TOWN OF GRAY

GRAY TOWN COUNCIL

AGENDA • FEBRUARY 27, 2023

Gray Town Council Budget Workshop	**Town Council Chambers** **24 Main Street, Gray, ME 04039** **https://us06web.zoom.us/j/81408246883** **Phone 646-558-8656 / Meeting ID: 81408246883**	**4:00 PM**

CALL TO ORDER
Roll Call

PRESENTATION OF INITIAL BUDGET 4:00 - 4:15 PM

BUDGET - ASSESSING 4:15 - 4:45 PM

1. Highest use/LD 1129 act related to the valuation of improved real property impacts
2. Senior Tax Assistance (under Community)

BUDGET - ADMINISTRATION 4:45 - 6:30 PM

1. Health insurance increase
2. Utilities – Solar Array discussion
3. Elections
4. Manager's contingency fund
5. Staff reorganizations – HR Director, Asst to Town Manager, Clerks
6. COLA/merit/salary adjustments
7. Retirement benefits review

Follow-up:
- What is the total in the basketball court lights' fund?
- What is the total in the skateboard park fund?
- Updated ARPA spreadsheet to reflect 2/2 workshop discussion

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St., Gray, Maine 04039
www.graymaine.org

OFFICE OF THE ASSESSOR
Lauren Asselin, Assessor
lasselin@graymaine.org
207-657-3339 ext. 112

February 21, 2023

To: Town Council
From: Lauren Asselin
Re: Senior Property Tax Assistance Program

The deadline for the Senior Property Tax Assistance Program was February 15, 2023. There were 39 qualifying applicants with a total assistance amount granted of $18,825.79.

The available funds for fiscal year 2023 were $25,053.71.

- FY2022 - $25,000 budgeted
- FY2022 –$12,446.29 – assistance granted
- FY2023 - $12,500 budgeted
- FY2023 - $18,825.79 – assistance granted

Ending balance - $6,227.92

To bring the available funds in this account to $25,000 for FY2024, we will need to budget $18,772.08.

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ADMINISTRATION
Jonathan Hartt, HR Director
jhartt@graymaine.org
(207) 657-3339 x102

MEMORANDUM

Date: February 24, 2023
To: Gray Town Council
From: Jonathan Hartt
Re: Benefits Costs

The Town's health insurance plan (Harvard Pilgrim PPO, a high-deductible plan which includes hospitalization and major medical expenses) saw a 12% cost increase in FY23 (from $664,177 to $745,513). In 2022, our insurance broker informed us that this compared well with other plans as "the trend is currently 14%, but I've seen many in the mid 20's." Today our broker advised me to budget for a 20% increase in the coming fiscal year, which means the cost for a comparable healthcare plan would be $894,616. The Town contributes 80% of health insurance premium costs ($715,693) and eligible employees contribute 20%.

The Town also contributes toward eligible employees' deductible and out-of-pocket expenses through a Health Reimbursement Account (HRA) administered by Group Dynamic. From FY20 to FY22, the HRA's average annual cost to the Town was $179,076. However, to be safe I feel we should budget $200,000 for the HRA. Total requested amount for health insurance: $915,693.

In addition, the Town-funded Basic Life Insurance and Accidental Death & Dismemberment plan via Lincoln Financial is $8,000. The Town-funded Employee Assistance Program (EAP) via Lincoln Financial is $4,800.

We will continue to make every effort to contain costs in FY24, but these benefits are based on market rates. It is our hope that the Council will continue to fund these benefits as they remain an important recruiting and retention tool.

ESTOPPEL CERTIFICATE
(LANDLORD AND OFFTAKER)

December 8, 2020

Reference is made to that certain License Agreement dated as of November 19, 2019 (the "License") and that certain Amended and Restated Solar Power Purchase Agreement dated as of November 19, 2019, as amended by that certain Amendment No. 1 to Solar Power Purchase Agreement dated as December 19, 2019 and that certain Amendment No. 2 to the Solar Power Purchase Agreement dated as of November 4, 2020 (the "PPA" and together with the License, collectively, the "Agreements") between ReVision Solar Impact Partners LLC, a Maine limited liability company, (the "Company"), and the Town of Gray ("Counterparty"), for the solar energy generation facility located at Seagull Drive, Gray, Maine 04039 (the "Facility").

This certificate is being delivered in connection with (i) an equity financing by North Easton Savings Bank, a Massachusetts state chartered mutual savings bank ("Investor"), and (ii) a loan by NBT Bank, a national banking association ("Lender" and, together with Investor, collectively the "Reliance Parties"), both of which will fund the development of the Facility. As a condition to their financings, the Reliance Parties require the Company to obtain the Counterparty's confirmationand agreement as to certain matters. Capitalized terms used but not defined herein have theirassigned meanings in the Agreements.

Based on the foregoing, and recognizing that Reliance Parties will rely hereon, Counterparty hereby confirms and agrees as follows:

1. The copy of the Agreements, attached as Exhibit A, is a true and complete copy of the Agreements (including any modifications, waivers, and amendments), and constitutes the entire agreement between Counterparty and Company relating to the Facility.

2. Counterparty has not transferred or assigned any interest in the Agreements.

3. Neither party to the Agreements is in default nor has either breached the Agreements and, to the best of Counterparty's knowledge, no facts or circumstances exist which, with the passage of time or the giving of notice or both, would constitute a default or breach by either such party thereunder.

4. There are no actions pending against Counterparty under the bankruptcy or any similar laws of the United States or any state.

5. Counterparty is not aware of any event, act, circumstance or condition constituting a force majeure event under the Agreements.

6. Counterparty has not paid any amounts or received any claims under the indemnification provisions in the Agreements.

7. Company does not owe any indemnity payments to Counterparty and Counterparty has no existing counterclaims, offsets or defenses against Company under the Agreements.

8. There are no proceedings pending or, to Counterparty's knowledge, threatened against or affecting Counterparty in any court or by or before any court, governmental authority or arbitration board or tribunal which could reasonably be expected to have a material adverse effect on the ability of Counterparty to perform its obligations under the Agreements.

9. There are no disputes or proceedings between Counterparty and Company related to the Agreements.

10. Counterparty agrees that any consent or notice, required under section 20 of the PPA or any other section of the Agreements, pertaining to the assignment of the Agreements from Company to Gray Solar Holdings LLC, a Maine limited liability company (the "Project Company"), is hereby deemed satisfied.

11. The assignment of certain direct or indirect equity interests in Project Company to the Investor will not violate the terms and conditions of the Agreements, and any related consent or notice to Counterparty under either Agreement is hereby deemed satisfied.

12. Counterparty agrees to provide notice of any default by Company or Project Company under the Agreement to:

    (a) Investor at 20 Eastman Street, South Easton, MA 02375, Attention: Charles Berkeley; and

    (b) Lender at 52 South Broad Street, Norwich, N.Y. 13815

13. Counterparty acknowledges and affirms that rent consideration under the License is included within the price in the PPA, and therefore no separate rent is required under the License.

14. Counterparty acknowledges and agrees that Company, and after the assignment referenced above, the Project Company, shall have quiet possession of the Premises free from any interference by any party claiming by, through or under Counterparty during the entire term hereof.

15. Company has provided to Counterparty a copy of the site plan for the Facility, which includes depiction of the point of interconnection. Counterparty hereby acknowledges and agrees that the License provides Company with all necessary rights to access and maintain through the point of interconnection for the Facility.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this estoppel certificate to be duly executed and delivered by its duly authorized officer as of the date set forth above.

COUNTERPARTY:
TOWN OF GRAY

By: Deborah S. Cabana

Name: Deborah S. Cabana
Title: Town Manager

Exhibit A

See attached.

4813-2137-6152, v. 1

Solar Power Purchase Agreement

This Solar Power Purchase 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:	**Town of Gray,** a Maine municipality	**Seller:**	**ReVision Solar Impact Partners LLC,** a Maine limited liability company
Name and Address	**Town of Gray** 24 Main Street Gray, ME 04039 Attention: Deborah Cabana	**Name and Address**	**ReVision Solar Impact Partners LLC** c/o ReVision Energy Inc. 758 Westbrook Street South Portland, ME 04106 Attention: Chris Donovan
Phone	(207) 657-3339	**Phone**	(207) 613-6078
E-mail	dcabana@graymaine.org	**E-mail**	legal@revisionenergy.com
Premises Ownership	Purchaser owns the Premises.	**Additional Seller Information**	

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**"), interconnected to the Purchaser's facility described in **Exhibit 2** (the "**Facility**"), and installed on the property upon which the System and Facility are located as described in **Exhibits 5 and 6** (the "**Premises**").
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
Exhibit 4	General Terms and Conditions
Exhibit 5	Form of Memorandum of License
Exhibit 6	Form of License Agreement

Purchaser:	**Town of Gray**	**Seller:**	**ReVision Solar Impact Partners LLC**
By (signature):	Deborah Cabana	By (signature):	
Printed Name:	Deborah S. Cabana	Printed Name:	Fortunat Mueller
Title:	Town Manager	Title:	Manager
Date:	November 15, 2019	Date:	11/12/19

Exhibit 1
Basic Terms and Conditions

1. **Initial Term:** Twenty-five (25) years, beginning on the Commercial Operation Date.

2. **Additional Terms:** Up to two (2) Additional Terms of five (5) years each.

3. **Environmental Incentives and Environment Attributes:** Accrue to Seller, however Purchaser has the option to purchase Renewable Energy Credits ("RECs") at the price ($/MWH) and for the years specified below. RECs for any Contract Year not bought by Purchaser under this option will be sold to third parties.

   Purchaser [ ] WILL purchase [x] WILL NOT purchase RECS as specified in this Exhibit 1, Section 4.

4. **Contract Energy Price per Kilowatt Hour ($/kWh) and Optional REC Price per Megawatt Hour ($/MWH):**

Contract Year	Estimated Energy Production (kWh)	Energy $/kWh	REC $/MWH
1	528,469	$0.1200	n/a
2	525,827	$0.1200	n/a
3	523,198	$0.1224	n/a
4	520,582	$0.1248	n/a
5	517,979	$0.1273	n/a
6	515,389	$0.1299	n/a
7	512,812	$0.1325	n/a
8	510,248	$0.1351	n/a
9	507,696	$0.1378	n/a
10	505,158	$0.1406	n/a
11	502,632	$0.1434	n/a
12	500,119	$0.1463	n/a
13	497,618	$0.1492	n/a
14	495,130	$0.1522	n/a
15	492,655	$0.1552	n/a
16	490,191	$0.1583	n/a
17	487,740	$0.1615	n/a
18	485,302	$0.1647	n/a
19	482,875	$0.1680	n/a
20	480,461	$0.1714	n/a
21	478,059	$0.1748	n/a
22	475,668	$0.1783	n/a
23	473,290	$0.1819	n/a
24	470,924	$0.1855	n/a
25	468,569	$0.1892	n/a

5. **Condition Satisfaction Date:** December 31, 2020

6. **Anticipated Commercial Operation Date:** December 31, 2020

7. **Rebate Variance.** All prices in this Agreement are calculated based on an upfront rebate of $0. If the actual rebate is lower than calculated, prices will be adjusted pro-rata to reflect the actual rebate received.

8. **Purchaser Options to Purchase System.** [_] None, or [x] As set forth in Section 17.b.

9. **Outside Commercial Operation Date:** December 31, 2020

10. **System Installation**:

Includes:	[x] Design, engineering, permitting, installation, monitoring, rebate application and paperwork processing of the System. [x] Any like substantive equipment, in the sole discretion of the Seller. [ ] State or Utility Rebate, if any. Describe: N/A
Excludes:	Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to the Facility or utility electrical infrastructure, utility impact study if applicable, payment bonds, performance bond(s), prevailing wage construction, tree removal, tree trimming, professional engineer's stamp review if required by local or state permitting, or energy audit, if required.

End of Exhibit 1

Exhibit 2
System Description

1. **System Location:** Gray Landfill, Seagull Drive, Gray Maine

2. **System Size:** 403.2 DC kW (panel nameplate capacity), 300 AC kW (inverter rating).

3. **Expected First Year Energy Production (kWh):** 528,469. Expected energy production shall be de-rated by one half of one percent (0.5%) annually. Annual energy production is based on maintenance of Insolation levels provided for in the Irradiance Zone and Shade Map and the Helioscope projections provided in Attachment A, below.

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

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

Manufacturer/Model	Quantity
REC TwinPeak 2S 350 Watt, or equivalent with the prior approval of the Town, with manufacturer's 25-year warranty	1,152

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

Manufacturer/Model	Quantity
SMA Sunny Tripower Core 1, or equivalent with the prior approval of the Town, with manufacturer's 10-year warranty	6

7. **Facility and System Layout:** See **Exhibit 2, Attachment A**

8. **Utility:** Central Maine Power

9. **Participating Meters:**

    i. To be determined

Exhibit 2
Attachment A:
Facility and System Layout

Aerial Image of Facility	See Site Map, below.
Conceptual Drawing of the System	See One Line Drawing, below.
Location of System Components	Solar array to be located on grounds of Town of Gray capped municipal landfill as portrayed in site map. Inverters to be located in utility room of building or other location as agreed upon by the Parties.
Delivery Point	On utility side of private meter/data logger as shown in One Line Drawing, below.
Access Points	Access shall be by existing drives and ways and as mutually agreed by the Parties. Access shall be adequate to allow full and timely access to the facility for installation and maintenance. See also Site Map, below.
Irradiance Zone	Removal of vegetation and prevention of shading to protect the irradiance zone for the system shall conform to the specifications set forth in the Irradiance Zone and Shade Map, below.

Site Map:

One Line Drawing:

Omitted by agreement of the Parties, with the understanding that the Delivery Point shall be on the utility side of the private meter/data logger, typically installed at the inverter location. A final as-built One Line Drawing shall be available upon Purchaser's request following completion of the installation.

Irradiance Zone and Shade Map:

Omitted by agreement of the Parties, with the understanding that any use of the Premises shall not shade the System.

End of Exhibit 2

Exhibit 3
Credit Information

Omitted by agreement of the Parties.

End of Exhibit 3

Exhibit 4
Solar Power 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. The rule of construction that ambiguities in an agreement are to be construed against the drafter will not be invoked or applied in any dispute regarding the meaning of any provision of this Agreement.

2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all 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**"). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit 2** (the "**Delivery Point**"). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facility exceed the output of the System. Any purchase, sale and/or delivery of electric energy generated by the System prior to the Commercial Operation Date shall be treated as purchase, sale and/or delivery of limited amounts of test energy only and shall not indicate that the System has been put in commercial operation by the purchase, sale and/or delivery of such test energy.

3. **Purchase and Sale of Renewable Energy Credits.** If Purchaser elects the Renewable Energy Credit (REC) purchase option provided in **Exhibit 1,** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the RECs generated by the System for the Contract Year and at the price per megawatt-hour specified for that year shown in **Exhibit 1**.

4. **Term and Termination**.

a. **Initial Term.** The initial term ("**Initial Term**") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1,** unless earlier terminated as provided for in this Agreement. The "**Commercial Operation Date**" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Such notice shall be deemed effective unless Purchaser reasonably objects within five (5) days of the date of such notice. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the entity authorized and required under applicable law to provide electric distribution service to Purchaser at the Facility (the "**Utility**"), as set forth on **Exhibit 2**. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. **Additional Terms.** Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, if Purchaser has not exercised its option to purchase the System, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each such additional period, an "**Additional Term**"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party's offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.

5. **Billing and Payment**.

a. **Monthly Energy Charges.** Purchaser shall pay Seller monthly (or quarterly, if Seller elects quarterly invoicing under subsection (d) of this Section 5) for the electric energy generated by the System and delivered to the Delivery

Point at the $/kWh rate shown in **Exhibit 1** (the "**Contract Price**"). The periodic payment for such energy will be equal to the applicable $/kWh rate multiplied by the number of kWh of energy generated during each month of the applicable billing period, as measured by the System meter.

b. **Monthly REC Charges.** If Purchaser elects the Renewable Energy Credit (REC) purchase option in **Exhibit 1**, for each year it exercises the option**,** Purchaser shall pay Seller monthly for all RECs generated by the System at the $/MWh rate shown in **Exhibit 1** (the "**REC Price**"). The monthly payment for such RECs will be equal to the applicable $/MWh rate multiplied by the number of MWh of energy generated during the applicable month, as measured by the System meter.

c. **Monthly Invoices.** Seller shall invoice Purchaser monthly in arrears, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the energy and REC rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.

d. **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 30 days prior notice before changing the frequency of invoicing.

e. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the 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.e, "**Taxes**" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.

f. **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**.

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 electricity 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 shall cooperate with Seller 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. Purchaser shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

Press Releases and RECs. 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 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. Except for Contract Years in which Purchaser purchases RECs, Purchaser hereby acknowledges and consents to Seller's exclusive right to (i) make any claim that electric energy provided to Purchaser was generated by the Project, (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 and (iii) all rights, title to and ownership of any and all RECs, credits, certificates, registrations, etc., 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.

"**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 and (c) similar tax credits or grants 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. Completion of a physical inspection of the Facility and the property upon which the Facility is located (the "**Premises**") including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System, all of which to be performed at Seller's sole expense;

ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller's Financing Parties. "**Construction Agreement**" as used in this subsection means an agreement between Seller and any contractor or subcontractor to install all or part of the System;

iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;

iv. Receipt of all necessary zoning, land use and building permits, which shall be obtained by Seller at its sole expense; and

v. Execution of all necessary agreements with the Utility for interconnection of the System to Facility electrical system and/or the Utility's electric distribution system.

b. Failure of Conditions. If any of the conditions listed in subsection (a) are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate 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. Commencement of Construction. Seller's obligation to commence construction and installation of the System is conditioned on Seller's receipt of (A) proof of insurance for all insurance required to be maintained by Purchaser under this Agreement, (B) written confirmation from any person holding a mortgage, lien or other encumbrance over the Premises or the Facility, as applicable, that such person will recognize Seller's rights under this Agreement for as long Seller is not in default hereunder and (C), a signed and notarized original copy of the notice of license suitable for recording, substantially in the form attached hereto as **Exhibit 5**.

d. **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.

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 and building permits required to construct, install and operate the System;

ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Facility electrical system and/or the Utility's electric distribution system; and

iii. any agreements and approvals from the Utility or Public Utilities Commission necessary in order to net meter 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 Facility. 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, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.

c. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to conditions at the Facility or due to the inaccuracy of any information provided by Purchaser and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.

d. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.

e. **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, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.

f. **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 the quality of the work performed by its contractors and subcontractors.

g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall defend, indemnify and hold Purchaser harmless for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that

either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

h. **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.

9. Purchaser's Rights and Obligations.

a. **License to the Premises; Facility Access Rights.** Subject to the terms and conditions of the License Agreement attached hereto as **Exhibit 6**, Purchaser grants to Seller and to Seller's agents, employees, contractors and assignees an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Purchaser's electric system at the Facility, to the Utility's electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of the Term of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the Premises and the Facility are preserved and protected. Purchaser shall not interfere with nor shall permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this Agreement prior to the end of the License Term by either Party as stated herein, unless Purchaser exercises its option to purchase the System under Section 17 of this Agreement or the License is otherwise revoked as permitted under this Agreement. At request of Seller, Purchaser shall execute a Memorandum of License, which shall be in form and substance set forth as **Exhibit 5**, or other form agreed to by the Parties. Seller may, at its sole cost and expense, record such Memorandum of License with the appropriate land registry or recorder's office.

b. **OSHA Compliance.** Both Parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the Utility's electric distribution system at all times and will not cause cessation of electric service to the Facility from the Utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which could adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during such disconnection or removal; (ii) revenues that Seller would have received with respect to the System under any rebate program and any other assistance program with respect to electric energy that would have been produced during such disconnection or removal; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during such disconnection or removal; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) would have received with respect to electric energy that would have been produced by the System

during such disconnection or removal. Determination of the amount of energy that would have been produced during any disconnection or removal shall be in accordance with the procedures in Section 11.b. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

e. **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) daylight hours (each, a "**Scheduled Outage**") per calendar year during the Term, during which hours Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) daylight hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the outage; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the outage; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the outage; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) would have received with respect to electric energy that would have been produced by the System during the outage. Determination of the amount of energy that would have been produced during the removal or disconnection shall be in accordance with the procedures in Section 11.b.

f. **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. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim. Notwithstanding anything else herein to the contrary, pursuant to Section 20.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.

g. **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility and the System against known risks and risks that should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.

h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 9.h against Purchaser. If Purchaser allows or causes any activity or condition that diminishes Insolation levels specified in Exhibit 2 Attachment A so as to cause energy generation of the System to fall more than 15 % below projections in Exhibit 1, Purchaser and Seller agree that until the activity ceases or conditions are returned to Insolation levels specified in Exhibit 2 Attachment A, Seller may bill for energy based on the amount of energy that would have been produced without loss of Insolation in accordance with the procedures in Section 11.b.

i. **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (i) any material malfunction in the operation of the System; or (ii) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (i) an interruption in the supply of electrical energy from the System; or (ii) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

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 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; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

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

11. Relocation of System.

a. System Relocation. If Purchaser ceases to conduct business operations at the Facility, or otherwise vacates the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same utility district as the terminated System or in a location with similar utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System is relocated to; and (iii) Term, which will be equal to the remainder of the Term of this Agreement calculated starting at the shutdown of the System pursuant to such relocation, and shall toll until the relocated System achieves commercial operation of such new location. Such amended agreement shall be deemed to be a continuation of this Agreement without termination. In addition, Purchaser shall be obligated to provide a new executed and notarized license agreement covering the substitute premises in form and content substantially similar to the License Agreement. Purchaser shall also provide any new consents, estoppels, or acknowledgments reasonably required by Financing Parties in connection with the substitute premises.

b. Costs of Relocation. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the relocation; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the relocation; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the relocation; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) would have received with respect to electric energy that would have been produced by the System during the relocation. Determination of the amount of energy that would have been produced during the relocation shall be based, during the first Contract Year, on the estimated levels of production and, after the first Contract Year, based on actual operation of the System in the same period in the previous Contract Year, unless Seller and Purchaser mutually agree to an alternative methodology. "**Contract Year**" means the twelve-month period beginning at 12:00 AM on the Commercial Operation Date or on any anniversary of the Commercial Operation Date and ending at 11:59 PM on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Contract Year shall begin on the Commercial Operation Date.

c. Adjustment for Insolation; Termination. Seller shall remove the System from the vacated Facility prior to the termination of Purchaser's ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to **Exhibit 1** such that Purchaser's payments to Seller are the same as if the System were located at the original Facility, increased to the extent necessary to compensate Seller for reduced revenues from Environmental Attributes and reduced Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) receive as a result of the relocation. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

12. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than one-hundred and twenty (120) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition, except for the removal of System mounting pads or other support structures permanently affixed to Purchaser's buildings where such removal would compromise the building's water proofing. In no case shall Seller's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of the System and shall be flashed and/or patched to existing roof specifications. Seller shall not be obligated to remove any below grade structures, including foundations and conduits, or any roads. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

13. Measurement. Seller shall install, at its sole expense, one or more meter(s), as Seller deems appropriate, at or immediately before the Delivery Point to measure the output of the System. Such meter shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility. Seller shall maintain the meter(s) in accordance with industry standards at its sole expense. Seller may provide a remote accessible data logging and reporting system during the Term to enable Seller to remotely record the amount of electric energy generated by the System. During such time the monitoring and/or reporting system ceases to function, but not longer than 180 days, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 5. Within 180 days of invoicing estimated charges, the estimated production shall be compared to actual production based on a physical reading of the on-site meter and Seller shall issue an invoice or credit, as the case may be, to correct overages or underages that occurred during the period invoices were based on estimated production.

14. Default, Remedies and Damages.

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

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

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

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

iv. the License granted to Seller pursuant to this Agreement is revoked, unless such revocation results from (i) a relocation of the System in accordance with the terms and provisions of Section 11.a., or (ii) the earlier termination of this Agreement in the event the Seller exercises its option to purchase the System under Section 17 of this Agreement;

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

vi. Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

i. Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement upon five (5) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages.

ii. Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement or suspend its performance of its obligations under this Agreement, upon ten (510) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages; provided, however, that the Non-Defaulting Party shall give the Defaulting Party the opportunity to cure the Default Event within thirty (30) days, or a longer period if mutually agreed to by the Parties, if the Defaulting Party provides written notice of its exercise of the option to cure to the Non-Defaulting Party within five (5) days of the Non-Defaulting Party's written notice of termination. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to commencement of System installation a five thousand dollar ($5,000) design cancellation fee shall also apply in addition to any other remedy available to Seller.

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

A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty-five percent (35%), 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 five percent (5%)) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (3) removal costs as provided in Section 14.b.iii.C and (4) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (2) any removal costs incurred by Purchaser, and (3) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 14.b**,** then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

15. Representations, Warranties and Covenants.

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

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

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

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

i. License. Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 9.a. Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility.

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 or the Facility is bound.

iii. Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects.

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

v. Hazardous Substances. There are no Hazardous Substances at, on, above, below or near the Premises.

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

16. System and Facility Damage and Insurance.

a. System and Facility Damage.

i. Seller's Obligations. If the **System** is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System "AS-IS" at the greater of (1) the Fair Market Value of the System and (2) the sum of the amounts described in Section 14.b.iii.A(1) and Section 14.b.iii.A(3).

ii. Purchaser's Obligations. If the **Facility** is damaged or destroyed by casualty of any kind or any other occurrence other than Seller's gross negligence or willful misconduct, such that the operation of the System and/or Purchaser's ability to accept the electric energy produced by the System are materially impaired or prevented, Purchaser shall promptly repair and restore the Facility to its pre-existing condition; provided, however, that if more than 50% of the Facility is destroyed during the last five years of the Initial Term or during any Additional Term, Purchaser may elect either (A) to restore the Facility or (B) to pay the

Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. Seller's Insurance. Seller shall maintain (A) property insurance on the System for the replacement cost thereof, (B) commercial general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (C) employer's liability insurance with coverage of at least $1,000,000 and (iv) workers' compensation insurance as required by law. Seller shall name Purchaser as an additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S.A. § 8104-A, as limited by § 8104-B and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent or common law.

ii. Purchaser's Insurance. Purchaser shall maintain commercial general liability insurance with coverage of at least the amount of 1 million dollars ($1,000,000) for each occurrence and 2 million dollars ($2,000,000) in the aggregate. Purchaser expressly reserves all immunity and discretionary rights, defenses and protections as provided by Maine law, including but not limited to the Maine Tort Claims Act.

