not performing its obligations hereunder shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement

b. **Additional Terms.** Prior to the end of the Initial Term, the Parties may, by written amendment to this Agreement, extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each such additional period, an "**Additional Term**"). Such written amendment shall be executed, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable.

5. **Billing and Payment**.

a. **Monthly Charges.**

i. **Energy/NEB Credit Charges.** As compensation for the NEB Credits, Purchaser shall pay Seller monthly (or quarterly, if Seller elects quarterly invoicing under subsection (b) of this **Section 5**) for the Purchaser Percentage of the electric energy and NEB Credits generated by the System and delivered to the Delivery Point at the Contract Price provided in **Exhibit 1, Section 4**. The periodic payment for such energy and NEB Credits will be equal to the Contract Price, multiplied by the Purchaser Percentage (which shall not exceed Purchaser's Not to Exceed Estimated Amount as provided in **Exhibit 2, Section 11**), multiplied by the number of kWh of energy generated during the applicable billing period, as measured by the Utility meter.

ii. **REC Charges**. [Reserved]

b. **Monthly Invoices.** Seller shall invoice Purchaser monthly in arrears, either manually or through ACH. Such monthly invoices shall state (i) the Utility billing period, (ii) Purchaser Percentage of electric energy produced by the System and delivered to the Delivery Point, (iii) the Contract Price for each NEB Credit applicable to the Purchaser under this Agreement, (iv) the total NEB Credits delivered by the Utility to Purchaser, and (v) the total amount due from Purchaser to Seller. Such monthly invoices shall include a copy of the periodic reports provided by the Utility pursuant to the Utility Customer Net Energy Billing Agreement ("**CNEBA**")of the solar production and allocation of NEB Credits to Purchaser's accounts.

c. **Seller's Option for Quarterly Invoicing.** Seller, at Seller's sole option, may elect to invoice Purchaser on a quarterly basis. If Seller exercises the option to invoice quarterly for one or more billing periods, it shall not prohibit Seller from invoicing Monthly thereafter. Seller shall provide Purchaser with at least ninety (90) days prior written notice before changing the frequency of invoicing.

d. **Taxes and Governmental Charges.** Purchaser shall either pay or reimburse Seller for the Purchaser Percentage of any and all taxes assessed on the generation, sale, delivery or consumption of electric energy or billing credits produced by the System or the interconnection of the System to the Utility's electric distribution system; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser for reasons other than Force Majeure or as a result of Purchaser's acts or omissions.

For purposes of this Section 5.d, "Taxes" means any federal, state and local generation, privilege, sales, use, consumption, excise, transaction, and other taxes, but shall not include (i) any property taxes or similar taxes on the System or Premises; or (ii) any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.

e. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) over the prime rate, as published in the Wall Street Journal (but not to exceed the maximum rate permitted by law).

6. **Environmental Attributes and Environmental Incentives**.

a. Unless otherwise specified in **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of NEB Credits under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser and Seller shall cooperate in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives, and Tax Credits. Unless it has elected the REC purchase option in Exhibit 1, Purchaser shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions and if any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

b. **Press Releases**. Unless Purchaser has elected the REC purchase option in Exhibit 1,

i. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser shall submit to Seller for approval any press releases regarding Purchaser's use of solar or renewable energy generated by the System and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

ii. Purchaser acknowledges and consents to Seller's exclusive right to (i) make any claim that NEB Credits provided to Purchaser under this Agreement were generated by the System, (ii) all claims that Seller is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy corresponding to the bill credits purchased by Purchaser and (iii) all rights, title to and ownership of any and all RECs, credits, certificates, and registrations evidencing or representing any of the foregoing attributes and to take any action necessary for Seller to claim, register, sell or otherwise dispose of such interests.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 6. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags tradable renewable credits and Green-e® products.

"**Environmental Incentives**" means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority; provided, however, that "Environmental Incentives" does not mean any electric bill or utility credits related to net metering or net energy billing.

"**Governmental Authority**" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission, a state Public Utilities Commission or Independent System Operator), or any arbitrator with authority to bind a party at law.

