

Bristol Town Administrator

From: Bristol Town Administrator
Sent: Wednesday, December 8, 2021 1:38 PM
To: Nick Morehouse
Subject: RE: BCS - Off-Cap Trash Discovered at Bristol Landfill

From: Nick Morehouse <nmorehouse@aegis-re.com>
Sent: Wednesday, December 8, 2021 1:31 PM
To: Bristol Town Administrator <townadmin@bristolvt.org>
Cc: Benjamin Marks <benmarks2005@gmail.com>; Ben Marks <bmarksaec@gmail.com>; Nils Behn <nbehn@aegis-re.com>; Eric Phaneuf <ephaneuf@aegis-re.com>; Richard Carpenter <Richcarpenter212@cs.com>; Thomas Flynn <tflynn@aegis-re.com>; Eric Cota <bristolhighway@gmavt.net>; Nick Morehouse <nmorehouse@aegis-re.com>
Subject: Re: BCS - Off-Cap Trash Discovered at Bristol Landfill

Hello Valerie,

I have received confirmation from the engineer that the sample was received by the lab today, sample taken Monday & was shipped out. The lab will turn the analysis around in 10 days. The make-up of the waste will help identify options and decisions.

Be well,
Nick

Nick Morehouse
Senior Project Manager



Aegis Renewable Energy
, Inc.
340 Mad River Park, Suite 6
Waitsfield, VT 05673
Main: [802-496-5155](tel:802-496-5155)
Cell: [802-557-5240](tel:802-557-5240)



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On Wed, Dec 8, 2021 at 1:03 PM Bristol Town Administrator <townadmin@bristolvt.org> wrote:

Hi Nick and Mark,

Any updates? How's it going?

--Valerie

Valerie Capels, Town Administrator
Town of Bristol
1 South Street
P.O. Box 249
Bristol, VT 05443
P: (802) 453-2410 Ext. 1
F: (802) 453-5188
E: townadmin@bristolvt.org
W: www.bristolvt.org
FB: <https://www.facebook.com/bristolvt/>
Tw: @BristolTownAdm

Please note this email message, along with any response or reply, may be considered a public record subject to disclosure under the Vermont Public Records Law (1 V.S.A. §§ 315-320).

From: Nils Behn <nbehn@aegis-re.com>
Sent: Monday, December 6, 2021 11:25 AM
To: Benjamin Marks <benmarks2005@gmail.com>
Cc: Bristol Town Administrator <townadmin@bristolvt.org>; Ben Marks <bmarksaec@gmail.com>; Eric Phaneuf <ephaneuf@aegis-re.com>; Richard Carpenter <Richcarpenter212@cs.com>; Nick Morehouse <nmorehouse@aegis-re.com>; Thomas Flynn <tflynn@aegis-re.com>
Subject: Re: BCS - Off-Cap Trash Discovered at Bristol Landfill

Thank you all.

Nils Behn
CEO



Aegis Renewable Energy
, Inc.
340 Mad River Park, Suite 6
Waitsfield, VT 05673
Main: [802-496-5155](tel:802-496-5155)
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On Fri, Dec 3, 2021 at 5:29 PM Benjamin Marks <benmarks2005@gmail.com> wrote:

Thanks, Valerie. Nils will get the Sanborn-Head folks right on it and we'll let you the results as soon as we get them.

Ben

On Fri, Dec 3, 2021, 5:17 PM Bristol Town Administrator <townadmin@bristolvt.org> wrote:

Hi Ben,

Thank you for the follow-up. Yes, I believe we need to proceed with the testing. I informed and reached out to the Selectboard; did not receive any adverse reaction.

Please keep us posted.

Thank you,

--Valerie

Valerie Capels, Town Administrator
Town of Bristol
1 South Street
P.O. Box 249
Bristol, VT 05443
P: (802) 453-2410 Ext. 1
F: (802) 453-5188
E: townadmin@bristolvt.org
W: www.bristolvt.org
FB: <https://www.facebook.com/bristolvt/>
Tw: @BristolTownAdm

Please note this email message, along with any response or reply, may be considered a public record subject to disclosure under the Vermont Public Records Law (1 V.S.A. §§ 315-320).

From: Ben Marks <bmarksaec@gmail.com>
Sent: Friday, December 3, 2021 12:10 PM
To: Bristol Town Administrator <townadmin@bristolvt.org>
Cc: Nils Behn <nbehn@aegis-re.com>; Eric Phaneuf <ephaneuf@aegis-re.com>; Richard Carpenter <Richcarpenter212@cs.com>; Nick Morehouse <nmorehouse@aegis-re.com>; Thomas Flynn <tflynn@aegis-re.com>
Subject: BCS - Off-Cap Trash Discovered at Bristol Landfill

Valarie: This e-mail is to summarize our discussion of a few moments ago.

Aegis reports that earlier this week when digging the solar array's planned stormwater retention pond at the BCS site, Aegis discovered unexpected trash off the landfill area in their excavated soil. An ANR representative who was present for a routine inspection took note of this. ANR's initial comment with respect to this was reportedly that the contaminated soil would have to be carted off-site to another landfill. My assumption is that the trash is ordinary household waste, but I don't have firm facts on that.

We are trying to assess what possible solutions for this might be. As I mentioned on the phone, the current estimate is that the volume of earth from the stormwater retention pond is on the order of 200 yards of material. If all the material were to be carted away, Arghis' current estimate is approximately \$750 per 14-yard load and a total of 15 trips required. Aegis has not yet inquired what tipping fees on the other side of that cartage might be.

For now, Aegis would like Bristol's approval to commence testing of a sample taken from this area at a cost of \$3,600 to the town. We are hoping that if the test comes back with favorable results, then ANR will let us distribute the soil

on the bank coming into the site and allow us to use clean soil on top and seed it, rather than having to cart the excavated soil away. The cost of this solution is presumably estimated to be less than cartage off-site, but I don't have firm figures on that yet. Testing is needed regardless because Casella Landfill will not take the material unless it is tested.