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 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.

17. **Ownership; Option to Purchase**.

a. **Ownership of System**. Throughout the Term (except as otherwise permitted in Section 20), Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes (unless otherwise specified on Exhibit 1), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller (or the designated assignee of Seller permitted under Section 20) 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. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises. To the extent that Purchaser does not own the Premises or Facility, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or Facility or termination of Purchaser's lease of the Premises and/or Facility.

b. **Option to Purchase**. Beginning on the fifth (5th) anniversary of the Commercial Operation Date (i.e., beginning in the sixth Contract Year), provided Purchaser is not in default under this Agreement, Purchaser shall annually have the option to purchase the Project from Seller at a price equal to the Fair Market Value of the Project at such anniversary date, plus, if applicable, a sum equal to the repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. Purchaser must provide a notification to Seller of its intent to

purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Any such purchase shall be on an as-is, where-is basis, and Seller shall not provide any warranty or other guarantee regarding the performance of the System, provided, however, that Seller shall assign to Purchaser any manufacturers warranties that are in effect as of the purchase, and which are assignable pursuant to their terms.

c. **Determination of Fair Market Value**. "**Fair Market Value**" means, in Seller's reasonable determination, the greater of: (i) the amount that would be paid in an arm's length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation, and (ii) for any given Contract Year, the amount set forth on Exhibit 4, Attachment A attached hereto. Seller shall determine Fair Market Value within thirty (30) days after Purchaser has exercised its option to Purchase the System. Seller shall give written notice to Purchaser of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Purchaser reasonably objects to Seller's determination of Fair Market Value within thirty (30) days after Seller has provided written notice of such determination, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

18. **Indemnification and Limitations of Liability**.

a. **General**. Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 15 and from injury to 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 18.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 18.c. Nothing in this Agreement is intended or shall be construed to constitute a waiver of any defense, immunity or limitation of liability that may be available to Purchaser, its officers, agents and employees, pursuant to the Maine Tort Claims Act or as otherwise provided by law.

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 18.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 18.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 of Purchaser's 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 18.c.i) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Purchaser shall indemnify, defend and hold harmless all of Seller's 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, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance.

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

ii. Actual Damages. Except with respect to indemnification for third party claims pursuant to Section 18 and damages that result from the willful misconduct of Seller, Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section 18.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.

19. Force Majeure.

a. "**Force Majeure**" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer

duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Purchaser's ability to make payment.

d. 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, 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).

20. Assignment and Financing.

a. **Assignment**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party and (ii) directly or indirectly assign this Agreement and the System to an affiliate or subsidiary of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee). In the event of any such assignment, the Seller shall be released from all its liabilities and other obligations under this Agreement. However, any assignment of Seller's right and/or obligations under this Agreement, shall not result in any change to Purchaser's rights and obligations under this Agreement. Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

b. **Financing**. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. "**Financing Parties**" means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. In connection with an assignment pursuant to Section 20.a(i)-(iv), Purchaser agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties.

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

21. Confidentiality and Publicity.

a. **Confidentiality**. If either Party provides confidential information, including business plans, strategies, financial information, 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 or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect 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, 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. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 21.a, except as set forth in Section 21.b. 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. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 21.a by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 21.a. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 21.a, but shall be in addition to all other remedies available at law or in equity.

b. **Permitted Disclosures**. 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 or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, 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 and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law. Seller acknowledges that Purchaser is a municipal corporation organized and existing under the laws of the State of Maine and, therefore, is subject to the Freedom of Access Act, 1 M.R.S.A. §§ 401 *et seq.*, as may be amended from time to time.

22. **Goodwill and Publicity.** 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. 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 any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

23. **Miscellaneous Provisions**

a. **Choice of Law**. 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 15 (Representations and Warranties), Section 8.h (No Warranty), Section 16.b (Insurance Coverage), Section 18 (Indemnification and Limits of Liability), Section 21 (Confidentiality and Publicity), Section 23.a (Choice of Law), Section 23.b (Arbitration and Attorneys' Fees), Section 23.c (Notices), Section 23.g (Comparative Negligence), Section 23.h (Non-Dedication of Facilities), Section 23.m (Service Contract), Section 23.n (No Partnership) Section 23.o (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 23.q (No Third Party Beneficiaries).

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

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

g. **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

h. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.

i. **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

j. **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.

k. **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.

l. **Seller Is Not A Utility**. Neither Party shall assert that 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.

m. **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.

n. **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.

o. **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.

p. **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.

q. **No Third Party Beneficiaries**. Except for assignees, and Financing Parties permitted under Section 20, 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.

r. **Bonding**.

i. Performance bond liability. Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond one year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.

ii. Payment bond liability. Any payment bond issued will cease at the termination of any time required by law.

iii. Performance Guarantee. Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

Exhibit 4
Attachment A
Termination Payment

Contract Year	Termination Payment Amount	Fair Market Value
1	Section 14.b.iii.A	
2	Section 14.b.iii.A	
3	Section 14.b.iii.A	
4	Section 14.b.iii.A	
5	Section 14.b.iii.A	
6	Section 14.b.iii.A	$663,137
7	Section 14.b.iii.A	$639,137
8	Section 14.b.iii.A	$622,523
9	Section 14.b.iii.A	$604,430
10	Section 14.b.iii.A	$584,769
11	Section 14.b.iii.A	$563,447
12	Section 14.b.iii.A	$542,575
13	Section 14.b.iii.A	$519,833
14	Section 14.b.iii.A	$495,121
15	Section 14.b.iii.A	$468,332
16	Section 14.b.iii.A	$439,355
17	Section 14.b.iii.A	$408,071
18	Section 14.b.iii.A	$374,358
19	Section 14.b.iii.A	$338,084
20	Section 14.b.iii.A	$299,113
21	Section 14.b.iii.A	$257,300
22	Section 14.b.iii.A	$212,493
23	Section 14.b.iii.A	$168,693
24	Section 14.b.iii.A	$139,608
25	Section 14.b.iii.A	$110,523
After Year 25	Fair Market Value	Fair Market Value

End of Exhibit 4

Exhibit 5
Form of Memorandum of License

(see attached)

DOCUMENT PREPARED BY AND AFTER RECORDING, PLEASE RETURN TO:
ReVision Solar Impact Partners LLC
c/o ReVision Energy Inc., Legal Department
758 Westbrook Street
South Portland, ME 04106

NOTICE OF GRANT OF INTEREST IN REALTY

Notice is hereby given that pursuant to a Solar Power Purchase Agreement between the parties listed below, dated as of _____ (the "**Solar Agreement**"), such Solar Agreement includes the grant of License to Seller, pursuant to the terms of the Solar Agreement (the "**License**"). This notice may be executed in counterparts by the Parties to the Solar Agreement.

Parties to the Solar Agreement:

Seller: ReVision Solar Impact Partners LLC
c/o ReVision Energy Inc.
758 Westbrook Street
South Portland, ME 04106

Purchaser: Town of Gray
24 Main Street
Gray, Maine 04039

Date of Execution of Solar Agreement: _____

Description of Premises: See **Attachment A**

TERM OF AGREEMENT:

The term of the License shall be for a period commencing on the Effective Date of the Solar Agreement and expiring on the date that is one hundred and twenty (120) days following the date of expiration or termination of the Term (as that phrase is defined in the Solar Agreement) of the Solar Agreement. The Term of the Solar Agreement shall expire on the twenty-fifth (25th) anniversary of the Commercial Operation Date (as that phrase is defined in the Solar Agreement), subject to extension of up two (2) Additional Terms (as that phrase is defined in the Solar Agreement) of five (5) years each, or early termination pursuant to the terms of the Solar Agreement.

[Attachment A and Signature Page follows]

Attachment A

Description of the Premises

Know all Men by these Presents, That

469

I, Willard C. Libby, of Portland, in the County of Cumberland and State of Maine

in consideration of One dollar and other good and valuable consideration paid by The Inhabitants of the Town of Gray, of Gray, in said County and State

the receipt whereof I do hereby acknowledge, do hereby, give, grant, bargain, sell and convey unto the said Inhabitants of the Town of Gray, their successors and assigns forever, a certain lot or parcel of land situated in the Town of Gray, Maine, being the Clark Lot, so-called, lying on the Southwesterly side of the road leading from Gray Corner to Dry Mills.

Meaning and intending to convey and hereby conveying the premises that have been known for many years as the Clark Lot as aforesaid; the same as were conveyed to George W. Newbegin by Howard D. Verrill by deed dated February 12, 1906, and of record in the Cumberland County Registry of Deeds in Book 782, Page 30, to which deed and its record reference is hereby made for a more particular description of the premises hereby conveyed.

Being the same premises conveyed to the Grantor herein by deed of Mary E. Estes dated February 7th, 1947, recorded in Cumberland County Registry of Deeds, Book 1942, Page 459.

U.S.I.R. $1.10 W.C.L. 3/31/49

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Inhabitants of the Town of Gray their successors and assigns, to its and their use and behoof forever. And I do covenant with the said Grantee, their successors ~~heirs~~ and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, their successors ~~heirs~~ and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Willard C. Libby and Bertha R. Libby wife of the said Willard C. Libby joining in this deed as Grantor, and relinquishing and conveying her right by descent and all other rights in the above described premises, have hereunto set our hand s and seal s this 31st day of March in the year of our Lord one thousand nine hundred and forty-nine

Signed, Sealed and Delivered in presence of

Nelson D. Newton Jr. — Willard C. Libby — Seal
Nelson D. Newton Jr. — Bertha R. Libby — Seal
witness to both

State of Maine, Cumberland, ss. March 31 1949 Personally appeared the above named Willard C. Libby and acknowledged the foregoing instrument to be his free act and deed.

Before me, Clyde S. Murch Justice of the Peace

Received April 1, 1949, at 9 o'clock - m. A. M., and recorded according to the original.

IN WITNESS WHEREOF, this Notice has been executed and delivered under seal on this __ day of _____, 2019.

GRANTOR:
TOWN OF GRAY

By:_____
Print Name:_____
Title: _____

STATE OF _____ :
ss.
COUNTY OF _____ :

Be it Remembered, that on this ___ day of _____, 20__, before me, a Notary Public in and for the State and County aforesaid, personally appeared _____, who acknowledged him/herself to be _____ of _____, and that he/she as such _____, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public
My Commission expires:

GRANTEE:
REVISION SOLAR IMPACT PARTNERS LLC

By: _____
Print Name: Fortunat Mueller
Title: Manager

STATE OF MAINE :
ss.
COUNTY OF CUMBERLAND :

Be it Remembered, that on this ___ day of _____, 20__, before me, a Notary Public in and for the State and County aforesaid, personally appeared Fortunat Mueller, who acknowledged himself to be Manager of ReVision Solar Impact Partners LLC, and that he as such Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public
My Commission expires:

End of Exhibit 5

Exhibit 6
Form of License Agreement

(see attached)

DOCUMENT PREPARED BY AND AFTER RECORDING, PLEASE RETURN TO:
ReVision Solar Impact Partners LLC
c/o ReVision Energy Inc., Legal Department
758 Westbrook Street
South Portland, ME 04106

LICENSE AGREEMENT

This LICENSE AGREEMENT (this "**Agreement**") is made and entered into this ___ day of _____, 2019 (the "**Effective Date**"), by and between **Town of Gray** ("Grantor"), a Maine municipality with a mailing address of 24 Main Street, Gray, Maine 04039 and **ReVision Solar Impact Partners LLC** ("Grantee"), a Maine limited liability company with a mailing address of c/o ReVision Energy Inc., 758 Westbrook St., South Portland, Maine 04106 (collectively, the "Parties").

Recitals

A. Grantor is the owner of those certain parcels or tracts of land located on Seagull Drive in Town of Gray, Cumberland County in the State of Maine, and more particularly described by metes and bounds on **Attachment A** attached hereto and incorporated herein (all of which parcels or tracts of ground are referred to herein as the "**Premises**").

B. Grantor and Grantee entered into a certain Solar Power Purchase Agreement (the "**Solar Agreement**") pursuant to which the Grantee has agreed to design, construct, install, operate and maintain a certain solar photovoltaic system on the Premises (the **"System**") for the purpose of providing electric energy to portions of the facilities or facility (the "**Facility**") located on the Premises or otherwise for Grantor's benefit.

C. Subject to the terms and conditions herein, Grantor desires to grant to Grantee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

Agreement

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth below, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged and confirmed by Grantor, Grantor and Grantee hereby agree as follows:

1. **Grant of License.** Grantor hereby grants and conveys unto Grantee, its successors and assigns, a non-exclusive license for the period of time set forth herein, across, over, under and above the Premises in order to construct, install, alter, protect, repair, maintain, replace, operate, maintain and remove the System, including any related interconnection equipment and any facilities or equipment appurtenant thereto as Grantee may from time to time require. Grantor also hereby grants and conveys unto Grantee all other commercial licenses across, over, under and above the Premises as reasonably necessary to provide access to and services reasonably required for Grantee's performance under the Solar Agreement. The licenses granted hereunder shall run with and burden the Premises for the term of this Agreement. This instrument is a License and no provision hereof shall be construed as conveying an easement or other estate in land.

2. **Term.** This Agreement shall be for a period commencing on the Effective Date and expiring on the date that is one hundred and twenty (120) days following the date of expiration or termination of the Term (as that phrase is defined in the Solar Agreement) of the Solar Agreement. The Parties acknowledge that the Term of the Solar Agreement shall expire on the twenty-fifth (25th) anniversary of the Commercial Operation Date (as that phrase is defined in the Solar Agreement), subject to extension of up two (2) Additional Terms (as that phrase is defined in the Solar Agreement) of five (5) years each, or early termination pursuant to the terms of the Solar Agreement. No delay or interruption by Grantee in the use or enjoyment of any right or license hereby granted shall result in the loss, limitation or abandonment of any of the right or license granted hereby.

3. **Obstructions.** In addition to the rights afforded Grantee under the Solar Agreement, Grantee may from time to time remove structures, trees, bushes, or other obstructions within such portions of the Facility, and may level and grade such portions of the Premises, to the extent reasonably necessary to carry out the purposes set forth herein; provided that Grantor gives its prior written consent to such removal, leveling or grading, such consent not to be unreasonably withheld, delayed or conditioned. Grantor covenants for itself, its heirs, successors and assigns that:

    a. Grantor will not build or place, or allow to be built or placed, any structure or obstruction of any kind within such portions of the Premises on which is located any portion of the System, including any related interconnection equipment; and

    b. if such a structure or obstruction is built or placed within any portion of the Premises on which is located any portion of the System, including any related interconnection equipment, Grantor will remove the same at the request of the Grantee at no cost to the Grantee. Grantee may erect a fence on such portions of the Premises on which any portion of the System is located in order to exclude Grantor and others from accessing such areas provided that Grantor gives its prior written consent, such consent not to be unreasonably withheld, delayed or conditioned.

4. **Reservation of Rights**. Grantor reserves the right to use or authorize others to use the Premises and the Facility in any manner not inconsistent with or which will not unreasonably interfere with the rights granted herein, provided, however, that Grantor shall not, nor shall permit others to, disturb the System, including any related interconnection equipment, in any way without prior written approval of the Grantee. Grantor also reserves all other rights not inconsistent or incompatible with the rights granted herein to Grantee. Grantee shall not acquire any other rights in and to the Premises, except as set forth herein.

5. **Title.** Grantor represents and warrants to Grantee that (a) Grantor holds fee simple title to the Premises, free and clear of all liens and any other encumbrances, and (b) no lien or other encumbrance to which the Premises is subject would reasonably be expected to adversely impact Grantee's rights hereunder or under the Solar Agreement. Grantor further represents and warrants to Grantee that Grantor has the right to execute and deliver this Agreement and to grant to Grantee the licenses and other rights hereunder, and that such grant does not, and will not, violate or breach Grantor's organizational documents, any law, rule or regulation, or any contract, agreement or arrangement to which Grantor is a party or by or to which any of Grantor's assets or properties, including the Premises or the Facility, is bound or subject. In the event that, after the date of this Agreement, Grantor duly grants a mortgage for additional value (the "**Subsequent Mortgage**"), Grantor shall, prior to and as a condition to the effectiveness of such grant of a mortgage, cause the mortgagee under the Subsequent Mortgage to execute and deliver to the Grantee an agreement, in customary form and in form and substance reasonably acceptable to Grantee, acknowledging the subordination or non-disturbance of the Subsequent Mortgage to the grant of the license pursuant to this Agreement (the "**Subordination Agreement**").

6. **Recordation; Possession.** Notice of this Agreement may be recorded against the Premises by Grantee at Grantee's sole cost and expense. Grantor covenants and agrees, for itself and its assigns and successors, that the Grantee shall be entitled to exercise its rights under this Agreement upon execution and delivery of this Agreement by the Parties hereto, whether or not this Agreement is recorded.

7. **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the state where the Premises is located, without regard to conflicts of law principles.

8. **Severability**. All provisions of this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions.

9. **Binding Effect; Successors and Assigns**. Grantee shall have the right to assign, apportion, or otherwise transfer any or all of its rights, benefits, privileges, and interests arising in this Agreement in accordance with the terms of the Solar Agreement. Without limiting the generality of the foregoing, the rights and obligations of the Parties shall

inure to the benefit of and be binding upon their respective successors and assigns. This Agreement may be amended, modified or terminated only by written instrument, executed and acknowledged by the Parties hereto.

10. **Headings.** The headings used herein are for convenience only and are not to be used in interpreting this Agreement.

11. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereto and supersedes any prior written or oral agreements with respect to the matters described herein.

12. **Amendments; Acknowledgments**. Grantor shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee's lender, any assignee of rights under this Agreement, or the lender of any assignee hereunder, provided that such amendments are not inconsistent with nor interfere with Grantor's rights or obligations under this Agreement or any other agreement between the Parties.

13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

[Attachment A and Signature Page follows]

Attachment A

Description of the Premises and Facility

Know all Men by these Presents, That

469

I, Willard C. Libby, of Portland, in the County of Cumberland and State of Maine

in consideration of One dollar and other good and valuable consideration paid by The Inhabitants of the Town of Gray, of Gray, in said County and State

the receipt whereof I do hereby acknowledge, do hereby, give, grant, bargain, sell and convey unto the said Inhabitants of the Town of Gray, their successors and assigns forever, a certain lot or parcel of land situated in the Town of Gray, Maine, being the Clark Lot, so-called, lying on the Southwesterly side of the road leading from Gray Corner to Dry Mills.

Meaning and intending to convey and hereby conveying the premises that have been known for many years as the Clark Lot as aforesaid; the same as were conveyed to George W. Newbegin by Howard D. Verrill by deed dated February 12, 1906, and of record in the Cumberland County Registry of Deeds in Book 782, Page 30, to which deed and its record reference is hereby made for a more particular description of the premises hereby conveyed.

Being the same premises conveyed to the Grantor herein by deed of Mary E. Estes dated February 7th, 1947, recorded in Cumberland County Registry of Deeds, Book 1942, Page 459.

U.S.I.R. $1.10 W.C.L. 3/31/49

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Inhabitants of the Town of Gray their successors and assigns, to its and their use and behoof forever. And I do covenant with the said Grantee, their successors ~~heirs~~ and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, their successors ~~heirs~~ and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Willard C. Libby and Bertha R. Libby wife of the said Willard C. Libby joining in this deed as Grantor, and relinquishing and conveying her right by descent and all other rights in the above described premises, have hereunto set our hand s and seal s this 31st day of March in the year of our Lord one thousand nine hundred and forty-nine

Signed, Sealed and Delivered in presence of

Nelson D. Newton Jr. — Willard C. Libby — Seal
Nelson D. Newton Jr. — Bertha R. Libby — Seal
witness to both

State of Maine, Cumberland, ss. March 31 1949 Personally appeared the above named Willard C. Libby and acknowledged the foregoing instrument to be his free act and deed.

Before me, Clyde S. Murch Justice of the Peace

Received April 1, 1949, at 9 o'clock – m. A. M., and recorded according to the original.

IN WITNESS WHEREOF, this License Agreement has been executed and delivered under seal on this __ day of _____, 2019.

GRANTOR:
TOWN OF GRAY

By:_____
Print Name:_____
Title: _____

GRANTEE:
REVISION SOLAR IMPACT PARTNERS LLC

By: _____
Print Name: Fortunat Mueller
Title: Manager

End of Exhibit 6

DOCUMENT PREPARED BY AND AFTER RECORDING, PLEASE RETURN TO:
ReVision Solar Impact Partners LLC
c/o ReVision Energy Inc., Legal Department
758 Westbrook Street
South Portland, ME 04106

LICENSE AGREEMENT

This LICENSE AGREEMENT (this "**Agreement**") is made and entered into this ___ day of _____, 2019 (the "**Effective Date**"), by and between **Town of Gray** ("Grantor"), a Maine municipality with a mailing address of 24 Main Street, Gray, Maine 04039 and **ReVision Solar Impact Partners LLC** ("Grantee"), a Maine limited liability company with a mailing address of c/o ReVision Energy Inc., 758 Westbrook St., South Portland, Maine 04106 (collectively, the "Parties").

19th
November

Recitals

A. Grantor is the owner of those certain parcels or tracts of land located on Seagull Drive in Town of Gray, Cumberland County in the State of Maine, and more particularly described by metes and bounds on **Attachment A** attached hereto and incorporated herein (all of which parcels or tracts of ground are referred to herein as the "**Premises**").

B. Grantor and Grantee entered into a certain Solar Power Purchase Agreement (the "**Solar Agreement**") pursuant to which the Grantee has agreed to design, construct, install, operate and maintain a certain solar photovoltaic system on the Premises (the **"System**") for the purpose of providing electric energy to portions of the facilities or facility (the "**Facility**") located on the Premises or otherwise for Grantor's benefit.

C. Subject to the terms and conditions herein, Grantor desires to grant to Grantee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

Agreement

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3. **Obstructions.** In addition to the rights afforded Grantee under the Solar Agreement, Grantee may from time to time remove structures, trees, bushes, or other obstructions within such portions of the Facility, and may level and grade such portions of the Premises, to the extent reasonably necessary to carry out the purposes set forth herein; provided that Grantor gives its prior written consent to such removal, leveling or grading, such consent not to be unreasonably withheld, delayed or conditioned. Grantor covenants for itself, its heirs, successors and assigns that:

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9. **Binding Effect; Successors and Assigns**. Grantee shall have the right to assign, apportion, or otherwise transfer any or all of its rights, benefits, privileges, and interests arising in this Agreement in accordance with the terms of the Solar Agreement. Without limiting the generality of the foregoing, the rights and obligations of the Parties shall

inure to the benefit of and be binding upon their respective successors and assigns. This Agreement may be amended, modified or terminated only by written instrument, executed and acknowledged by the Parties hereto.

10. **Headings.** The headings used herein are for convenience only and are not to be used in interpreting this Agreement.

11. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereto and supersedes any prior written or oral agreements with respect to the matters described herein.

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[Attachment A and Signature Page follows]

Attachment A

Description of the Premises and Facility

Know all Men by these Presents, That

469

I, Willard C. Libby, of Portland, in the County of Cumberland and State of Maine

in consideration of One dollar and other good and valuable consideration paid by The Inhabitants of the Town of Gray, of Gray, in said County and State

the receipt whereof I do hereby acknowledge, do hereby, give, grant, bargain, sell and convey unto the said Inhabitants of the Town of Gray, their successors and assigns forever, a certain lot or parcel of land situated in the Town of Gray, Maine, being the Clark Lot, so-called, lying on the Southwesterly side of the road leading from Gray Corner to Dry Mills.

Meaning and intending to convey and hereby conveying the premises that have been known for many years as the Clark Lot as aforesaid; the same as were conveyed to George W. Newbegin by Howard D. Verrill by deed dated February 12, 1906, and of record in the Cumberland County Registry of Deeds in Book 782, Page 30, to which deed and its record reference is hereby made for a more particular description of the premises hereby conveyed.

Being the same premises conveyed to the Grantor herein by deed of Mary E. Estes dated February 7th, 1947, recorded in Cumberland County Registry of Deeds, Book 1942, Page 459.

U.S.I.R. $1.10 W.C.L. 3/31/49

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Inhabitants of the Town of Gray their successors and assigns, to its and their use and behoof forever. And I do covenant with the said Grantee, their successors ~~heirs~~ and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, their successors ~~heirs~~ and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Willard C. Libby and Bertha R. Libby wife of the said Willard C. Libby joining in this deed as Grantor, and relinquishing and conveying her right by descent and all other rights in the above described premises, have hereunto set our hand s and seal s this 31st day of March in the year of our Lord one thousand nine hundred and forty-nine

Signed, Sealed and Delivered in presence of

Nelson D. Newton Jr. — Willard C. Libby — Seal
Nelson D. Newton Jr. — Bertha R. Libby — Seal
witness to both

State of Maine, Cumberland, ss. March 31 1949 Personally appeared the above named Willard C. Libby and acknowledged the foregoing instrument to be his free act and deed.

Before me, Clyde S. Murch Justice of the Peace

Received April 1, 1949, at 9 o'clock – m. A. M., and recorded according to the original.

IN WITNESS WHEREOF, this License Agreement has been executed and delivered under seal on this 19 day of November, 2019.

GRANTOR:
TOWN OF GRAY

By: Deborah Cabana
Print Name: Deborah S. Cabana
Title: Town Manager

GRANTEE:
REVISION SOLAR IMPACT PARTNERS LLC

By: _____
Print Name: Fortunat Mueller
Title: Manager

End of Exhibit 6

AMENDMENT NO. 1 TO SOLAR POWER PURCHASE AGREEMENT

This Amendment No. 1 to Solar Power Purchase Agreement (this "Amendment") is made as of December 19, 2019 (or, if later, the latest date of a Party's execution and delivery to the other Party of this Amendment, the "Effective Date") between the Town of Gray, a Maine town (the "Purchaser") and ReVision Solar Impact Partners LLC, a Maine limited liability company ("Seller"; and together with Purchaser, each, a "Party" and together, the "Parties"). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement (as defined below).

WITNESSETH:

WHEREAS, the Parties entered into that certain Solar Power Purchase Agreement executed as of November 18, 2019 (the "Agreement");

WHEREAS, the Parties agree to amend the Agreement pursuant to the terms and conditions of this Amendment as set forth herein.

