



**INTERCONNECTION AGREEMENT
(FOR BEHIND THE METER GENERATION)**

BY AND AMONG

**THE CITY OF OBERLIN, OHIO AND
OBERLIN SPEAR POINT SOLAR ONE, LLC
AND
OBERLIN COLLEGE**

DATED AS OF SEPTEMBER 18, 2012

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- Exhibit B:** Generating Facility Single Line Diagram
- Exhibit C:** Capacity, Energy, Renewable Energy Credits
- Exhibit D:** Avoided Cost Schedule
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**INTERCONNECTION AGREEMENT
BY AND AMONG
THE CITY OF OBERLIN, OHIO
AND
OBERLIN SPEAR POINT SOLAR ONE, LLC
AND
OBERLIN COLLEGE**

THIS INTERCONNECTION AGREEMENT ("Agreement") is made this 18th day of September, 2012, by and between the City of Oberlin, Ohio, which owns and operates a municipal electric utility duly organized and existing under and by virtue of the laws of the State of Ohio, with its principal office located at 289 South Professor Street, Oberlin, Ohio 44074 ("Municipality") and Oberlin Spear Point Solar One, LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware, with its principal office located at 465 North Mill Street, Aspen, CO 81611 ("Generator") and Oberlin College, an educational institution and a nonprofit corporation existing under and by virtue of the laws of the State of Ohio, with its principal office located at the Cox Administration Building, 70 North Professor Street, Oberlin, Ohio ("College").

RECITALS

- I.** Whereas Generator intends to install and operate a solar photovoltaic generation facility (the "Generating Facility") to be built on a site owned by College and leased to Generator, located at 12500 North Professor Street, Oberlin, Ohio. The Generating Facility is projected to have an export capacity of 2 megawatts (MW) but shall not be more than 2.27 MW of export capacity.
- II.** Whereas Generator and College have entered into that certain Power Purchase Agreement, dated as of May 7, 2012 (the "Power Purchase Agreement"), pursuant to which College shall purchase from Generator energy generated by the Generating Facility, on a combination prepaid and as-delivered basis.
- III.** Whereas Generator, College and Municipality desire to enter into this Agreement for the purposes of (1) engaging Municipality to design and construct the Interconnection Facilities (herein after defined) in order to enable Generator and the College to deliver

1 from time to time, through the College's Facilities, electric capacity and energy not
2 consumed by Generator via such interconnection, from the Generating Facility into the
3 Municipality's electric system and (2) to allow the Generating Facility to be
4 interconnected, through the College's Facilities, and operate in parallel with the
5 Municipality's distribution system in order to offset part of College's electrical
6 requirements.

1 THEREFORE, the parties agree as follows:

2 **1. Interpretation**

3 **1.1 Definitions**

4 **“Actual Costs”** shall have the meaning set forth in Section 3.4.

5 **“Affiliate”** means, in relation to a party, another party that controls, is controlled by or is
6 under common control with that party. **“Control”** means, in this context, (i) with respect
7 to any corporation or other entity having (a) voting shares or the equivalent interest and
8 (b) elected directors, managers or persons performing similar functions, the ownership or
9 power to vote more than fifty percent (50%) of voting shares or the equivalent interest
10 conferring the power to vote in the election of directors, managers or persons performing
11 similar functions, and (ii) with respect to any other entity, the ability to direct and manage
12 its business and affairs.

13 **“Ancillary Power”** has the meaning in Section 2.3.

14 **“Confidential Information”** means all information clearly marked as “Confidential” and
15 relating to any financial aspects (including, without limitation, the pricing of goods and
16 services) of a party’s business operations, the details of the contractual arrangements
17 between the parties, customers and customer lists, contracts with third parties, business
18 plans or strategy, and any other information relating to a party; provided, however, any of
19 the following shall not be Confidential Information:

- 20 (a) Information which is lawfully in possession of the receiving party prior to the
21 time of its receipt from the owner thereof;
- 22 (b) Information which is or becomes part of the public domain through no improper
23 action of the receiving party; and
- 24 (c) Information which was acquired by the receiving party from a third party who did
25 not receive it, directly or indirectly, from the other party, and who did not require
26 the receiving party to hold such information in confidence.

27 **“College’s Facilities”** shall be the underground cable connecting the Generating Facility
28 with the Interconnection Facilities as shown and described on Exhibit E. For purposes of
29 clarity, the term “College’s Facilities” shall not include the underground fiber-optic
30 communication cable parallel to the said power distribution underground cable, or any

1 communications equipment or facilities installed in connection therewith, which College
2 may install or caused to be installed as is so intended.

3 **"Effective Date"** is the first day hereinabove written.