I have attached a copy of our lease agreement for reference. The definition of Hazardous Materials in Section 11.1 of the lease (p.15 of the attached PDF) is relevant here.

Please let me know as soon as you can about approval of the testing costs as Aegis would like to get that started today if possible. As always, please call with any questions.

Best regards,

Ben Marks
802-462-3536
802-598-9562 c.

LEASE OPTION AGREEMENT

THIS LEASE OPTION AGREEMENT (this “Agreement”) is made and entered into as of this 2nd day of June, 2020 (the “Effective Date”), by and between the Town of Bristol, a Vermont municipal corporation having a mailing address of 1 South St., PO Box 249, Bristol, Vermont 05443 (the “Town”), and Acorn Renewable Energy Co-op, a Vermont cooperative corporation having an address of P.O. Box 66, Middlebury, Vermont 05753, its successors and assigns (“Acorn”).

WHEREAS, the Town is the owner of a closed landfill located at 80 Pine Street in the Town of Bristol, Vermont, which property consists of approximately 12.34 acres more or less, is identified as parcel number 060153 and is described in greater detail on Exhibit A hereto (the “Town’s Property”);

WHEREAS, Acorn, or its designated LLC, Acorn Energy Solar 3, LLC, a Vermont Limited Liability Company (“AES3”) wishes to obtain site control rights for the potential development of an approximately 500 kW AC solar electricity generation facility (the “Project”) on a portion of the Town’s Property consisting of approximately 3.57 acres more or less (the “Option Property”), which Option Property is generally depicted on Exhibit B hereto; and

WHEREAS, the Town wishes to grant to Acorn an exclusive option to lease the Option Property, and Acorn wishes to acquire from the Town an exclusive option to lease the Option Property, on the terms and subject to the conditions described herein;

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

1. Grant of Option; Option Property. In consideration of a non-refundable payment of \$10.00 that has been made by Acorn to the Town, the Town hereby grants to Acorn or AES3 the exclusive option to lease the Option Property (the “Option”) on the terms set forth in the form of lease attached hereto as Exhibit C (the “Lease”). For the parties’ convenience, a summary of the principal Lease terms is also attached as Exhibit D. The estimated boundaries of the Option Property are set forth on Exhibit B, provided that the final, exact boundaries of the Option Property shall be set forth in the final Lease that is executed by the parties.

2. Term of Option. The term of the Option shall commence on the Effective Date and shall expire on the two-year anniversary of the Effective Date (the “Expiration Date”). If Acorn does not exercise the Option on or prior to the Expiration Date, the Option and Acorn’s rights hereunder shall automatically terminate, and the Town shall have no further obligations to Acorn under this Agreement, except any rights or obligations which expressly survive the termination of this Agreement.

3. Exercise of Option. At any time prior to the Expiration Date, Acorn may exercise the Option by delivery of written notice of exercise to the Town. In the event that Acorn exercises the Option, the parties shall execute the Lease substantially in the form hereto as Exhibit C. The Lease commencement date shall be set forth in Acorn’s exercise notice.

3.1 Design and Construction After Exercise of Option. Acorn and its contractor/subcontracts shall use best practices with respect to the design and construction of the solar facility to control stormwater runoff and minimize erosion of the crushed stone and earthen cover above the landfill (hereinafter referred to collectively as “the landfill cap”). Acorn shall repair at its expense any erosion or other damage to the landfill cap that arises out of the construction of the solar facility and manifests prior to the commencement of the Lease Agreement between the Town and Acorn’s designated LLC (a/k/a Acorn Energy Solar 3 LLC).

3.2 Pollinator Seeding. At Acorn's expense, all areas disturbed by construction activities shall be seeded with pollinator-friendly seed mix.

4. Brokers. Each party represents and warrants to the other that it has not retained anyone to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

5. Recording Prohibited. This Agreement shall not be recorded. The parties agree to execute and record a notice of option at Acorn's expense in the form attached hereto as Exhibit E.

6. Financing and Permitting.

a. Acorn or AES3 shall be responsible for obtaining financing and all government permits and approvals for the Project at its sole expense and at no expense to the Town. The Town shall cooperate with Acorn in good faith in obtaining all government permits and approvals reasonably deemed necessary by Acorn in connection with its proposed use of the Property (the "Governmental Approvals"), including without limitation a Certificate of Public Good from the Vermont Public Utility Commission. The Town shall, upon reasonable request by Acorn, promptly execute, consent to and deliver all documents, instruments, applications, filings or materials deemed necessary to facilitate, or in connection with, Acorn's planning and development of the Option Property. The Town shall reasonably assist Acorn, as needed, in answering any questions or addressing any concerns posed by neighbors abutting Town's Property or in the immediate vicinity of the Town's Property.

b. Acorn shall include the Town in its written communications and shall offer representatives of Bristol the opportunity to participate in all oral discussions with the Vermont Agency of Natural Resources (ANR)/Department of Environmental Conservation (DEC) concerning the design and construction of the solar facility, stormwater management, and the Town's existing Landfill Closure Plan for the subject property.

c. The Town shall take no action which would adversely affect the status of the Option Property with respect to the proposed use by Acorn, or which would otherwise jeopardize Acorn's ability to obtain the Governmental Approvals, and agrees not, directly or indirectly, to oppose or seek to cause other persons to oppose, the Governmental Approvals or Acorn's development of the Option Property. This Section 6 shall survive the termination of this Agreement or the commencement of the Lease.