NOW, THEREFORE, the Parties agree as follows:

1. **Amendment(s).**

   i. Section 4 of Exhibit 1 to the Agreement is amended and restated as follows:

   "4. Contract Energy Price per Kilowatt Hour ($/kWh) and Optional REC Price per Megawatt Hour ($/MWH):

Contract Year	Estimated Energy Production (kWh)	Energy $/kWh	REC $/MWH
1	485,214	$0.1150	N/A
2	482,788	$0.1150	N/A
3	480.374	$0.1173	N/A
4	477.972	$0.1196	N/A
5	475.582	$0.1220	N/A
6	473,204	$0.1245	N/A
7	470,838	$0.1270	N/A
8	468,484	$0.1295	N/A
9	466,142	$0.1321	N/A
10	463,811	$0.1347	N/A
11	461,492	$0.1374	N/A
12	459,184	$0.1402	N/A
13	456,889	$0.1430	N/A
14	454,604	$0.1458	N/A
15	452,331	$0.1488	N/A
16	450.069	$0.1517	N/A
17	447.819	$0.1548	N/A
18	445.580	$0.1579	N/A
19	443,352	$0.1610	N/A
20	441,135	$0.1642	N/A
21	438.930	$0.1675	N/A
22	436.735	$0.1709	N/A
23	434,551	$0.1743	N/A
24	432,379	$0.1778	N/A
25	430,217	$0.1813	N/A

   ii. Section 2 of Exhibit 2 to the Agreement is amended and restated as follows:

"2. **System Size:** 360 DC kW (panel nameplate capacity), 300 AC kW (inverter rating)."

iii. Section 3 of Exhibit 2 to the Agreement is amended and restated as follows:

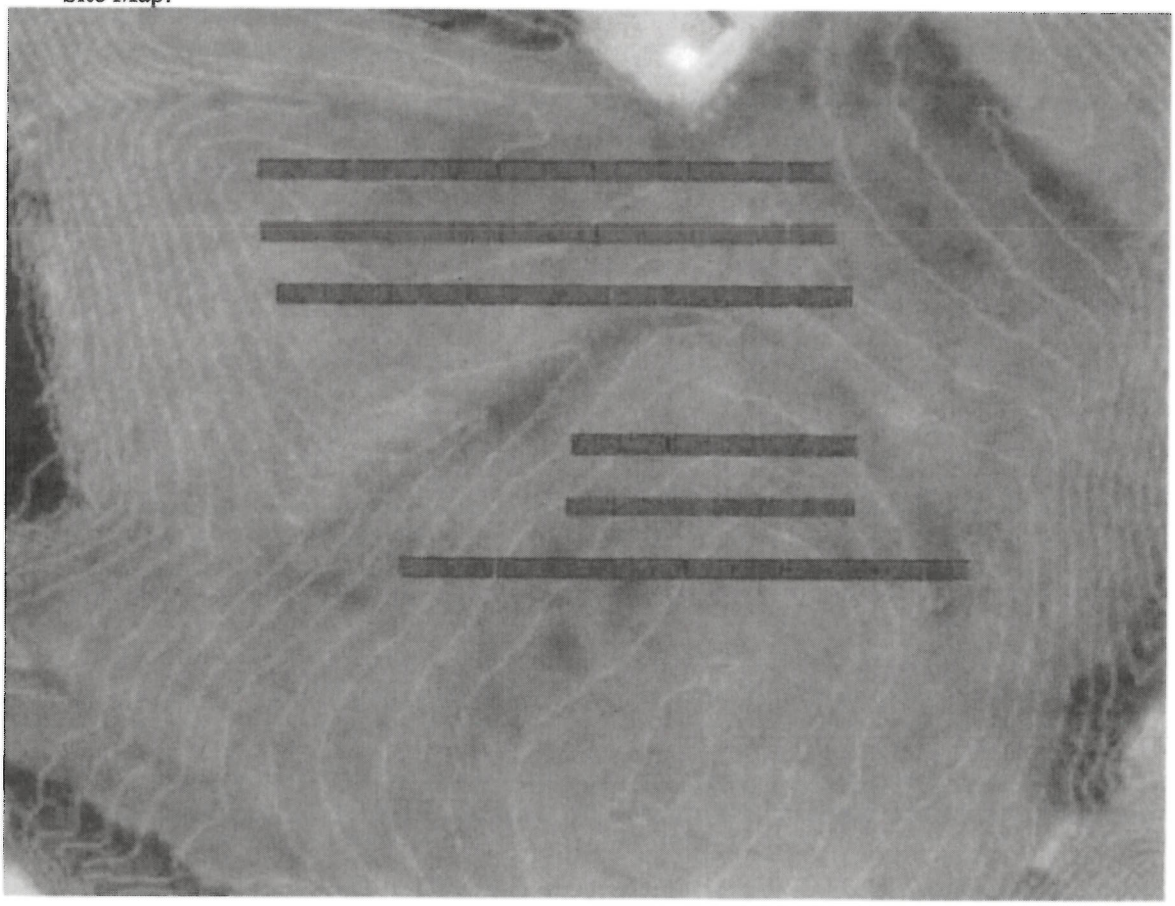
"**3. Expected First Year Energy Production (kWh)**: 485,214. Expected energy production shall be de-rated by one half of one percent (0.5%) annually. Annual energy production is based on maintenance of Insolation levels provided for in the Irradiance Zone and Shade Map and the Helioscope projections provided in Attachment A, below.

iv. Section 5 of Exhibit 2 to the Agreement is amended and restated as follows:

"**5. Expected Modules(s):**

Manufacturer/Model	Quantity
REC TwinPeak 2S Mono 375 Watt, or equivalent with prior approval of the Town, with manufacturer's 25-year production warranty	960

v. Exhibit 2 Attachment A to the Agreement is amended and restated as follows:
Site Map:



vi. Exhibit 4 Attachment A to the Agreement is amended and restated as follows:

Contract Year	Termination Payment Amount	Fair Market Value
1	Section 14.b.iii.A	
2	Section 14.b.iii.A	
3	Section 14.b.iii.A	
4	Section 14.b.iii.A	
5	Section 14.b.iii.A	
6	Section 14.b.iii.A	$594,000
7	Section 14.b.iii.A	$567,947
8	Section 14.b.iii.A	$546,250
9	Section 14.b.iii.A	$530,304
10	Section 14.b.iii.A	$512,981
11	Section 14.b.iii.A	$494,202
12	Section 14.b.iii.A	$475,906
13	Section 14.b.iii.A	$455,970
14	Section 14.b.iii.A	$434,303
15	Section 14.b.iii.A	$410,813
16	Section 14.b.iii.A	$385,403
17	Section 14.b.iii.A	$357,968
18	Section 14.b.iii.A	$328,400
19	Section 14.b.iii.A	$296,584
20	Section 14.b.iii.A	$262,401
21	Section 14.b.iii.A	$225,723
22	Section 14.b.iii.A	$186,418
23	Section 14.b.iii.A	$151,105
24	Section 14.b.iii.A	$125,053
25	Section 14.b.iii.A	$99,000
After Year 25	Fair Market Value	Fair Market Value

2. Integration. Except as otherwise provided or modified herein, the terms and conditions of the Agreement remain in full force and effect. This Amendment and the Agreement constitute the entire agreement between the Parties regarding this subject matter, and supersedes all proposals and prior agreements, oral or written, and all other communications between them relating to the subject matter herein.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Seller and Purchaser have executed this Amendment as of the Effective Date.

"PURCHASER":
TOWN OF GRAY

By: Deborah Cabana
Name: Deborah S. Cabana
Title: Town Manager
Date: December 18, 2019

"SELLER":
REVISION SOLAR IMPACT PARTNERS LLC

By: _____
Name: Fortune Mueller
Title: Manager
Date: 12-19-19

AMENDMENT NO. 2 TO SOLAR POWER PURCHASE AGREEMENT

This Amendment No. 2 to Solar Power Purchase Agreement (this "Amendment") is made as of November 3, 2020 (or, if later, the latest date of a Party's execution and delivery to the other Party of this Amendment, the "Effective Date") between the Town of Gray, a Maine town (the "Purchaser") and ReVision Solar Impact Partners LLC, a Maine limited liability company ("Seller"; and together with Purchaser, each, a "Party" and together, the "Parties"). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement (as defined below).

WITNESSETH:

WHEREAS, the Parties entered into that certain Solar Power Purchase Agreement executed as of November 19, 2019, as amended by that certain Amendment No. 1 to Solar Power Purchase Agreement dated as of December 19, 2019 (together, the "Agreement");

WHEREAS, the Parties agree to amend the Agreement pursuant to the terms and conditions of this Amendment as set forth herein.

NOW, THEREFORE, the Parties agree as follows:

1. Amendment(s).

i. Section 18.c of Exhibit 4 to the Agreement shall be deleted in its entirety replaced with the following:

c. **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all of Purchaser's 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 18(c)(i)) to the extent deposited, spilled, released, disturbed, or otherwise caused by, or to the extent that any pre-existing condition was exacerbated by, Seller or any of its contractors or agents. Purchaser shall indemnify, defend and hold harmless all of Seller's 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 (including but not limited to any Hazardous Substance resulting from or relating to any pre-existing conditions and any settling or subsidence of the Premises), except to the extent deposited, spilled, released, disturbed or otherwise caused by, or to the extent that any pre-existing condition was exacerbated by, Seller or any of its contractors or agents. The Parties further agree that, solely by virtue of its entry upon the Premises and the taking of actions authorized by or consistent with this Agreement, neither the Seller nor any of its agents, contractors, employees, directors, officers, sub lessees, or members shall have, or shall be deemed to have, in any way participated in the operation of the former landfill on the Premises ("Landfill") or assumed any liability or obligation associated with materials of any type or description (including Hazardous Materials) deposited, stored, or received on or within the Landfill by the Purchaser or any predecessor owner or operator. Except to the extent deposited, spilled, released, disturbed, or otherwise caused by, or to the extent that any pre-existing condition was exacerbated by, Seller or any of its contractors or agents, Seller shall at no time have any control over or responsibility for the disposal or remediation of any wastes or materials at the Landfill. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance.

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.

ii. Each Party hereby agrees to defend, indemnify and hold harmless the other party hereto from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities (collectively, the "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that indemnitee may suffer or incur due to the existence or discovery of any Hazardous Substances on the Premises or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, the "Actions"), that arise from the indemnifying party's activities on or at the Premises. The indemnification obligations set forth in this Section 18.c specifically include, without limitation, costs incurred in connection with any investigation of site conditions and/or any cleanup, remedial, removal or restoration work required by any governmental authority.

The Parties acknowledge certain contractual and regulatory obligations are in place relating to the cleanup, remediation, and monitoring of the Premises. Purchaser and Seller each agree and covenant that at all times they shall comply with any and all obligations under the Landfill Closure and Remediation Program, 38 M.R.S.A. §1310-C *et. seq*., and in respect of any agreements between Purchaser and its designated environmental consultant or other entity contracted to perform remediation and/or monitoring activities] (collectively the "Remediation Obligations"). Subject to Section 18(d), each party shall indemnify the other for any and all costs, damages or losses incurred by the indemnified party as a result of Remediation Obligations imposed by a binding order of a Governmental Authority, to the extent such Remediation Obligations are required by the acts or omissions of the indemnifying party.

ii. Sections A and C of Exhibit 6 (form of License Agreement) shall be amended to add the words underlined below, and shall read as follows:

A. Grantor is the owner of those certain parcels or tracts of land located on Seagull Drive in Town of Gray, Cumberland County in the State of Maine, and more particularly described by metes and bounds on **Attachment A-1** attached hereto and incorporated herein (all of which parcels or tracts of ground are referred to herein as the "**Premises**").

…

C. Subject to the terms and conditions herein, Grantor desires to grant to Grantee the rights described herein on that portion of the Premises described more particularly in **Attachment A-2** for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

iii. Attachment A of Exhibit 6 (Description of the Premises and Facility) shall be renamed "Attachment A-1 (Description of the Premises)."

iv. Attachment A-2 (Description of the Solar Facility License Area) shall be added and appended to Exhibit 6, in the form attached hereto.

2. Integration. Except as otherwise provided or modified herein, the terms and conditions of the Agreement remain in full force and effect. This Amendment and the Agreement constitute the entire agreement between the Parties regarding this subject matter, and supersedes all proposals and prior agreements, oral or written, and all other communications between them relating to the subject matter herein.

3. Effective Date. The terms of Section 1(i) of this Amendment shall become effective upon ratification by the Town Council of the Purchaser. The terms of Section 1(ii) of this Amendment shall become effective upon execution by Seller and Purchaser.

[Signatures on the following page]

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Seller and Purchaser have executed this Amendment as of the Effective Date.

"PURCHASER":
TOWN OF GRAY

By: Deborah S. Cabana
Name: **Deborah S. Cabana**
Title: **Town Manager**
Date: **Nov 04 2020**

"SELLER":
REVISION SOLAR IMPACT PARTNERS LLC

By: Fortunat Mueller
Name: Fortunat Mueller
Title: Managing Member
Date: **Nov 03 2020**

Attachment A-2
Form of
Description of the Solar Facility License Area

A certain area to be licensed to ReVision Solar Impact Partners LLC situated on the Gray Landfill, Seagull Drive, Town of Gray, County of Cumberland, State of Maine, and being more particularly described as follows:

[Meets and Bounds description to be inserted]

The total area of the above described license area being approximately [___] acres and is depicted on the Solar License Area Plan attached hereto.

Together with the right to use temporary staging and parking areas for construction and, if required, while conducting maintenance and repairs, and to permanently interconnect the solar array located within the license area to the point of interconnection with the electrical grid and to access the above described license area as needed for construction, operations, maintenance and removal of the equipment located thereon.

[Plan to be inserted]

Town Manager's expected professional development activities for FY24, as of 2/24/2023

Event	Dates	Location	Days	Projected Event and Travel Expense
MTCMA Institite	8/9-8/11, 2023	Sugarloaf	3	TBD
ICMA Conference	9/30-10/6, 2023	Austin, TX	7	TBD
MMA Convention	TBD	Augusta	2	TBD
MTCMA Fall Interchange	TBD	Maine	1	TBD
MTCMA Spring Interchange	TBD	Maine	1	TBD
New England Brownfields	TBD	NE	2	covered by US EPA grant

TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St, Gray Maine 04039
www.graymaine.org

OFFICE OF THE TOWN MANAGER
Nate Rudy, Town Manager
nrudy@graymaine.org
(207) 657-3339

February 24, 2023

TO: Gray Town Council
RE: FY24 Administrative Office Staffing Proposal

The FY24 Department budget request proposal includes new and reclassified positions in the Administration and Public Works, and Buildings & Ground Departments.

New Assistant Clerk Position (Additional Clerk's Office Capacity, Accounts Payable, Recreation, Assistant to Town Manager)

The Town Clerk office was restructured in FY23 to remove Clerk duties from the Town Manager, and the Town Manager's Assistant who is now also the Human Resources Director. A new Town Clerk position was added, but the department reports having lost capacity in the transition that has affected customer service / wait times and the department's efficiency in reporting, elections, and other administrative tasks.

Additionally, the Finance Director has requested assistance and backup from an Accounts Payable (AP) Clerk, which is not being recommended as a new, full-time position, but could be part of a Clerk's office position. An AP Clerk could provide business continuity to the Town in the regular event of the Finance Director's absence during vacation and sick time and add capacity to the sole employee in the Finance Department.

The Human Resources (HR) Director has continued in the Assistant to the Town Manager role in FY23, but it would be helpful to the Town if the HR Director could be relieved of these duties in FY24 to make more time for the expanded goals of the HR Department. Adding another position to the Clerk's office would create capacity for duties like preparing Town Council Agendas and Minutes and assisting the Town Manager with correspondence and other routine work.

The Recreation Director notes that due to his evening and weekend hours, he is not always available during regular business hours to answer questions about recreation programming, and to register participants for these programs. Rather than adding another full- or part-time position to the Recreation Department, adding another position to the Clerk's office would create capacity for supporting the Recreation Director.

I recommend creating another Assistant Clerk position in the FY24 budget and distributing the duties across the pool of Clerk's office staff, along with cross-training to help accomplish the Town's business continuity goals.

-nrr

TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St, Gray Maine 04039
www.graymaine.org

OFFICE OF THE TOWN MANAGER
Nate Rudy, Town Manager
nrudy@graymaine.org
(207) 657-3339

February 24, 2023

TO: Gray Town Council
RE: FY24 Retirement Benefit Proposal

The FY24 Administrative Department budget request proposal includes $308,686 in the Town staff wage adjustment line, which is found in the General Insurance department budget. This figure represents the following:

6 % Cost of Living Adjustment (COLA) including performance-based pay:	$223,686
Market-rate wage adjustments, Year 2 of 2:	$75,000
Manager Contingency:	$10,000

I have attached the market-rate wage adjustment calculations assembled in the FY23 budget proposal, noting that the "Year 2" adjustments have not been changed and are independent of other COLA wage adjustments in the current payroll. I have also complied a table of COLA wage adjustments being proposed by 28 other local government units in Maine, which reveals that the average COLA wage adjustment being proposed across the state is 6.3%, and for respondents from the six comparable municipalities the average is 6%.

I recommend that 2% of the 6% COLA be used for performance-based pay based on employees' Town, department, and individual goal achievement.

-nrr
Attachment

Wage and Salary Proposal **Full Time Employees** **3/14/2022**	**Gray**				*ratios:* 0.55	0.45	**Tier 1** Skowhegan, Bath Cumberland, Topsham			**Tier 2** add Yarmouth, Freeport			**Tier 3** add Bridgton, Standish, Raymond			**All** add Falmouth, Buxton, Waterboro			**Tier 1-3** Weighted Average of T1-T3	
Job Title	Current Annual	Proposed Annual	Total Change (over 2 years)	FY23 Increment Change	FY24 Increment Change		Median	Difference	Count	Median	Difference	Count	Median	Difference	Count	Median	Difference	Count	Median	Difference
Town Manager	$ 105,000	$ 122,744	$ 17,744	$ 10,000	$ 7,744		$ 118,466	$ (13,466)	4	$ 126,817	$ (21,817)	6	$ 122,949	$ (17,949)	9	$ 122,949	$ (17,949)	11	122744	$ (17,744)
Finance Director	$ 88,200	$ 102,918	$ 14,718	$ 8,100	$ 6,618		$ 99,996	$ (11,796)	4	$ 108,258	$ (20,058)	6	$ 100,499	$ (12,299)	9	$ 95,250	$ (7,050)	12	102918	$ (14,718)
Human Resources Director		$ 82,000	$ 22,000	$ 12,000	$ 10,000															
Administrative Assistant to Town Manager - reclass	*$ 60,000*	-					$ 55,900	$ 4,100	4	$ 55,900	$ 4,100	4	$ 53,352	$ 6,648	7	$ 53,352	$ 6,648	9	55051	$ 4,949
Clerk - eliminate	*$ 41,540*	$ -					$ 38,604	$ 2,935	2	$ 38,604	$ 2,935	2	$ 40,945	$ 595	4	$ 40,945	$ 595	4	39384	$ 2,155
Assistant Clerk / Accounts Payable Specialist	$ 41,184	$ 42,000	$ 816	$ 820	$ -		$ 38,604	$ 2,580	2	$ 38,604	$ 2,580	2	$ 40,945	$ 239	4	$ 40,945	$ 239	4	39384	$ 1,800
Town Clerk - Appointed (in Dept. budget)	$ -	$ 70,000	$ -	$ -	$ -		$ 64,387	$ (64,387)	4	$ 65,896	$ (65,896)	5	$ 67,642	$ (67,642)	7	$ 67,642	$ (67,642)	9	65975	$ (65,975)
Deputy Clerk (reclass from *Assistant Clerk*)	$ 44,572	*$ 44,572*	$ -	$ -	$ -		$ 38,513	$ 6,059	2	$ 38,513	$ 6,059	2	$ 40,644	$ 3,928	5	$ 41,642	$ 2,930	8	39223	$ 5,349
Community Dev Director	$ 86,000	*$ 86,000*	$ -	$ -	$ -		$ 70,159	$ 15,842	4	$ 76,762	$ 9,238	6	$ 70,616	$ 15,384	7	$ 71,178	$ 14,822	8	72512	$ 13,488
Community Planner	$ 74,000	*$ 74,000*	$ -	$ -	$ -		$ 61,666	$ 12,334	2	$ 88,962	$ (14,962)	3	$ 77,637	$ (3,637)	5	$ 83,299	$ (9,299)	6	76088	$ (2,088)
Administrative Assistant to Community Dev - reclass (in Dept. budget)	$ 45,827	*$ 45,827*	$ -	$ -	$ -		$ 50,955	$ (5,128)	2	$ 49,113	$ (3,286)	3	$ 46,800	$ (973)	5	$ 44,085	$ 1,742	7	48956	$ (3,129)
Assessor	$ 75,700	$ 86,097	$ 10,397	$ 7,000	$ 3,397		$ 81,765	$ (6,065)	3	$ 88,969	$ (13,269)	4	$ 87,557	$ (11,857)	5	$ 87,557	$ (11,857)	5	86097	$ (10,397)
Administrative Assistant to Assessor	$ 40,510	$ 42,000	$ 1,490	$ 820	$ 670		$ 54,618	$ (14,107)	2	$ 51,411	$ (10,901)	3	$ 49,113	$ (8,603)	5	$ 47,957	$ (7,446)	6	51714	$ (11,204)
Chief Code Enforcement Officer	$ 74,000	*$ 74,000*	$ -	$ -	$ -		$ 68,944	$ 5,056	4	$ 75,044	$ (1,044)	6	$ 72,578	$ 1,422	9	$ 70,789	$ 3,211	12	72189	$ 1,811
Assistant Code Enforcement Officer	$ 61,500	*$ 61,500*	$ -	$ -	$ -		$ 52,000	$ 9,500	1	$ 55,028	$ 6,472	2	$ 55,028	$ 6,472	2	$ 55,028	$ 6,472	2	54019	$ 7,481
Administrative Assistant to Code Office	-	*$ 42,000*	$ 460	$ 460	$ -															
Digital Media Coordinator	$ 55,000	$ 62,150	$ 7,150	$ 3,900	$ 3,250		$ 62,000	$ (7,000)	1	$ 62,225	$ (7,225)	2	$ 62,225	$ (7,225)	2	$ 62,225	$ (7,225)	2	62150	$ (7,150)
IT Systems Administrator	$ 73,700	$ 73,700	$ -	$ -	$ -		$ -	$ 73,700	-	$ -	$ 73,700	-	$ -	$ 73,700	-	$ 62,120	$ 11,580	1	0	$ 73,700
Library Director	$ 66,500	$ 79,613	$ 13,113	$ 7,200	$ 5,913		$ 82,838	$ (16,338)	3	$ 78,000	$ (11,500)	5	$ 78,000	$ (11,500)	5	$ 77,473	$ (10,973)	6	79613	$ (13,113)
Assistant Library Director (in Dept. budget)	$ -	$ 54,080	$ -	$ -	$ -															
Part-Time Library Aide -adult services - eliminate (24 hrs / wk)	$23,987	$ -			$ -		$68,943.55	-$44,956.99	$4.00	$75,043.80	-$51,057.24	$6.00	$72,578.48	-$48,591.92	$9.00	$70,789.16	-$46,802.60	$12.00	72188.61	-48202.05
Full-Time Library Aide	$ 45,053	$ 51,618	$ 6,565	$ 3,600	$ 2,965		$ 46,625	$ (1,572)	2	$ 54,114	$ (9,062)	3	$ 54,114	$ (9,062)	3	$ 54,114	$ (9,062)	3	51618	$ (6,565)
Full-Time Library Aide	$ 47,798	$ 51,618	$ 3,820	$ 2,100	$ 1,720		$ 46,625	$ 1,173	2	$ 54,114	$ (6,316)	3	$ 54,114	$ (6,316)	3	$ 54,114	$ (6,316)	3	51618	$ (3,820)
Recreation Director (in Ent. budget)	$ 61,000	$ 75,102	$ -	$ -	$ -		$ 80,798	$ (19,798)	4	$ 76,107	$ (15,107)	5	$ 68,402	$ (7,402)	7	$ 67,623	$ (6,623)	9	75102	$ (14,102)
Child Care Coordinator (in Ent. budget)	$ 46,675	$ 48,149	$ -	$ -	$ -		$ 47,884	$ (1,209)	4	$ 48,282	$ (1,607)	5	$ 48,282	$ (1,607)	5	$ 47,884	$ (1,209)	8	48149	$ (1,474)
Rec Admin Asst	$ -	$ -			$ -		$ 32,339	$ (32,339)	1	$ 32,339	$ (32,339)	1	$ 33,850	$ (33,850)	2	$ 35,360	$ (35,360)	3	32843	$ (32,843)
Public Safety Director / Fire Chief	$ 79,200	$ 80,663	$ 1,463	$ 800	$ 663		$ 80,434	$ (1,234)	3	$ 81,120	$ (1,920)	4	$ 80,434	$ (1,234)	7	$ 81,120	$ (1,920)	10	80663	$ (1,463)
Assistant Fire Chief	$ 60,000	$ 67,226	$ 7,226	$ 4,000	$ 3,226		$ 64,355	$ (4,355)	2	$ 73,320	$ (13,320)	3	$ 64,002	$ (4,002)	5	$ 69,992	$ (9,992)	8	67226	$ (7,226)
Public Works Director	$ 82,200	$ 85,000	$ 2,800	$ 1,500	$ 1,300		$ 91,354	$ (9,154)	3	$ 91,354	$ (9,154)	5	$ 90,765	$ (8,565)	8	$ 90,176	$ (7,976)	11	91157	$ (8,957)
Foreman (others: Highway Foreman)	$ 53,040	$ 56,799	$ 3,759	$ 2,100	$ 1,659		$ 59,394	$ (6,354)	2	$ 55,300	$ (2,260)	4	$ 55,702	$ (2,662)	7	$ 56,533	$ (3,493)	9	56799	$ (3,759)
Light Equipment Operator	$ 42,432	$ 46,398	$ 3,966	$ 2,200	$ 1,766		$ 46,446	$ (4,014)	4	$ 47,091	$ (4,659)	6	$ 45,656	$ (3,224)	8	$ 45,656	$ (3,224)	10	46398	$ (3,966)
Light Equipment Operator	$ 42,432	$ 46,398	$ 3,966	$ 2,200	$ 1,766		$ 46,446	$ (4,014)	4	$ 47,091	$ (4,659)	6	$ 45,656	$ (3,224)	8	$ 45,656	$ (3,224)	10	46398	$ (3,966)
Light Equipment Operator	$ 42,432	$ 46,398	$ 3,966	$ 2,200	$ 1,766		$ 46,446	$ (4,014)	4	$ 47,091	$ (4,659)	6	$ 45,656	$ (3,224)	8	$ 45,656	$ (3,224)	10	46398	$ (3,966)
Light Equipment Operator	$ 43,701	$ 46,398	$ 2,697	$ 1,500	$ 1,197		$ 46,446	$ (2,746)	4	$ 47,091	$ (3,390)	6	$ 45,656	$ (1,955)	8	$ 45,656	$ (1,955)	10	46398	$ (2,697)
Light Equipment Operator	$ 44,554	$ 46,398	$ 1,844	$ 1,000	$ 844		$ 46,446	$ (1,893)	4	$ 47,091	$ (2,538)	6	$ 45,656	$ (1,102)	8	$ 45,656	$ (1,102)	10	46398	$ (1,844)
Light Equipment Operator	$ 44,554	$ 46,398	$ 1,844	$ 1,000	$ 844		$ 46,446	$ (1,893)	4	$ 47,091	$ (2,538)	6	$ 45,656	$ (1,102)	8	$ 45,656	$ (1,102)	10	46398	$ (1,844)
Mechanic	$ 58,885	*$ 58,885*	$ -	$ -	$ -		$ 53,890	$ 4,994	2	$ 53,890	$ 4,994	2	$ 53,225	$ 5,660	4	$ 53,225	$ 5,660	4	53669	$ 5,216
Administrative Assistant to Public Works	$ 11,138	*$ 11,138*	$ -	$ -	$ -		$ 38,172	$ (27,034)	1	$ 44,429	$ (33,291)	2	$ 44,138	$ (33,000)	3	$ 44,138	$ (33,000)	3	42246	$ (31,108)
Transfer Station Director	$ 69,000	*$ 69,000*	$ -	$ -	$ -		$ 63,918	$ 5,082	1	$ 61,589	$ 7,411	3	$ 59,270	$ 9,730	4	$ 58,531	$ 10,469	6	61592	$ 7,408
Administrative Assistant for TS Director	$ 41,600	$ 47,000	$ 5,400	$ 3,000	$ 2,400		#NUM!	#NUM!	-	#NUM!	#NUM!	-	$ 42,328	$ (728)	1	$ 42,328	$ (728)	1	42328	$ (728)
Full Time Transfer Station Attendant (others: avg)	$ 35,360	$ 45,311	$ 9,951	$ 7,000	$ 2,951		$ 48,609	$ (13,249)	2	$ 48,214	$ (12,854)	3	$ 40,830	$ (5,470)	5	$ 39,342	$ (3,982)	7	45885	$ (10,525)
Full Time Transfer Station Attendant	$ 35,880	$ 45,885	$ 10,005	$ 7,000	$ 3,005		$ 48,609	$ (12,729)	2	$ 48,214	$ (12,334)	3	$ 40,830	$ (4,950)	5	$ 39,342	$ (3,462)	7	45885	$ (10,005)
Full Time Transfer Station Attendant	$ 36,400	$ 46,459	$ 10,059	$ 7,000	$ 3,059		$ 48,609	$ (12,209)	2	$ 48,214	$ (11,814)	3	$ 40,830	$ (4,430)	5	$ 39,342	$ (2,942)	7	45885	$ (9,485)
Building & Grounds Director (others: Dir Park & Fac/Parks Superintendent)	$ 75,000	*$ 75,000*	$ -	$ -	$ -		$ 68,723	$ 6,277	1	$ 68,723	$ 6,277	1	$ 68,723	$ 6,277	1	$ 68,723	$ 6,277	1	68723	$ 6,277
Parks & Facilities Supervisor (others: Park Specialist, Parks & Rec Maintenance Supervisor)	$ 63,877	*$ 63,877*	$ 0	$ 0	$ 0		$ 52,907	$ 10,970	2	$ 54,076	$ 9,801	3	$ 49,390	$ 14,487	4	$ 54,076	$ 9,801	5	52124	$ 11,752
Full Time Building & Grounds Laborer	$ 39,520	$ 48,110	$ 8,590	$ 5,800	$ 2,790		$ 48,786	$ (9,266)	2	$ 48,786	$ (9,266)	2	$ 46,758	$ (7,238)	3	$ 43,701	$ (4,181)	5	48110	$ (8,590)
Full Time Building & Grounds Laborer	$ 38,480	$ 48,110	$ 9,630	$ 6,500	$ 3,130		$ 48,786	$ (10,306)	2	$ 48,786	$ (10,306)	2	$ 46,758	$ (8,278)	3	$ 43,701	$ (5,221)	5	48110	$ (9,630)
Totals	**$ 2,297,430**	**$ 2,598,538**	**$ 185,438**	**$ 110,800**	**$ 74,642**															
% Change		113.11%	8.07%	4.82%	3.25%															