"**Tax Credits**" means any and all (a) investment tax credits, (b) production tax credits, (c) similar tax credits, grants, or rights to bonus or accelerated depreciation under federal, state or local law relating to the construction, ownership or production of energy from the System.

7. Conditions to Obligations.

a. **Conditions to Seller's Obligations**. Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:

i. Approval of (A) this Agreement and (B) the Site Lease or similar agreement authorizing use of the Premises, and (C) the Construction Agreement (if any) for the System by Seller and Seller's Financing Parties (if any).

"**Construction Agreement**" as used in this subsection means an agreement between Seller and any contractor or subcontractor to install all or part of the System;

ii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits and/or, in the event the Purchaser elects to purchase RECs, that Seller will be able to transfer, assign and sell to Purchaser such RECs;

iii. Confirmation that the Premises is suitable for the development, installation, construction, interconnection, ownership and operation of the System;

iv. Receipt of all necessary zoning, land use and building permits, licenses, and approvals; and

v. Execution of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system, and for Net Energy Billing of the electricity generated by the System together with Purchaser's utility accounts.

b. **Failure of Conditions.** If any of the conditions listed in subsection (a) and (b) are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate for the satisfaction of the failed conditions. If the Parties are unable to reach agreement, then Seller may terminate this Agreement upon ten (10) days written notice to Purchaser without liability for costs or damages or triggering a default under this Agreement.

c. **Conditions to Purchaser's Obligations**. Purchaser's obligations under Section 5.a are conditioned on the occurrence of the Commercial Operation Date for the System by the Outside Commercial Operation Date specified in Section 8 of **Exhibit 1**, and execution of all necessary agreements with the Utility for Net Energy Billing, as defined in Section 9.b, of the electricity generated by the System among Purchaser's Utility meters and/or accounts. Purchaser agrees to promptly execute all necessary agreements with the Utility for Net Energy Billing upon presentation of such agreements to Purchaser.

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

a. **Permits and Approvals**. Seller, with Purchaser's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

i. any zoning, land use, construction, electrical and building permits, licenses and approvals required to construct, install and operate the System;

ii. any agreements and approvals from the Utility, ISO-NE and/or the Public Utilities Commission necessary in order to interconnect the System to the Utility's electric distribution system and/or net energy bill the energy produced by the System among Purchaser's Utility meters and/or accounts.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals. Where required, Purchaser shall obtain all such agreements, permits and approvals in Purchaser's name to enable and benefit operation of the System; however, Seller shall pay or reimburse Purchaser for all fees required.

b. **Standard System Repair and Maintenance.** Seller shall construct and install the System at the Premises. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, and shall ensure that the System, including applicable environmental controls, are properly operated and maintained. Seller shall ensure that vegetation at the Premises is trimmed (including between and around rows of the System) during the Term so as to maximize solar photovoltaic electric generation at the Premises. Seller shall perform all repairs within standard industry time periods. Seller agrees to contract with ReVision Energy Inc., a local contractor, to develop, install, and perform operations and maintenance for the System and shall not replace ReVision Energy Inc. as its contractor without prior consent from Purchaser, which shall not be unreasonably withheld or delayed.

c. **Breakdown Notice.** Seller shall notify Purchaser within ten (10) business days following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Seller shall undertake any required emergency action or repairs as soon as possible.

d. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, however, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser. Seller shall provide Purchaser with notice of any such suspension in accord with subsection (c).

e. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement; provided, however, that such contractors and subcontractors shall be duly licensed and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for its obligations under this Agreement and for the quality of the work performed by its contractors and subcontractors.

f. **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise; provided, however, that this subparagraph shall not prevent transfer of any applicable warranties to Purchaser in the event Purchaser were to purchase the System.