7. Diligence. Acorn shall have the right to perform due diligence and to enter upon the Option Property prior to the Expiration Date for such tests, surveys and examinations as may be necessary or appropriate for the Project; provided, however that Acorn shall not interrupt or interfere with the Town's operations on the Option Property. Acorn shall provide the Town with reasonable advance notice prior to entering upon the Option Property for the purposes described in this Section 7. Notwithstanding the foregoing, neither Acorn nor any of its agents shall conduct any test or take any action reasonably likely to damage the landfill cap at the Option Property.

8. Indemnification. Acorn shall indemnify the Town against any damage or injury because of Acorn's entry upon the Option Property for any purpose during the term of this Agreement. The indemnification provisions of this Section 8 shall survive the termination of this Agreement or the commencement of the Lease.

9. Insurance. Acorn shall require that all contractors and subcontractors that perform work on the Option Property obtain and maintain throughout the Term of this Option Agreement at the contractor's and subcontractor's expense, comprehensive general liability (cgl) insurance that insures the contractor/subcontractor and the Town as an additional insured against loss or liability caused by acts or omissions of the contractor/subcontractor on the Option Property under this Agreement. The limits of the cgl policies of the contractor and subcontractor(s) shall not be less than One Million Dollars (\$1,000,000) per occurrence, accident or incident.

10. Damage or Condemnation. If the Option Property shall be materially damaged from any cause (including without limitation condemnation or eminent domain proceedings) other than the actions of Acorn, which damage the Town shall not have repaired, remediated or replaced prior to the commencement of the Lease, Acorn may terminate this Agreement or rescind its exercise of the Option under this Agreement or may alternatively choose to accept the Option Property in its damaged condition.

11. Default.

- a. In the event of any alleged material default or perceived failure to perform any material obligation under this Agreement, the non-defaulting party shall give the alleged defaulting party written notice thereof, which notice shall include a description of the alleged default, the acts required to cure the same with reasonable specificity, and allowance of a reasonable time within which the alleged defaulting party shall cure the alleged default. If the alleged default is not fully remedied within that time, the party having received the notice shall be deemed in "Default" of this Agreement.
- b. In the event that the Town is in Default of this Agreement, then Acorn may (i) terminate this Agreement and pursue its rights and remedies available under applicable law or (ii) tender performance of the obligations of Acorn and specifically enforce all obligations of the Town.
- c. In the event that Acorn is in Default of this Agreement, then the Town, as its exclusive remedy, shall be entitled to terminate this Agreement by giving Acorn written notice of termination. The Town acknowledges (i) the adequacy of this exclusive remedy, and (ii) that this limitation of remedies is an essential part of this Agreement from the perspective of Acorn. This subsection shall not apply to claims of the Town or its personnel for bodily injury or physical damage to real or personal property.

11. Provision of Documents and Materials. The Town shall within fifteen (15) business days after the Effective Date provide Acorn with copies of any and all surveys, permits, title reports, environmental reports, mortgages or any other evidence of encumbrance of the Property or other documents in their possession related to the Option Property.

12. Actions Pending Commencement of Lease. During the term of the Option and, if the Option is exercised, continuing until the commencement of the Lease, the Town shall continue to operate the Town's Property in the ordinary and regular course of business. The Town shall not encumber or permit the encumbrance of title, or enter into any agreements or take any actions relating to the Option Property that would adversely affect this Agreement or the Project or deprive Acorn of the benefits of this Agreement.

13. Binding Effect; Assignment. The covenants and conditions contained in this Agreement

shall apply to and bind the legal representatives and successors and assigns of the parties. The Town shall assign this Agreement to any subsequent purchaser or owner of the Option Property and shall cause any such purchaser or owner to assume all of the Town's obligations hereunder and to honor Acorn's rights hereunder. The Town shall not otherwise assign this Agreement. Acorn may assign this Agreement to a special purpose entity controlled or managed by Acorn and created for the purpose of developing the Project, such as AES3.

14. Governing Law. It is agreed that this Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Vermont, without regard to conflicts of law principles.

15. Town Representations and Warranties. The Town hereby represents and warrants as follows:

- a. The Town is the sole owner of the Town's Property and holds good and marketable title to the Town's Property, and there exists no encumbrance, lien or restriction on the Property with rights superior to, or that would preclude, frustrate or conflict with this Option, the Lease, Acorn's rights hereunder, or the Project.
- b. The Town is not subject to any order of any court or governmental authority, any pending action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, arbitrator, public board or body, wherein an unfavorable decision, ruling or finding would, in any way, materially adversely affect the transaction contemplated by this Agreement.
- c. To the best of the Town's knowledge, the Town's Property and the Town is in compliance with all applicable laws, statutes, orders, rules, regulations and requirements promulgated by governmental or other authorities relating to the Town's Property. The Town has not received any notice of any sort of alleged violation of any such statute, order, rule, regulation or requirement, and there exists no uncured notice which has been served by any governmental agency notifying the Town of any violations of law, ordinance, rule or regulation which would affect the Town's Property or any portion thereof.
- d. This Agreement does not conflict with or violate any other agreement, contract, instrument or understanding to which the Town is bound.

16. Entire Agreement. This Agreement (including all exhibits hereto) constitutes the entire agreement among the parties. Any prior and standing representation of any kind preceding the date of this Agreement shall not be binding on any party except to the extent incorporated in this Agreement.

17. Modification. This Agreement may not be modified except in writing signed by all the parties.

18. Waiver. Failure of any party to insist upon strict performance of any term, condition or covenant set forth in this Agreement shall not be deemed a waiver of any right or remedy such party may have and shall not be deemed consent to any subsequent breach or default of such term, condition or covenant.

19. Further Assurances. The parties shall execute any and all other documents and take all actions necessary to effectuate the intent of this Agreement. Prior to the exercise of the Option, the parties

shall keep each other reasonably informed of any issues arising during design, installation, commissioning, or operation of the Project.