TOWN OF GRAY

Henry Pennell Municipal Complex
24 Main St, Gray Maine 04039
www.graymaine.org

OFFICE OF THE TOWN MANAGER
Nate Rudy, Town Manager
nrudy@graymaine.org
(207) 657-3339

February 24, 2023

TO: Gray Town Council
RE: FY24 Retirement Benefit Proposal

Recalling that Council asked the Human Resources Director and me to review the Town's retirement contribution and consider adjustments as an alternative to the past practice of employees banking sick time as a savings account / retirement fund paid out at separation / retirement, I would present the following information and recommendations for Council consideration.

<u>Gray's Retirement Match Contribution vs. Other Local Government Units in Maine</u>

Gray's current retirement benefit starts at a maximum 6% Town match for any contributions made by the employee, and scales up to a 9% maximum for employees with 25 years of service to the Town (please see the Town Personnel Policy, Appendix D, Page 46):

> Ordered the Gray Town Council will match the retirement contribution amount for the town employees at 6% and will increase the contribution at 7.5% for 10 years of service, 8% for 15 years of service, 8.5% for 20 years of service and a maximum of 9% for 25 years of service and that the increase to employees retirement plan will not exceed the employee's contribution.

In the research I conducted amongst other local government units (LGUs) in Maine, I found that from the 36 respondents, 67% offer a retirement plan match of an **average 6%**, and the other 33% offer the MePERS retirement program exclusively, or with some alternatives. Some of those LGUs have a fixed retirement plan contribution rate, not a match. Please note that **Gray's current minimum 6% match cap is on par** with the average and mean for all other LGUs who responded to the survey.

Half of those offering retirement plan contributions also offer MePERS to some or all staff (primarily Public Safety) as an alternative. Some offer a retirement match that is tied to the LGU MePERS contribution.

Proposal to offer MePERS Options to Full Time Gray Fire and Rescue Employees

As Chief Elkanich shared at his budget presentation on February 16, we are having challenges recruiting experienced FF-EMS candidates, and recently have been hiring entry-level employees who need training and experience. We are pleased to have recruited these new employees, but they are not able to go on calls without supervision from more experienced staff, which creates scheduling limitations and necessitates overtime for experienced staff.

On my request, the Gray Fire and Rescue (GFR) union representatives provided the attached material about MePERS contribution rates for various benefit plans. I am presenting this material for Council consideration in the FY24 budget, with the caveat that this was a non-binding discussion, and any proposal from me to Council would not include offering to "buy back" any current employees' eligible years of service. Current employees have the option to buy back their eligible years using their current retirement plan or other sources.

The goals of offering a MePERS retirement option would be to (1) help attract the experienced, mid-career FF-EMS candidates who we are told are not looking at Gray because we don't offer the opportunity for them to continue participating in the MePERS program, (2) help retain Gray's experience FF-EMS workforce, and (3) help retain early career employees once they receive training.

Any desirable MePERS retirement option will have higher Town and employee match rates than the current Town 457 match. For analysis, I recommend NOT using only the six communities in our "comparable" group as it is well known that FF-EMS workers are travelling long distances to pick up per-diem shifts around the state. But I will pull together the average and mean for that group also, for inclusion in my presentation.

The Union states that the 3C plan is what is commonly offered by competing municipalities, and also state that plans like 4C/3N with rates that are more comparable to what Gray currently offers employees will not help with their recruitment challenge.

-nrr
Attachments

Service Retirement Plans Available Under the Maine Public Employees Retirement System PLD Consolidated Plan

	Employee Contribution Rate	Normal Retirement Age (NRA) and/or Years of Service Required to Be Eligible to Retire	How Service Retirement Benefit is Calculated	Includes COLA?	Notes
REGULAR PLANS					
AC	Variable***	First membership on/before June 30, 2014: Age 60 or 25 years of service**	1/50 (2.0%) of AFC for each year of service	Yes	• If you retire before age 60, benefit is reduced for each year you are younger than age 60
		First membership on/after July 1, 2014: Age 65 or 25 years of service**	1/50 (2.0%) of AFC for each year of service		• If you retire before age 65, benefit is reduced for each year you are younger than age 65
AN	Variable***	Same as Plan AC	Same as Plan AC	No	Same as Plan AC
BC	Variable***	First membership on/before June 30, 2014: Age 60 or 25 years of service**	1/100 (1.0%) of AFC for each year of service	Yes	• If you retire before age 60, benefit is reduced for each year you are younger than age 60 • Available only to those districts that have Social Security coverage under a Section 218 agreement
		First membership on/after July 1, 2014: Age 65 or 25 years of service**	1/100 (1.0%) of AFC for each year of service		• If you retire before age 65, benefit is reduced for each year you are younger than age 65 • Available only to those districts that have Social Security coverage under a Section 218 agreement
SPECIAL PLANS					
#1C	Variable***	20 years of service	1/2 (50% of AFC plus 2.0% of AFC for each year of service beyond 20 years*	Yes	• Available only for firefighters, police officers, sheriffs, full-time deputy sheriffs, certain county corrections employees and certain emergency medical services employees • Purchased military time cannot be used to meet servcie requirement to be eligible to retire but can add 2.0% of AFC per additional year of service purchased to benefit
#1N	Variable***	Same as Plan #1C	Same as Plan #1C	No	Same as Plan #1C
#2C	Variable***	25 years of service	1/2 (50%) of AFC plus 2.0% of AFC for each year of service beyond 25 years	Yes	• Purchased military time can be used to meet service requirement to be eligible to retire • Purchased military time used as service beyond what is needed to be eligible to retire adds 2.0% of AFC per additional year of service to benefit
#2N	Variable***	Same as Plan #2C	Same as Plan #2C	No	Same as Plan #2C
#3C	Variable***	25 years of service	2/3 (66.67%) of AFC plus 2.0 of AFC for each year of service beyond 25 years*	Yes	• Available only for firefighters, police officers, sheriffs, full-time deputy sheriffs,certain county corrections employees, certain emergency medical services employees and certain dispatchers • Purchased military time can be used to meet service requirement to be eligible to retire • Purchased military time used as service beyond what is needed to be eligible to retire adds 2.0% of AFC per additional year of service to benefit
#3N	Variable***	Same as Plan #3C	Same as Plan #3C	No	Same as Plan #3C
#4C	Variable***	Age 55 with 25 years of service	1/50 (2%) of AFC for each year of service	Yes	• Available only for firefighters, police officers, sheriffs, full-time deputy sheriffs,certain county corrections employees, certain emergency medical services employees, and certain dispatchers • Purchased military time can be used to meet service requirement to be eligible to retire • If you retire before age 55, benefit is reduced for each year you are younger than age 55
#4N	Variable***	Same as Plan #4C	Same as Plan #4C	No	Same as Plan #4C

*The additional 2% per year is only for service earned after you become a member under the PLD Consolidated Plan, unless this provision was included in your PLD's retirement plan before it entered the PLD Consolidated Plan.

**Date membership under The Plan began. ***Subject to change each July 1st and vary depending on plan. Regular plan rates differ depending on the individual's Normal Retirement Age.

Cost payable on earnings of PLD retirees returned to work: FY22: 5.0% FY23: 5.0% FY24: 5.0%

Participating Local District – Employer Consolidated Plans Rates

	FY 22 7/1/21 – 6/30/22	FY 23 7/1/22 – 6/30/23	FY 24 7/1/23– 6/30/24
Regular Plans			
AC	10.3%	10.2%	10.2%
BC	6.1%	5.6%	5.3%
AN	8.0%	8.5%	8.9%
Special Plans			
1C	15.2%	14.7%	14.8%
2C	11.3%	11.4%	11.6%
3C	13.4%	13.4%	12.8%
4C	9.8%	10.3%	11.3%
1N	12.0%	12.5%	12.4%
2N	6.9%	7.4%	8.4%
3N	9.0%	9.5%	10.5%
4N	5.5%	6.0%	7.0%
Aggregate Rate	10.8%	10.8%	10.9%

Employee Rates	FY 22 7/1/21 – 6/30/22	FY 23 7/1/22 – 6/30/23	FY 24 7/1/23 – 6/30/24
Regular Plans- Age 60 Plan			
AC	7.8%	7.6%	7.7%
BC	4.6%	4.1%	4.2%
AN	7.5%	7.0%	6.9%
Regular Plans- Age 65 Plan			
AC	7.05%	6.85%	6.95%
BC	3.85%	3.35%	3.45%
AN	6.75%	6.25%	6.15%
Special Plans			
1C	9.2%	9.7%	10.7%
2C	8.4%	8.2%	8.4%
3C	9.7%	9.7%	9.3%
4C	8.3%	8.1%	8.9%
1N	8.7%	9.0%	8.9%
2N	7.2%	6.8%	7.5%
3N	8.5%	8.1%	8.1%
4N	7.7%	7.2%	6.6%

MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Disability Retirement Program Overview

One of the benefits available to members of the Maine Public Employees Retirement System (MainePERS) is disability retirement. Eligible members receive a disability retirement benefit and continue to accrue creditable service until they are able to return to employment or change over to service retirement.

WHO IS ELIGIBLE FOR DISABILITY BENEFITS

In order to be eligible for disability benefits:

- You must be a member of MainePERS and you have not received any full refund of contributions.
- You must have a mental or physical incapacity (diagnosed medical condition or conditions) that makes it impossible for you to perform the duties of your job, or of another job of comparable stature and compensation that your employer has offered you. The condition(s) must result in permanent functional limitations that make it impossible to perform the duties of your job.
- You must meet the terms of your specific disability retirement plan as it relates to any age restrictions or other required provisions.
- At the time you became incapacitated, you must have been on your employer's payroll (which includes any paid leaves of absence) and made contributions to MainePERS.
- There are no job modifications that your employer is willing to make that would allow you to do your job, such as providing special equipment, or changing your job duties.
- You may not be eligible for disability benefits if you have fewer than five years of continuous creditable service preceding your last date in service. If, at the time of application, you have already been incapacitated for 2 years, there are additional criteria to meet. Please call the MainePERS Disability Unit at the numbers below for more information.

WHEN TO APPLY

If it is impossible to perform the duties of your job due to a medical condition and you and your medical providers expect this situation to be permanent, you may want to consider applying for Disability Retirement Benefits.

HOW TO APPLY

To apply for disability retirement benefits please request an Application for Disability Retirement Benefits by calling us at **1-800-451-9800; (207) 512-3100; or Maine Relay: 711.** (*Note: You may not have a service retirement application and a disability application pending at the same time; you may not apply for disability after the receipt of a service retirement benefit.)*

For More Information visit the Publications section of our Web site at www.mainepers.org and click on *Qualifying for Disability Retirement,* or contact the Disability Unit at any of the telephone numbers above.

MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

EMPLOYER FACT SHEET: Survivor Benefits for Your MainePERS Members

Your employees' membership in MainePERS also includes benefits for their beneficiaries should an employee die before retiring. A lump sum refund, survivor benefit, or monthly retirement benefit make up the pre-retirement death benefit options. Survivor Services staff will work with the members and beneficiary(ies) to explain the available benefit options and help them make a fully informed decision.

Types of benefits:

Lump-sum Refund

- Named beneficiaries can choose, in most cases, a full refund of the member's accumulated contributions and interest on account at the time of the member's death
- One of the three following criteria must be met at the member's time of death. The member was:
  - In service
  - Receiving a disability benefit, or
  - Not in service but with contributions on account at MainePERS

Survivor Benefit

- A predetermined monthly benefit, if eligible, based on the beneficiary category
- Spousal benefits begin when the spouse reaches the age of 60 or are available immediately if meeting one of the following criteria:
  - Member had 10 years of creditable service
  - Spouse has permanent disability and is approved though the disability process
  - Spouse has care of the member's dependent children and the children are designated as beneficiaries
- Dependent children are automatically included when the spouse is designated
- When parents are beneficiaries benefits begin for each eligible parent on the first of the month after reaching the age of 60
- If the beneficiary is none of the above and is the only one designated they are eligible for a monthly survivor benefit at age 60

Reduced Retirement Allowance

- A monthly benefit equal to the benefit the employee would have received if they had retired on the day they died and selected Option 2
- The actual amount is based on the member's plan, average final compensation, years of service, age and age of beneficiary at the time of member's death
- Eligible benefit if at time of death the member met one of the following criteria:
  - In service
  - Receiving a disability benefit, or
  - Not in service but eligible to retire under MainePERS guidelines

Accidental Death Benefit

When a MainePERS member dies from an injury which was a direct result of his employment, additional benefits may be available to a spouse and dependent children if they are designated.

For more information:

Mail: MainePERS Survivor Services Unit, P.O. Box 349, Augusta, ME 04332-0349

Phone: 207-512-3244 **Toll Free**: 800-451-9800 **Fax:** 207-512-3101 **Maine Relay:** 711

E-mail: survivorservices@mainepers.org **Web:** www.mainepers.org

Form #: FS0020
Rev. 2/19

The Maine Public Employees Retirement System (MainePERS) is pleased to offer MaineSTART, our 457 Defined Contribution (DC) plan. MaineSTART focuses on the elements that we believe are most important to a defined contribution plan for your employees: simplicity, convenience, and high-quality, low-cost investment funds providing proper investment diversification.

Our shared mission with you is to educate employees in how to become successful savers, without having to be investment professionals, and to realize the value of the retirement programs you offer them.

Why MaineSTART?

Public employers in Maine have long relied on MainePERS for meeting the retirement needs of their employees. The defined benefit pension plans form the bedrock financial security for meeting the basic needs of many of Maine's public servants.

Most public employees will need to supplement their pension benefits with retirement savings, a goal best achieved through a systematic, tax-deferred plan like MaineSTART.

MaineSTART

- Makes it easy for you and your employees to meet the need for a tax-deferred retirement savings program
- A simple, no-nonsense alternative to complex investment programs that discourage employees from participating, or turn them from prudent savers into amateur traders
- Offers low-cost Vanguard® mutual funds that let more of the participants' savings keep working for them
- Is a high-quality, low-cost, prudent savings plan that employees will use and value.

For employers, there's comfort in knowing that your plan representative is right here, with contributions and reporting to the same place that you use for pension plan contributions and group life insurance premiums.

For more information, contact staff representative Gary Emery:

Gary.Emery@mainepers.org; 207-512-3116; toll-free 1-800-451-9800

MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

PARTICIPATION OF LOCAL DISTRICTS IN THE GROUP LIFE INSURANCE PROGRAM

ENTRANCE

- Any Participating Local District (PLD) eligible to participate in the Maine Public Employees Retirement System under 5 MRSA §18201 may participate in the Group Life Insurance program.
- The Maine Public Employees Retirement System requires a certified copy of the resolution or record of vote of the body with authority to approve participation of the PLD.
- The Maine Public Employees Retirement System and the PLD will mutually establish the effective date which may not be more than six months after the receipt of the resolution.
- Initially, the minimum number of employees required for coverage is 75% of eligible employees of the PLD.

COST

- The PLD shall pay whatever pro rata cost of premiums and expenses that are levied by the Board of Trustees.
- The PLD is responsible for premium payments for employees who retire and meet the requirements to carry basic coverage into retirement, and for any employee who goes on disability retirement and carries coverage with them. The PLD must pay premiums for the lifetime of the employee.

WITHDRAWAL

- A PLD may withdraw from the program by filing a certified copy of the resolution or record of vote indicating their intent to withdraw.
- It must include certification that equivalent coverage has been provided.
- Withdrawal is not effective until equivalent coverage is made available to the active and retired employees of the PLD.
- If proof of equivalent coverage is provided, the effective date of withdrawal is the last day of the last full pay period before the end of the month, following the month in which the Maine Public Employees Retirement System receives the certification.

Questions regarding this information can be directed to:

MainePERS Survivor Services Unit
P.O. Box 349
Augusta, ME 04332-0349

Phone: 207-512-3244 or 1-800-451-9800
E-mail: SurvivorServices@mainepers.org

MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 349
Augusta, ME 04332-0349
Telephone: (207) 512-3100
Toll-free: 1-800-451-9800
Fax: (207) 512-3101
Maine Relay: 711

If you retire or become disabled and receive MainePERS benefits, your pension may affect your Social Security benefits. This can be true of benefits based on your own work or the work of your spouse or former spouse. Your Medicare benefits will not be affected.

There are two ways your Social Security benefits may be affected because you are entitled to a benefit based on a job where you did not pay into Social Security:

Windfall Elimination Provision (WEP)
Under the WEP, your Social Security benefit is figured using a modified formula. As a result, you receive a lower Social Security benefit than if you were not entitled to a MainePERS benefit. This provision reduces, but does not totally eliminate, your Social Security benefit.

Government Pension Offset (GPO) Provision
This provision applies to Social Security benefits you may be entitled to as a spouse or widow(er). The GPO provision reduces your Social Security spouse or widow(er) benefit by two-thirds of your MainePERS benefit amount.

For more information on these provisions, visit Social Security's website at www.ssa.gov or contact your local Social Security office at one of the telephone numbers listed below:

Auburn	1-833-388-6432	Rockland	1-855-269-9179
Augusta	1-866-882-5422	Saco	1-877-253-4715
Bangor	1-877-405-1448	Waterville	1-866-931-9169
Portland	1-877-319-3076	Portsmouth NH	1-888-397-9796
Presque Isle	1-866-837-2719		

Windfall Elimination Provision

Your Social Security retirement or disability benefits can be reduced

The Windfall Elimination Provision can affect how we calculate your retirement or disability benefit. If you work for an employer who doesn't withhold Social Security taxes from your salary, any retirement or disability pension you get from that work can reduce your Social Security benefits. Such an employer may be a government agency or an employer in another country.

When your benefits can be affected

This provision can affect you if both the following are true:

- You earn a retirement or disability pension from an employer who didn't withhold Social Security taxes.
- You qualify for Social Security retirement or disability benefits from work in other jobs for which you did pay taxes.

The Windfall Elimination Provision can apply if one of the following is true:

- You reached age 62 after 1985.
- You developed a qualifying disability after 1985.

If the latter applies, you must first have become eligible for a monthly pension based on work where you didn't pay Social Security taxes after 1985. This rule applies even if you're still working.

This provision also affects Social Security benefits for people who performed federal service under the Civil Service Retirement System (CSRS) after 1956. We won't reduce your Social Security benefit amount if you only performed federal service under a system such as the Federal Employees' Retirement System (FERS). Social Security taxes are withheld for workers under FERS.

How it works

Social Security benefits are intended to replace only some of a worker's pre-retirement earnings.

We base your Social Security benefit on your average monthly earnings adjusted for average wage growth. We separate your average earnings into three amounts and multiply the amounts using three factors to compute your full Primary Insurance Amount (PIA). For example, for a worker who turns 62 in 2022, the first $1,024 of average monthly earnings is multiplied by 90%; earnings between $1,024 and $6,172 are multiplied by 32%; and the balance by 15%. The sum of the three amounts equals the PIA, which is then decreased or increased depending on whether the worker starts benefits before or after full retirement age (FRA). This formula produces the monthly payment amount.

When we apply this formula, the percentage of career average earnings paid to lower-paid workers is greater than higher-paid workers. For example, workers age 62 in 2022, with average earnings of $3,000 per month could receive a benefit at FRA of $1,553 (approximately 51%) of their pre-retirement earnings increased by applicable cost of living adjustments (COLAs). For a worker with average earnings of $8,000 per month, the benefit starting at FRA could be $2,843 (approximately 35%) plus COLAs. However, if either of these workers start benefits earlier than their FRA, we'll reduce their monthly benefit.

Why we use a different formula

Before 1983, people whose primary job wasn't covered by Social Security had their Social Security benefits calculated as if they were long-term, low-wage workers. They had the advantage of receiving a Social Security benefit representing a higher percentage of their earnings. Also they had a pension from a job for which they didn't pay Social Security taxes. Congress passed the Windfall Elimination Provision to remove that advantage.

Under the provision, we reduce the 90% factor in our formula and phase it in for workers who reached age 62 or developed a disability between 1986 and 1989. For people who reach 62 or developed a disability in 1990 or later, we reduce the 90% factor to as little as 40%.

Some exceptions

The Windfall Elimination Provision doesn't apply if:

- You're a federal worker first hired after December 31, 1983.
- You're an employee of a non-profit organization who was exempt from Social Security coverage on December 31,1983. This does not apply if the non-profit organization waived exemption and did pay Social Security taxes, but then the waiver was terminated prior to December 31, 1983.
- Your only pension is for railroad employment.

- The only work you performed for which you didn't pay Social Security taxes was before 1957.
- You have 30 or more years of substantial earnings under Social Security.

The Windfall Elimination Provision doesn't apply to survivors benefits. We may reduce spouses, widows, or widowers benefits because of another law. For more information, read *Government Pension Offset* (Publication No. 05-10007).

Social Security years of substantial earnings

If you have 30 or more years of substantial earnings, we don't reduce the standard 90% factor in our formula. See the first table that lists substantial earnings for each year.

The second table shows the percentage used to reduce the 90% factor depending on the number of years of substantial earnings. If you have 21 to 29 years of substantial earnings, we reduce the 90% factor to between 45% and 85%. To see the maximum amount we could reduce your benefit, visit ***www.ssa.gov/benefits/retirement/planner/wep.html***.

A guarantee

The law protects you if you get a low pension. We won't reduce your Social Security benefit by more than half of your pension for earnings after 1956 on which you didn't pay Social Security taxes.

Contacting Social Security

The most convenient way to do business with us is to visit ***www.ssa.gov*** to get information and use our online services. There are several things you can do online: apply for benefits; get useful information; find publications; and get answers to frequently asked questions.