9. **Purchaser's Rights and Obligations**.

a. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Notwithstanding anything else herein to the contrary, pursuant to Section 19.a., Seller may grant a lien on the System and may assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party.

b. **Net Energy Billing.** Purchaser shall promptly take action and execute any documents required to establish and continue net energy billing with the Utility pursuant to 35-A M.R.S. § 3209-B and Chapter 313 of the Rules and Regulations of the Maine Public Utilities Commission, as may be amended from time to time (all together as the "**Net Energy Billing Rules**"). Purchaser shall receive the value of the NEB Credits from the Utility available under the Net Energy Billing Rules or similar program for the Purchaser Percentage of NEB Credits associated with electric energy generated by the System. As of the Effective Date, Purchaser shall utilize and maintain consolidated billing arrangements with the Utility and its competitive electric provider, if any, as necessary to allow Purchaser to fully utilize NEB Credits delivered under this Agreement.

c. **Net Energy Billing After Twenty Years.**

i. Value of Net Energy Billing Credits. If, twenty (20) years after the Commercial Operation Date or any time thereafter, the Parties extend this Agreement pursuant to **Exhibit 4, Section 4.b** and the Purchaser and System are eligible to participate in Net Energy Billing but the rate used to calculate the value of Purchaser's NEB Credits under Net Energy Billing is reduced by at least twenty percent (20%) compared to the average rate used during the twentieth (20^{th}) Contract Year, then the Parties shall, within thirty (30) days following receipt by Seller from Purchaser of notice of such material change, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Purchaser shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

d. **Educational Opportunities**. Seller shall provide Purchaser with real time access to the System remote metering and data logging for use in Purchaser's curriculum. Seller and Purchaser agree to negotiate in good faith to provide Purchaser with opportunities for classroom instruction and field tours of the System under terms and conditions satisfactory to each Party, including the requirement that Purchaser maintain adequate insurance for such classroom instruction and field tours.

10. **Change in Law**.

"**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which, in the case of any of (i), (ii) or (iii), establishes requirements affecting (x) owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; (y) the Purchaser's or the System's eligibility to participate in Net Energy Billing; or (z) imposes a new regulatory fee or surcharge or other similar additional charge on Purchaser's right to participate in Net Energy Billing which results or is projected to result in a monetary loss to Purchaser equal to 10% or more of the value of the NEB credits over any 12-month period; provided, however, that (1) a change in federal, state, county or any other tax law after the Effective Date of this Agreement and (2) a change in Purchaser's utility tariff or the Net Energy Billing credit tariff that affects the value of NEB credits credited to Purchaser's Utility account(s) by the Utility shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs prior to the 10th Anniversary of the NEB Commercial Operations Date that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement or on the Purchaser's or the System's eligibility to participate in Net Energy Billing, then the Parties shall, within thirty (30) days following receipt by either Party from the other Party of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

In addition, if any Change in Law occurs on or after the 10th Anniversary of the NEB Commercial Operations Date adversely affects the material value of NEB Credits to the Purchaser or the costs to Seller to perform its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by either Party from the other Party of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties If the Parties are unable to agree upon such amendments within such thirty (30) day period, then either Party may request dispute resolution to equitably adjust the terms of the Agreement.

11. **Net Energy Billing Administration**. Purchaser and Seller shall reasonably cooperate in the ongoing administration of any Net Energy Billing Agreement with the Utility, including but not limited to the requirements of the Net Energy Billing Rules, and the following:

a. **Contact Person.** Seller or Seller's Agent shall be the contact person responsible for all communications with the Utility regarding the Net Energy Billing Agreement ("**Contact Person**"), including all actions required of the Contact Person pursuant to the Net Energy Billing Rules and/or the Net Energy Billing Agreement with the Utility. The Parties each agree to assist the Contact Person in obtaining all data, meter information, permits and approvals needed, and to promptly and timely execute all agreements with the Utility as necessary to continue and maintain the Net Energy Billing arrangement.

b. **Net Energy Billing Updates**. Purchaser shall be solely responsible for providing the Contact Person with written notice of any requested changes to be conveyed to the Utility regarding its meters, accounts or account information, or the allocation of NEB Credits among its meters and accounts. Further, Purchaser shall pay Seller for all energy and associated NEB Credits delivered by Seller to Utility pursuant to Exhibit 4, Section 5.a of this Agreement, regardless of whether the Utility properly implements such changes, unless (i) Seller fails to timely convey the requested changes to the Utility as required by this Section or (ii) such failure directly results in a loss of NEB Credits or credit value to Purchaser. Purchaser shall allow the Contact Person at least ten (10) business days to convey changes to the Utility. Purchaser shall be solely responsible for the timeliness of changes to its utility accounts and for the accuracy of any such changes and shall pay in full for NEB Credits that would have been properly credited to Purchaser's utility accounts but for errors, delays or mistakes made by Purchaser in the original NEB Credit program application or updates to the NEB Credit Agreement with the Utility.