4 **"Emergency Condition"** means a condition or situation, solely in the Municipality's
5 opinion, that creates an imminent or current threat or danger to life or health, or presents
6 an imminent or current physical threat to property or the environment.

7 **"Force Majeure"** means any contingency beyond the affected party's reasonable
8 control, including without limitation, acts of God, strikes, terrorism, riots, war, the denial,
9 suspension, expiration or termination of any permit required in order to operate the
10 Interconnection Facilities or the Generating Facility, the adoption or change of any
11 federal, state or local law, permit, rule or regulation applicable to the Interconnection
12 Facilities or the Generating Facility and the imposition of any material conditions on the
13 issuance or renewal of any permit, license or approval which establishes requirements
14 materially adversely affecting the operation of the Interconnection Facilities or the
15 Generating Facility.

16 **"Generating Facility"** is defined in Recital 1 of this Agreement.

17 **"Generator"** is defined in the introduction of this Agreement.

18 **"Governmental Authority"** means the United States of America, any state, county, city
19 and political subdivision, and any agency, department, commission, board, bureau or
20 instrumentality, or any of them, which exercises lawful jurisdiction over the
21 Interconnection Facilities or the Generating Facility or any of the parties and including
22 the Federal Energy Regulatory Commission, any applicable Regional Transmission
23 Organization, the National Electric Reliability Council and any regional reliability
24 organizations.

25 **"Interconnection Facilities"** means all of the electrical connection facilities (other than
26 the College's Facilities) which must be installed or modified for the purposes of
27 interconnecting Municipality to the Generating Facility through the Point of
28 Interconnection. The Interconnection Facilities are more specifically described in Exhibit
29 A attached hereto and incorporated herein for all purposes.

1 **"Isolating Switch"** means that certain 12 kV pole-mounted isolation switch identified as
2 such on Exhibit B, the Generating Facility Single Line Diagram, attached hereto and
3 incorporated herein.

4 **"Municipality's Engineer"** means the engineer (who may be an employee of
5 Municipality) designated by Municipality as the engineer for the purpose of inspecting
6 the Interconnection Facilities upon completion and providing the certification required
7 under Section 3.4 hereof.

8 **"Permission to Operate"** means the notice granting Generator permission to operate the
9 Generating Facility at its full export capacity.

10 **"Point of Interconnection"** means the point of electrical connection to the Generating
11 Facility side of the Generating Facility's Isolating Switch, as shown on Exhibit B, the
12 Generating Facility Single Line Diagram.

13 **"Prudent Utility Practice"** shall mean any of the practices, methods and acts which, in
14 the exercise of reasonable judgment, in the light of the facts, including but not limited to
15 the practices, methods and acts engaged in or approved by a significant portion of the
16 United States electrical utility industry prior thereto, known at the time the decision was
17 made, would have been expected to accomplish the desired result at the lowest reasonable
18 cost consistent with reliability, safety and expedition. It is recognized that Prudent Utility
19 Practice is not intended to be limited to the optimum practice, method or act at the
20 exclusion of all others, but rather it is a spectrum of possible practices, methods or acts
21 which could have been expected to accomplish the desired result at the lowest reasonable
22 cost consistent with reliability, safety and expedition.

23 **1.2 Other Terms**

24 Other terms may be defined elsewhere in the text of this Agreement and shall have the
25 meaning indicated throughout this Agreement.

26 **1.3 General**

27 (a) The words "hereof," "herein," and "hereunder," and words of similar import,
28 when used in this Agreement, shall refer to this Agreement as a whole and not to
29 any particular provision of this Agreement.

1 (b) The terms defined in the singular shall have a comparable meaning when used in
2 the plural, and vice versa, and all pronouns, whether masculine, feminine, or
3 neuter, may be used interchangeably.

4 (c) Whenever the parties have agreed that approval or consent must be obtained from
5 the other party, such approval or consent shall not be unreasonably withheld,
6 delayed or conditioned.

7 **2. Interconnection and Power Supply**

8 **2.1 Authorization to Interconnect**

9 Municipality authorizes College to interconnect the Generating Facility to Municipality's
10 electric system and to sell certain capacity and/or energy to Municipality pursuant to the
11 terms and conditions of this Agreement. In addition, authorization to interconnect is
12 conditioned upon Generator satisfying all American Transmission System, ("ATSI")
13 Operating and Interconnection Agreement terms for Generator Interconnection set forth
14 by the Municipality's wholesale transmission provider, First Energy. Generator and
15 College each hereby agrees that it shall not interconnect the Generating Facility to any
16 electric system other than that of the Municipality during the period that this Agreement
17 remains in full force and effect.