Or, you can call us toll-free at **1-800-772-1213** or at **1-800-325-0778** (TTY) if you're deaf or hard of hearing. We can answer your call from 8 a.m. to 7 p.m., weekdays. You can also use our automated services via telephone, 24 hours a day, so you do not need to speak with a representative. **Wait times to speak to a representative are typically shorter Wednesdays through Fridays or later in the day**.

Year	Substantial earnings
1937–1954	$900
1955–1958	$1,050
1959–1965	$1,200
1966–1967	$1,650
1968–1971	$1,950
1972	$2,250
1973	$2,700
1974	$3,300
1975	$3,525
1976	$3,825
1977	$4,125
1978	$4,425
1979	$4,725
1980	$5,100
1981	$5,550
1982	$6,075
1983	$6,675
1984	$7,050
1985	$7,425
1986	$7,875
1987	$8,175
1988	$8,400
1989	$8,925

Year	Substantial earnings
1990	$9,525
1991	$9,900
1992	$10,350
1993	$10,725
1994	$11,250
1995	$11,325
1996	$11,625
1997	$12,150
1998	$12,675
1999	$13,425
2000	$14,175
2001	$14,925
2002	$15,750
2003	$16,125
2004	$16,275
2005	$16,725
2006	$17,475
2007	$18,150
2008	$18,975
2009–2011	$19,800
2012	$20,475
2013	$21,075
2014	$21,750

Year	Substantial earnings
2015–2016	$22,050
2017	$23,625
2018	$23,850
2019	$24,675
2020	$25,575
2021	$26,550
2022	$27,300

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

Securing today and tomorrow

Social Security Administration
Publication No. 05-10045
January 2022 (Recycle prior editions)
Windfall Elimination Provision
Produced and published at U.S. taxpayer expense

Government Pension Offset

A law that affects spouses and widows or widowers

If you receive a retirement or disability pension from a federal, state, or local government based on your own work for which you didn't pay Social Security taxes, we may reduce your Social Security spouses or widows or widowers benefits. This fact sheet provides answers to questions you may have about the reduction.

How much will my Social Security benefits be reduced?

We'll reduce your Social Security benefits by two-thirds of your government pension. In other words, if you get a monthly civil service pension of $600, two-thirds of that, or $400, must be deducted from your Social Security benefits. For example, if you're eligible for a $500 spouses, widows, or widowers benefit from Social Security, you'll get $100 a month from Social Security ($500 – $400 = $100). If two-thirds of your government pension is more than your Social Security benefit, your benefit could be reduced to zero.

If you take your government pension annuity in a lump sum, Social Security will calculate the reduction as if you chose to get monthly benefit payments from your government work.

Why will my Social Security benefits be reduced?

Benefits we pay to spouses, widows, and widowers are "dependent" benefits. Set up in the 1930s, these benefits were to compensate spouses who stayed home to raise a family and were financially dependent on the working spouse. It's now common for both spouses to work, each earning their own Social Security retirement benefit. The law requires a person's spouse, widow, or widower benefit to be offset by the dollar amount of their own retirement benefit.

For example, if a woman worked and earned her own $800 monthly Social Security benefit, but was also due a $500 spouse's benefit on her husband's record, we couldn't pay that spouse's benefit because her own benefit offsets it. Before enactment of the Government Pension Offset law, if that same woman was a government employee who didn't pay into Social Security and earned an $800 government pension, there was no offset. We had to pay her a full spouse's benefit and her full government pension.

If this person's government work had been subject to Social Security taxes, we would reduce any spouse, widow, or widower benefit because of their own Social Security retirement benefit. The Government Pension Offset ensures that we calculate the benefits of government employees who don't pay Social Security taxes the same as workers in the private sector who pay Social Security taxes.

When won't my Social Security benefits be reduced?

Generally, we won't reduce your Social Security benefits as a spouse, widow, or widower if you:

- Receive a government pension that's not based on your earnings; or
- Are a federal (including Civil Service Offset), state, or local government employee and your government pension is from a job for which you paid Social Security taxes; and:
  - —Your last day of employment (that your pension is based on) is before July 1, 2004; or
  - —You filed for and were entitled to spouses, widows, or widowers benefits before April 1, 2004 (you may work your last day in Social Security covered employment at any time); or
  - —You paid Social Security taxes on your earnings during the last 60 months of government service. (Under certain

conditions, we require fewer than 60 months for people whose last day of employment falls after June 30, 2004, and before March 2, 2009.)

There are other situations for which we won't reduce your Social Security benefits as a spouse, widow, or widower; for example, if you:

- Are a federal employee who switched from the Civil Service Retirement System (CSRS) to the Federal Employees' Retirement System (FERS) after December 31, 1987; and:
  - —Your last day of service (that your pension is based on) is before July 1, 2004;
  - —You paid Social Security taxes on your earnings for 60 months or more during the period beginning January 1988 and ending with the first month of entitlement to benefits; or
  - —You filed for and were entitled to spouses, widows, or widowers benefits before April 1, 2004 (you may work your last day in Social Security covered employment at any time).
- Received, or were eligible to receive, a government pension before December 1982 and meet all the requirements for Social Security spouse's benefits in effect in January 1977; or
- Received, or were eligible to receive, a federal, state, or local government pension before July 1, 1983, and were receiving one-half support from your spouse.

Note: *A Civil Service Offset employee is a federal employee, rehired after December 31, 1983, following a break in service of more than 365 days, with five years of prior CSRS coverage.*

What about Medicare?

Even if you don't get benefit payments from your spouse's work, you can still get Medicare at age 65 on your spouse's record if you aren't eligible for it on your own record.

Can I still get Social Security benefits from my own work?

The offset applies only to Social Security benefits as a spouse, or widow, or widower. However, we may reduce your own benefits because of another provision. For more information, go online to read *Windfall Elimination Provision* (Publication No. 05-10045).

Contacting Social Security

The most convenient way to contact us anytime, anywhere is to visit ***www.socialsecurity.gov***. There, you can: apply for benefits; open a *my* Social Security account, which you can use to review your *Social Security Statement*, verify your earnings, print a benefit verification letter, change your direct deposit information, request a replacement Medicare card, and get a replacement SSA-1099/1042S; obtain valuable information; find publications; get answers to frequently asked questions; and much more.

If you don't have access to the internet, we offer many automated services by telephone, 24 hours a day, 7 days a week. Call us toll-free at **1-800-772-1213** or at our TTY number, **1-800-325-0778**, if you're deaf or hard of hearing.

If you need to speak to a person, we can answer your calls from 7 a.m. to 7 p.m., Monday through Friday. We ask for your patience during busy periods since you may experience higher than usual rate of busy signals and longer hold times to speak to us. We look forward to serving you.

Social Security Administration
Publication No. 05-10007 | ICN 451453 | Unit of Issue — HD (one hundred)
May 2019 (Recycle prior editions)
Government Pension Offset
Produced and published at U.S. taxpayer expense

my Social Security
How to Create an Online Account

You can create a *my* Social Security account to access your *Social Security Statement* to check your earnings and get your benefit estimates.

If you receive benefits, you can also:

- Get your benefit verification letter;
- Change your address and phone number;
- Start or change your direct deposit;
- Request a replacement Medicare card; and
- Get a replacement SSA-1099 or SSA-1042S for tax season.

Even if you do not currently receive benefits, you can:

- Check the status of your application or appeal.
- Get a benefit verification letter stating that you:
  - —never received Social Security benefits, Supplemental Security Income (SSI) or Medicare; or
  - —received benefits in the past, but do not currently receive them (The letter will include the date your benefits stopped and how much you received that year.); or
  - —applied for benefits but haven't received an answer yet.

You may be able to use your free *my* Social Security account at ***www.socialsecurity.gov/myaccount*** to request a replacement Social Security card online, as long as you live in one of the participating states or the District of Columbia, are not requesting a name change or any other change to your card, and you meet other requirements.

There is no fee to create a *my* Social Security account, but you must have an email address. See other side for instructions on setting up an account using an activation code.

Email account set up

There are many options available to set up an email address and it can be done in as little as five minutes. Each email provider has its own criteria for setting up an account and you must accept the provider's terms of use agreement. Some examples of free email providers include:

AOL: *aolmail.com*

Gmail: *gmail.com*

iCloud Mail (Apple): *icloud.com*

Outlook: *outlook.com*

Yahoo: *yahoo.com*

**This is not a complete list of email providers. Social Security is not endorsing any of these particular email account provider(s), as you may use other email account providers as appropriate.*

NOTE: *Even if you do not use email on the computer, if you have a smart phone it is likely that you already have an email account. Contact your cell phone service provider to find out.*

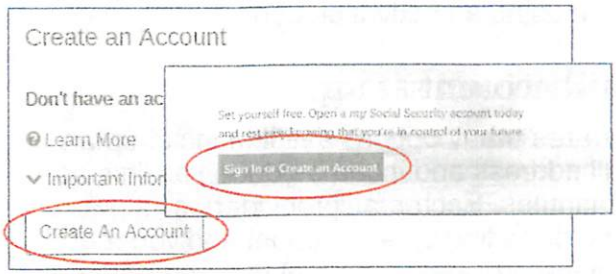
Setting up your own *my* Social Security account

After you have a valid email address, you are ready to set up your own *my* Social Security account. To set up your account, visit ***www.socialsecurity.gov/myaccount*** then follow the steps on the back of this page:

Select "Sign In or Create an Account"

To create a *my* Social Security account, you must be at least 18 years old and have:

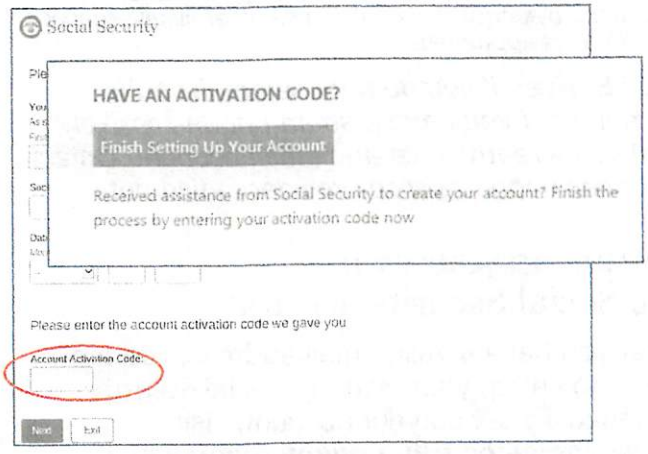
- A valid email address;
- A Social Security number; and
- A U.S. mailing address.



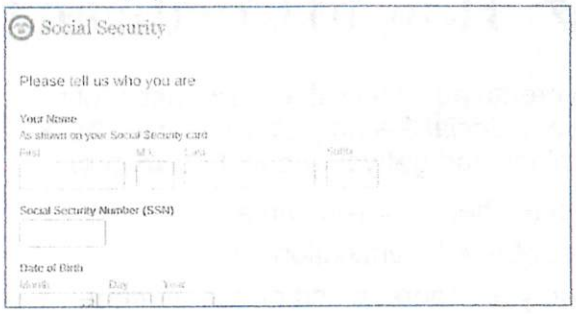
Using your activation code to create your account

You may have been given a letter with an activation code to complete the creation of your *my* Social Security account.

- Select "Finish Setting Up Your Account" and enter the information requested, including the account activation code we gave you.

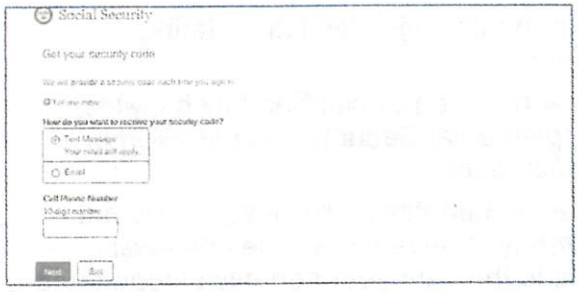


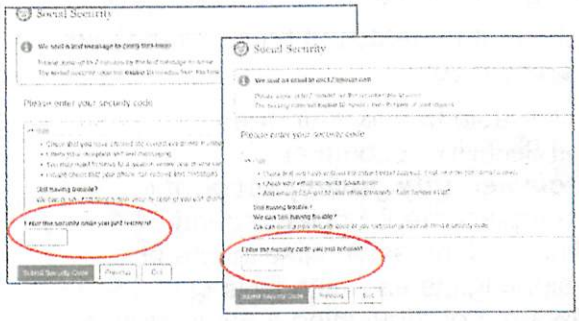
Provide some personal information to verify your identity



Choose a username and password

- Then, select how you would like to receive a one-time security code by providing the email address you registered or text-enabled cell phone number. You'll then receive a security code via text or email that you will need to enter within 10 minutes to finish creating your account.





NOTE: *We'll send a one-time security code to your cell phone or to your email address each time you sign in with your username and password. The security code is part of our enhanced security feature to protect your personal information. Keep in mind that your cell phone provider's text message and data rates may apply.*

Securing today and tomorrow

Social Security Administration
Publication No. 05-10540 | ICN 459261 | Unit of Issue — HD (one hundred)
June 2017 (Recycle prior editions)
my Social Security - How to Create an Online Account
Produced and published at U.S. taxpayer expense

Printed on recycled paper.

PERSONNEL POLICY

Town of Gray

Adopted: February 2, 2010
Amended: February 21, 2012
Amended: February 18, 2020
Amended: June 7, 2022
Amended: December 20, 2022

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Be it hereby resolved by the Town Council of Gray, Maine:

Section 1 - Mission Statement

The Town of Gray (hereafter "Town") recognizes that employment within its government shall be based on merit. As an Equal Opportunity Employer, the Town shall employ and promote employees without discrimination as to race, creed, age, sex, sexual orientation, disability, national origin or political affiliation; the best qualified persons who are available at the salary level established for the position, with first preference being given to citizens of the Town, all other factors being equal.

The Personnel Policy that follows is designed to promote and maintain equal employment conditions for all Town employees. Positions have been classified, where necessary, to clarify policies which apply strictly to employees with similar duties, authority, compensation or responsibilities. This policy is adaptive in nature and may be amended to meet the Town's future needs. This policy shall be applicable to all employees as defined within and is not a contract of employment.

Section 2 - Definitions

1) Appointing Authority: The Town Manager or the Town Council.
2) Employee: Denotes any person hired to a position by the Town Manager.
3) Regular, Full-Time: Employees who are not in a temporary, per-diem or probationary status and who are regularly scheduled to work the Town's full-time schedule are, generally, eligible for the Town's benefit package, subject to the terms, conditions and limitations of each benefit program. Reference Appendix for Employer / Employee Contributions.
4) Regular, Part-Time: Employees who are not assigned to a temporary, per-diem or probationary status and who are regularly scheduled to work less than a full-time schedule, but no less than 20 hours per week. These employees receive all legally mandated benefits and are eligible for the Town's benefit package at full cost to the employee subject to the terms, conditions and limitations of each benefit program. Reference Appendix for Employer / Employee Contributions. If hours worked during a pay period drop under 20 hours per week, no vacation or sick time will be accrued for that pay period.
5) Probationary: Employees whose performance is being evaluated to determine whether further employment in a specific position or with the Town is appropriate. Employees who satisfactorily complete the probationary period will be notified of their new employment classifications.
6) Temporary: Employees who may or may not work a specified number of hours per week but who is employed on a short-term basis at the discretion of the Town, usually for a specified term or project or are employed as part of seasonal operations, and whose employment will normally end at the conclusion of those seasonal operations during any given year.

Employment beyond any initially stated period does not; in any way imply a change in employment status. Temporary employees retain their status until they are legally notified of a change. A change to or from this category can be accomplished only with the written consent of the Town Manager. Although temporary employees receive legally mandated benefits they are ineligible for the Town's benefit package.

7) Per-diem: Employees who routinely work either a full-time or a part-time schedule and who accept additional compensation in lieu of participation in all but legally-mandated benefits. The Town offers this category in limited classifications and to a limited number of employees, such as Rescue EMTs. Service in this category cannot be credited in any way toward any benefit program, even if the employee is later assigned to a benefit-eligible classification. A change to or from this classification can be accomplished only with the written consent of the Town Manager.

8) FLSA: Fair Labor Standards Act.

9) Legally Mandated Benefits: Social Security and Workers Compensation Insurance.

10) Full-Time Schedule: For the purposes of determining benefits eligibility, a full-time schedule means a minimum of thirty-five (35) hours per week, based on a calendar year.

11) Good Standing: Employees who are not the subject of disciplinary action by the Town are considered in good standing.

12) Immediate Family: Includes parents, spouse/domestic partner, brother, sister, children (including step-children), grandparents, mother-in-law, father-in-law, sister-in-law, brother-in-law.

13) Hire Date: The date when an individual is notified of their employment with the Town of Gray. This date is not to be confused or used synonymously with an employee's start date which effects their benefit eligibility date.

14) Start Date: The date on which an employee actually commences work for the Town of Gray. This date is used to determine an employee's benefit eligibility date as applicable.

Section 3 - Administration

The Town Manager shall be the Administrator of the Personnel Policy. It shall be their duty to:

a) Encourage and exercise leadership in the development of sound personnel practices among the departments of the Town;

b) Advise the Gray Town Council regarding manpower needs and utilization;

c) Foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling and courtesy when dealing with the public and respectfulness of municipal property;

d) Establish and maintain records of all Town employees in the public service, setting forth as to each employee: classification, title, salary or status, sick time, vacation time and any other relevant data;

e) Ensure that at least one bulletin board shall be set up within easy access to each employee for the purpose of required Department of Labor posters, advertising job position openings, public notices, departmental regulations, etc.;

f) Apply and perform any act, which may be necessary or desirable to carry out the purposes and provisions of the Personnel Policy.

Section 4 - Employment

A. Applications

1) Original hires to positions in Groups I, II, III and IV shall be announced by posting notices in the Town Office, Post Office and such other places within the Town as may be deemed appropriate by the Town Manager, including at least one newspaper of general circulation. The Town Manager shall have final hiring authority on all municipal hires.

2) Applications shall be made on forms provided by the Town. Such forms shall require information covering training, experience and other pertinent information. All applicants must sign their application forms. Any misrepresentations, falsifications or material omissions may result in an applicant's exclusion, or, if the person has been hired, termination.

3) Preference may be given to qualified applicants who are residents of the Town.

4) Vacancies in positions above the entrance level shall be filled by promotion whenever, in the judgment of the Town Manager, it is in the best interests of the Town to do so. In the case of promotion, appropriate consideration shall be given to the applicant's qualifications, record of performance or seniority.

5) A person responsible for the hiring of new employees within a department may not hire a relative. A relative is a "person connected with another by blood or affinity".

6) The Town is an Equal Opportunity Employer and is committed to complying fully with the Americans with Disabilities Act (ADA).

7) The Town complies with the Immigration Reform and Control Act of 1986. Each new employee must complete Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility the original to be kept on file with the Human Resources Department.

8) The Town will check references and needed licensure of qualified job applicants.

9) An offer of employment is conditional on the following where applicable: a medical examination, a psychological evaluation, a criminal background check, a drug and alcohol test and a driving record. It is the practice of the Town of Gray to initiate at least a criminal background check for all prospective employees, as well as necessary independent contractors and volunteers to ensure the welfare and safety of the citizens in the Town of Gray.

B. Classifications

The Town Manager shall develop and recommend a classification plan for all positions in Groups I, II, III and IV. The classification plan shall consist of job descriptions specifying title, typical duties and responsibilities. The Town Manager shall assign the position a salary or wage range in accordance with the adopted pay schedule.

Before the classification plan, or any part thereof, shall become effective, it shall be approved, by order from the Gray Town Council.

The Town has established four (4) employment classifications.

a) Group I: All full-time, salaried exempt employees.
b) Group II: All full-time, hourly paid employees
c) Group III: All regular part time employees.
d) Group IV: All probationary, temporary, casual and per-diem employees. (This category **does not** include full-time hires in probationary status.)

C. Probation

The probationary period is intended to give a new employee the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town uses this period of time to evaluate an employee's capabilities, work habits, and over-all performance. Either the employee or the Town may end the employment relationship at will, during the probationary period, with or without cause or advance notice.

All new or rehired employees shall work on a probationary basis for the first six months from their date of hire or a time as established in writing by the Town Manager. Probationary basis shall be consistent with regulations as established by the FLSA.

During the initial probationary period, new employees are eligible for legally-mandated benefits. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) days of employment after their start date. New employees shall be eligible for other benefit programs at full cost to the employee. (A list of Town-offered optional benefits is available in Appendix E) Upon satisfactory completion of the initial probationary period, employees enter the established classifications.

An employee who is promoted or transferred within the Town may be required to complete a secondary probationary period with each reassignment to a new position. Any significant absence will automatically extend a probationary period by the length of the absence.

In cases of promotions or transfers within the Town, an employee who, in the sole judgment of management, is not successful in the new position can be removed from that position at any time during the secondary probationary period. If this occurs, the employee may be allowed to return to their former position or to a comparable position for which the employee is qualified, depending on the availability of such positions and the Town's needs.

Employment status is not changed until the end of the secondary probationary period that results from a promotion or transfer within the Town.

D. Conduct

All employees of the Town are expected to follow rules of conduct that will protect the interest and safety of all employees and the Town. Situations or conduct which would reflect negatively or bring discredit upon the Town are also unacceptable. It is not possible to list all forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions that may result in disciplinary action, up to and including termination of employment:

a) Theft or inappropriate removal or possession of property;
b) Falsification of time-keeping records;
c) Working under the influence of alcohol or illegal drugs;
d) Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace while on duty or while operating employer-owned vehicles and equipment;
e) Fighting or threatening in the workplace;
f) Boisterous or disruptive activity in the workplace;
g) Negligence or improper conduct leading to damage of employer-owned or customer-owned property;
h) Insubordination or other disrespectful conduct;
i) Violation of safety or health rules;
j) Smoking in prohibited areas;
k) Sexual or other unlawful or unwelcome harassment;
l) Possession of dangerous or unauthorized materials such as explosives/firearms in the workplace;
m) Excessive absenteeism or any absence without notice;
n) Unauthorized absence from the work station during the workday;
o) Unauthorized use of Town owned equipment;
p) Illegal or inappropriate activity engaged in while using Town-owned vehicles and equipment, including, but not limited to violation of federal/state law or local ordinance, including those governing cell phone usage and text messaging regulations.
q) Violation of the Personnel Policy;

r) Unsatisfactory performance or conduct.

(This list is not intended to be exclusive.)

E. Professional Dress Standards

Appropriate professional attire ensures a safe, distraction-free work environment. Town of Gray employees, including volunteers, interns, and any other individual who would represent the Town, are expected to dress appropriately, and present a professional image while at work.

Professional Attire

Professional attire is expected of all employees consistent with the work location and the nature of work. Employees are asked to use good judgment and present themselves at all times in a manner that best represents the Town. Inappropriate attire includes clothing that is too tight or revealing; clothing with rips, tears, holes, or frays; or any extreme style or fashion in dress, footwear, accessories, fragrances, or hair. Basic elements for appropriate attire include clothing that is in neat and clean condition.

Examples of appropriate Town Hall office and Gray Public Library attire include:

- Shirts: Shirts with collars, professional or business casual blouses or tops. Examples of inappropriate shirts include T-shirts, shirts with inappropriate slogans, tank tops, muscle shirts, camouflage, and crop tops.

- Pants: Dress slacks, trousers, and denim. Examples of inappropriate pants include shorts, camouflage, and pants worn below the waist or hip line.

- Shoes: Dress shoes, loafers, dress sandals. Examples of inappropriate footwear include flip-flops and construction or hunting boots.

Departments may elect to establish different standards based on job roles, safety / OSHA requirements, and level of interaction (or lack thereof) with members of the public. Departments with specific uniform practices in place should refer directly to department guidelines.

ID Badges

Employees visiting or working in Town Hall and the Library must wear their Town-issued ID badge and display the badge where it can be easily read. Picture IDs should be clear and unmarked.

Procedures

Department heads or those with supervising responsibilities are accountable for supporting and enforcing dress and appearance standards in their areas of responsibility. This includes coaching employees whose appearance is inappropriate. Employees who do not meet a professional standard may be sent home to change, and nonexempt employees will not be paid for that time. Repeated violations will lead to

disciplinary action as determined by the Personnel Policy. Questions about procedures should be referred to Human Resources or the Town Manager.

Accommodations

Exceptions and reasonable accommodations will be made as needed. For instance, managers may make appropriate exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee who is unsure of what is appropriate should check with his or her department head.

Additionally, the Town of Gray respects the religious beliefs of its employees and will make, upon request, an accommodation in terms of workplace attire when accommodation is available and does not create an undue hardship or safety issue for the Town. Requests for religious accommodation should be made in writing to the Town Manager.

F. Electronic Communications Policy

See Appendix for current policy.

G. Telephone and Personal Cell Phone Usage

Staff are expected to avoid making or receiving personal calls during work hours. Urgent calls to/from family members can be made/received and should be brief. Employees are expected to exercise the same discretion in using personal cell phones.

Employees contacted by creditors or collection agencies should immediately inform the caller of this policy and end the call. The employee should inform the agency in writing advising them not to contact them at work. Creditors failing to honor such a request can be reported to the Federal Trade Commission at www.ftc.gov.

H. Smoking

Smoking is not allowed in any workplace. It is the policy of the Town to comply with all applicable federal/state laws, and local ordinance regarding no smoking in the workplace and in public places.

Excerpt from the Town of Gray "No Tobacco, Alcohol or Medical Marijuana Use" Ordinance:

> "No person(s) shall use or partake of any form of tobacco, alcohol or medical marijuana on/in Town of Gray property, 365 days a year, 24 hours a day. There will be no designated areas to use or partake of any form of the same on/in Town of Gray property. No litter associated with tobacco, alcohol or medical marijuana may be discarded on/in Town of Gray property."

I. Drug Free Workplace Act

Under the Drug-Free Workplace Act, any employee who performs work for a

government contract or grant must notify the Town of a criminal conviction for drug-related activity occurring in the workplace. Employees concerned with substance dependency and abuse issues are encouraged to discuss these matters with their supervisor or the Town Manager.

J. Drugs

No employee may use, possess, distribute, sell or be under the influence of drugs while on the job or representing the Town. Prescription drugs may be used only if they do not impair the employee's job performance. Violations will result in disciplinary action, which may include termination.

K. Alcohol

No employee may use, possess, distribute, sell or be under the influence of alcohol while on the job and / or representing the Town at official Town proceedings or at Town-hosted events, except those related to Town Council approved economic development campaigns as described in Section 6.F. Violations will result in disciplinary action, which may include termination.