c. **Records Maintenance**. The Contact Person and each Party shall maintain for a period of at least two years all records related to the Net Energy Billing Agreement and upon request shall make such information available to the other Party.

d. **Utility Errors; Net Energy Billing Disputes.** The Parties shall timely assist the Contact Person to address and attempt to correct any Utility errors in determining or allocating NEB Credits or credit value. Any Party may initiate a dispute with the Utility at its sole cost and the other party (and Contact Person) will in good faith reasonably cooperate with such disputing Party to investigate and remedy a discrepancy between the measured System generation and the NEB Credits or credit value issued to Purchaser. In the event resolution of such dispute alters the calculation of the amount of electric energy generated by the System and delivered to the Utility such that it alters the generation and allocation of NEB Credits to Purchaser, the Seller shall credit or invoice Purchaser, as applicable, for such revised generation and allocation of credits.

12. **System Measurement**. Seller may install one or more meter(s), as Seller deems appropriate, at or immediately before the Delivery Point to measure the output of the System (energy and RECs). Such meter shall meet revenue grade standards as set by the American National Standards Institute, C12.20 as amended from time to time, or similar class applicable to the electric utility industry. Seller shall maintain the meter(s) in accordance with industry standards. Seller may provide a remote accessible data logging and reporting system during the Term to enable Seller to remotely record and report the amount of electric energy and RECs generated by the System and Purchaser shall also be given access to the data.

13. **Default, Remedies and Damages**.

a. Default. Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed to be the "**Defaulting Party**", the other Party shall be deemed to be the "**Non-Defaulting Party**", and each event of default shall be a "**Default Event**," provided, however, that a Non-appropriation Event pursuant to Exhibit 4, Section 22 shall not be a Default Event:

i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");

ii. failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, however, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

iii. if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

iv. a Party becomes insolvent or is a party to a bankruptcy, reorganization (but not a school reorganization as provided under Title 20-A of the Maine Revised Statutes, as may be amended from time to time), insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect, and, if any such bankruptcy or other proceedings were initiated by a third party, if such proceedings have not been dismissed within sixty (60) days following receipt of a written notice from the Non-Defaulting Party demanding such cure; or

v. Purchaser prevents Seller from installing the System or obtaining required approvals, or in any way prevents or obstructs Seller from delivering bill credits pursuant this Agreement, or prevents Seller from receiving or selling Environmental Benefits, including without limitation RECs. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

i. Remedies for Default. On the occurrence of a Default Event, the Non-Defaulting Party may, after notice of default and failure to cure set forth above, (A) at any time during the continuation of the Default Event, terminate this Agreement or suspend its performance of its obligations under this Agreement, upon five (5) business days prior written notice to the Defaulting Party describing the Default Event that has occurred and is continuing; and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages; provided, however, that the Non-Defaulting Party shall first utilize commercially reasonable efforts to mitigate its damages pursuant to **Section 13.b.iii**. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event.

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

A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to be paid to Seller shall be an amount equal to the product of the Purchaser Percentage and the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty-five percent (35%), for the loss or recapture of (a) the investment tax credit equal to thirty percent (30%) of the System value; (b) MACRS accelerated depreciation equal to eighty-five percent (85%) of the System value, (c) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (d) other financing and associated costs not included in (a), (b) and (c), (2) the net present value (using a discount rate of eight percent (8%)) of the projected payments over the Initial Term post-termination, had the Initial Term remained effective for the full Initial Term, and (3) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Initial Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement.

B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; and (2) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser.

iii. Obligations Following Termination. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event, including but not limited to recruiting a third party to assume Purchaser's obligations under this Agreement. If Purchaser is the Defaulting Party, then Purchaser may propose to Seller third parties eligible and willing to assume Purchaser's obligations under this Agreement; Seller shall act in a commercially reasonable manner with respect to negotiating or entering into any agreements with third parties for the sale of NEB Credits or other products from the System to mitigate Seller's damages as a result of a default by Purchaser or termination of this Agreement. Any Termination Payment owed under Section 13(b)(ii) shall be offset by the Non-Defaulting Party's mitigation of damages pursuant to this paragraph.