20. Notices.

a. Notice to the Town shall be sent to the following address(es), or to such other address(es) as the Town may hereafter designate by notice to Acorn:

1 South St.
PO Box 249
Bristol, Vermont 05443
Attn: Valerie Capels
Townadmin@bristolvt.org

b. Notice to Acorn shall be sent to the following address(es), or to such other address(es) as Acorn may hereafter designate by notice to the Town:

Acorn Renewable Energy Co-op
P.O. Box 66
Middlebury, Vermont 05753
gpahl@sover.net
richcarpenter212@cs.com
benmarks2005@gmail.com

With a copy to:

Drew Kervick, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
dkervick@dunkielsaunders.com

c. All notices or other communication required or permitted to be given or delivered hereunder shall be in writing and shall be sent by certified mail, postage prepaid and return receipt requested or shall be delivered personally. Such notices or communication may be delivered via electronic mail and shall be effective as of the date sent.

21. Public Communications. Upon Acorn's request, the Town will provide reasonable assistance to Acorn in communicating with Town residents about the opportunity to participate as investors in the Project and in doing so will follow Acorn's reasonable instructions relating to compliance with applicable securities laws. It is contemplated that the offering of interests in the Project to Town residents will be structured to fit within Vermont's Crowdfunding Offering securities laws exemption and all communications will be subject to the requirements of this exemption.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Lease Option Agreement as of the Effective Date.

TOWN OF BRISTOL

By: Valerie Capels
Name: Valerie Capels
Title: Town Administrator

ACORN RENEWABLE ENERGY COOPERATIVE



By: _____
Name: Benjamin Marks
Title: President

EXHIBIT A

Description of Town's Property

Exhibit B

Depiction of Estimated Boundaries of Option Property

Exhibit C

Form of Lease Agreement

(See attached)

Lease Agreement

This Lease Agreement (“Agreement”) effective as of _____, 20__ (the “Effective Date”) is by and between the Town of Bristol, a Vermont municipal corporation having a mailing address of 1 South St., PO Box 249, Bristol, Vermont 05443 (“Landlord”), and Acorn Energy Solar 3 LLC, a Vermont limited liability company having an address of c/o Acorn Renewable Energy Co-op, P.O. Box 66, Middlebury, Vermont 05753, its successors and assigns (“Tenant”). Landlord and Tenant are sometimes individually referred to as a “Party” and collectively as the “Parties.”

WHEREAS, Landlord is the owner of a closed landfill located at 80 Pine Street in the Town of Bristol, Vermont, which property consists of approximately 12.34 acres more or less and is described in greater detail on Exhibit A hereto (the “Landlord’s Property”);

WHEREAS, pursuant to that certain Lease Option Agreement dated as of June 2, 2020 by and between Landlord and Tenant (the “Option Agreement”), Landlord granted to Tenant an option (the “Option”) to lease the a portion of the Landlord’s Property consisting of approximately 3.57 acres more or less, which portion is depicted on Exhibit B hereto (the “Leased Premises”);

WHEREAS, Tenant has exercised the Option by delivering to the Landlord a written notice of exercise in accordance with Section 3 of the Option Agreement and otherwise satisfied all of its obligations under the Option Agreement; and

WHEREAS, Acorn intends to use the Leased Premises for the development and operation of an approximately [500] kW AC solar electricity generation facility; and

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Lease and Grant of Easements; Additional Landlord Obligations. Landlord hereby leases to Tenant the Leased Premises, and grants to Tenant the easements specified herein (the “Easements”), upon and subject to the terms and conditions in this Agreement. Tenant shall have the quiet use and enjoyment of the Leased Premises and the Easements in accordance with and subject to the terms of this Agreement. Landlord further leases to Tenant the “Construction Area” (as depicted on Exhibit B) during the Construction Term (as defined in Section 3) of this Agreement for use as a staging area in connection with the development, construction, and the installation of the Facility (as defined in Section 2). During the Term (as defined in Section 3) of this Agreement, Landlord shall also:

1.1 provide wi-fi access to Tenant from the maintenance building located southeast of the Leased Premises; and

1.2 regularly mow the Landlord’s Property outside of the fenced perimeter of the Facility.

Section 2. Use of Leased Premises. During the Term of this Agreement, Tenant will have the exclusive right to use and occupy the Leased Premises, and to exercise the other rights and privileges granted to Tenant herein, for purposes of developing, erecting, constructing, installing, operating, maintaining, repairing, replacing, removing and decommissioning a solar electricity generation facility with a capacity of up to [500] kW AC. Such solar electricity generation facility, including all of its associated components, equipment and parts, is referred to herein as the “Facility.”

Section 3. Term of Agreement.

3.1 Construction Term. The “Construction Term” shall commence on the Effective Date and shall terminate upon the date that the Facility is placed in service (the “Commercial Operations Date”). During the Construction Term, the Tenant may use and enjoy the Construction Area for purposes relating to the construction and installation of the Facility. Upon the expiration of the Construction Term, Tenant’s right to use and occupy the Construction Area shall automatically cease, and Tenant’s sole property rights hereunder during the remainder of the Term shall be the right to use and occupy the Leased Premises together with the Easements granted hereunder. As soon as practicable following the expiration of the Construction Term, Tenant shall restore the Construction Area to its condition as it existed immediately prior to the Effective Date, to the extent reasonably practicable.

3.2 Pollinator Seed Mix. At Acorn’s expense, all areas disturbed by Project construction activities shall be seeded with pollinator-friendly seed mix.

3.3 Operations Term. The “Operations Term” of this Agreement shall commence on the Commercial Operations Date and shall expire upon the twenty-fifth anniversary of the Commercial Operations Date. The Construction Term and the Operations Term are together referred to as the “Term.” The Parties may by written agreement extend the Operations Term beyond said twenty-five year period.