L. Personnel Files

The Town maintains a personnel file on each employee. Personnel files are confidential and are the property of the Town. Personnel files are to be kept locked and secured under the Town Manager's control. Title 26 M.R.S.A § 631 provides employees with access to their personnel records (including former employees and duly authorized representatives). However, a written request for such information must be submitted to the Town. File review and copying must take place at the location where the personnel files are maintained, during normal office hours unless, at the Town Managers discretion, a more convenient time and location for the employee is arranged. Employees are entitled to one free copy of their personnel file per calendar year upon written request.

M. Evaluations/Reviews

Supervisors and employees are strongly encouraged to discuss job performance, goals and professionalism. Formal Written Performance Evaluations are to be completed every twelve months, on or about the anniversary of the date of hire. Employee evaluations shall be signed by the employee, Department Head and Town Manager. An employee may attach a written statement within ten (10) calendar days after any evaluation given to be included in their personnel file.

N. Outside Employment

A Town employee may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment. Employees must inform their Department Head who shall inform the Town Manager of their outside employment. If the Town Manager

determines that such outside employment is disadvantageous to the Town, they shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be subject to perform their regular duties first.

O. Vital Information

In order to comply with federal and state regulations as well as for insurance and payroll purposes, employees must notify the Human Resources Director, in writing, of any of the following changes:

a. Address and/or telephone number
b. Change in marital status
c. Change in dependent status
d. Legal change in name or citizenship status
e. Additional or relevant education or skills acquired since date of
f. employment
g. Person to be notified in case of emergency
h. Change in military status or reserve requirements

P. Conflict of Interest

No employee of the Town shall have any financial interest in or profit from any contract, purchase, sale or work performed by the Town unless otherwise provided for by the Town Council. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or immediate family as listed in the definitions portion of this Policy. Actual conflicts of interest, as well as incidents or situations which create the appearance of a conflict, must be avoided.

1) Purchasing - No Town employee who is authorized to make purchases shall have any interest, either directly or indirectly in any contract with the Town. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence or transactions involving purchases, contracts or leases, it is imperative that they disclose this, as soon as possible, to an officer of the Town, the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

2) Gratuities - Compensation paid to the employee in accordance with the Pay Schedule, and reasonable expenses as approved by the Town Manager, shall constitute the sole remuneration for services rendered by an employee in the discharge of Town duties. No additional reward, gift or other form of remuneration shall be accepted by any employee for the discharge of their Town duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business, or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.

Personal gains may result not only in cases where an employee or relative has a significant ownership in a firm with which the Town does business, but also when an employee or relative receives any "kickbacks", bribes, substantial gifts or special consideration, as a result of any transaction or business dealings involving the Town.

Q. Confidentiality

During the course of their duties, employees of the Town are often privy to information about individuals, which is sensitive and should be kept confidential. Examples include, but are not limited to, labor relations, General Assistance and personnel actions. Employees are expected to respect the confidential nature of such information. Violations will result in disciplinary action, which may include termination.

Section 5 – Hours of Work

The hours of work (starting times, quitting times, lunch times and overtime) will be established within each department subject to the Town Manager's approval.

The hours of work may be changed by mutual agreement of the Department Head and the department employees, subject to Town Manager's written approval.

A. Overtime

Any time actually worked in excess of 40 hours in one work week shall be compensated by overtime pay at a rate of time and one-half, with the exception of employees in Group I. For those employees in Group I, it is understood that compensation is based on the job responsibility; and the person filling the position will be expected to accomplish the work assigned to the position regardless of hours required. For the purposes of overtime calculation, holiday and vacation time will be considered time actually worked, with the exception of floating holidays. Public Works and Maintenance employees will be paid overtime for time worked after their normal daily scheduled hours.

In accordance with FLSA, temporary summer Recreation employees are exempt from overtime.

In accordance with FLSA, Law Enforcement and Fire Protection Employees are entitled to overtime if they work in excess of 212 hours in a consecutive twenty-eight (28) day period.

Fire Protection personnel include firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel, or hazardous materials workers who:

1. are trained in fire suppression;
2. have the legal authority and responsibility to engage in fire suppression;
3. are employed by a fire department of a municipality, county, fire district, or State; and

4. are engaged in the prevention, control and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

B. Compensatory Time

Compensatory time is paid time that is earned and accrued by an employee in lieu of immediate cash payment for working overtime hours. Accrual of compensatory time in hours will equal 1.5 the overtime hours worked to correctly compensate the employee in regular hours. (see example below)

a. Overtime hours worked 2.5 hours = 2.5 hours multiplied by 1.5= 3.75 compensatory time hours.

All compensatory time accrued must be used within six months of their accrual date. At such a time, expired compensatory time will be paid out at the current rate of pay for the employee in the regular hours as calculated, as the regular hours have already been calculated at the required 1.5 rate.

Unless otherwise indicated in writing, each employee will be paid for the overtime hours worked during the normal payroll process. Each Department Head may determine whether the needs of their department are better served by allowing compensatory time to accrue for their employees in lieu of immediate cash payment for overtime hours worked. An employee may submit a written request to their Department Head for accrual of compensatory time in lieu of immediate cash payment for working overtime hours in advance of the hours worked, which will be subject to the Department Head's advance approval.

C. Absences

In the event of an absence due to illness or other personal cause, it is the responsibility of employees to notify their Department Head directly of the absence, as early as possible, but no later than fifteen (15) minutes after their scheduled starting time. If the Department Head is unavailable the employee should contact the Town Manager's Office. A signed Absence request form must be submitted to the Human Resources Department within three working days for Payroll purposes if utilizing eligible time. Absenteesim and excessive tardiness may lead to disciplinary action and/or possible termination.

A completed Absence request form must be submitted by the employee to their Department Head to request utilization of eligible time available. Scheduled Absence requests must be submitted with sufficient time in advance of the requested time off. The Department Head will process an Absence request within a reasonable amount of time (not to exceed five business days unless otherwise indicated to the employee in writing within that time frame). Department Head approval of such requests should cause a minimum loss of service to the public and is subject to approval by the Town Manager. Department Head requests shall be submitted to the Town Manager.

D. Call-In

Except as otherwise provided by law, any employee in Group II who is subject to being called in to work during their normal off-duty hours shall be paid a minimum of three (3) hours pay for each such call-in. Should they be required to work less than two (2) of the three (3) hours, three (3) hours will be the maximum paid in lieu of overtime compensation. Should they be required to work more than two (2) of the three (3) hours, overtime pay will be calculated on actual time worked.

E. Emergencies

Emergencies requiring the closure of any of the Town's facilities will be announced on local radio and television stations. Employees should be notified no later than one hour prior to the normal opening of the Town's affected public facilities. Employees who scheduled to work will be paid their normally-scheduled hours during official closures. Emergency and essential staff may be asked to work during official closures and will receive regular pay.

Section 6 – Compensation

A. Pay Schedule

The Town Manager shall prepare a pay schedule for all of the positions in the Town. The pay schedule shall reflect fairly the difference in duties and responsibilities and shall be related to compensation for comparable positions in other public and private employment.

The Town Manager shall submit the pay schedule to the Gray Town Council in the form of a resolution. The Council may adopt the pay schedule with or without amendment. Thereafter, no position shall be assigned a salary higher than the maximum provided for the position unless the pay schedule is amended in the same manner as herein provided for its adoption.

Any pay schedule amendments of position or re-assignment requests shall be brought to the attention of the Town Manager by the Department Heads. Changes will be made by the Town Manager in writing and will be based on employee merit.

B. Pay Dates

All employees are paid bi-weekly. If payday falls on a regularly scheduled holiday, employees will receive pay on the last day of work before the regularly scheduled payday. To receive pay before a scheduled vacation or to have pay direct-deposited to bank accounts, employees must submit a written request to the Finance Department. Any questions concerning payroll deductions may be addressed to the Finance Department.

C. Positions Changes

When an individual position is changed by reorganization, creation of a new position, or a change in duties and responsibilities, revisions of the pay schedule or possible job classification changes are necessary and the Town Manager shall recommend the

necessary revisions to the Town Council for their approval.

When a regular employee is out for an extended period of time due to illness or injury, the Department Head must review the vacancy to determine if the operations can continue without the position being filled temporarily. The written analysis must include the cost benefits of using existing personnel, including any overtime incurred, versus the promotion or hiring to fill the vacancy. If it is determined that the position must be filled during this period the following shall apply:

1) Promotions: In those cases where a regular part-time employee is temporarily promoted to fill the full-time vacancy, the person promoted shall be entitled to receive, all benefits provided to that position as indicated in the positions job classification. The time served in the temporary position shall count towards their second probationary period (as referenced under Section 4-C). Should the individual be returned to their regular part-time status, they shall be entitled to receive all benefits provided to that position as indicated in the positions job classification.

2) Hire: If a new person is hired temporarily to fill the full-time vacancy they shall only be entitled to the legally mandated benefits and holiday pay. If they are hired to the position as a full-time employee, then the time worked shall count towards their initial probationary period.

D. Cost of Living Adjustment (COLA) / Merit Raises

Any salary or wage adjustment based on COLA will commence on July 1, of each respective year.

Merit raises will be based on an employee's annual performance evaluation. Merit raises will be awarded as determined in writing by the Town Manager.

E. Fire / Rescue Per-Call Stipend

Fire and Rescue per-call "time" is not included in actual time calculations and is not included in overtime calculations.

F. Travel Expenses

1. Local Travel Expenses

   Employees required to drive personal vehicles for approved municipal purposes shall be reimbursed by the Town at the current federal mileage rate. Other approved expenses will also be reimbursed using a prorated Federal per-diem rate.

   a) Requests for local travel reimbursement must be approved by the employee's Department Head or the Town Manager, and must be accompanied by itemized receipts or submission of a travel expense form claiming prorated Federal per-diem reimbursement.

b) Authorization for personal car use by employees for routine Town business will be at the discretion of the Town Manager. All employees must show proof of insurance and a valid driver's license.

c) Authorization for personal car use by employees for a specific purpose and approved, in writing, in advance by the Town Manager.

d) Reimbursement for authorized personal car use shall be at a rate as determined by the Town Council, which will be no less than the Federal mileage rate.

e) All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, and mileage calculations shall be documented by the employee and submitted along with the reimbursement request, unless otherwise stipulated in advance by the Department Head or Town Manager.

f) When two or more persons travel together on official authorized trips, costs shall be paid to one employee based on the total mileage involved.

g) Employees are prohibited from purchasing alcohol or intoxicants using Town funds.

h) Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

2. Overnight Travel Expenses

Employees are occasionally required to travel overnight and/or out of town for meetings, events, and professional training and certification purposes.

a. Out-of-town travel expenses for employees must be authorized by the Town Manager or their designee, in writing, in advance of the use for which reimbursement is sought.

b. Travel expenses will be reimbursed using either a submission of itemized travel expense receipts or an employee may elect to receive the Federal per-diem rate for lodging and meal expenses.

c. All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, unless otherwise stipulated in advance by the Department Head or Town Manager. Mileage calculations shall be documented by the employee and submitted along with the reimbursement request.

d. It is understood that travel to conferences and training events may require lodging at rates that exceed the Federal per-diem rate. Employees should make the best effort to balance travel goals, personal safety, and the cost of lodging, and submit documentation of the

lodging expense and the Federal per-diem rate with their request to the Town Manager to deviate from the per-diem rate.

e. Employees electing to use the Federal per-diem meal expense rate may request an advance on their expense report to help cover travel costs.

f. Employees shall pro-rate total daily meal expenses by one third (1/3) for meals that are covered by the registration for an event, and for meals occurring before or after partial travel days, unless they receive written permission to deviate from this policy.

g. Employees are prohibited from purchasing alcohol or intoxicants using Town funds.

h. Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

3. Managerial Authority

Town Department Heads will include anticipated professional development and training travel expenses for department staff in their annual budget proposal, including the purpose of the travel, a list of those travelling, the duration of travel, the estimated cost, and the source of funding. The Town Manager will review annual budget proposals before submitting them to the Town Council.

The Town Manager will include their own anticipated professional development and training expenses in their annual administrative budget proposal, including the purpose of the travel, the duration of travel, the estimated cost, and the source of funding. The travel schedule will be reviewed by Town Council as part of the Town's annual budget development.

Other training sessions and opportunities to participate in professional conferences may arise during the year. Whenever possible, these costs shall be reviewed and approved in advance by the Town Council. Whenever timing for such travel does not allow for Council review, the Town Manager will notify the Town Council Chair in advance of the proposed travel. The Town Department Heads will submit any unanticipated travel costs and time for review under this process, provided the cost is within their department budget.

The Town Manager will submit their own unanticipated travel costs and time for review under this process, prior to travel.

Town staff may participate in community economic development activities that require use of Town funds for outreach events, meetings with prospective developers and business representatives, and campaigns to develop strategic business relationships.

a. Expenses for community economic development campaigns must be authorized by the Town Council, in writing, in advance of the use for which reimbursement is sought.

b. Community economic development travel and expenses should follow the Town's local and overnight travel policies.

c. The Town Council has discretion in pre-approving use of Town funds for Community economic development purposes, including use for travel, lodging, meals, alcohol, and entertainment. Notwithstanding other provisions of this policy, the Town Council has the sole discretion to approve the reimbursement of expenses for economic development activities that may include the purchase of alcohol provided that the Council determines such activities were conducted in a responsible and safe manner that does not present a risk to the Town or its staff.

G. Outside Compensation

Any employees receiving payment for services, from non-Town sources, rendered during their normal workday and for which work day Town compensation was given, shall turn the entire amount of that compensation over to the Town Treasurer. This provision does not apply to activities outside the workday or during periods of vacation.

Section 7 - Benefits

A. Social Security

The Town participates, jointly, with employees in Social Security payments. This is a federally mandated benefit and is dependent on current Federal Government standard reimbursements.

B. Health and Major Medical Insurance

Employees in Groups I, II and III are eligible to participate in a Town-sponsored group health insurance plan, which includes hospitalization and Major Medical. The Town will contribute toward coverage for employees in Groups I, II and III as determined annually by the Municipal Budget. When employment ceases, the Town will terminate payment of this benefit and COBRA will be offered as mandated by federal law. COBRA is to be administered by the insurance company if possible. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) of employment after their start date.

C. Life Insurance

Employees in Groups I, II and III may be eligible for Life Insurance at a rate of 1 times their annual salary. The Town will pay toward coverage for employees in Groups I, II and III as determined by the Town Council (according to the most updated Appendix).

D. Town Offered Optional Benefits

Employees in Groups I, II and III may be eligible for other optional benefits at full cost to the employee. A list of Town offered optional benefits is available in the Appendix.

E. Retirement

Employees in Groups I, II, and III are eligible to participate in the Town-established retirement plan. For Groups I and II, the Town will match up to an amount as determined by the Town Council (according to the most updated Appendix), should an employee elect to participate. All new employees shall not be eligible for retirement benefits for the first sixty (60) days of employment.

F. Sick Time

The Town has established a sick time benefit to ensure that employees have a financial resource during periods of illness. The Town does not view sick time as additional vacation or personal time to be utilized at the will of the employee. Sick time shall be used during periods of actual illness or at the written discretion of the Town Manager. Sick time may be utilized to care for an employee's immediate family as listed in the definitions portion of this Policy. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Employees in Groups I & II shall be entitled to one (1) day of sick time for each month while employed by the Town. For accrual purposes, one (1) sick day shall equal eight (8) work hours. They shall accrue 3.692 hours per bi-weekly pay period.

Employees in Group III shall earn sick time at an hourly rate of .04615 hours for every hour worked. This accrual rate is determined as follows:

3.692 hours per bi-weekly pay period/80 hours per pay period = .04615 per hour

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.846 sick hours per pay period (40 x .04615 = 1.846).

For the purposes of sick accrual calculations, holiday and vacation time will be considered time actually worked. Sick time, personal time, discretionary time, FMLA and bereavement time will not be considered time actually worked.

The Town Manager may require a physician's certificate as a condition of an employee's utilization of sick time. Employees, who utilize three or more days of sick time consecutively, may be required to furnish a physician's certificate, explaining the employee's condition in direct relation to their ability to perform their job responsibilities in accordance with their job description. Persons drawing workers' compensation or absent on an FMLA absence will not accrue sick time.

All unauthorized use of sick time shall be considered as an unauthorized absence from work and as unpaid time. Unauthorized use of sick time shall be considered an action subject to discipline.

Accrual Cap

Accrual of sick time will not exceed 960 hours. Employees who have an excess of this cap as of January 1, 2023 will maintain their sick time hours until such time as the accrued hours may fall below 960 hours, at which time the cap will be in force.

Sick Time Donation

Regular full-time employees and regular part-time employees may choose to donate up to twenty-four (24) hours to another full- or part-time employee of the Town of Gray in a fiscal year.

Payout for Accumulated Sick Time

As of October 1, 2022, employees in Groups I & II, having achieved at least ten (10) years of service to the Town of Gray will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, not to exceed three hundred and sixty (360) hours.

As of October 1, 2022, employees in Groups I & II having achieved at least five (5) years of service will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, up to two hundred (200) hours.

As of October 1, 2022, payout is not available to employees in Groups I & II having achieved less than five (5) years of service.

An employee who is not in good standing upon separation from employment for any reason will receive no payout of accumulated sick time.

G. Personal Time

Any employee in Groups I or II will receive an annual personal time allocation of 16 hours. Personal time does not accrue year to year and is not subject to payout upon separation.

Whenever possible, personal time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

H. Vacation Time

Employees in Groups I & II shall be entitled to two (2) weeks (80 hours) of vacation time each year. Employees with five years of service shall be entitled to three (3) weeks (120 hours) of vacation time each year. Employees with ten (10) years of service shall be entitled to four (4) weeks (160 hours) of paid vacation time each year. For accrual purposes, one (1) vacation day shall equal eight (8) work hours. Vacation time shall be accrued to each eligible employee during each pay period at the following rates:

a. Under five years of service-3.08 hours;
b. Five-ten years of service-4.62 hours;
c. Ten years of service and after-6.16 hours.

Employees in Group III shall earn vacation time at an hourly rate of .0385 hours for every hour worked. This accrual rate is determined as follows:

3.08 hours per bi-weekly pay period/80 hours per pay period = .0385 per hour

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.54 vacation hours per pay period (40 x .0385 = 1.54).

Whenever possible, vacation time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Vacation time is not intended to be cumulative. Vacation time will cease accruing at the employee's individual limit as determined by their year's of service and their employment classification. Exceptions may be made at the written discretion of the Town Manager.

Exceptions may be made at the discretion of the Town Manager; provided however, with respect to the Town Manager's own annual time, they must, each year, advise the Town Council of the status of their annual time and, if applicable, request written permission from the Town Council to carry the same forward to the next year. Copies of the Town Manager's status report on their own annual time and the Town Councils written response shall be placed in the Town Manager's personnel file. Town employees and the Town Manager must take extended time within 180 days of the year earned.

I. Discretionary Time

Additional time off with pay may be granted in writing to any employee by the Town Manager at their discretion. Such time must be used within one (1) calendar year and is not payable to the employee upon separation from employment in good standing.

J. Bereavement Time

Special time with pay shall be granted to employees in Groups I, II & III for up to three (3) days for absence caused by the death of a member of the immediate family, as listed in the definitions portion of this Policy.

K. Leave of Absence

Other than FMLA, a leave of absence without compensation shall not exceed a length as determined in writing by the Town Manager and shall be based on the employee's past work performance.

A person on a leave of absence without pay shall not be entitled to holiday, sick or vacation pay. The Town Manager may permit holiday, sick and vacation pay on notice if extenuating circumstances exist and the leave of absence is less than thirty (30) days.

L. Military Service Leave

Employees in Groups I & II who are members of the organized military reserves and who are required to perform field service will be granted Military Service Leave in addition to the vacation leave, but not to exceed two (2) weeks in any calendar year. For any such periods of Military Service Leave, excluding weekend duty, the Town will pay the employee the balance between base pay and the employee's regular daily compensation; the total equaling their regular pay. The employee shall furnish the Human Resources Department with an official statement from military authorities indicating their rank, pay and allowances.

M. Holidays

Paid holidays for employees in Groups I & II and III shall be as follows:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Indigenous Peoples' Day
Presidents' Day	Veterans Day Thanksgiving Day
Patriots' Day Memorial Day	The Day after Thanksgiving
Juneteenth	Half Day before Christmas
Independence Day	Christmas Day
New Year's Day	Labor Day

Employees in Groups I, II shall be compensated for their normal regularly scheduled working hours on the date of the holiday or its observance date (as described below (a)). If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Groups I & II, the holiday shall be accrued as floating holiday time to be used within 6 months following the date of the accrual. If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Group III, the holiday shall be accrued as floating holiday time at a rate of one-half the average daily schedule for the employee, as worked for the previous three months, to be used within 6 months following the date of the accrual. Floating holiday time is not intended to be cumulative and is not included in overtime calculations.

The Department Head may request payment through payroll for employees for holiday hours which would normally be accrued as floating holiday(s) if the accrual of such floating holiday(s) will cause a loss of service to the public or potentially interfere with the productivity of a department. All such requests are subject to the written approval of the Town Manager. Floating holiday time paid instead of accrued is not included in overtime calculations.

a. When a holiday falls on a Sunday, the following Monday shall be observed for all employees who are not regularly scheduled for Sunday. When a holiday falls on a Saturday, the preceding Friday shall be observed for all employees who are not regularly scheduled for Saturday.

b. Because of the nature of the position, certain employees in Groups II & III may be required to work during a holiday. Should this occur, hourly paid employees

will be paid time and a half for the hours worked on the holiday for all holidays except Thanksgiving and Christmas, for which they will be paid holiday pay plus two times their hourly rate for hours worked on the holidays.

c. There is one standard exception to the holiday schedule. The Transfer Station will be closed on Easter Sunday and open on Patriots' Day without holiday compensation being paid for hours worked on Patriots' Day. Other exceptions to the holiday schedule may be necessary when considering the dates of the holiday (or their observance date) and the needs of the Town, or by a written request of the Department Head to the Town Manager. Any such exception(s) is/are subject to the approval of the Town Manager and must be determined with sufficient advance time to notify the public.

N. Jury Duty

A Town employee called for jury duty will receive his or her regular pay check. They are required to forward any payments received for their jury duty service to the Human Resources Department with the exception of mileage reimbursement. This procedure will compensate employees for any difference in pay. Employees excused from jury duty must report back to work if it is during their normal working hours.

O. Family Medical Leave Act

See Appendix for details.

P. Earned Paid Leave

See Appendix for details.

Q. Remote Work

The purpose of this policy is to define the Town of Gray's rules for remote working or teleworking (i.e., when employees work any hours from a location other than Town facilities). The Town of Gray recognizes that, in some cases, telework arrangements can provide a mutually beneficial option for both the Town and its employees. This policy is intended to set expectations and ensure that work goals can be met, and it may be altered at any time as needed.

Eligibility

The Town Manager will determine which positions are most suitable for remote work, depending on the Town's needs and the position's responsibilities.

Not all jobs can be performed from off-site locations. In general, positions requiring face-to-face interaction with customers and office personnel are not suitable for telecommuting arrangements.

While employees and work managers have the freedom to develop arrangements tailored to employee and departmental needs, the following basic requirements must be met:

- Employees must be able to carry out the same duties, assignments, and other work obligations at their remote workspace (or home office) as they do when working on Town premises. At a minimum, employees should maintain a remote workspace where they can attend remote meetings, participate in phone calls, and conduct their work assignments comfortably and without interruption.
- The IT Systems Administrator must confirm the suitability of workspace equipment, such as hardware, software, anti-virus protection, phone/fax, and Internet/data lines.
- Candidates for temporary telecommuting arrangements must demonstrate good time-management and organizational skills, and be self-motivated, self-reliant, and disciplined.

To request a remote work arrangement, employees must submit their request in writing to their supervisor. This request must outline a proposed work schedule, specific deliverables, and procedures to ensure continuity of business.

Eligibility determinations will be made thoughtfully and reviewed with the employee for any changes or updates at least annually.

All remote work must receive prior approval, and a Remote Work agreement prepared by Human Resources must be signed by the employee, department head, and Town Manager. Evaluation of remote employees' performance will focus as much on work output and completion of objectives as time-based performance. Employees and department heads should meet frequently to discuss progress and results.

The Town Manager reserves the right to revoke the eligibility of an employee for remote work at his/her discretion. Notice of revocation will be given as far in advance as possible, but shall not be required.

Hours and Availability

Positions working remotely will be provided with the number of hours they are expected to work on site and/or remotely. The workweek should approximately mirror normal business hours on Town premises.

- Employees must be readily available to their work managers and co-workers during core work hours. There are two core periods each day. The first runs from 9:30 a.m. to 11 a.m. and the second from 1:30 p.m. to 3 p.m.
- Employees must be available to attend scheduled meetings and participate in other required office activities at the remote workspace as needed. Except for extraordinary circumstances, the Town normally provides at least 24 hours' notice for such events.
- Employees must arrange for flextime and/or other accommodations for childcare during their work hours as part of maintaining an uninterrupted remote workspace, particularly during core hours.

Employees will report their hours and activities to their supervisor.

- Those who are classified as non-exempt (Groups II-IV) must record all hours worked on a Time Card worksheet and provide this information to their

supervisor. Time Card worksheets should be submitted on a weekly basis on Fridays by 12:00 p.m.

- Non-exempt employees who need to work outside of scheduled work hours will seek approval from their supervisor whenever possible, and will report any overtime to their supervisor and the Human Resources Director.

Workspace & Equipment

The employee will establish an appropriate work environment within his or her remote workspace for work purposes.

- Employees should seek a quiet and distraction-free working space, to the extent that such a space is possible.
- Employees are expected to maintain their workspace in a safe manner, free from safety hazards.
- Employees are required to notify the Town of any illness or injury incurred in the course and scope of performing work remotely.

As a general rule, the Town of Gray will not be responsible for costs associated with the setup of the employee's remote workspace, such as remodeling, furniture, or lighting, nor for repairs or modifications to the remote workspace. However, if an employee is in need of a reasonable accommodation in accordance with the Americans with Disabilities Act (ADA), an employee may submit such a request to Human Resources and such requests will be considered to the extent that a reasonable accommodation exists and would not create an undue hardship on the Town of Gray.

The Town of Gray will determine the equipment needs for each employee on a case-by-case basis. If the Town provides equipment used for remote work, is to be used for Town business purposes only. Employees must keep it safe and avoid any misuse.

Consistent with the Town's expectations of information security for employees working at the office, employees working remotely will be expected to ensure the protection of proprietary Town and citizen information accessible from their remote workspace. Specifically, employees must:

- Keep their equipment password protected.
- Store equipment in a safe and clean space when not in use.
- Follow all data encryption, protection standards, and settings.
- Refrain from downloading suspicious, unauthorized, or illegal software.
- The Town discourages the use of an employee's home workspace for the conduct of in-person meetings or for visitation by coworkers or the public in connection with work being conducted remotely and shall not be liable for any damage or injury sustained by any person other than the employee authorized to work in such remote workspace.

Town Records

During remote work, employees shall be required to maintain all work product and records in a manner consistent with the Town's standard recordkeeping practices and in full compliance with the Maine Freedom of Access Act and Record Retention Rules

established by the Maine State Archivist. Employees shall not delete or destroy any records that are otherwise required to be maintained by the Town per these laws and rules. It shall be the responsibility of the employee to ensure that he/she can satisfy these recordkeeping requirements while working remotely.

Meeting Etiquette
While distractions are often unavoidable, employees should strive to keep them to a minimum.

- No music or television in the background is permitted during meetings.
- Employees should remain muted during video or audio conferencing unless the employee is speaking.
- Turning on video is encouraged but not required.
- Employees should avoid eating food during a virtual meeting unless invited to do so by the meeting host.
- Smoking or vaping is not permitted during a video conference.
- Casual dress is acceptable; however, use discretion. Loungewear, pajamas, or other apparel considered inappropriate in a professional work setting are not permitted while an employee is working remotely.
- Avoid multi-tasking. Employees are expected to give their full attention to meetings as if the meetings were held in-person.

R. Emergency Telework

In the event of an emergency such as a weather disaster or pandemic, the Town Manager may allow or require certain employees to temporarily work from home to ensure business continuity.

- These employees will be advised of such work requirements by the Town Manager or the employee's department head.

- These employees are required to follow the guidelines provided in the Remote Work Policy.

Preparations should be made by employees and department heads well in advance to allow remote work in emergency circumstances. The Communications & Information Department is available to review equipment needs and to provide support to employees in advance of emergency telework situations

Section 8 – Resignations

An employee may resign from Town employment in good standing. Good standing (as defined in the definitions section of this policy) shall, in this instance, require the submittal of a written notice fourteen (14) working days in advance of the last day of work. Failure to comply with this rule may be cause for denying future employment with the Town and disqualify the employee from any payments that may have been issued to them for a resignation in good standing. The Town Manager may shorten the period of notice for extenuating circumstances.

Section 9- Disciplinary Procedures

A. Just Cause

The Town shall base disciplinary actions or measure on a "just cause" basis.

B. Disciplinary Actions

The appointing authority shall have the right to impose disciplinary action, on any employee whose work performance or conduct, in the judgment of the appointing authority, justifies such action.
The steps of disciplinary action are as follows:

1) First written warning
2) Second written warning
3) Suspension (as defined below in C.)
4) Termination

All warnings must clearly identify each issue of discipline, as well as the appropriate corrective measures to be taken by the employee (including their time frame for completion) in order for the appointing authority to consider each issue as resolved.

There are certain types of employee problems that are serious enough to justify immediate suspension or termination. Notice of such action against an employee must be in writing and filed with the employee not later than the effective date of action. Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right of appeal, as outlined in the grievance procedure.

C. Suspension

As step 4 (four) in the disciplinary action process, suspension of any employee's employment may be done in writing at the discretion of the appointing authority, with special consideration to the following written conditions:

1) Suspension with or without pay;
2) Specific time frame;
3) Conditions for reinstatement.

D. Discharged Without Just Cause

If it is determined that an employee has been discharged without just cause, he or she shall be reinstated to his or her former position with full pay for all time lost. In the event that a Department Head wants to discharge an employee, the action shall first be approved by the Town Manager.

E. Employee Termination

Employment may be terminated for the following reasons:

1) Resignation -voluntary employment termination initiated by an employee;
2) Discharge -involuntary employment termination initiated by the Town;
3) Layoff -involuntary employment termination initiated by the Town for non-disciplinary reasons or
4) Retirement -voluntary employment termination initiated by the employee meeting age, length of service and any other criteria for retirement from the Town.

At the time of termination an exit interview may be scheduled. Employees will receive final pay in accordance with State law at the next regularly scheduled pay date.

Town Property: Employees must return all property belonging to the Town at the time of their termination or upon immediate request.

Section 10 – Grievance Procedure

Grievances are limited to written disputes, claims or complaints of those issues which are related to aspects of the employer-employee relationship between the employee and the Town. The grievance in writing must include the following:

- A clear and concise statement of the facts giving rise to the grievance, including date, time and place of the alleged incident, if any, relating to the grievance, and characterizing each particular act or omission;
- A copy of any documents relating to the grievance (if any); and
- A statement setting forth the remedy sought.

To resolve the grievance the following course of action should be taken consecutively:

1) The grievance shall be filed in writing with the Department Head within five (5) working days of the alleged incident, particular act or omission. The Department Head shall issue a written decision within five (5) working days from the date received.

    a. If the grievance arises from an alleged incident, particular act or omission on the part of the Department Head, the grievance shall be filed with the Town Manager within five (5) working days of the alleged incident, particular act or omission.

2) The individual may appeal the decision of the Department Head to the Town Manager within five (5) work days of the date of receipt of the Department Head's decision. The Town Manager shall issue a written decision within five (5) working days from the date the appeal is received. The Town Manager's decision shall be final.

    b. If the grievance arises from an alleged incident, particular act or omission on the part of the Town Manager, other than a decision of the Town Manager on appeal of a grievance or disciplinary action, the

grievance shall be filed with the Town Council within ten (10) working days of the alleged incident, particular act or omission. The Town Council will hold a hearing, within fifteen (15) working days, in regard to said grievance and issue a decision. The decision of the Town Council shall be final.

Section 11 –Harassment

It is the policy of the Town that all our employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy, is prohibited. All employees must avoid offensive and inappropriate or harassing behavior at work and are responsible for assuring that the workplace is free from hostile behavior at all times.

This policy refers not only to supervisor-subordinate actions but also actions between co-workers. Any complaints of harassment will be investigated promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

A. Sexual Harassment

Sexual harassment is the attempt to control, influence or affect the career, salary, or job of an individual in exchange for sexual favors. Sexual harassment can also be conducted which creates a hostile or offensive work environment or unreasonably interferes with a person's ability to perform their job. Sexual harassment is an extremely serious matter. It is prohibited in the workplace by a person and in any form.

1) Specific conduct which is prohibited includes, but is not limited to:

   a) Threats or insinuations, implicit, that any employee's refusal to submit to sexual advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or any other condition of employment;

   b) Unwelcome sexual flirtations, advances, or propositions;

   c) Verbal or written abuse of a sexual nature;

   d) Graphic verbal comments about an individual's body;

   e) Sexually degrading words used to describe an individual, or

   f) The display in the workplace of sexually suggestive objects, comments or pictures.

Any Department Head or employee who is found after appropriate investigation to have engaged in sexual harassment will be subject to discipline, up to and including discharge.

B. Harassment

Derogatory or vulgar comments or actions regarding a person's sex, sexual orientation, religion, age, ethnic origins, race, physical appearance, or the distribution of written or graphic materials having such an effect, are prohibited. Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to their Department Head or the Town Manager. Any Department Head or employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, including discharge.

C. Reporting a Complaint

Any employee who believes he/she has been the subject of harassment should report all alleged acts to their Department Head or the Town Manager. If the complaint involves an employee's direct supervisor or if the employee feels uncomfortable with reporting the matter to their direct supervisor, the complaint should be brought to the attention of the Town Manager. If the complaint concerns the town Manager then the employee should bring the matter to the attention of the Town Council Chairperson.

D. State Law

Effective October 19, 1991, the Maine Legislature passed a new law regarding Sexual Harassment in the Workplace. In compliance with this law, the Town is also required to provide annual written notification to all employees regarding sexual harassment. The Town is also required to provide training to all new employees on sexual harassment before their first anniversary of employment. In addition, new supervisors must receive information on their responsibility to take immediate and corrective action in addressing sexual harassment complaints.

Section 12 – Political and Outside Activities

Except as otherwise provided by law, no person who is an employee of the Town shall be eligible to hold any elective office in the Town government. No Town employee shall orally, by letter, or in any other manner, solicit or assist in soliciting any assessment, subscriptions or contributions for candidate for elective office in the Town government. This shall not prevent Town employees from becoming, or continuing to be, members of any political organization, from attending political functions, running for any Town, State or Federal elected position, or from voting with complete freedom in any election. The Town Manager shall endeavor to keep all municipal properties free of political or campaign literature and materials.

Section 13 – Safety

The Town of Gray recognizes that an organized and systematic loss control program is important to our operational and administrative systems. The safety and health of employees and of the public and the protection from loss of the Town's physical facilities is both a moral and legal obligation.

It is intended that the Town of Gray will undertake initiatives to maintain safe and healthful

working conditions and facilities, develop safe operating procedures, and utilize its financial and personnel resources to achieve a loss free environment of our employee for our employees and for the public.

The responsibility for this undertaking is shared by the Manager, Supervisors and employees. Oversight of the loss control/safety program will be done by a Committee of various employees as approved by the Town Manager. However, all employees must work cooperatively to ensure that workplace safety is a matter of continual concern, equal in importance to all other operation considerations.

The Town requires all employees to complete mandatory safety training that complies with Federal (OSHA), State and local requirements. Each Department Head is required to ensure the proper training for each of their employees. Written proof, signed by the employee and Department Head/Certified Training Authority or a valid Certificate of course completion, shall be required for all training, and will be added to each employee's Personnel File. Employees are expected to abide by all safety rules and regulations, which shall be posted on bulletin boards, announced at staff meetings or otherwise communicated by the Town. An employee's failure to comply may result in disciplinary action and/or termination.

A. Workers Compensation

The Town participates in a federally mandated Workers Compensations Program. The following actions are required by all employees:

1) All accidents to personnel, no matter how minor, during the work schedule must be reported immediately to the Department Head or the Town Manager. The Town requires the first injury report to be filed with Workers Compensation within three (3) days of incident. A copy of the report will be forwarded to the Human Resources Department so it can added to the employees confidential personnel file.

2) All employees suffering an on-the-job accident will be sent to the Town-specified doctor for examination at the Town's expense.

3) The employee, if eligible, will be entitled to utilize sick, vacation or personal time respectively for any regularly-scheduled time missed between the incident and the date that Workers Compensation benefits may begin.

B. Infectious Disease

See Appendix for the Infectious Disease Policy.

Section 14 – Severability

If any provision of this Personnel Policy to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the Personnel Policy which can be given effect without the invalid provision or application. For this purpose, the Personnel Policy is severable.

APPENDIX A - FAMILY MEDICAL LEAVE ACT

The **Family & Medical Leave Act** (29 U.S.C. § 2601 et seq.) is a federal law guaranteeing unpaid time off for employees to deal with family and personal matters. In 2008, the FMLA was amended, through the National Defense Authorization Act of 2008 (PL 110-181), to provide new leave entitlements related to military service. In addition, comprehensive new regulations promulgated by the U.S. Department of Labor (DOL) in November, 2008 have clarified and revised some FMLA requirements, effective January 16, 2009.

"Traditional" Non-Military FMLA Leave. The law requires covered employers to grant up to **12 workweeks** of unpaid leave in a 12-month period to eligible employees for the following reasons:

1) the birth and care of the employee's newborn child;
2) placement of a child with the employee for adoption or foster care;
3) to care for the employee's spouse, son, daughter or parent, (but not parent-in-law) with a serious health condition; or
4) for the employee's own serious health condition that makes him/her unable to perform the functions of his/her position.

"Serious health condition" is defined in detail in DOL regulations. See 2008 regulations 29 C.F.R. §§ 825.113; 825.115. *"Son or daughter"* means a biological, adopted, or foster child, stepchild, legal ward or in a loco parentis relationship who is either under age 18, or over 18 and incapable of self care due to a physical or mental disability. See 2008 regulation 29 C.F.R. § 825.122 for more details.

Military FMLA Leave. Two new leave entitlements were provided in 2008 to deal with military family leave issues.

(1) **Military Caregiver Leave**. Eligible employees may take up to **26 workweeks** of unpaid leave within a 12-month period for the purpose of caring for a "covered servicemember." The employee must meet the basic FMLA eligibility requirements discussed below and must also be the spouse, son, daughter, parent or "next of kin" of a covered servicemember.

• *"Next of kin,"* for the purposes of Military Caregiver leave, is the nearest blood relative of that individual other than the servicemember's spouse, parent, son or daughter according to list of priorities in the regulations at 29 C.F.R. § 825.127.

• *"Covered servicemember"* means a current member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term *"serious injury or illness"* is defined (**only** for the purpose of deciding who is a "covered servicemember"), as an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform his/her military duties. See 2008 regulation 29 C.F.R. § 825.127.

• Unlike other FMLA leaves, Military Caregiver leave starts on the first day leave is taken and ends 12 calendar months from that date, regardless of the usual method the employer uses to calculate the 12 month period for other FMLA leaves. See discussion below.

• An employee is limited to a combined total of 26 workweeks of FMLA leave in one 12-month period, which includes all FMLA leave taken for any reason.

• An employee may take additional 26-week Military Caregiver leaves for a different service member or to care for the same servicemember with a subsequent injury or illness, provided that no more than 26 weeks of leave may be taken in one 12-month period.
• The Military Caregiver Leave entitlement became effective immediately upon passage on January 28, 2008.

(2) **Qualified Exigency Leave.** Eligible employees may take up to **12 workweeks** of unpaid FMLA leave in a 12-month period because of a "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter or parent is a "covered military member" who is on active duty, or call to active duty status, in support of a contingency operation.
• A *"qualified exigency"* is defined in the regulations to include a number of broad categories for which leave may be used. These include:
o Short-notice deployment (used up to 7 days from notification date);
o Military events and related activities;
o Childcare and school activities;
o Financial and legal arrangements;
o Counseling (other than with a medical provider);
o Rest and recuperation leave of up to 5 days;
o Post-deployment activities (may be used up to 90 days from termination of active duty status); and
o Additional activities not part of the categories listed above, but agreed to by employer and employee.
Additional detail and examples of each of the types of qualifying exigency are provided in the 2008 regulations at 29 C.F.R. § 825.126 and in the U.S. DOL Fact Sheet on Military FMLA Leave.
• *"Covered military member"* as used for Exigency Leave is *not* the same as the term "covered servicemember" as used for Military Caregiver Leave. A "covered military member" includes members of the National Guard, the Reserve, or certain retired members of the Regular Armed Forces or retired Reserve. The Exigency Leave entitlement was **not** extended to family members of members of the Regular Armed Forces. In addition, the call to duty must be a federal call to active duty. State calls to active duty are not covered unless under certain orders of the United Sates President as listed in the regulations. See 2008 regulation 29 C.F.R. § 825.126(b) for more detail. 29 C.F.R. § 825.126(b)
• An employer may request copies of the military member's orders or other documentation from the military, and may request that the employee provide certification of the exigency. The DOL has created a form (Form WH-384) that employers may use for this purpose. Also see 2008 regulation 29 C.F.R. § 825.309 for more information. 29 C.F.R. § 825.309

Employee Eligibility:

In order to be eligible for any type of FMLA leave, an employee must work for a covered employer and meet the following criteria:
• The employee must have worked for the employer for at least 12 months (in total, and not consecutively). According to the 2008 FMLA regulations, employers do not need to count breaks in service of more than 7 years. Several exceptions to the 7 year limit are listed in 2008 regulation 29 C.F.R. § 825.110(b);
• The employee must have worked at least 1,250 hours over the 12-month period immediately preceding commencement of the leave;
• The employee must work at a job site at which there are at least 50 employees or at least 50

employees must work within 75 miles of the work site.

All "public agencies" are covered employers under the federal FMLA. 29 C.F.R. § 825.108. This includes federal and state governments, municipalities, or government agencies. *Id.* However, even though a municipality is a "covered employer" under the FMLA, it may not be required to provide FMLA leave to its employees because the municipality may have no "eligible" employees. As noted above, in order to be eligible for FMLA leave, an employee must work at a worksite where there are at least 50 employees, or at least 50 employees must work within 75 miles of the employee's worksite. Thus, in practice, a municipality must have at least 50 employees (within a 75-mile area) before it will be required to grant leave under the federal FMLA. See 2008 regulation 29 C.F.R. § 825.108(d).
Determining number of employees employed: Before deciding if the 50-employee threshold has been met, one must determine which entity is the "public agency" or municipal employer. Generally, a municipality is considered a single employer for purposes of determining employee eligibility. See 29 C.F.R. § 825.108(c). Often questions arise as to whether the "municipality" includes school, sewer, water or other municipal functions, or whether these are separate employers for purposes of the FMLA. DOL regulations indicate that this determination should be made on a case by case basis and that the U.S. Bureau of Census, *Census of Governments* may be used as one guiding factor on this issue. See 29 C.F.R. § 825.108(c) and www.census.gov/govs. Once the bounds of the municipal employer are determined, one must then determine how many "employees" that employer employs. The FMLA uses the same definition of "employee" used in the Fair Labor Standards Act. (29 U.S.C. § 203). Because there are numerous exceptions and qualifications applicable to the determination of the municipal employer and number of employees, municipalities are strongly encouraged to seek legal advice in determining if the 50-employee threshold has been met.

Counting the 12-month leave period:

The law requires employers to provide 12 workweeks of leave within a "12-month period" for all types of FMLA leave except Military Caregiver leave. Employers may choose among 4 methods to calculate the 12-month leave period provided the method chosen is applied consistently and uniformly to all employees. See 29 C.F.R. § 825.200. These are:
(1) a calendar year;
(2) any fixed 12-month year, such as a fiscal year, or a year beginning on the employee's anniversary date;
(3) a 12-month period measured forward from the date any employee's first FMLA leave begins; or
(4) a rolling 12-month period measured backward from the date an employee uses FMLA leave.
Municipal employers that have eligible employees (i.e., over 50 employees within a 75-mile radius) are encouraged to adopt a policy that notifies employees of the method the employer has chosen to measure the 12-month period. If the employer does not designate a method of calculating the leave year in advance, the employer must allow employees to use whatever counting method that would be most beneficial to the employee. 29 C.F.R. § 825.200. When implementing (or changing) a method of calculating the leave year, the employer must give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. *Id.*

Certification:

Employers may require that employees provide certification of the need for leave under the Military Exigency leave entitlement. The DOL has issued a form that may be used to certify this exigency. See Certification of Qualifying Exigency for Military Family Leave (Form WH-384).
Employers may require medical certification of the need for leave when leave is requested to care for the employee's family member, a covered servicemember or for the employee's own serious health condition. Generally, the employee must be allowed at least 15 days to obtain the certification. The DOL has published three new forms that may be used to obtain medical certification Individual forms were created to certify:
(1) the employee's own serious health condition (Form WH-380-E);
(2) a family member's serious health condition (Form WH-380-F);
(3) and a covered service member's serious injury or illness (Form-385) .
Second or third medical opinions are potentially available at employer expense. See the DOL's Compliance Guide for more information concerning medical certification and 2008 regulations at 29 C.F.R. § 825.305 – 825.313.
Recertification of the need for leave may be required generally no more often than every 30 days and only in connection with an absence. Additional guidelines and restrictions, including those relating to recertification of intermittent leave, are outlined in the regulations at 29 C.F.R. § 825.308 and 825.305.
Fitness for Duty. Pursuant to a uniformly applied policy, an employer may ask for medical certification of fitness to return to work upon completion of approved leave for the employee's own serious health condition. Any such inquiries must be consistently applied, and must be sought only in regard to the particular health condition that caused the need for leave. Under the 2008 FMLA regulations, an employer may require that the certification address the employee's ability to perform the essential functions of the job, *if* the employer provided a list of these essential functions no later than the time it provided the Designation Notice (Form WH-382) to the employee. In addition, the Designation Notice must have indicated that the Fitness for Duty Certification would be required to address these functions. No second or third opinions on a Fitness for Duty certification are allowed, although an employer may ask for clarification of the certification within specific limits in the regulations. See 2008 regulation, 29 C.F.R. § 825.312. For more information concerning certification requirements, see 2008 regulations at 29 C.F.R.§§ 825.305 – 825.313.

Intermittent Leave:

If medically necessary, intermittent leave or a reduced work schedule must be allowed under the federal FMLA to care for a child, parent, or spouse or for the employee's own serious health condition. Intermittent leave may also be used to care for a covered servicemember with a serious injury or illness. In addition, only the amount of leave actually used while on an intermittent/reduced leave schedule may be charged against the employee's leave entitlement. Employers may not require an employee to use more time than necessary and must account for the intermittent leave, using the smallest time segments available in their timekeeping system (which must be an hour or less). Intermittent leave for the birth or placement of a child is only available with consent of the employer. See 29 C.F.R. § 825.202 - 825.205.

Employer Notice Requirements:

o **All** covered employers must post the DOL's **FMLA Poster/General Notice** (Form WH-1420) in a conspicuous location even if the employer has no eligible employees. (Note: the DOL has issued a new poster in conjunction with its 2008 regulations).
o Employers with any eligible employees *must* provide the same information contained in the FMLA Poster/General Notice in any handbooks and/or any written policy materials. If the employer does not maintain policy manuals or written policy materials, the employer must provide general information on FMLA rights to new employees at the time of hire. Electronic distribution of the notice is allowed, if certain conditions are met. See new regulation 29 C.F.R. § 825.300.
o Within five business days after a leave request is received, or the employer has been made aware of the employee's need for leave, the employer must give the employee a notice concerning his/her basic eligibility for leave (e.g. whether the employee has worked for the employer for 12 months, 1,250 hours and/or whether the 50 employee threshold has been met). At the same time, the employer must also furnish a notice outlining the employee's rights and responsibilities relating to FMLA leave. The notice must indicate any requirement to provide certification of the need for leave, whether military or non-military. Specific information which must be included in the notices includes: requirements relating to substitution of paid leave, key employee status, requirements for periodic reports, benefit premium payments, and several other items listed in new regulations at 29 C.F.R. § 825.300(b). The notice of eligibility may be verbal or in writing. The DOL has created a sample form entitled,

Notice of Eligibility & Rights and Responsibilities (Form WH-381) which satisfies this employer obligation.

- Within five business days after the employer gains enough information to make a determination as to whether the requested leave qualifies as FMLA leave (e.g. medical certification has been received), the employer must provide a "**Designation Notice**" to the employee. The Designation Notice notifies the employee whether the leave will be designated as FMLA leave and counted against the employee's leave entitlement. If the employer plans to require a fitness for duty certification upon return to work, and/or if the employer will require that the certification address the essential functions of the employee's job, these requirements must be included in the Designation Notice, along with a list of those essential functions. A sample **Designation Notice** (Form WH-382) has been prepared by the DOL. See 2008 regulations, 29 C.F.R. § 825.301 for more details on Designation Notice requirements.
- The employer must notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave is known at the time the employer designates the leave as FMLA-qualifying, the employer must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the information with the Designation Notice, the employer must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period. The notice may be oral or in writing, but if oral notice is given, it must be confirmed in writing no later than the following payday. The written notice

may be in any form, including a notation on the employee's pay stub. See 2008 regulation 29 C.F.R. § 825.300(d)(6).

Employee Notice Obligations:

Generally, employees must provide at least 30 days notice of the need for leave that is foreseeable. See 29 C.F.R. § 825.302 for more detail. For unforeseeable leave, an employee or his/her spokesperson must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. The regulations provide that it generally should be practicable for the employee to provide notice of unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements. See 29 C.F.R. § 825.303 for more detail.

Preservation of benefits:

During an approved leave, the employer must maintain the employee's group health insurance on the same terms as if the employee continued to work.
The employer is not required to maintain other non-health insurance benefits (such as life insurance) during the leave. However, the FMLA does require employers to restore an employee returning from approved leave to the same benefits he/she had prior to the leave, with no penalty or waiting periods. Thus, if an employee fails to pay his/her benefit premiums during the leave, an employer may decide to continue such benefits at its own expense during the leave or should make sure that applicable benefit plans allow immediate resumption of benefits. See the DOL Compliance Guide and 2008 regulation 29 C.F.R. §§ 825.209 – 825.215 for more information.

Substitution of Paid Leave:

FMLA leave is generally unpaid leave. However, employees may substitute available paid leave for otherwise unpaid FMLA leave. Employers may also require that an employee use available paid leave. Any paid leave time used by the employee does count toward the employee's FMLA leave entitlement. The 2008 regulations clarify that if an employee wants to substitute paid leave, he/she must comply with the employer's paid leave policies and procedures with respect to use of that paid leave. The employer must notify employees of any additional procedural requirements that apply to the use of paid leave in the **Notice of Rights and Responsibilities** (given to employees when leave is requested). See 2008 regulation 29 C.F.R. § 825.207 for more information.

Reinstatement:

Upon return from an approved leave, the employee must be reinstated to the same or an equivalent position, with the same pay, benefits, and other terms and conditions. Certain exceptions apply for "key employees." See DOL Compliance Guide for more information on key employees.

Education employees:

Special rules apply to some employees of local educational agencies, including public elementary and secondary schools. "Instructional employees" are subject to special rules when taking leave (a) more than 5 weeks prior to the end of a term; (b) less than 5 weeks prior to the end of a term; and (c) less than 3 weeks from the end of a term. For more information see: 29 C.F.R. § § 825.600 – 825.604.

Discrimination:

An employer may not interfere with, restrain or deny the exercise of FMLA rights. Employees may not be discharged or discriminated against for taking leave. Nor may the use of FMLA leave be used as a negative factor in a "no fault" attendance policy or in any employment action, including hiring, promotion or disciplinary actions. See 2008 regulation, 29 C.F.R. § 825.220.

Enforcement:

The FMLA is enforced by the U.S. DOL's Employment Standards Administration, Wage and Hour Division. The agency investigates complaints of violations, and is authorized to bring action in court to compel compliance. In addition, eligible employees may bring a private lawsuit against an employer for violations. An employee is not required to file a complaint with the Wage and Hour Division prior to bringing such action. See 2008 regulations at 29 C.F.R. § § 825.400 – 825.404.

APPENDIX B – MAINE FAMILY MEDICAL LEAVE ACT

Maine has enacted its own Family Medical Leave Law (MFMLA) entitling eligible employees of certain employers to 10 workweeks of leave in any two-year period. (26 M.R.S.A. § 843 *et seq.*; PL 2007 c. 233) The MFMLA is modeled after the federal FMLA, but has some important differences. It is very possible that some employees could be covered under either the state or federal FMLA laws, or both. Thus, when presented with a leave request, an employer should analyze the eligibility requirements of each law separately.

Covered Employers:

Maine's FMLA applies to city, town and municipal agency employers with 25 or more employees. *See* 26 M.R.S.A. § 843(3). The law defines "employee" quite broadly, to include any person "permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment." Employee does not include an independent contractor. 26 M.R.S.A. § 843(1).

Employee Eligibility:

Employee eligibility under the MFMLA differs from the federal FMLA in three important ways:

- In order to be eligible for MFMLA leave, an employee must have worked for the same employer for at least 12 *consecutive* months (under federal law, the 12 month work requirement need not be consecutive).
- An employee must work at a permanent worksite with at least 15 employees.
- Under the MFMLA there is no 1,250 hour work requirement.

Thus, in some situations, an employee may not qualify for federal FMLA leave because the individual has not worked 1,250 hours in the previous year, but the individual may qualify for Maine FMLA leave because he/she has been employed for 12 consecutive months.

Leave Entitlement:

Under the MFMLA, an eligible employee is entitled to up to 10 workweeks of leave in a two-year period for the following reasons. Effective September 20, 2007, the Legislature added "domestic partners" to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the MFMLA includes a right to leave for the purpose of caring for a sibling. (PL 2007 c. 519).

(1) the birth of the employee's child or the employee's domestic partner's child;
(2) placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
(3) A child, a domestic partner's child, parent, domestic partner, sibling or spouse with a serious health condition;
(4) The employee's own serious health condition;
(5) The donation of an organ of that employee for a human organ transplant;

(6) The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. PL 2007 c. 388; PL 2007 c. 261.

Serious health condition is defined in the law as an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider. 26 M.R.S.A. § 843(6).

Domestic partner is defined as: the partner of an employee who:

- Is a mentally competent adult as is the employee;
  o Has been legally domiciled with the employee for at least 12 months;
  o Is not legally married to or legally separated from another individual;
  o Is the sole partner of the employee and expects to remain so;
  o Is not a sibling of the employee; and
  o Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. PL 2007 c. 375.

Sibling is defined as "a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements."

Intermittent Leave:

In response to a 2006 court decision that held that the MFMLA contained no requirement for intermittent leave, the Maine Legislature amended the law to allow intermittent leave in circumstances similar to the federal law. See *Brown v. Eastern Maine Medical Center*, 2006 U.S.Dist. LEXIS 50593 (D.Me. 2006); PL 2006 c. 233.
Effective September 20, 2007, the MFMLA requires covered employers to provide intermittent leave or a reduced work schedule, if medically necessary, for the employee's serious health condition, a parent, child, domestic partner or spouse with a serious health condition, or for organ donation. Intermittent leave for the birth, adoption or foster care placement of a child is available only by agreement of the employer and employee. PL 2006 c.233.
If intermittent leave is taken, the employer may temporarily transfer the employee to an available alternative position for which the employee is qualified and (1) which has equivalent pay and benefits and (2) better accommodates the intermittent leave schedule. PL 2006 c. 233.

Employee Notice/Certification:

An employee needing leave is required to give at least 30 days prior notice of the intended start and end of leave, unless prevented from giving notice by a medical emergency.
The employee may be required to provide medical certification from a physician to verify the amount of leave needed. Note that the law allows an employee that has "in good faith" relied on treatment by prayer or spiritual means, pursuant to the tenets of a recognized church or

religious denomination, to submit certification from an accredited practitioner of those healing methods. 26 M.R.S.A. § 844(1)(B).
Employers must post a poster concerning MFMLA, available from the Maine DOL.

Preservation of Benefits:

An employer must allow an employee on leave to maintain employee benefits at his/her expense. The parties may negotiate to maintain benefits at employer expense.

Restoration:

At the conclusion of an approved MFMLA leave, the employer must restore the employee to the same or an equivalent position with same seniority status, benefits, pay and other terms and conditions of employment. There is a limited exception to the employee's right to job restoration, if the employer can prove that the employee was not restored to the same or equivalent position due to conditions unrelated to the employees exercise of leave rights. 26 M.R.S.A. § 845.

Discrimination:

The use of leave may not result in the loss of any employee benefits accrued before the leave was taken. Nor may the leave result in loss of seniority or contract rights. In addition, an employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under the MFMLA. Nor may an employer discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right under the Maine FMLA or for opposing any practice made illegal by the MFMLA. 26 M.R.S.A. § 846-7.

APPENDIX C - ELECTRONIC COMMUNICATION POLICY

The Town of Gray ("the Town"), in an age of growing technology and electronic communication, is implementing a policy to clearly define employee expectations and responsibilities.

"**System**" means all telephones, computers, facsimile machines, voicemail, e-mail, and other electronic communication, copying or data storage systems or equipment leased, owned or in the possession of the Town, including, but not limited to, any computer, computer system, or any storage device or medium that the Town provides to an employee or that is physically or electronically connected to any other part of the System. "**Electronic Communication**" means all electronic communications, data, software, files, and other information created, modified, located upon, received or transmitted by, or stored upon, any part of the System, including, but not limited to e-mail, voicemail, and Internet usage.

All parts of the System are owned by the Town and/or are provided solely for use in the Town's business activities. All Electronic Communications are the Town's property. The Town has the right and the ability to monitor and review all Electronic Communications at any time without notice to its employees or any other party and for any purpose whatsoever.

Town employees may not use the System, or send, receive, create or store Electronic Communications upon the System, in a manner that is illegal, disruptive to others, or that interferes with the Town's business activities. All Town employees are prohibited from using any part of the System to harass others, or to download, obtain, display, store, receive or transmit:

a) Any information that is sexually explicit, obscene, or of a sexual nature, that contain libelous or defamatory material, or that would not be permitted on any bulletin located on Town property;

b) Any ethnic, racial or religious slurs, or anything that is, or may be construed as, disparagement of others based on race, color, national origin, ancestry, gender, sexual orientation, age, disability, religious or political beliefs, or any other basis prohibited by law; or

c) Any communications that are derogatory of fellow employees (except as may be required as part of the Town's business activities). The System may also not be used to solicit anyone for any commercial, religious, charitable, or political causes, or for outside organizations. Except as otherwise provided below, the System may not be used for any purpose that is not related to Town business.

E-mail is used to transmit and receive messages internally and externally on matters of business connected to the Town. The occasional employee use of e-mail with permissible content for personal matters is not prohibited, but is discouraged.

Voicemail is used to leave messages for employees regarding matters of a business nature. Voicemail boxes will occasionally be emptied to free up System space.

Internet Usage is to be limited to matters of business connected to the Town. The occasional use of the Internet for otherwise permissible personal matters is not prohibited, but is discouraged. Any downloading of materials or loading of programs/software onto any part of the System without permission from Town technical staff is prohibited.

The workplace activities of Town employees reflect upon, and may create liability for, the Town. The person signing as an employee below acknowledges receiving a copy of this policy and understands that the Town may take disciplinary action, up to and including termination of employment, against any employee who violates the terms of this policy as those terms may be changed and/or supplemented from time to time by the Town.

APPENDIX D – EMPLOYER / EMPLOYEE CONTRIBUTION

A. Retirement Contribution:

Ordered the Gray Town Council will match the retirement contribution amount for the town employees at 6% and will increase the contribution at 7.5% for 10 years of service, 8% for 15 years of service, 8.5% for 20 years of service and a maximum of 9% for 25 years of service and that the increase to employees retirement plan will not exceed the employee's contribution.

APPENDIX E - OPTIONAL BENEFITS

A. Vision Plan
B. Dental
C. Income Protection
D. Medical Reimbursement Plan
E. All other Town Manager approved plans that are 100% Employee funded

APPENDIX F – INFECTIOUS DISEASE POLICY

A. Purpose

This is to establish the policy of the Town for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing their job as a Town employee or volunteer, should immediately reference the Town Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager's office, as well as in the Police, Fire/Rescue, Public Works and Community Services Departments.

B. Policy

1. It is the policy of the Town to assure to the extent possible a safe and beautiful work environment.

2. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.

3. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Department Head.

4. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.

5. The Town shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the Town Exposure Control Plan for detailed information on necessary procedure to follow.

C. Procedures

1) The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.

2) Where allowed by law, the Town retains the right to test employees for infectious diseases.

3) The Town must maintain confidentially regarding an employee's health status, and does not have a duty to inform other individual or organizations unless required by law.

4) Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town's Personnel Administrator, and to carry out his or her assigned duties if reasonable accommodations can be made.

5) Upon notification by an employee that an infectious disease has been confirmed and is a threat to the public health, the Personnel Administrator will:

    a) Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.

    b) Assist in the identification of reasonable accommodations to be made, if any.

    c) Assist individual departments, if necessary, in complying with this policy.

    d) The Town will treat all occupational infectious disease injuries or illnesses according to state law.

6) The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.

7) Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.

8) An employee cannot refuse to carry out his or her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

D. <u>Accidental Needle Stick Procedure</u>

Police, fire, rescue and solid waste personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

1) Wash the puncture site thoroughly with soap/disinfectant and water.

2) Report the incident to your supervisor.

3) Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.

4) Complete Incident and/or Workers Compensation forms.

5) Establish your potential exposure risk to infectious diseases.

6) Notify your Department Head to establish your:

    a) Tetanus status,
    b) Hepatitis B status, and
    c) HIV exposure.

7) Seek further medical attention if necessary.

E. Procedure for Exposure to AIDS infection

If a Town employee is exposed to the blood or body-fluid of a known or highly suspected AIDS infected person:

1) Wash the exposed areas thoroughly with soap and water. Clean any spills with one (1) part bleach to ten (10) parts water solution.

2) Report the incident to your supervisor.

3) Complete the Incident and Workers Compensation forms.

4) Notify your Department Head as soon as possible to schedule an appointment for a voluntary blood test.

5) The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.

6) If all three specimens are negative, you are considered not to be infected.

7) Counseling occurs with each visit or when requested, and is also available to family members and co-workers.

8) Emotional counseling is available through a counselor of the employee's choice and to be provided by the Town.

9) Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

APPENDIX G – EARNED PAID LEAVE (Effective January 1, 2021)

As defined by 26 MRSA Section 1043(11), The State of Maine's Earned Paid Leave (EPL) Law requires employers with more than 10 employees to provide earned paid leave equal to or in excess of the Earned Paid Leave Law.

Covered Employees: Covered employees under the Earned Paid Leave Law include, but may not be limited to, full-time, part-time, temporary, on-call, call firefighters (under certain work events and unless excluded as outlined below), and per diem employees.

Exclusions: Employees determined to be seasonal employees by the Unemployment Insurance Commission will not accrue Earned Paid Leave during the seasonal period of June 15 – September 15. Employees, such as Election Workers and call firefighters, who are paid less than $1,000 in a calendar year, are excluded from the Earned Paid Leave Law. Additionally, call firefighters who are only paid when they choose to respond to a fire or other emergency may also be excluded from the Earned Paid Leave Law.

Regular Full-time and Part-time Employees: The Town of Gray currently provides a benefit greater than this EPL law for its regular full-time and part-time employees through its paid vacation, sick, personal, and wellness policies. To comply with Maine's Earned Paid Leave Law, regular full-time and part-time employees may utilize up to 40 hours of accrued vacation, sick, or personal time during the calendar year for any type of time off as needed. Employees in this classification should refer to the Town's established paid leave policies and contact their supervisor or Human Resources for clarification.

Accrual of Earned Paid Leave (EPL): All Covered Employees, other than Regular Full-time and Regular Part-time Employees as outlined above, are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one calendar year of employment. Accrual of this leave begins at the start of employment, but may only be used as set forth below. Unused EPL time will roll over and be available to the covered employee in their next year of employment. However, the maximum amount of EPL available to the covered employee will not exceed 40 hours in one calendar year.

Use of Earned Paid Leave: Once eligible employees, including probationary employees, have been employed for 120 calendar days, they may use earned paid leave in increments of a minimum of ½ hour (30 minutes) for any reason, such as illness, personal and family emergencies, personal time, and vacation. Per diem and on call employees, who sign up, accept shifts when available to work, or are called in to work, may utilize Earned Paid Leave if they need to arrive late or leave early for a shift or have signed up for a shift but are not able to make or work the shift for some unforeseen reason. Per diem and on call employees are not eligible to use EPL for days on which they have not been assigned to a shift.

Notice Requirements: Eligible employees must provide at least four weeks' prior notice to their supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.

Restrictions of use of Earned Paid Leave: EPL may be denied or canceled by the Department Head during defined peak work periods where approval of such leave would inhibit the ability of the department to safely maintain adequate levels of service to the community.

Leave Accrual upon Separation: (1) Regular full-time and part-time employees: Any unused Earned Paid Leave will be paid to regular full-time and part-time employees at time of separation consistent with existing Town vacation, sick, and personal time policies. (2) Temporary, on-call, and per diem employees: Employees of this classification who are covered employees and not otherwise excluded from eligibility to accrue EPL will not be paid for any unused and accrued Earned Paid Leave upon separation of employment. If a temporary, on-call, or per diem employee returns to work within 365 days of their last date of employment, that employee is entitled to any unused balance of EPL.

TOWN OF GRAY
EMPLOYEE PAID TIME OFF

Accrual Rates

Full-Time Employees (Groups I & II)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	3.08 hours per pay period	3.692 hours per pay period
5-10 Years of Service	4.62 hours per pay period	*See above*
10 Years of Service or More	6.16 hours per pay period	*See above*

Part-Time Employees (Group III)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	.0385 hours per hour worked	.04615 hours per hour worked
5-10 Years of Service	*See above*	*See above*
10 Years of Service or More	*See above*	*See above*

Vacation Time Accrual Cap

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Vacation Time	Notes
Less than 5 years of Service	Two weeks (80 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
5-10 Years of Service	Three weeks (120 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
10 Years of Service or More	Four weeks (160 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.

Sick Time Accrual Cap

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Sick Time	Notes
Less than 5 years of Service	960 hours	Employees who have an excess of this cap as of October 1, 2022 will maintain their sick time hours until the accrued hours may fall below 960 hours.
5-10 Years of Service	*See above*	*See above*
10 Years of Service or More	*See above*	*See above*

Payout for Accumulated Sick Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Payout Amount	Notes
Less than 5 years of Service	0	No sick time paid out upon separation of employment.
5-10 Years of Service	50% of accrued sick time amount, 200 hours maximum	Employee must be in good standing with the Town.
10 Years of Service or More	50% of accrued sick time amount, 360 hours maximum	Employee must be in good standing with the Town.

Personal Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Time Received each Year	Notes
Less than 5 years of Service	16 hours	Personal time does not accrue year to year and is not subject to payout upon separation.
5-10 Years of Service	*See above*	*See above*
10 Years of Service or More	*See above*	*See above*

Bereavement Time

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Bereavement Time	Notes
Less than 5 years of Service	Up to 3 days of absence caused by the death of a member of the immediate family	See definitions portion of the Personnel Policy.
5-10 Years of Service	*See above*	*See above*
10 Years of Service or More	*See above*	*See above*

Earned Paid Leave

Covered Employees	EPL Accrual and Utilization	Notes
Groups I-III (Full-Time and Part-Time Employees)	Up to 40 hours of accrued vacation, sick, or personal time may be used during the calendar year for any type of time off as needed.	Refer to the Town's established paid leave policies for more information.
Group IV (All temporary, seasonal, and per diem employees)	Entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year. After 120 days of employment, EPL time may be used in 30-min increments for any reason.	Accrual of this leave begins at the start of employment. Refer to EPL section above for requirements, exclusions, and restrictions.

Digest of Amendments

Originally Adopted March 1, 1979
Amended
December 21, 1999
September 18, 2001
December 4, 2001
April 6, 2004
January 6, 2009
February 17, 2009
July 7, 2009
February 2, 2010 Repealed and Replaced including Appendices
February 21, 2012
February 18, 2020
June 7, 2022

Acknowledgment

I acknowledge that I have received a copy of the Town Personnel Policy, and I do commit to read and follow these policies.

I am aware that if, at any time, I have questions regarding Town policies I should direct them to my Department Head or the Human Resources Department.

I know that Town policies and other related documents do not form a contract of employment and are not a guarantee by Town of the conditions and benefits that are described within them. Nevertheless, the provisions of such Town policies are incorporated into the acknowledgment, and I agree that I shall abide by its provisions.

I also am aware that Town of Gray, at any time, may on reasonable notice, change, add to, or delete from the provisions of the Town policies for which I will be notified.

_____ _____

Employee's Printed Name *Position*

_____ _____

Employee's Signature *Date*

ARPA Tracking

Award Amount Received	$ 434,239.37	11/21/2021			
Award Amount Anticipated	$ 434,239.37				
FY22 Expenses	$ 41,904.10				
FY23 Starting Balance	$ 826,574.64		Current FY23 Balance	$	596,831.97
Expense Description	**Amount**				
07/08/2022 Payroll	$ 2,261.17				
7/22/2022 Payroll	$ 435.03		FY23 Total This Far	$	229,742.67
Gray Food Pantry	$ 2,500.00	9/13/2022			
Fire Truck-Eng 41	$ 46,175.74	11/10/2022	Cummins		
Gray Water District	$ 50,000.00	2/23/2023			
Enterprise Revenue Loss	$ 30,000.00	JE			
Public Safety Command Vehicle	$ 44,348.82	8/29/2022			
Excavator 1st Payment	$ 54,021.91	8/4/2022			
			Anticpated Expense Total	$	311,702.00
Anticpated ARPA Expenses	**Amount**				
Radio Hardware-Tower	$ 225,000.00				
Pennell Septic Design Engineering	$ 50,000.00				
Premium Pay Flat Bonuses / Sebago Lakes Chamber request	$ 36,702.00		Balance	$	285,129.97

Basketball Court Lights

FY20	$ -
FY21	$ 2,500.00
FY22	$ 2,500.00
FY23	$ 2,500.00
	$ 7,500.00

Skateboard Park

FY20	$ -
FY21	$ 15,000.00
FY22	$ -
FY23	$ 10,000.00
	$ 25,000.00

2023 Budget Agendas: **Amended:** 02/23/2023

Tues – Jan 10th - 4:30-6:30pm:
-Council Items:
-Cumberland County Sheriff Services –
-Yarmouth Rd/Route 115 Project update & discussion

Tues – Jan 17th – 5:30-6:55pm:
-Auditing Services RFP
-Scholarships (Charles Baker & Grange 41)
-Education reimbursement funds

Mon – Feb 2nd – 4-6pm:
-Code Enforcement – staffing proposal
-Senior Tax Stabilization (LD290) & local Senior Tax Assistance program
-Planning Board stipend
-Council training/legal fees/stipend
-Sick time fund status & projection
-ARPA funds status

Tues – Feb 7th – 6:00-6:55pm (prior to TC meeting):
-Review of current bonds & discussion of bond buckets

Thurs – Feb 16th – 4-*6:30pm*:
-Public Safety Dept: **(4-5pm)**
-Operations / 2nd year in new contract / staffing status
-Emergency Operations Contingency fund
-Radio Tower/hardware status - $225,000 ARPA funds pending
-Pumper/engine truck status / CIP
-Buildings & Grounds Dept: **(5-6:30pm)**
-Operations
-Contingency Fund status
-Libby Hill Trails
-Boat Ramp status – ADA portion
-Cemetery needs/budget request
-Gray Historical Society – reimbursement fund/designated fund (under community)
-CIP
-Facilities Study proposed changes update
-Science Building – childcare option?
-Pennell septic system/footprint master plan update
-Electric Charging Stations
-Electric Vehicle conversion plan
-Skateboard Park
-Basketball Court – relocation, lights, refurbishment
-Fencing update – adding to CIP

2023 Budget Agendas: **Amended:** 02/23/2023

(TC meeting – Tues – Feb 21st)

Thurs – Feb 23rd – 4-6:00pm:
-Yarmouth Rd Project review

Mon – Feb 27th – 4-*6:30pm*:
-Presentation of initial budget: **(4-4:15pm)**
-Assessing: **(4:15-4:45pm))**
-Highest use/LD 1129 act related to the valuation of improved real property impacts
-Senior Tax Assistance (under Community)
-Administration Review: **(4:45-6:30pm)**
-Health insurance increase
-Utilities – Solar Array discussion
-Elections
-Manager's contingency fund
-Staff reorganizations – HR Director, Asst to Town Manager, Clerks
-COLA/merit/salary adjustments
-Retirement benefits review

Follow-up:
-What is the total in the basketball court lights' fund?
-What is the total in the skateboard park fund?
-Updated ARPA spreadsheet to reflect 2/2 workshop discussion
-GHS contribution to fire safety upgrades ($25k)

Budget Updates: (1) $1,600 Charles Baker Scholarship Fund – add under Committees ~~(2) GPCOG fee increase to $2.10 per capita~~ (3) $2,900 Educational reimbursement fund ~~(4) Council personnel development review by Jon $1,000 correct? (5) Council stipend increased to $10,500 for Chair~~ (6) Sick/Vaca buckets separated with $25,000 in each – figures added, but account not split (7) Add $1,000 to GPCOG to cover discrimination comment contract (8) Update CIP with Chief's proposal for pumper truck replacement (9) 02-500 under Buildings mileage should be $25 for last year's (10) Add or print out DMS Committee balance under Committees (11) Remove $75,000 from Buildings CIP for Transfer Station overhang (12) 02-150 Public Safety personnel development should be $10k for last year (13) Community Services – add all at last year's figures, outreach for details

Thurs – Mar 2nd – 4-6pm:
-Transfer Station: **(4-4:30pm)**
-Operations
-Fee increases – Ecomaine/others
-LD1467 – packaging law status
-Gatekeeper / sticker price discussion
-CIP – review buildings & grounds recommendations for Transfer station
-Recreation Dept: **(4:30-5:15pm)**
-Operations/Staffing
-Childcare program update/Science Building discussion
-Enterprise/Sub D funds status
-Transportation – discuss RTP service proposal

-CIP - $180k Maintenance Building upgrades – usage plans
-Addt'l program fees appendix?

-Communications/Information Dept: **(5:15-5:45)**
-Status franchise fees/contract renewal
-Print version of monthly newsletter
-Town Brands
-Community TV metrics
-Website status
-Town Seal
-Tracking Workbook transition
-Chatbot
-CIP requests

-Library: **(5:45-6pm)**
-Operations / usage with New Gloucester
-CIP – $100k Library buildout – usage plans

Tues – Mar 7th – *5:30*-6:55pm (prior to TC meeting)**:**

-Committees/boards: **(5:30-5:45pm)**
-Community Economic Development
-Open Space
-Wild Blueberry Festival
-ZBA / PB – make sure personnel development reflected here instead of Community Development
-PB stipend increased to $3,500
-Standardized form for budget proposals

-Code Enforcement: **(5:45-6pm)**
-Operations – update on PT transition

-Community Development/Planning: **(6-6:55pm)**
-Operations – update on new organization structure
-Watershed work / revolving loan for residential upgrades (phosphorus standards GPCOG/CCSW)
-Douglas Field Relocation
-General Assistance program
-CIP fund for engineering services
-VALT Trail extension grant status / Pocket park grant status
-Stormwater modeling status
-Yellow Book Appraisal – carryforward / status

Tues – Mar 14th – 4-5pm: – Self Storage & LD2003 ADU

Thurs – Mar 16th – 4-6pm:

-Public Works: **(4-5:15pm)**
-Operations / Director-Engineer / Asst to Director reorganization – driveway inspections
-Winter/Summer Roads/addt'l Garage – changes only
-Striping status/budget (testing options for Mayberry/other, bridge striping, etc.)
-HOA options to join bids
-Main St/Yarmouth Rd corner – emergency stormwater fix status

-Paving
-Libby Hill Rd project status
-Existing sidewalks maintenance funding
-Speed signs/traffic calming
-CIP – equipment
-Route 100 South stormwater status
-Stream crossings
-New sidewalks

-Community Service: **(5:15-5:30pm)**
-Lake requests
-Club/Organization donations
-Verify agreed upon GHS/Senior Tax assistance included

-Law Enforcement: **(5:30-5:45pm)**
-Status of figures – union negotiations
-Vehicle for School Resource Officer

-County / School Budget: **(5:45-6pm)**

-Follow-up:
-Grange 41 scholarship fund status – budget implications?

(TC meeting – Tues – Mar 21st)

Thurs – Mar 23rd – 4-6pm

-Final follow-up review:
-TIF discussions
-Route 100 South / Yarmouth Road projections – final projected numbers/borrowing strategy
-Status WD bond for route 100 south water line
-Status of $495K allocated to WD in FY22 cycle
-Status of $500k allocated to 'active' for easement work in FY22 cycle
-Total projected TIF fund as of 2028 – net of above figures
-WD capacity for contribution
-MDOT share – committed $625k MPI – 2nd MPI? Addt'l funding?
-Northbrook – move available to active for Yarmouth Rd project - $500k + any addt'l projections?
-Village – money available / amount to move to active

-State revenue sharing projections & Town revenue projections
-Certified ratio discussion
-Bonding options
-Debt level comparison/interest rates/terms
-Buckets discussion (CIP, land acquisition, projects, etc) /costs / draft numbers
(1) CIP Bucket
-Pennell Footprint Plan – $400,000 phase 1 + $92,000 minus b-ball lights fund phase 2

-Final CIP discussion/Misc leftover CIP
-ARPA funds spreadsheet – $282,000 available - updated & final allocations
-CIP Payment

2023 Budget Agendas: **Amended:** 02/23/2023

-Council recommendations for changes
    -Do we stay at $50,000 for sick/vaca fund or reduce?
-MIL Rate discussion
-LD1 discussion
-Budget Flyer – identify items

Mon – Mar 27th – 4-6pm- possibly use some of this WS space for Comprehensive Plan Coordinator discussion?
-Updated final budget – review/discuss/straw poll
-Budget presentation draft – review/due in packet – 3/28
-Separate Questions for Warrant
-Budget Flyer - discussion
-Tax bill insert – discussion

Tues – April 4th – (TC Meeting) – 7pm – Budget Presentation & Public Hearing – feedback from residents
-Discuss any feedback from residents
-Finalize Warrant article wording

Tues – April 18th – (TC Meeting) – 7pm – appr Warrant Articles

Tues – May 2nd – (TC Meeting) – 7pm – appr Municipal Warrant