18 **2.2 Compensation, Capacity and Transmission**

19 In compensation for providing the facilities through which the Generating Facility output
20 is delivered to Municipality, Municipality shall be entitled to all installed capacity and
21 transmission value associated with the operation of the Generating Facility.

22 **2.3 Power Supply to Generator**

23 It is contemplated that Generator will from time to time require capacity and energy from
24 Municipality over and above that which will be provided by the Generating Facility
25 ("Ancillary Power"). In such case, Municipality agrees to provide Ancillary Power to
26 Generator, to the extent it is reasonably able, through the College's Facilities. All
27 Ancillary Power shall be separately measured by the tariff meter at the Interconnection
28 Facilities and shall be invoiced by Municipality to Generator in accordance with the
29 prevailing electric rate set by Oberlin City Council.

2.4 Capacity, Energy, Renewable Energy Credits

Arrangements between the parties regarding capacity shall be handled in the manner set forth in Sections 2.2 and 2.3 respectively. Arrangements regarding energy and renewable energy credits or other environmental attributes shall be mutually agreed upon between the parties after the execution of this Agreement and set forth on Exhibit C. All energy generated by the Generating Facility and delivered to Municipality's electric system includes all associated environmental attributes, including renewable energy credits. Notwithstanding the foregoing, however, or any sale or delivery of energy to the Municipality, College shall retain all right, title and interest in and to such environmental attributes, including renewable energy credits, owned or held by College with respect to the energy generated by the Generating Facility, which environmental attributes (including all renewable energy credits) shall be transferred by Generator to College pursuant to the terms and conditions of the Power Purchase Agreement.

2.5 Sale of Energy

Except as otherwise set forth on Exhibit C, Municipality shall credit the College's avoided cost, as determined by Municipality, using the methodology set forth on Exhibit D attached hereto and incorporated herein, from time to time, for any energy made available to and delivered into Municipality's electric system through the College's Facilities by Generator.

3. Interconnection Facilities

3.1 Design

Municipality shall design the Interconnection Facilities in accordance with Prudent Utility Practice so as to assure that such facilities are reliable, safe and sufficient to enable Generator and College to supply at least 2.27 MWs of electric power through the College's Facilities across the Point of Interconnection.

3.2 Interconnection Plans

The plans and specifications for the design and installation of the Interconnection Facilities (the "Interconnection Plans") are set forth in Exhibit H. Any changes to the Interconnection Plans after the execution of this Agreement shall be subject to the review and approval of Generator and College.

1 **3.3 Timing of Installation**

2 Municipality shall schedule the work necessary to install the Interconnection Facilities,
3 with due regard to Municipality's work load, and provide a copy of such schedule to
4 College and Generator. Municipality shall use its best commercially reasonable efforts to
5 complete the installation of the Interconnection Facilities by September 18, 2012.

6 **3.4 Installation**

7 Subject to the terms and conditions set forth herein: (a) Municipality shall cause to be
8 installed, tested and placed in service ready for use by College and Generator, the
9 Interconnection Facilities in a timely manner as described in Section 3.2; and (b)
10 Generator shall cause to be installed in a timely manner the Generating Facility and the
11 College's Facilities. The Interconnection Facilities, the College's Facilities, and the
12 Generating Facility shall be constructed in accordance with Prudent Utility Practice and
13 in compliance with all permits, licenses and other authorizations required by any
14 Governmental Authority and with applicable law.

15 **3.5 Ownership, Maintenance, and Repair**

16 Upon completion of the Interconnection Facilities, Municipality covenants and agrees
17 that during the term of this Agreement, it shall own, maintain and operate, all in
18 accordance with Prudent Utility Practice, the Interconnection Facilities, and Generator
19 covenants and agrees it shall own, maintain and operate the Generating Facility in
20 accordance with Prudent Utility Practice. In addition, Municipality covenants and agrees
21 during the term of this Agreement to operate, maintain, repair and/or replace the
22 College's Facilities as set forth on Exhibit E. For providing the above referenced
23 services, Municipality shall be compensated as set forth in Section 2.2.

24 **3.6 Permission to Operate**

25 Upon completion of the Interconnection Facilities and substantial completion of the
26 Generating Facility and the College's Facilities, and subject to meeting the terms and
27 conditions of this Agreement, Municipality shall deliver to Generator the Permission to
28 Operate.

4. Operation and Access

4.1 Generator's Conditions of Operation of the Generating Facility

Generator must maintain acceptable conditions of operation of the Generating Facility, in accordance with Prudent Utility Practice relating to voltage profile, frequency fluctuations, power factor, harmonic distortion and other operating parameters so as not to, in Municipality's sole opinion, which shall be reasonably exercised, materially degrade quality of service or reliability of Municipality's electric system ("Conditions of Operation"). To the extent Municipality reasonably deems necessary, it shall set forth in Exhibit F the Conditions of Operation. The Conditions of Operation may be modified from time to time by Municipality in accordance with Prudent Utility Practice.