3.4 Lease Year. The term “Lease Year,” as used herein, shall refer to the period between the Commercial Operations Date and the one-year anniversary of the Commercial Operations Date, and each subsequent one-year period thereafter during the Term.

3.5 Decommissioning Period. Tenant shall have six months following the expiration of the Term or the earlier termination of this Agreement during which to decommission and remove the Facility from the Leased Premises. During this six-month period, Tenant shall have the right to use and occupy the Leased Premises and the Easement Areas (as defined in Section 12) solely for the purposes of decommissioning and removing the Facility from the Leased Premises. During the decommissioning term, Tenant shall restore and landscape the Leased Premises and the Easement Areas to substantially their condition as they existed immediately prior to the Effective Date.

Section 4. Rent.

4.1 Annual Rent Payments. For each Lease Year, Tenant shall pay Landlord as annual rent \$3,000, payable in advance prior to the commencement of each Lease Year. The first payment of annual rent shall be due and payable on the Commercial Operations Date.

4.2 Interest on Past Due Payments. All rent not paid when due under this Agreement shall bear interest at a rate equal to the lesser of: (i) the prime rate of interest as quoted by JPMorgan Chase Bank, N.A. or its successor or (ii) the maximum rate allowed by applicable law.

Section 5. Ownership of Facility. Landlord shall have no ownership, lien or other interest in the Facility or any of its components; and Tenant may remove, repair, or replace any or all components of the Facility at any time. No part of the Facility installed by Tenant on the Leased Premises shall be considered part of the Leased Premises or an improvement to real property; the Facility shall at all times be considered tangible personal property owned exclusively by Tenant.

Section 6. Taxes and Assessments.

6.1 Tenant shall pay all duly authorized and approved taxes, assessments and charges, general and specific, that may be levied or assessed by reason of Tenant's use of the Leased Premises, Tenant's leasehold interest under this Agreement, or Tenant's use or ownership of the Facility installed on the Leased Premises, including without limitation any plant capacity or municipal property taxes attributable to the Facility (collectively, "Tenant Taxes"). Tenant shall not pay any taxes attributable to (a) improvements or facilities installed by Landlord or others (excluding Tenant) on the Leased Premises; and (b) the underlying value of the Leased Premises;

6.2 Tenant shall have the right, in its sole discretion and at its sole expense, to contest by appropriate legal proceedings (which may be brought in the name(s) of Landlord and/or Tenant where appropriate or required), the validity or amount of any assessments or taxes for which Tenant is responsible under this Agreement. Landlord shall reasonably cooperate with Tenant in any such contest, provided that Landlord shall not be required to bear any expense in connection with any such contest.

Section 7. Indemnification. Tenant shall, from and after the Effective Date, defend, indemnify and hold harmless Landlord from and against all loss, liability, damages, claims, proceedings, costs (including costs of defense and attorneys' and professionals' fees incurred in defense or incurred in enforcement of this indemnity), expenses, demands, suits and causes of action (all of the foregoing collectively referred to as "Liabilities") arising out of: (i) negligence or willful misconduct of Tenant, its agents, officers, directors, employees or contractors; or (ii) the material breach by Tenant of any of its obligations under this Agreement, except to the extent arising out of the negligence or willful misconduct of Landlord or material breach of this Agreement by Landlord. This Section 7 shall survive the expiration or termination of this Agreement.

Section 8. Tenant's Representations, Warranties and Covenants. Tenant represents, warrants and covenants to Landlord that:

8.1 Tenant's Authority. Tenant has the unrestricted right and authority to execute and deliver this Agreement. When signed by Tenant, this Agreement constitutes a valid and binding Agreement enforceable against Tenant in accordance with its terms.

8.2 Insurance. Tenant shall, at its expense, obtain and maintain throughout the Term, commercial general liability (cgl) insurance insuring Tenant and Landlord against loss or liability caused by Tenant's activities on the Landlord's Property under this Agreement, in an amount not less than One Million Dollars (\$1,000,000) per occurrence, accident or incident.,

8.3 Requirements of Governmental Agencies. Tenant, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders, rules and regulations of any governmental agency applicable to the Facility. Tenant shall have the right in its sole discretion, to contest by appropriate legal proceedings, brought in the name of Tenant or in the names of both Tenant and Landlord, the validity or applicability to the Leased Premises or Facility of any law, ordinance, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Landlord shall fully cooperate in such contest, so long as it is reimbursed for its out-of-pocket expenses incurred in such contest and cooperation; provided however that the Landlord will bear its own costs in any proceeding related to the Project's application for a Certificate of Public Good. Any such contest or proceeding, including any maintained in the name of Landlord, shall be controlled and directed by

Tenant, but Tenant shall protect Landlord from Tenant's failure to observe or comply during the contest with the contested law, ordinance, statute, order, regulation or property assessment.

8.4 Liens. Tenant shall keep the Leased Premises free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to the Leased Premises for Tenant's use or benefit; provided, however, that if such a lien does arise, Tenant has a right to contest such lien and Tenant, within sixty (60) days after it receives notice of the filing of such lien, either bonds around such lien or establishes appropriate reserves therefore, or, otherwise, removes such lien from the Leased Premises pursuant to applicable law, in which case Tenant shall not be deemed to have breached this Section 8.4. Nothing in this Section 8.4 or this Agreement shall be construed to prohibit Tenant from granting one or more mortgages or liens on all or any portion of Tenant's right, title or interest under this Agreement as security for the repayment of any indebtedness.

8.5 Stormwater/Erosion. Tenant shall repair at its expense any erosion or other damage to the crushed stone and earthen cover above the landfill (hereinafter referred to collectively as "the landfill cap") that occurs within the fence line that encloses the solar facility .