14. Representations, Warranties and Covenants.

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

i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, or by action of the Party's governing body, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

iii. There is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein.

iv. No bankruptcy event has occurred and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in a Bankruptcy Event.

v. Neither the execution and delivery of this Agreement by a Party nor the performance by a Party of any of its obligations under this Agreement conflicts with or will result in a material breach or default under any agreement or obligation to which such Party is a party or by which such Party is bound.

b. Purchaser's Representations, Warranties and Covenants. Purchaser represents and warrants to Seller the following as of the Effective Date and covenants that throughout the Term:

i. Authority to Execute. Purchaser has the full right, power, and authority to enter into this Agreement.

ii. Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser is bound.

iii. Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to Purchaser's estimated electricity requirements, is accurate in all material respects.

iv. Purchaser Status. Purchaser is not a public electric transmission and distribution utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

v. No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

15. System Damage and Insurance.

a. System Damage.

i. Seller's Obligations. If the System is damaged or destroyed, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees to pay for the cost of such restoration of the System.

b. Insurance Coverage. At all times during the Term, Seller or Seller's Contractor, as applicable, shall maintain the following insurance:

i. Property insurance on the System for no less than 70 percent of the replacement cost thereof,

ii. Commercial general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate,

iii. Employer's liability insurance with coverage of at least $1,000,000, and

iv. Workers' compensation and automobile insurance as required by law.

c. Policy Provisions. All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (A) not less than ten (10) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (B) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party.

d. Certificates. Upon the other Party's request, each Party shall deliver to the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

16. **Ownership; Option to Purchase**.

a. **Ownership of System**. Throughout the Term (except as otherwise permitted in Sections 3 and 19), Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, Environmental Incentives, and Tax Credits, and the System shall remain the personal property of Seller. Each of the Seller and Purchaser agree that the Seller (or the designated assignee of Seller permitted under Section 19) is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code.

b. **Option to Purchase**. Not applicable.

17. **Indemnification and Limitations of Liability**.

a. **General**. To the greatest extent permitted by applicable law, (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the Purchasers and its officers, directors, agents and employees (collectively, the "**Indemnified Party**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party claims relating to the breach of any material obligation, or material inaccuracy of any representation or warranty set forth in this Agreement and from third party claims related to the injury or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17.a however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17.c.

b. **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17.b unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17.b for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 17.c.i) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents.

i. "**Hazardous Substance**" means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability**.

i. No Consequential Damages. Except with respect to indemnification for third party claims pursuant to this Section 17 and damages that result from the gross negligence or willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents and employees, subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The Parties agree that (1) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a direct result of a Default Event by Purchaser, such recaptured amount as is attributable to the Default Event shall be deemed to be direct and not indirect or consequential damages, and (ii) in the event that a Default Event causes a Party to lose the benefit of sales of such Environmental Attributes to third parties, the amount of such lost sales as is attributable to the Default Event shall be direct and not indirect or consequential damages.

ii. Actual Damages. Except with respect to indemnification for third party claims pursuant to Section 17 and damages that result from the grossly negligent or willful misconduct of or fraud of aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the sum of Purchaser's actual and projected payments during the Initial Term under this Agreement. The provisions of this Section 17.d.ii shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within one (1) year after the cause of action accrues.

18. Force Majeure.

a. "**Force Majeure**" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the construction of the System or of the operation of the System or production, delivery or acceptance of electricity or electric-generating equipment due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, epidemics or pandemics (including unavailability of materials or labor resulting from an epidemic or pandemic), or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure. The parties acknowledge that either Party's, or both Parties', ability to provide uninterrupted performance may be impacted as a direct consequence of the Covid-19 pandemic. To the extent that either Party is, or both Parties are, unable to perform as set forth in this Agreement as a direct result of the Covid-19 pandemic, the Parties will work in good faith to negotiate mutually-agreeable amendments to this Agreement. However, neither Party whose performance is suspended or terminated shall be in breach of any aspect of this Agreement, as a direct consequence of pandemic-related service issues that constitute a Force Majeure event.

b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, however, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Purchaser's ability to make payment.

c. If a Force Majeure event continues for a period of one hundred and twenty (120) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then at any time during the continuation of the Force Majeure event or thereafter, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

19. Assignment and Financing.

a. **<u>Assignment</u>**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party or any affiliate thereof, (ii) directly or indirectly assign this Agreement and the System to an affiliate or subsidiary of Seller, (iii) assign this Agreement and the System to any entity providing financing or capital for the System and (iv) assign this Agreement and the System to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of all of Seller's obligations hereunder by the assignee). In the event of any such assignment, Seller shall be released from all its liabilities and other obligations under this Agreement. However, any assignment of Seller's right and/or obligations under this Agreement shall transfer all of Seller's rights and obligations under this Agreement to the assignee, and shall not result in any change to Purchaser's rights and obligations under this Agreement. Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has substantially comparable technical experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services substantially comparable to those contemplated by this Agreement, and (y) has the financial capability to operate and maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement, and (z) agrees to provide Purchaser with real time access to the System for educational opportunities in Purchaser's curriculum in accordance with Section 9.d. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees; provided, however, that if Purchaser is dissolved or is no longer in existence for any reason, Purchaser shall be deemed to have no successor and this Agreement shall automatically terminate.

b. **<u>Financing</u>**. The Parties acknowledge that Seller may obtain tax-equity, construction and/or long-term financing or other credit support from one or more Financing Parties. "**Financing Parties**" means person or persons providing tax-equity, construction and/or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, mean any person to whom Seller has transferred the ownership interest in the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties <u>provided</u>, that such changes do not alter the fundamental economic terms of this Agreement. In connection with an assignment pursuant to <u>Section 19.a(i)-(iv)</u>, Purchaser agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties. If required by Seller's Financing Parties, Purchaser shall timely provide annual financial reports in form and substance reasonably acceptable to the Financing Party, provided however that such reports shall be subject to confidentiality and non-disclosure requirements as may be reasonably required by Purchaser and further provided that any costs to Purchaser, including reasonable attorney's fees, arising from preparing and delivering such reports to the Financing Party shall be paid by Seller.

c. **<u>Successor Servicing</u>**. The Parties further acknowledge that in connection with any construction or long term financing or other credit support provided to Seller or its affiliates by Financing Parties, that such Financing Parties may require that Seller or its affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the System and/or administrative services with respect to this Agreement (the "**Successor Provider**"). Purchaser agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement.

20. **<u>Confidentiality and Publicity</u>**.

a. **<u>Confidentiality</u>**. If either Party provides confidential information, including business plans, strategies, financial information, Purchaser's customer information with the Utility, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser's business ("**Confidential Information**") to the other, clearly designates such information as confidential upon transmittal to the receiving Party (with the exception of Purchaser's customer information transmitted directly by the Utility to Seller, which shall be treated as Confidential Information notwithstanding any failure on the part of Purchaser or Purchaser's Utility to designate it as such), and provides to the receiving Party a legal basis on which such designation is made , the receiving Party shall (a) protect, to the extent allowed by law, including without limitation the Maine Freedom of Access Act, Title 1 M.R.S. Chapter 13, the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement, including but not limited to obtaining financing for the System. Notwithstanding the above, a Party may provide such Confidential Information to its officials, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information). Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions to the extent allowed by law. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party, subject to applicable law including without limitation Maine's records retention laws and rules.

b. **<u>Permitted Disclosures</u>**. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party, (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality, or (v) in the case of Purchaser, is required to be disclosed pursuant to applicable law, including without limitation the Maine Freedom of Access Act (1 M.R.S.A. §§ 400 et seq.). If disclosure of information is required pursuant to this Section 20.b, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure.

21. **<u>Goodwill and Publicity</u>.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. **<u>Nonappropriation of Funds</u>**. The payment obligations of Purchaser under this Agreement shall constitute a current expense of Purchaser. Any non-substitution, notification, time limitation, or other provision in this Agreement restricting or limiting Purchaser's right to terminate the Agreement upon a Nonappropriation Event (defined below) shall be enforceable only to the extent that such restriction or limitation is permitted by applicable law and would not cause Purchaser's obligation to make payments under the Agreement to be deemed or construed as a debt of Purchaser in contravention of any constitutional, statutory or other legal requirement governing the creation of indebtedness by Purchaser. Nothing in this Agreement shall be deemed a pledge of general tax revenues, funds or monies of Purchaser. Notwithstanding anything contained in this Agreement to the contrary, if a Nonappropriation Event occurs, this Agreement shall automatically terminate on the last day of the fiscal period for which appropriations were received, without penalty or expense to Purchaser of any kind whatsoever, except as to the payments or portions thereof for which funds have been appropriated and budgeted. Seller may, immediately upon becoming aware of a Nonappropriation Event or upon Purchaser's failure to make a payment under this Agreement as a result of a Nonappropriation Event, re-subscribe, sell, transfer, assign and convey to any third party the electrical energy comprising the Purchaser's Percentage and any and all Net Energy Billing Credits and Environmental Attributes associated therewith without penalty or expense to Seller so long as any such re-subscription, sale, transfer, assignment, or conveyance has an effective date as of the automatic termination date, and Purchaser hereby agrees to reasonably cooperate with Seller to effectuate and evidence the termination of this Agreement, the interconnection agreement with the Utility, and any other contract or agreement contemplated herein. All obligations of Purchaser and Seller accruing prior to such automatic termination date will survive any such termination. "**Nonappropriation Event**" means the failure of the legislative body (as such term is used in 20-A M.R.S. §§ 2307 and 1481-A, *et seq.*, as well as any successor provision) of the Purchaser to appropriate funds for the payment Purchaser's obligations under this Agreement.

a. **<u>Purchaser's Additional Covenant</u>**. Purchaser hereby covenants that the Purchaser will do all things lawfully within its power to obtain and maintain funds from which the Purchaser's payment obligations under this Agreement may be made, including making provision for such payment obligations in each proposed annual budget of the Purchaser submitted for approval to its legislative body, in accordance with applicable law and procedures, including without limitation 20-A M.R.S. §§ 2307 and 1481-A, *et seq.*, as may be amended from time to time.

23. **<u>Miscellaneous Provisions</u>**

a. **<u>Choice of Law</u>**. The law of the state of Maine shall govern this Agreement without giving effect to conflict of laws principles.

b. **Arbitration and Attorneys' Fees**. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party. If, after such negotiation, the Dispute remains unresolved, and if the Parties mutually agree, Disputes arising in connection with or under this Agreement, may be finally resolved by binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules/Fast Track Procedures. Unless otherwise agreed in writing by the Parties, any Dispute proceeding shall be held in Cumberland County, Maine. If binding arbitration is approved by both Parties in writing, any such decision rendered by the arbitrator shall be final, binding, and non-appealable. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

c. **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document emailed or electronically sent in PDF form to it as an original document.

d. **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 14 (Representations and Warranties), Section 8.f (No Warranty), Section 15.b (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (Confidentiality and Publicity), Section 22 (Nonappropriation of Funds), Section 23.a (Choice of Law), Section 23.b (Arbitration and Attorneys' Fees), Section 23.c (Notices), Section 23.g (Non-Dedication of Facilities), Section 23.l (Service Contract), Section 23.m (No Partnership) Section 23.n (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 23.p (No Third Party Beneficiaries).

e. **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

f. **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however, that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

g. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 12 of this Agreement.

h. **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within ten (10) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

i. **Capacity & Ancillary Services**. Seller shall be entitled to receive any payments for electric capacity (including savings in the form of reduced demand charges) or ancillary services that may become available as a result of the construction or operation of the System. Purchaser shall provide reasonable assistance to Seller in order for Seller to receive such payments, and if Purchaser is deemed to be the owner or provider of such capacity or services, Purchaser shall assign the same to Seller, provided that Seller shall be responsible for the preparation and submission of any necessary applications or other documents. If Purchaser receives any payments in respect of capacity or such services it shall promptly pay them over to Seller.

j. **No Resale of Electricity**. Except as contemplated by the provisions of this Agreement, the electricity purchased by Purchaser from Seller under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Seller, which approval shall not be unreasonably withheld, and Purchaser shall not take any action which would cause Purchaser or Seller to become a utility or public service company.

k. **Seller Is Not An Electric Utility**. Neither Party shall assert that the Seller is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Seller's obligations or performance under this Agreement.

l. **Service Contract**. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

m. **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

n. **Full Agreement, Modification, Invalidity, E-Signature, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be electronically signed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. Electronic signatures shall be the same as handwritten signatures for the purposes of validity, enforceability and admissibility. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

o. **Forward Contract**. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

p. **No Third Party Beneficiaries**. Except for assignees, and Financing Parties permitted under Section 19, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

End of Exhibit 4

Biddeford Schools
Office of the Superintendent

18 Maplewood Avenue
Biddeford, ME 04005
207.282.8280
biddefordschools.me

TO: Biddeford School Committee
FROM: Jeremy Ray, Superintendent of Schools
DATE: July 6, 2021
RE: **Updated - FY22 School Department Budget - Supplemental Budget**

Governor Janet Mills has approved a supplemental budget that will increase public education funding to 55% from the current percentage of 51.8%. This increase will bring a significant amount of additional education funding to the Biddeford School Department. To achieve 55% funding, the local required mill rate in the state funding formula will be decreased from 7.9 to 7.26. The new budget will bring an additional $1,577,130.67 to the Biddeford School Department.

I recommend the Biddeford School Committee and Biddeford City Council take the following steps:

- Adjust the Board and Council approved FY 21 revenues
- Decrease the tax increase by **$494,265.88 so that no additional tax dollars are needed to support the FY 22 budget**.
- Use the remaining $1,082,864.79 in the following ways
  - Establish a capital improvements fund to assist with future building needs and costs. Items to include:
    - Help offset the use of federal funds in an effort to determine a long term fix for JFK School (possible addition to BPS)
    - Revisit the 5 year Capital Cost Plan and begin to address major items needed for BPS, BIS, and BMS

Allowable Usage of Funds

The following one-time language was also approved as part of the budget to enable school boards to utilize the additional funds appropriated after the majority of SAUs have approved budgets for FY 2022:

Notwithstanding any provision of law to the contrary and for fiscal year 2021-22 only, a school board of a school administrative unit that receives more state education subsidy than the amount included in its budget is authorized to use all or part of the additional subsidy to:
1. Increase expenditures for school purposes in cost center categories described in the Maine Revised Statutes, Title 20-A, section 1485, subsection 1 approved by the school board;
2. Increase the allocation of finances in a reserve fund approved by the school board; or
3. Decrease the local cost share expectation, as defined in section 15671-A, subsection 1, paragraph B, for local property tax payers as approved by the school board.

This section does not apply if a warrant presented at a budget meeting for fiscal year 2021-22 included an article as described in Title 20-A, section 1485, subsection 5 and that article was not approved by the voters at the budget meeting.

Biddeford Schools
est. 1848

2021-2022 School Committee Meeting Calendar

July '21

Su	M	Tu	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August '21

Su	M	Tu	W	Th	F	S
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September '21

Su	M	Tu	W	Th	F	S
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19	20	21	22	23	24	25
26	27	28	29	30		

*9/22 ~ 6PM ~ Policy Committee

October '21

Su	M	Tu	W	Th	F	S
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24	25	26	27	28	29	30
31						

November '21

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14	15	16	17	18	19	20
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28	29	30				

December '21

Su	M	Tu	W	Th	F	S
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

*12/22 ~ 6PM ~ Policy Committee

January '22

Su	M	Tu	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February '22

Su	M	Tu	W	Th	F	S
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13	14	15	16	17	18	19
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27	28					

March '22

Su	M	Tu	W	Th	F	S
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

*3//23 ~ 6PM ~ Policy Committee

April '22

Su	M	Tu	W	Th	F	S
					1	2
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24	25	26	27	28	29	30

May '22

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June '22

Su	M	Tu	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

*6/8 ~ 4PM ~ Policy Committee

5:00 PM

7:00 PM