4.2 Power Factor

- (a) Municipality needs to manage the voltage levels and VAR flow on its electric system to ensure that voltage levels are maintained in accordance with Prudent Utility Practice and that Municipality does not incur any power factor penalty or suffer adverse operating conditions. Accordingly, Municipality shall instruct Generator to operate the Generating Facility such that the power factor is controlled to meet Municipality's requirements and Generator agrees to comply with such instructions to the extent possible within the safe operating limits of the Generating Facility. To the extent Municipality deems necessary, it shall set forth in Exhibit G the safe operating limits of the Generating Facility.
- (b) The means of dispatch of the instructions regarding the power factor shall be specified in the Conditions of Operation, as described in Section 4.1 above.
- (c) Municipality agrees to use Prudent Utility Practice with regard to the installation of adequate capacitor banks or other reactive power control equipment within its system, but, to the extent such is required as a result of the operation of the Generating Facility, then Generator shall pay an appropriate allocation of the costs thereof, which allocation of costs shall not exceed \$15,000.
- (d) The Generator shall also reimburse Municipality for the cost of any power factor penalties that Municipality incurs as a result of Generator failing to comply with

1 this Section. When applicable, Municipality shall invoice Generator for these
2 costs monthly and Generator shall pay the amount within thirty (30) days of
3 receipt of the invoice.

4 **4.3 Cooperation of Municipality, College and Generator**

5 (a) Each party will cooperate with the others to maintain the connection of the
6 Generating Facility with Municipality's system through the College's Facilities,
7 in accordance with Prudent Utility Practice consistent with the other terms and
8 conditions hereof. Generator and College recognize that from time to time
9 Municipality may have reasonable cause to request that the Generating Facility
10 and/or the College's Facilities be disconnected from Municipality's system in
11 order to perform system maintenance or repairs, or in the case of an Emergency
12 Condition. In such circumstances, Municipality may request that Generating
13 Facility and/or the College's Facilities disconnect from its system, and Generator
14 and College agree to comply with such request in a timely manner. If Generator
15 and/or the College fail to disconnect from the Municipality's system in a timely
16 manner as requested, Municipality may disconnect the Generating Facility
17 without further notice, and without liability for any damage or loss suffered.
18 Wherever reasonable, Municipality shall give Generator and College at least
19 twenty-four (24) hours notice that it needs to disconnect.

20 (b) Municipality agrees that it will perform the maintenance or repairs, or cure the
21 Emergency Condition (as the case may be) and restore the system to a condition
22 suitable for the Generating Facility and/or the College's Facilities to be
23 reconnected as expeditiously as possible under the circumstances in accordance
24 with Prudent Utility Practice. Municipality agrees to notify the Generating
25 Facility operator and/or the College as soon as reasonably possible that
26 Municipality's system is in a suitable condition for Generator to reconnect the
27 Generating Facility and/or College's Facilities. Upon receipt of such notification,
28 Generator may reconnect the Generating Facility.

4.4 Rights of Access

Generator and College agree to give Municipality and its designated agents access to the Generating Facility grounds and its facilities to the extent reasonably necessary for the purposes of operating, maintaining and testing the College's Facilities and the Interconnection Facilities. Unless prevented from doing so by an Emergency Condition, Municipality shall give the College and Generator reasonable advance notice prior to such access and Generator, College, or their respective designated agents, shall have the right to accompany Municipality representatives during such access.

4.5 Metering

Municipality shall own, install, inspect and test the tariff meter at the Point of Interconnection upon installation and at least annually thereafter. Municipality shall provide Generator and College with reasonable advance notice of, and permit a representative of Generator and College to witness and verify, such inspections and tests. Upon request by Generator or College, Municipality shall perform additional inspections or tests of the meter and shall permit a representative of Generator and College to witness and verify such inspections and tests. The cost of any such requested additional inspection or testing shall be borne by the party requesting the test, unless the results show that the meter is inaccurate by more than one percent (1.0%), in which case the cost shall be borne by Municipality. If at any time the meter is found to be inaccurate or defective, Municipality shall adjust, replace or repair the meter. Municipality shall provide copies of all inspection or testing reports to Generator and College.

5. Term and Agreement

This Agreement shall become effective on the Effective Date, and, unless sooner terminated as provided in this Agreement, shall remain in full force and effect for twenty-five (25) years and thereafter until terminated by a party with twelve (12) months written notice of termination to the other parties.