Section 9. Landlord's Representations, Warranties and Covenants. Landlord represents, warrants and covenants as follows:

9.1 Landlord's Authority. Landlord is the sole owner in fee simple of Landlord's Property, including without limitation the Leased Premises, the Construction Area and the Easement Areas, and has the unrestricted right and authority to execute and deliver this Agreement and to grant to Tenant the rights granted under this Agreement. When signed by Landlord, this Agreement constitutes a valid and binding Agreement enforceable against Landlord in accordance with its terms.

9.2 No Interference. Landlord's activities and any grant of rights Landlord makes to any person or entity shall not interfere with the Facility or Tenant's rights under this Agreement. Landlord shall ensure that the conditions at Landlord's Property do not interfere with the operation of the Facility, including, without limitation, that conditions at Landlord's Property do not obstruct or interfere with the Facility's exposure to solar energy.

(a) Landlord may cause Acorn to temporarily remove and relocate portions of the solar array or solar panels as reasonably necessary to maintain or conduct repair of the landfill cap; provided that Landlord makes available space on the Landlord's Property to store any moved array components during such repair. Such removal and relocation shall not constitute interference with the operation of the Facility.

(b) Landlord shall not incur any liability or financial obligation to reimburse or otherwise make Tenant whole for any interruption or decrease in solar energy production caused by the temporary removal and/or relocation of portions of the solar array or solar panels by Landlord for maintenance or repair of the landfill cap.

9.3 Liens. As of the Effective Date, there are no liens, encumbrances, leases, mortgages, deeds of trust, security interests, licenses or other exceptions (collectively, "Liens") that would prevent, interfere with, frustrate or otherwise adversely affect the Facility or Tenant's rights under this Agreement.

9.4 Treatment of Liens; Third Party Rights. If at any time during the Lease Term, any Lien or any third party right is found, exists or is claimed to exist against the Leased Premises or

Easement Areas or any portion thereof, that creates rights superior to those of Tenant, and Tenant determines that the existence, use, operation, implementation or exercise of such Lien or such third party right could reasonably be inconsistent with or delay, interfere with, impair or prevent the Facility or the exercise of any of Tenant's rights under this Agreement, Tenant shall be entitled to seek to obtain a Subordination and Non-Disturbance Agreement (defined below) from the holder of such Lien or such third party right, and Landlord shall use best efforts and diligence in helping Tenant obtain the same. Landlord agrees that any right, title or interest created by Landlord from and after the Effective Date in favor of or granted to any third party shall be subject to (i) this Agreement and all of Tenant's rights, title and interests created in this Agreement, and (ii) any and all documents executed or to be executed by and between Tenant and Landlord in connection with this Agreement. A "Subordination and Non-Disturbance Agreement" shall mean an agreement between Tenant and the holder of a Lien or a third party right that provides that the holder of such Lien or such third party right (i) subordinates such Lien or such third party right to Tenant's interest under this Agreement, (ii) agrees not to disturb Tenant's possession or rights under this Agreement, (iii) agrees to provide notice of defaults under the Lien or third party right documents to Tenant and agrees to allow Tenant a reasonable period of time following such notice to cure such defaults on behalf of Landlord, and (iv) agrees to comply with such other requirements as may be reasonably required by Tenant to ensure the interests of Tenant are not interfered with. All Subordination and Non-Disturbance Agreements obtained by Landlord pursuant to this Section 9.4 shall be in a form reasonably acceptable to Tenant and shall be in a form that may be recorded following their execution.

9.5 No Litigation. Landlord is not a party to any, and to Landlord's best knowledge, there are no pending or threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any kind or nature whatsoever against Landlord (i) challenging the validity or propriety of this Agreement, and/or transactions contemplated in this Agreement or (ii) which could reasonably be expected to have a material adverse effect on the ownership or operation of the Landlord's Property or any part thereof or interest therein.

9.6 Requirements of Governmental Agencies; No Subdivision Approval Required. Landlord shall assist and fully cooperate with Tenant in complying with or obtaining any land use permits and approvals, building permits, development permits, construction permits or any other approvals required for the financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Facility (collectively the "Permits"), including execution of applications for such approvals. Landlord confirms that local subdivision approval is not required for this Lease.

9.7 Estoppel Certificates. Within fifteen (15) days of receipt from Tenant, Landlord shall execute an estoppel certificate (a) certifying that this Agreement is in full force and effect and has not been modified (or, if the same is not true, stating the current status of this Agreement), (b) certifying that to the best of Landlord's knowledge there are no uncured events of default under this Agreement (or, if any uncured events of default exist, stating with particularity the nature thereof) and (c) containing any other certifications as may reasonably be requested. Any such statements may be conclusively relied upon by Tenant. The failure of Landlord to deliver such statement within such time shall be conclusive evidence upon Landlord that this Agreement is in full force and effect and has not been modified, and there are no uncured events of default by Tenant under this Agreement.

Section 10. Assignment.

10.1 Assignment by Tenant. Tenant shall not assign this Agreement without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Tenant shall be entitled to collaterally assign its interests under this Agreement to secure any Tenant indebtedness relating to the Facility without Landlord consent.

10.2 Assignment by Landlord. The burdens of this Agreement and other rights contained in this Agreement shall run with and against the Leased Premises and Easement Areas and shall be a charge and burden thereon for the duration of this Agreement and shall be binding upon and against Landlord and its successors and assigns. Landlord shall notify Tenant in writing of any sale, assignment or transfer of any of Landlord's interest in the Leased Premises, or any part thereof, and shall cause any such successor to agree to be bound by the terms hereof.

Section 11. Hazardous Materials.

11.1. Tenant shall not violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations (each such substance, material and waste "Hazardous Materials") in, on, under or about the Leased Premises. In conformance with the requirements of applicable law, Tenant shall clean up, remove, remedy and repair any soil or ground water contamination and damage caused by the release or disposal of any Hazardous Materials by Tenant in, on, under, or about the Leased Premises. Tenant shall not be liable for any past, present or future contamination or pollution or breach of environmental laws, if any, relating to the Leased Premises or the Landlord's Property, unless attributable to the Tenant's activities or those of its employees contractors or agents. Accordingly: (a) the Tenant shall not be responsible for any work relating to (i) the existence, use, transportation or treatment of Hazardous Materials, or (ii) the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment of Hazardous Materials, and (b) the Landlord agrees to assume full responsibility for any liability for response costs for any contamination or pollution or breach of environmental laws related to the Leased Premises and the Landlord's Property, unless and to the extent attributable to the Tenant's activities. The Tenant may encounter Hazardous Materials when installing, servicing, expanding, modifying or maintaining the Facility. In the event the Tenant encounters any Hazardous Material at the Premises, the Tenant shall promptly cease any work in progress in an orderly, safe and efficient manner and inform the Landlord of the nature and location of said Hazardous Materials. It shall then be the Landlord's responsibility to eliminate or contain such Hazardous Materials in a commercially reasonable manner in compliance with law to allow the Tenant to continue or finalize any work in progress.

11.2 Landlord has not violated and shall not violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Materials, in, on, under or about Landlord's Property. In conformance with the requirements of applicable law, Landlord shall clean up, remove, remedy and repair any soil or ground water contamination and damage caused by the release or disposal of any Hazardous Materials in, on, under, or about Landlord's Property, except for releases or disposals by the Tenant.

Section 12. Easements. For purposes of this Agreement, the term "Easement Areas" shall refer to the location of the Easements described herein.

12.1 Grant of Access Easements. Landlord hereby grants to Tenant during the Term a non-exclusive easement on, under, over and across the Landlord's Property, for access to and from, and ingress and egress to and from, the Facility and Pine Street (the "Access Easement"). The "Access Easement Area" is depicted on the site map attached as Exhibit B and shall be approximately 12 feet wide. The Access Easement granted herein shall include the right to construct and maintain, at Tenant's expense, a temporary access road within the Access Easement Area.

12.2 Grant of Transmission Easement. Landlord hereby grants to Tenant an exclusive easement on, under, over and across designated portions of the Landlord's Property as depicted on the site map attached as Exhibit B (the "Transmission Easement Area"), for the installation, operation and maintenance transmission lines to be located across the Landlord's Property to an existing utility pole on the Landlord's Property and to interconnect the Facility to such utility pole, all as depicted on Exhibit B. The interconnection rights granted herein shall include the right to install interconnection equipment within the Transmission Easement Area.

12.3 Grant of Solar Easement. Landlord hereby grants an easement and right on the Landlord's Property to prevent measurable diminishment in Facility output due to obstruction of the sunlight by conditions on Landlord's Property including but not limited to an easement right to trim, cut down and remove all brush, vegetation and fire and electrical hazards now or hereafter existing on the Landlord's Property which might obstruct receipt of or access to sunlight throughout the Leased Premises or interfere with or endanger the Facility.

12.4 Provisions Applicable to all Easements. The following provisions shall apply to all Easements granted herein:

12.4.1 Each Easement shall be for a term that is coterminous with the Term, provided that in the event that this Agreement is terminated prior to the end of the Term, each Easement shall terminate upon the date that this Agreement is terminated.

12.4.2 Each Easement shall run with the Leased Premises, and shall inure to the benefit of and be binding upon Landlord and the holder of such Easement, and their respective transferees, successors and assigns, and all persons claiming under them.

Section 13. Miscellaneous Provisions.

13.1 Memorandum. Landlord and Tenant shall execute in recordable form and Tenant shall then record in the Bristol land records a memorandum of this Agreement in the form attached to this Agreement as Exhibit C.

13.2 Notices. Any written notice, direction, instruction, request or other communication required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be delivered (i) personally to the Party to whom notice is to be given, (ii) by electronic mail to the Party to whom notice is to be given, (iii) by a recognized overnight delivery service to the Party to whom notice is to be given, or (iv) to the Party to whom notice is to be given, by first class registered or certified mail, return receipt requested, postage prepaid (with additional notice by regular mail), and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by written notice given to the other Party in the manner provided in this Section 13.2:

If to Landlord:

If to Tenant:

Town of Bristol
1 South St.
PO Box 249
Bristol, Vermont 05443
Attn: Valerie Capels
Townadmin@bristolvt.org

Acorn Energy Solar 3, LLC
c/o Acorn Renewable Energy Co-op
P.O. Box 66
Middlebury, Vermont 05753
Attn: Rich Carpenter
Richcarpenter212@cs.com
benmarks2005@gmail.com
gpahl@sover.net

13.3 Entire Agreement; Amendments. This Agreement constitutes the entire Agreement between Landlord and Tenant respecting its subject matter. Any other agreement, understanding or representation respecting the Leased Premises or any other matter not expressly set forth in this Agreement or a subsequent writing signed by both parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both parties.

13.4 Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Vermont. Venue shall be proper in the County where the Leased Premises is located. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement within sixty (60) days, they agree to submit such matter to nonbinding mediation before a mutually agreeable mediator to pursue a resolution in good faith. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is waived. In any lawsuit arising out of or in connection with this Agreement, a party that obtains a judgment from the court substantially the same as the judgment sought therein shall be entitled to payment of its reasonable attorneys' fees in connection with the action.

13.5 Partial Invalidity. Should any provision of this Agreement be held, in a final and un-appealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.

13.6 Counterparts. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

13.7 Cooperation. Landlord shall cooperate with Tenant in the conduct of their operations consisting of the Facility, and in otherwise giving effect to the purpose and intent of this Agreement, provided that Landlord shall not be required to bear any cost in doing so.

13.8 Relationship. Neither this Agreement nor any other agreements or transactions contemplated in this Agreement shall in any respect be interpreted, deemed or construed as constituting Landlord, Tenant as partners or joint venturers, or as creating any partnership, joint venture, association or other relationship other than of landlord and tenant.

13.9 Third Party Beneficiaries. There are no third-party beneficiaries, actual or intended, under this Agreement.

13.10 Condemnation. If all or part of the Leased Premises is proposed to be taken as a result of any action or proceeding in eminent domain, or is proposed to be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (collectively, a

“Taking”), Landlord shall provide Tenant with reasonable advance notice of any impending proceeding or meeting related to such Taking and shall not in the absence of Tenant settle with the Taking authority or agree on compensation for such Taking. The Agreement shall terminate as to any portion of the Leased Premises so condemned or taken (except in the case of a temporary Taking after the duration of which Tenant desires to continue the Agreement, and the Lease Term shall be extended, in such event, by the duration of such temporary Taking). Subject to any applicable law or regulation, if any, any award or other compensation (“Award”) payable as a consequence of such Taking shall be paid as follows:

13.10.1 Landlord shall first be entitled to receive out of the Award the value of Landlord’s fee interest in the Leased Premises, valued as if no Facility were on the Leased Premises;

13.10.2 Tenant shall next be entitled to receive out of the Award (A) the value of the Facility installed on the Leased Premises; (B) any other compensation or benefits payable by law as a consequence of the loss or interruption of Tenant’s business and the other costs and expenses incurred by Tenant as consequence of the Taking; and (C) the remaining present value of Tenant’s interest in the Leased Premises (determined at the time of the Taking), including the value of Tenant’s interests under this Agreement; and

13.10.3 Landlord shall be entitled to any remainder of the Award.

13.11 Captions. The captions used in this Agreement are for convenience only and do not limit or amplify the provisions hereof.

13.12 Force Majeure. If performance of this Agreement or of any obligation under this Agreement is prevented or substantially restricted or interfered with by reason of an event of “Force Majeure” (defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference and the Lease Term shall be extended for the duration of the Force Majeure event. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance, and shall continue performance under this Agreement whenever such causes are removed. “Force Majeure” means flood, drought, earthquake, storm, fire, tornado, lightning, windstorm, unusually inclement weather or other natural catastrophe; acts of God, casualty or accident; war, sabotage, vandalism, civil strife or other violence; strikes or labor disputes; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility; or any other act or condition beyond the reasonable control of a party hereto.

13.13 Brokers. Each Party represents and warrants to the other that it has not retained anyone to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Lease Agreement effective as of the Effective Date.

LANDLORD:

TOWN OF BRISTOL

By: _____
Name:
Title:

TENANT:

ACORN ENERGY SOLAR 3, LLC

By: ACORN RENEWABLE ENERGY CO-OP
Its Manager

By: _____
Name:
Title:

STATE OF VERMONT
ADDISON COUNTY, SS.

At Bristol, Vermont this ____ day of _____, 2020, personally appeared _____, duly authorized signatory for the Town of Bristol and acknowledged the foregoing instrument by him/her signed and sealed to be his/her free act and deed and the free act and deed of the Town of Bristol.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

STATE OF VERMONT
ADDISON COUNTY, SS.

At _____, Vermont this ____ day of _____, 2020, personally appeared _____, duly authorized signatory for Acorn Renewable Energy Co-op and acknowledged the foregoing instrument by him/her signed and sealed to be his/her free act and deed and the free act and deed of Acorn Renewable Energy Co-op.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

Exhibit A to Lease Agreement

Description of Landlord's Property

Exhibit B to Lease Agreement

Depiction of Leased Premises, Construction Areas and Easement Areas

The Property, the Construction Area and the Easement Areas are identified on the following site plan.

Exhibit C to Lease Agreement

Memorandum of Lease Agreement

THIS MEMORANDUM OF LEASE AGREEMENT (this “Memorandum”), is made, dated and effective as of [_____] (the “Effective Date”), by and between the Town of Bristol, a Vermont municipal corporation having a mailing address of 1 South St., PO Box 249, Bristol, Vermont 05443 (“Landlord”), and [Acorn Energy Solar 3, LLC], a Vermont limited liability company having an address of c/o Acorn Renewable Energy Co-op, P.O. Box 66, Middlebury, Vermont 05753, its successors and assigns (“Tenant”), with regards to the following:

1. Lease Agreement. Landlord and Tenant did enter into that certain Lease Agreement (the “Agreement”), which affects certain real property located at 80 Pine Street in the Town of Bristol, State of Vermont (the “Leased Premises”), which is a portion of the real property particularly described in Exhibit A attached hereto (the “Landlord’s Property”). Capitalized terms used and not defined herein have the meaning given the same in the Agreement. The date of the execution of the Agreement is the Effective Date.
2. Grant of Rights. The Agreement grants Tenant an exclusive leasehold interest in the Leased Premises, and grants to Tenant the easements in, on, under, over or about the Landlord’s Property specified therein; such easement rights include, without limitation, (a) an access easement for access and ingress and egress to and from the Leased Premises and Pine Street; (b) a transmission easement to extend transmission lines across a portion of the Landlord’s Property and to interconnect with a utility pole located on or adjacent to the Landlord’s Property; and (c) a solar easement over Landlord’s Property preventing the obstruction of sunlight across the Leased Premises or interference with or endangerment of the solar project to be constructed on the Leased Premises.
3. Term. The Term of the Agreement shall commence on the Effective Date and expire on the twenty-fifth anniversary of the date that the solar project to be constructed on the Leased Premises commences commercial operations. