

Selectboard Executive Session - #1 & #2
1 Avenue A, Turners Falls, MA
Monday, June 26, 2023
7:55 PM

Present: Selectboard Richard Kuklewicz, Christopher Boutwell and Matt Lord, Town Administrator Steve Ellis, Asst. Town Administrator, Walter Ramsey; Director of Assessing Karen Tonelli

RE: Executive Session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to collective bargaining or litigation, as appropriate, Kearsarge; votes may be taken and Executive session in accordance with G. L. c.30A, §21(a)(6) to consider the purchase, exchange, lease or value of real estate, Kearsarge, votes may be taken

Documents: 20-0925 Millers Falls vs Turners Falls, Turners Falls LLC Tax Agreement

Kuklewicz opens the meeting

- Kearsarge requests the Town to pay a portion of the cost of additional improvements that DEP requires to the Burn Dump Cap.
- They maintain some areas are outside the Solar Array and are the Town's expense.
- We are discussing a lease reduction agreement that would allow the Town to pay for its share of the agreed upon capping cost through a reduction in lease revenue from the Phase 1 solar project lease agreement.
- Question is whether this conversation should be connected to ongoing discussion of the Kearsarge PILOT agreement negotiations with the Board of Assessors.

Boutwell makes the motion to adjourn the executive session at 8:15 PM. Seconded by Lord, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Lord – Aye

Boutwell makes the motion to adjourn the regular meeting at 8:15 PM. Seconded by Lord, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Lord – Aye

Approved:

✓ Richard J. Kuklewicz

Release to the Public:

✓ Yes

 Not Yet

7/9/25 Date

Date Released to the Public:

7/9/25

Kearsarge Turners Fall vs Millers Falls LLC

Total Project Size 1,400 MW
 Hard Costs Per Watt 605,000.00 \$/W
 Total Project Cost \$847,000

Montague PP Tax Rate
 Estimated Tax Rate Annual Increase

Turners Falls	
PROJECT HARD COSTS (no labor, I.C., permitting, consulting...)	
panels	\$ 532,000
racking	\$ 154,000
string inverters	\$ 126,000
balance of system	\$ 35,000
	\$ 847,000

Millers Falls 9-25-20	
Project Hard Costs	
Panels	\$517,581.85
Racking	\$131,306.00
Inverters	\$ 114,802.00
Balance of Syste	\$ 121,920.00
Total	\$885,609.85

Turners Falls Actual

Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14
% of depreciated property (concord methodo	90%	75%	65%	50%	40%	30%	30%	30%	30%	30%	20%	20%	20%	20%
Amount of Depreciation	\$ 762,300	\$ 571,725	\$ 412,913	\$ 275,275	\$ 169,400	\$ 101,640	\$ 76,230	\$ 76,230	\$ 76,230	\$ 76,230	\$ 169,400	\$ 152,460	\$ 127,050	\$ 110,110
Project Value	\$ 847,000	\$ 762,300	\$ 635,250	\$ 550,550	\$ 423,500	\$ 338,800	\$ 254,100	\$ 254,100	\$ 254,100	\$ 254,100	\$ 169,400	\$ 169,400	\$ 169,400	\$ 169,400
Tax Rate (with escalation)	\$ 0.0251	\$ 0.0256	\$ 0.0261	\$ 0.0266	\$ 0.0272	\$ 0.0277	\$ 0.0283	\$ 0.0288	\$ 0.0294	\$ 0.0300	\$ 0.0306	\$ 0.0312	\$ 0.0318	\$ 0.0325
Personal Property Tax Payme	\$ 21,251	\$ 19,509	\$ 16,582	\$ 14,659	\$ 11,502	\$ 9,385	\$ 7,180	\$ 7,323	\$ 7,470	\$ 7,619	\$ 5,181	\$ 5,285	\$ 5,390	\$ 5,498
AGREED	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800
Per MW	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714