6. Compliance with Laws/Permits

Municipality, College and Generator, at their sole respective expense, shall comply with all applicable laws, rules, regulations and orders of any Governmental Authority with

jurisdiction over their respective obligations under this Agreement, whether now in existence or hereinafter enacted, issued or promulgated, and shall use diligent efforts to timely obtain and maintain in force all licenses, permits and governmental approvals necessary to lawfully perform their respective obligations hereunder. The parties agree to cooperate with each other in connection with any reporting or other requirements of any Governmental Authority and will keep each other advised regarding their progress toward obtaining any necessary authorizations.

7. Force Majeure

7.1 Force Majeure

If any party's operations or performances of its obligations hereunder are at any time prevented or affected by an event of Force Majeure, then, except as otherwise limited in this Agreement and, except for payment of amounts due hereunder, the performance of its operations or obligations to the extent so prevented or affected shall be excused without liability or termination hereunder so long as it complies with Section 7.2 and is making reasonable efforts to remedy or overcome the cause preventing or affecting the performance of its operations or obligations, and this Agreement shall continue in full force and effect thereafter for the balance of the term hereof until such party is permitted to resume its operations.

7.2 Obligation to Diligently Cure Force Majeure

If any party shall rely on the occurrence of an event of Force Majeure as a basis for being excused from performance of its obligations under this Agreement, the party relying on the event or condition shall (a) provide prompt notice to the other party or parties of the occurrence of the event or condition giving an estimation of its expected duration and the probable impact on the performance of its obligations hereunder, (b) exercise all reasonable commercial efforts to continue to perform its obligations hereunder, (c) expeditiously take action to correct or cure the event or condition excusing performance, (d) exercise all reasonable efforts in accordance with Prudent Utility Practice to mitigate or limit damages to the other parties, and (e) provide prompt notice to the other parties of the cessation of the event or condition giving rise to its excuse from performance;

provided that, nothing herein shall require any party to settle any labor dispute on terms not satisfactory to that party.

8. Events of Default

In the event any party commits any of the following acts ("Events of Default")

- (a) fails to pay any other party any sum when due hereunder, or
- (b) breaches in any material respect any material covenant or obligation contained in this Agreement,

then, upon the occurrence of an Event of Default under clause (a) or (b) and the continuation of such Event of Default for more than sixty (60) days after receipt by the defaulting party of written notice from the non-defaulting parties, the non-defaulting parties may, in addition to all other rights and remedies to which it may be entitled hereunder, at law or in equity, terminate this Agreement at any time thereafter during the pendency of such default by a second written notice to the defaulting party; provided, if the Event of Default under clause (b) is of a nature which cannot be cured within sixty (60) days, then no Event of Default under clause (b) shall be deemed to have occurred so long as action to correct the breach is initiated with said sixty (60) day period and thereafter diligently continued until such breach is corrected.

9. Indemnification and Insurance

9.1 General

Each party shall be solely responsible for the acts and omissions of itself and its employees, officers, partners, shareholders, affiliates, invitees and agents. This Agreement shall not be construed to create a contractual obligation for any party to indemnify any other party for loss or damage resulting from any act or omission of any other party or its employees, directors, officers and agents. This Section 9.1 shall not constitute a waiver by any party or any rights to contribution or subrogation which the party may have against the other.

1 **9.2 Insurance**

2 Each party agrees to maintain such insurance coverage, or undertake a program of self-
3 insurance if approved by the other parties, of its assets in accordance with Prudent Utility
4 Practice including without limitation, such liability, property damage and statutorily
5 required insurance (such as worker's compensation insurance). Each party will provide
6 the other with evidence of such insurance upon request.

7 **10. Successors and Assigns**

8 **10.1 Successors and Assigns**

9 This Agreement shall be binding upon and inure to the benefit of the successors and
10 assigns of the parties hereto, as permitted pursuant to Section 10.1 through 10.6, below.

11 **10.2 Collateral Assignment**

12 The parties shall have the right at any time, to mortgage, create or provide for a security
13 interest in, or convey in trust all or a part of its interest in their respective facilities, under
14 deeds of trust, mortgages, indentures, collateral assignments or security agreements, as
15 security for its present or future debts or other obligations or securities, without need for
16 the consent of the other parties.

17 **10.3 Permitted Assignments**

18 Each party shall have the right to transfer all, but not less than all, of its interest in this
19 Agreement with the consent of the other parties; provided, however, that consent of the
20 other parties shall not be required for Generator's assignment of this Agreement to an
21 Affiliate or for any assignment permitted by Section 10.2. Consent required by this
22 Section shall not be unreasonably withheld, conditioned, or delayed.

23 **10.4 Transferee to Assume Obligations**

24 Except for any mortgagee, trustee, secured party or other holder of a lien or security
25 interest under Section 10.2, who has not taken possession of or foreclosed upon the
26 interest of a party, any transferee of the interest of a party to this Agreement shall assume
27 and be obligated to fully perform and discharge all of the obligations of such party under
28 this Agreement. The transferring party or the transferee shall notify the other parties in

1 writing (the "Transfer Notice") of the date of the transfer and furnish the other parties
2 evidence of such transfer, whereupon the transferring party shall be released from its
3 obligations under this Agreement arising after the effective date of such transfer (which
4 date, however, shall not predate the date of the Transfer Notice by more than thirty (30)
5 days).

6 **10.5 Other Licenses, Permits and Agreements**

7 Any transactions allowed under this Section 10 shall not violate the terms of any license,
8 permit or other governmental approval or consent required for performances under this
9 Agreement.

10 **10.6 Prohibited Assignments**

11 Except as otherwise provided in this Section 10, no party shall assign its interests in this
12 Agreement in whole or in part without the prior written consent of the other party.

13 **11. Notices**

14 **11.1 Method of Delivery**

15 Any notice to be given by a party to this Agreement shall be given in writing and may be
16 effected by personal delivery, facsimile transmission, electronic delivery or sent by
17 certified United States mail, postage prepaid, addressed as follows:

18 (a) If to Municipality:

19
20 Oberlin Municipal Light and Power System
21 289 South Professor Street
22 Oberlin, Ohio 44074
23 Attn: Steve Dupee
24 Title: Electric Director
25 Email: sdupee@omlps.org
26 Phone: 440-775-7260
27 Facsimile: 440-775-1546
28

29 (b) If to Generator:

30
31 Oberlin Spear Point Solar One, LLC
32 465 North Mill Street
33 Aspen, Colorado 81611
34 Attn: Sam Houston

1 Title: President and Chief Executive Officer
2 Email: sam@spearpointenergy.com
3 Phone: 970-920-2525
4 Facsimile: 970-920-2527
5

6 with a copy to:
7

8 Holland & Hart LLP
9 555 17th Street, Suite 3200
10 Denver, Colorado 80202
11 Attn: Leslie Boyle
12 Title: Attorney
13 Email: lsboyle@hollandhart.com
14 Phone: 303-295-8022
15 Facsimile: 303-558-4159
16

17 (c) If to College:
18

19 Oberlin College
20 70 North Professor Street
21 Oberlin, Ohio 44074-1090
22 Attn: Ronald R. Watts
23 Title: Vice President for Finance
24 Email: ron.watts@oberlin.edu
25 Phone: 440-775-8460
26 Facsimile: 440-537-3124
27

28 with a copy to:
29

30 Oberlin College
31 70 North Professor Street
32 Oberlin, Ohio 44074-1090
33 Attn: Sandhya Subramanian
34 Email: sandhya.subramanian@oberlin.edu
35 Phone: 440-775-8401
36 Facsimile: 440-537-3124
37

38 **11.2 Time of Receipt**

39 Any notice sent in compliance with the requirements of this Section 11 shall be deemed
40 received on the date such notice is actually received by the party or parties to whom such
41 notice is addressed.
42

1 **12. Confidential Information**

2 Each party shall hold Confidential Information of the other parties in absolute confidence
3 and not disclose Confidential Information to any third (3rd) parties (exclusive of
4 Affiliates), except upon prior written approval of the party owning such Confidential
5 Information; provided, however, that Confidential Information may be disclosed (a) to
6 the auditors, attorneys, consultants, advisors and directors of each party and their
7 respective Affiliates, (b) as may be required as appropriate in any report, statement or
8 testimony submitted to any municipal, state or federal regulatory body having or claiming
9 to have jurisdiction, (c) as may be required or appropriate in response to any summons or
10 subpoena or in connection with any litigation, or (d) in order to comply with any law,
11 order, regulation or ruling, including without limitation, the rules and regulations of any
12 applicable recognized stock exchange. Each party shall limit the disclosure of
13 Confidential Information of the other parties to those employees who must have access
14 thereto for purposes of this Agreement. Each party shall take all such steps as are
15 reasonably necessary and appropriate to assure adherence to the confidentiality
16 requirements of this Section 12.

17 **13. Dispute Resolution**

18 If a dispute between any parties should arise under this Agreement, then the parties agree
19 that the following representatives: (i) City Manager for Municipality, (ii) the Vice
20 President for Finance for the College, (iii) the President for Generator, and (iv) such
21 substitute representative of each having all necessary authority to resolve such disputes as
22 may be designated in writing by one party to the other parties, will undertake for a period
23 of up to twenty-one (21) days to resolve such dispute in an amicable, mutually agreeable
24 way. Should the representatives be unable to resolve the dispute during such time period,
25 then the parties may agree for submission of the dispute to non-binding mediation at any
26 parties' sole option or submit the dispute for litigation before the State and Federal courts
27 located in the State of Ohio and the parties hereby agree to the exclusive jurisdiction and
28 venue of such courts.

1 **14. Miscellaneous**

2 **14.1 Modification**

3 This Agreement shall not be changed or modified except by a subsequent agreement in
4 writing signed by all parties hereto.

5 **14.2 Waiver**

6 The waiver by any party of any failure on the part of the other party to perform in
7 accordance with any of the terms or conditions of this Agreement shall not be construed
8 as a waiver of any future or continuing failure, whether similar or dissimilar thereto.
9 Except as otherwise expressly provided herein, no waiver of any right shall be implied by
10 any delay by a party in enforcing or acting under such right. Waivers shall be effective
11 only if specifically set forth in writing signed by the party to be charged with such
12 waiver.

13 **14.3 No Partnership**

14 Nothing herein shall be construed as creating a partnership among the parties hereto nor
15 creating liability on the part on one party for any act or omission of the others.

16 **14.4 Independent Contractors**

17 The relationship of the parties shall be that of independent contractors.

18 **14.5 Remedies Cumulative**

19 No remedy or election hereunder shall be deemed exclusive but shall, wherever possible,
20 be cumulative with all other remedies at law or in equity.

21 **14.6 Governing Law**

22 This Agreement and any provisions contained herein and any issues related thereto shall
23 be governed by and construed in accordance with the laws of the State of Ohio, without
24 regard to its conflict of law principles.

25 **14.7 Survival**

26 The provisions of this Section 14 shall survive the termination of this Agreement.
27

1 **14.8 Severability**

2 The invalidity, in whole or in part, of any provision of this Agreement will not affect the
3 validity of any other provision of this Agreement.

4 **14.9 Entire Agreement**

5 This Agreement, including any schedules thereto, contain the complete agreement
6 between the parties with respect to the matters contained in this Agreement and
7 supersedes all other agreements, whether written or oral, with respect to the matters
8 contained in this Agreement.

9 **14.10 Additional Documents and Actions**

10 Each party agrees to execute and deliver to the others such additional documents, and
11 take such additional actions (including without limitation cooperation with any lender of
12 the other party in execution of documents reasonably required by such lender), as may be
13 reasonably required by the other to effect the intent of this Agreement.

14 **14.11 Captions**

15 The captions contained in this Agreement are for convenience and reference only and in
16 no way define, describe, extend or limit the scope or intent of this Agreement or the
17 intent of any provision contained in this Agreement.

18 **14.12 Counterparts**

19 This Agreement may be executed in one or more counterparts, each of which shall be
20 deemed an original, and all of which shall be deemed one and the same Agreement.

21 **14.13 Limitation of Damages**

22 Notwithstanding any contrary provision hereof, and to the full extent permitted by
23 applicable law, each party unconditionally waives any and all right to claim or receive
24 consequential damages (including without limitation, lost profits) and special, indirect,
25 punitive and exemplary damages, arising from or attributable to any default or breach, or
26 any alleged default or breach, of the other parties under this Agreement or in connection
27 with the transactions contemplated hereby.

1 IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of
2 the Effective Date.

3
The City of Oberlin, Ohio

By: [Signature]
Name: Eric Norenberg
Title: City Manager

Approved as to form:

By: [Signature]
Name: Eric R. Sevlvs
Title: Oberlin Law Director

Oberlin Spear Point Solar One, LLC

By: [Signature]
Name: Sam Houston
Title: MANAGER

Oberlin College

By: [Signature]
Name: RONALD R. WATTS
Title: V.P. for FINANCE

Exhibit A
Description of Interconnection Facilities

The Interconnection Facilities shall consist of the following equipment:

- A 12 kV riser pole and associated distribution equipment linking the Generating Facility with the BWO1 12 kV electric circuit originating from the Butternut Road Substation.
- A pole-mounted isolation switch at the 12 kV riser pole.
- A pole-mounted metering rack with two (2) potential transformers and three (3) current transformers.
- A pole-mounted fiberglass metering and communications j-box and associated metering and communications equipment.
- A fiber optic link from the 12 kV riser pole to the Butternut Road Substation existing SCADA RTU.
- A tariff meter to measure the generation output from the Generating Facility and to measure ancillary power provided to the Generating Facility station by Municipality.

Exhibit B
Generating Facility Single Line Diagram

Exhibit C
Capacity, Energy, Renewable Energy Credits

[TO BE ATTACHED AFTER EXECUTION OF THE AGREEMENT.]

Exhibit D
Avoided Cost Schedule

On a monthly basis, Municipality shall read the tariff meter measuring the generation output from the Generating Facility to the Municipality's distribution system and the ancillary power provided from the Municipality to the Generating Facility through the College's Facilities.

The College shall be entitled to a monthly avoided cost credit on their retail electric bill equal to the "Net Energy Output" multiplied by the Municipality's "Net Energy Credit".

For the purposes of calculating the avoided cost and Net Energy Credit under this Exhibit D:

"Net Energy Output" shall be defined as "The measurement of the total electric energy produced by the Generating Facility and delivered into the municipality's distribution system on a monthly basis".

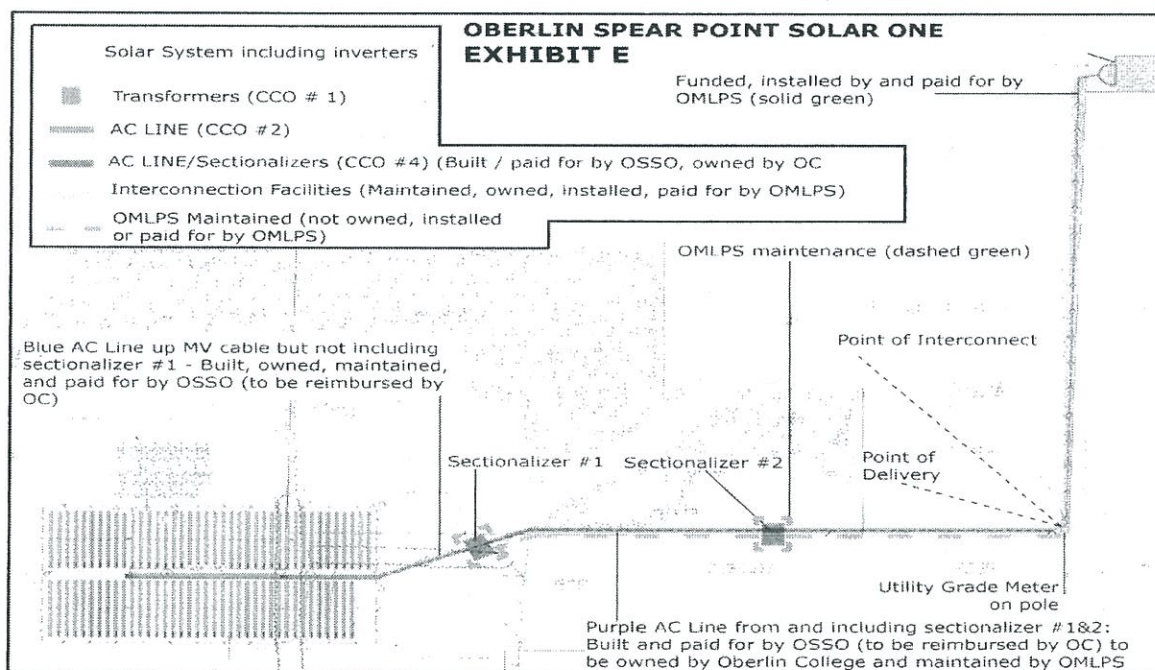
"Net Energy Credit" shall be defined as "a fixed energy rate of \$85.00 per megawatt- hour.

Exhibit E

Underground Cable Maintenance

The College's Facilities shall consist of the underground AC cable system from the Point of Interconnection to sectionalizing cabinet #1 as illustrated on the diagram below. Following the installation, testing and commissioning of the Interconnection Facilities, the College's Facilities, and the Generating Facility to the mutual acceptance by the parties, Municipality agrees to maintain, repair and/or replace the College's Facilities. Municipality's maintenance responsibilities shall be limited to the normal operating conditions of the College's Facilities. Under no circumstances shall Municipality's maintenance responsibilities extend to special, negligent, incidental or consequential damages to the College's Facilities by the Generator, College or any other persons.

In the event that maintenance of the College's Facilities in the disconnection of the Generating Facility from the Municipality's distribution system, Municipality shall work in a timely manner to restore service in accordance with Prudent Utility Practice.



For purposes of clarity, the term "College Facilities" shall not include the underground fiber-optic communication cable parallel to the said power distribution underground cable, or any communications equipment or facilities installed in connection therewith, which College may install or cause to be installed as is so intended. Municipality shall have no maintenance obligations with respect to any fiber-optic communications cable or communications equipment or facilities installed in connection therewith, except to the extent required as a result of Municipality's negligence or willful misconduct.

Exhibit F
Conditions of Operation

Exhibit G
Safe Operating Limits

Exhibit H

Interconnection Plans

[MUNICIPALITY TO PROVIDE.]

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