PROPOSED BY KEARSARGE
 KEARSARGE MILLERS FALLS ROAD

Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14
% of depreciated property (concord methodo	90%	75%	65%	55%	40%	30%	30%	30%	30%	30%	20%	20%	20%	20%
Amount of Depreciation	\$ 797,049	\$ 597,787	\$ 412,913	\$ 302,803	\$ 186,340	\$ 101,640	\$ 76,230	\$ 76,230	\$ 76,230	\$ 76,230	\$ 177,122	\$ 159,410	\$ 127,050	\$ 110,110
Project Value	\$ 885,610	\$ 797,049	\$ 635,250	\$ 550,550	\$ 465,850	\$ 338,800	\$ 254,100	\$ 254,100	\$ 254,100	\$ 254,100	\$ 169,400	\$ 169,400	\$ 169,400	\$ 169,400
Tax Rate (with escalation)	\$ 0.0269	\$ 0.0275	\$ 0.0280	\$ 0.0286	\$ 0.0292	\$ 0.0297	\$ 0.0303	\$ 0.0309	\$ 0.0316	\$ 0.0322	\$ 0.0328	\$ 0.0335	\$ 0.0342	\$ 0.0348
Personal Property Tax Payme	\$ 23,858	\$ 21,902	\$ 17,805	\$ 15,740	\$ 13,585	\$ 10,077	\$ 7,709	\$ 7,863	\$ 8,021	\$ 8,181	\$ 5,563	\$ 5,674	\$ 5,788	\$ 5,904

Kearsarge Turn

Total Project SI 0.435674958
 Hard Costs Per 0.166666667
 Total Project C

Turners Falls A											
Year	15	16	17	18	19	20	SUM	Avg			
% of depreciat	10%	10%	10%	10%	10%	10%					
Amount of Dep	\$ 42,350	\$ 33,880	\$ 25,410	\$ 25,410	\$ 25,410	\$ 25,410					
Project Value	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700					
Tax Rate (with)	\$ 0.0331	\$ 0.0338	\$ 0.0344	\$ 0.0351	\$ 0.0358	\$ 0.0366					
Personal Prope	\$ 2,804	\$ 2,860	\$ 2,917	\$ 2,976	\$ 3,035	\$ 3,096					
AGREED	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800	\$ 10,800					
Per MW	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714	\$ 7,714					
							\$ 161,522	\$ 8,076			
							\$ 216,000				

PROPOSED BY KEARSARGE M											
Year	15	16	17	18	19	20	SUM	Avg			
% of depreciat	10%	10%	10%	10%	10%	10%					
Amount of Dep	\$ 46,585	\$ 33,880	\$ 25,410	\$ 25,410	\$ 25,410	\$ 25,410					
Project Value	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700	\$ 84,700					
Tax Rate (with)	\$ 0.0355	\$ 0.0363	\$ 0.0370	\$ 0.0377	\$ 0.0385	\$ 0.0392					
Personal Prope	\$ 3,011	\$ 3,071	\$ 3,132	\$ 3,195	\$ 3,259	\$ 3,324					
							\$ 176,662	\$ 8,833			

AGREEMENT FOR PAYMENT IN LIEU OF TAXES UNDER M.G.L. c. 59 § 38H(b)

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES UNDER M.G.L. c. 38H(b) (this "Agreement") is made and entered into as of November 6th, 2019 between KEARSARGE TURNERS FALLS LLC, a Massachusetts corporation ("Developer"), and the TOWN OF MONTAGUE a municipal corporation duly established by law and located in Franklin County, Commonwealth of Massachusetts (the "Town"). Developer and the Town may also be referred to collectively as the "Parties," and individually as a "Party."

WHEREAS, Developer plans to build, own and operate a solar photovoltaic facility, anticipated to have an estimated nameplate capacity of approximately 1.4 megawatts ("MW"), direct current ("DC"), and 0.996 alternating current ("AC"), (such facility, as further defined below, the "Project"), utilizing approximately 4.5 acres of a portion of land located at 131 Turnpike Road, Montague, Massachusetts, owned by Kearsarge Turners Falls RE LLC ("Property Owners") and shown as Assessor's Parcel ID 14-0-214 a copy of which map is included in Exhibit A (the "Property");

WHEREAS, it is the intention of the Parties that the Developer make levelized, annual payments to the Town for the term of this Agreement in lieu of real and personal property taxes for the Project in accordance with M.G.L. c.59, §38H(b), and all applicable regulations promulgated pursuant thereto; and

WHEREAS, because both Developer and the Town need an accurate projection of their respective expenses and revenues with respect to the real and personal property that is taxed under law, the Parties believe that it is in their mutual best interest to enter into this Agreement by fixing the payments for all taxable property incorporated within the Project for the term of the Agreement;

WHEREAS, except as provided herein, the Parties intend that, during the term of the Agreement, Developer will not be assessed for any statutory personal property taxes to which it might otherwise be subjected under Massachusetts law and this Agreement will provide for the exclusive payments in lieu of such taxes that Developer (or any successor owner of the Project) will be obligated to make to the Town with respect to the Project during the term hereof, provided, however, that the Parties do not intend for this Agreement to affect any direct payments for services provided by the Town to the Project, including but not limited to water and sewer and similar obligations not in the nature of personal property taxes or substitutes for such taxes that the Developer may otherwise be obligated to pay the Town; and

WHEREAS, the town is authorized to enter into this Agreement with Developer, as the culmination of good faith negotiations that anticipate that the payments in lieu of personal property taxes over the life of the Agreement will amount to the equivalent of the property tax payments that would otherwise be determined under G.L. c. 59 based upon the full and fair cash value of the Project; and

WHEREAS, the Developer acknowledges that the Project is capable of producing more than 125 percent of the annual energy needs of Property, including contiguous and non-contiguous real property owned or leased by the Property Owner and/or Developer or in which the Property Owner and/the Developer otherwise holds an interest.

NOW THEREFORE, in exchange for the mutual commitments and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Payment in Lieu of Personal Property Taxes. Developer agrees to make annual payments to the Town in lieu of personal property taxes attributable to the Project for a period of twenty (20) consecutive fiscal years (each fiscal year beginning July 1 and ending June 30). Each annual payment will be in the amounts set forth in **Exhibit B** (each, an "Annual Payment"), which are based upon and assume a Project with an installed nameplate capacity as set forth above and are subject to adjustment under Paragraphs 16 and 17 for changes in such capacity. Each Annual Payment will be paid on a fiscal year basis in two (2) equal (or, in the Town's reasonable discretion in order to conform payments to the Board of Assessor's valuation of the Project, slightly unequal) installments, each of which shall be due on or before the due date of the Town's semi-annual tax bills (typically October 1 and April 1, each a "Semi-Annual Payment Date") of each fiscal year. Each semi-annual payment amount and due date will be noted on a tax bill to be issued by the Town to the Developer, provided that any failure of the Town to issue such a bill shall not relieve Developer of its obligation to make timely payments hereunder, and provided further that if no bill is issued, Developer shall be in compliance with its payment obligations if it makes all semi-annual installments (for which no bill has been issued by the Town) in equal installments by the dates aforesaid.

The Annual Payments shall commence (the "Commencement Date") with the first semi-annual installment due on October 1, 2020 (the first Semi-Annual Payment Date of a fiscal year) and the second semi-annual installment shall be due on April 1, 2021 and shall end after the second semi-annual installment in FY2040.

Other than as provided herein, Developer agrees that the Annual Payments will not be reduced for any reason (including without limitation on account of a depreciation factor, revaluation or reduction in the Town's tax rate, or legislative action fixing or otherwise setting taxes or payments in lieu thereof for photovoltaic solar facilities); and the Town agrees that, except as otherwise specified in this Agreement, Annual Payments will not be increased for any reason (including without limitation on account of an inflation factor, revaluation or increase in the Town's tax rate or assessment percentage beyond that anticipated by the Parties).

2. Payment Collection. The provisions of General Laws Chapter 60 and other applicable law will govern the collection of any payments in lieu of taxes provided for in this Agreement as though they were real or personal property taxes due and payable to the Town. The Developer acknowledges that if it is not the Owner of Project, then the Owner of the Property has expressly agreed to this provision in the Site Lease for the Project. The Owner of the property has confirmed said acknowledgment either signing this Agreement or by providing a side letter

acknowledging the provision. Furthermore, if Developer breaches its payment obligations under this Agreement, Developer shall pay the reasonable attorneys' fees, court and other costs incurred by the Town in the collection of the unpaid amounts.

3. Tax Status. The Town agrees that during the term of this Agreement, the Town will not assess Developer for any personal property taxes for the Project, and the Town agrees that this Agreement will exclusively govern the payments of all ad valorem real estate and personal property taxes and payments in lieu of such taxes) that Developer will be obligated to make to the Town with respect to the Project and the Property, provided, however, that this Agreement is not intended to affect, and will not preclude, other assessments of general applicability by the Town for excise taxes on vehicles due pursuant to General Laws Chapter 60A and for services provided by the town to the Project, including but not limited to, water and sewer services and similar payment obligations not in the nature of real or personal property taxes or substitutes for such taxes that Developer may otherwise be obligated to pay the Town. The Town agrees that no personal property taxes will be due from or assessed to Developer with regard to the Property other than the Annual Payments described in this Agreement;

4. Successors and Assigns. This Agreement will be binding upon the successor and assigns of Developer, and the obligations created hereunder will run with the Property and the Project. Developer shall not assign this Agreement in whole or in part without the advance written consent of the Town, which shall not be unreasonably withheld, except that Developer may (i) collaterally assign the Agreement to an entity providing financing for construction, operation or maintenance of the Project with advance written notice to the Town, provided that Developer shall not be relieved of its obligations hereunder. In the event that Developer sells, transfers, leases or assigns the Property or all or substantially all of its interest in the Project, this Agreement will thereafter be binding on the purchaser, transferee or assignee;

5. Invalidity. The Parties understand and agree that this Agreement shall be void and unenforceable if (a) this Agreement, or any material portion of this Agreement, is determined or declared by a court or agency of competent jurisdiction to be illegal, void, or unenforceable; (b) Developer is determined or declared by a court or agency of competent jurisdiction to not be a "generation company" or "wholesale generation company" as those terms are used and/or defined in M.G.L. c. 59 § 38H(b), and M.G.L. c. 164 § 1. In the event this Agreement is declared void in accordance with this Paragraph 12, any payments due and/or made to the Town before the date of such declaration shall be and remain property of the Town, and to the extent permitted by law, shall be deemed full satisfaction of the taxes in lieu of which they were made.

6. Statement of Good Faith. The Parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration of the full and fair cash value of the Project, to the extent that such value is determinable as of the date of this Agreement in accordance with General Laws Chapter 59, §38H. Each Party has entered into this Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this Agreement is fair and mutually beneficial to them because it reduces the likelihood of future disputes over real and personal property taxes, establishes tax and economic stability at a time of

continuing transition and economic uncertainty in Massachusetts and the region, and fixes and maintains mutually acceptable, reasonable and accurate payments in lieu of taxes for the Project that are appropriate and serve their respective interests. The Town acknowledges that this Agreement is beneficial to it because it will result in mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes to the Town. Developer acknowledges that this Agreement is beneficial to it because it ensures that there will be mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes for the Project;

7. Additional Documentation and Actions. Each Party will from time to time hereafter, execute and deliver or cause to be executed and delivered, such additional instruments, certificates and documents, and take all such actions, as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement and, upon the exercise by a Party of any power, right, privilege or remedy pursuant to this Agreement that requires any consent, approval, registration, qualification or authorization of any third party, each Party will execute and deliver all applications, certifications, instruments and other documents and papers that the exercising Party may be so required to obtain.

8. Waiver of Valuation Appeal. Developer, by entering into this Agreement, hereby waives and relinquishes, during the term of this Agreement, any right to appeal any and all values for property that is the subject of this Agreement, for any reason and in any forum, and therefore hereby waives any such rights with respect to any annual payments assessed in accordance with the provisions of this Agreement.

9. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, or by mail in a manner of delivery that results in a confirmation of receipt, such as certified mail or federal express. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

To Developer: Kearsarge Turners Falls RE LLC
1200 Soldiers Field Road, Suite 202
Boston, MA 02134

To Town: Montague Board of Assessors
1 Avenue A
Turners Falls, MA 01376

With a copy to: Montague SelectBoard
1 Avenue A
Turners Falls, MA 01376

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

10. Applicable Law. This Agreement will be made and interpreted in accordance with the laws of the Commonwealth of Massachusetts without regard to the law of "conflicts of laws." The Parties each consent to the jurisdiction of the Massachusetts courts or other applicable agencies of the Commonwealth of Massachusetts regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Venue for all actions brought hereunder shall be solely the state courts. Developer agrees to accept service of process, including civil complaints, by certified mail at the address indicated in Paragraph 9 (Notices).

11. Force Majeure. As used herein, an event of Force Majeure is an event beyond the reasonable control of the Parties, and includes, without limitation, the following events:

- a. Acts of god including floods, winds, storms, earthquake, fire or other natural calamity;
- b. Acts of War or other civil insurrection or terrorism; or
- c. Taking by eminent domain by any governmental entity of all or a portion of the Property or the Project.

In the event that a Force Majeure occurs during the term of this Agreement that renders the Project wholly or substantially unable to produce electricity for a period of more than ninety (90) days, Developer may, at its election, terminate the Agreement following expiration of such 90-day period by written notice to the Town, provided that such termination shall be effective no earlier than the end (June 30) of the fiscal year in which said notice is received by the Town, and provided further that the Project will thereafter be assessed and taxed as if this Agreement does not exist.

Notwithstanding the foregoing or any Force Majeure event, Developer shall continue to make Annual Payments without abatement or reduction until this Agreement is terminated, if at all, in accordance with this Paragraph 11.

12. Certification of Tax Compliance. Pursuant to M.G.L. c. 62C, § 49A, Developer by its duly authorized representative, certifies under pains and penalties of perjury that it has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support. Further the Developer hereby certifies that it and the Owner of the Property are current and in compliance with all real estate taxes, personal property taxes and other municipal charges due the Town of Montague and shall remain current and in compliance with such taxes and charges for the term of this Agreement. The failure to comply with this section, after written notice of said failure and an opportunity to cure with thirty (30) days after said written notice, shall be cause for the Town of Montague to assess a Non-Compliance Assessment equal to the difference between the amount of the PILOT payments received as to the date of said notice from the Town of Montague and the amount of

total personal property that otherwise would have been assessed by the Town for the Project from January 1, 2020 to the date of said written notice had the personal property of Project been assessed by the Town as provided in Chapter 59 of the General Laws of Massachusetts. Said amount shall be deemed to be part of the Tax Agreement and shall be subject to collection as provided herein.

13. Covenants, Representations and Warranties of Developer.

a. During the term of the Agreement, Developer will not do any of the following:

1. seek to invalidate this agreement or otherwise take a position adverse to the purpose of validity of this Agreement except as expressly provided herein; or,
2. convey by sale, lease, assignment or otherwise any interest in the Property or Project to any tax-exempt entity or organization, including without limitation a charitable organization pursuant to M.G.L. c.59, § 5 (Clause Third);
3. fail to pay the Town all amounts due hereunder when due in accordance with the terms of this Agreement;
4. seek, for any reason, an abatement or reduction of any of the amounts assessed in accordance with the terms of this Agreement, and Developer hereby waives, during the full term of this Agreement, any rights it may have otherwise had to seek such an abatement or reduction; or
5. seek to amend or terminate this Agreement on account of the enactment of any law or regulation or a change in any existing law or regulation the intent or effect of which is to fix or limit in any way the method for calculating payments-in-lieu-of-taxes for renewable energy facilities.

b. Developer represents and warrants:

1. It is a corporation or other business entity duly organized, validly existing and in good standing under the laws of the state in which it was formed, and if a foreign corporation, is registered with the Massachusetts Secretary of State, and has full power and authority to carry on its business as it is now being conducted.
2. This Agreement constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms, except to the extent

that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting other enforcement of creditors' rights generally or by general equitable principles.

3. It has taken all necessary action to authorize and approve the execution and delivery of this Agreement.

4. The person executing this Agreement on behalf of Developer has the full power and authority to bind it to each and every provision of this Agreement.

5. Developer is a "generation company" or "wholesale generation company" as those terms are used and defined in M.G.L. c. 59, § 38H(b) and M.G.L. c. 164 § 1.

6. Developer does not qualify for a manufacturing classification exemption pursuant to M.G.L. c. 59, § 5(16)(3).

7. The documents and information furnished by Developer to the Town in connection with this Agreement, including but not limited to the Inventory and any update thereto, is true, accurate and complete in all material respects.

8. The performance of Developer's obligations under this Agreement will not violate or result in a breach or default of any agreement or instrument to which Developer is a party or to which Developer is otherwise bound.

14. Covenants of the Town. So long as Developer is not in breach of this Agreement during its term, the Town will not do any of the following:

a. seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement;

b. seek to collect from Developer any property tax upon the leased area or the improvements thereon (including the Project) in addition to the amounts herein;

c. impose any lien or other encumbrance upon the leased area or the improvements thereon (including the Project) except as is expressly provided herein;

15. Entire Agreement. The Parties agree that this is the entire, fully integrated Agreement between them with respect to payments in lieu of taxes for the Project, and that there

are no third party beneficiaries to this Agreement.

16. Improvements or Additions/Retirements. To the extent that Developer, at its sole option, makes any capital improvements to the Project or adds additional personal property on or after the end of Fiscal Year 2021, the remaining payments in lieu of taxes will be increased as described in Paragraph 17. To the extent that Developer, at its sole option, retires or removes any capital improvements from the Project or retires or removes any personal property from the Project on or after the end of Fiscal Year 2021, the remaining payments in lieu of taxes will be decreased as described in Paragraph 17. Notwithstanding the foregoing, consistent with applicable Massachusetts Department of Revenue regulations, only the addition of equipment that adds value to the Project (not including replacement of existing equipment or machinery) will lead to an increase in the payments in lieu of taxes under this Agreement.

17. Calculation of Adjustment. Except as otherwise provided in Paragraph 16, to the extent that on or after the end of Fiscal Year 2021, Developer makes capital improvements to the Project or adds new personal property or equipment to the Project that would increase the generating capacity of the Project and thereby increase the value of the Project under Massachusetts Department of Revenue regulations, the remaining annual payments in lieu of taxes under this Agreement will be increased by the percentage increase in generating capacity. To the extent that the Developer retires or removes property from the Project so as to decrease the generating capacity of the Project, the remaining annual payments in lieu of taxes under this Agreement will be decreased by the percentage decrease in generating capacity.

18. Annual Inventory of Personal Property. Within six (6) months of completion of the construction of the Project, the Parties will agree on a mutually acceptable inventory of personal property incorporated into the Project (hereinafter the "Inventory List"). The Inventory List will be written and will itemize all personal property subject to taxation and adjustment pursuant to Paragraph 16 and will identify the aggregate value of each category of personal property (such categories to be mutually agreed to by the Parties). The general categories for the Inventory Listing are listed in **Exhibit C**. The Parties agree that the categories include all costs for taxable items that will be incurred by Developer in completing the project and will be updated annually and provided to the Town by mailing directly to the Montague Board of Assessors annually no later than June 30th each year. The Town, its officers, employees, consultants and agents will have the right to inspect the Project upon reasonable notice and subject to compliance with Developer's safety requirements.

19. Termination by Town. Notwithstanding anything to the contrary in this Agreement, the Town may terminate this Agreement on thirty (30) days written notice to Developer if:

- a. The Developer fails to make timely payments required under this Agreement, unless such payment is received by the Town within the 30-day notice period with interest as stated in this Agreement, provided, however, that the Town may nonetheless terminate this Agreement if such failure occurs more than one time in any rolling 365-day period, even if each such failure is cured within the 30-day

notice period;

- b. The Developer has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent;
- c. The Developer otherwise materially breaches this Agreement, unless such breach is cured within the 30-day notice period, including payment to the Town of any damages arising from such breach, provided, however, that the Town may nonetheless terminate this Agreement if Developer materially breaches this Agreement more than one time in any rolling 365-day period, even if each such breach is cured within the 30-day notice period; and/or
- d. Developer's representations set forth in Paragraph 13 were untrue, inaccurate, or incomplete in material respects at the time they were made.

Executed under seal by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

TOWN OF MONTAGUE

By: Paul J. Emery
Ann Lanzano

Board of Assessors

Date: 11/18/19

KEARSARGE TURNERS FALLS LLC

By: Andrew J. Bernstein
Manager

Title: November 6, 2019

Date: _____

EXHIBIT A

TO BE INSERTED

EXHIBIT B

Annual Payments Schedule

(Based Upon DC Capacity of 1,200,000 kW)

	<u>Year</u>	<u>Total Annual Payment Due</u>
Fy2021	1	\$10,800
Fy2022	2	\$10,800
Fy2023	3	\$10,800
Fy2024	4	\$10,800
Fy2025	5	\$10,800
Fy2026	6	\$10,800
Fy2027	7	\$10,800
Fy2028	8	\$10,800
Fy2029	9	\$10,800
Fy2030	10	\$10,800
Fy2031	11	\$10,800
Fy2032	12	\$10,800
Fy2033	13	\$10,800
Fy2034	14	\$10,800
Fy2035	15	\$10,800
Fy2036	16	\$10,800
Fy2037	17	\$10,800
Fy2038	18	\$10,800
Fy2039	19	\$10,800
Fy2040	20	\$10,800

EXHIBIT C

Inventory as of January 1, 2020

ITEM	QTY	DESCRIPTION	COST
Modules	3,600	Hanwha Q. Peak Duo LG5.3 395W	\$178.00 ea
Inverters	16	Canadian Solar CSI-60KTL-GS 60kW (1) Canadian Solar CSI-36KTL-GS-FL 361W	\$4,722 ea
Racking	1	RBI Solar Ground mount model GM-2	\$308,574
Data Acquisition System	1	Also Energy, Monitoring and Metering System	
Balance of System	1	Wiring, Conduit, Interconnection Equipment, etc.	\$227,520

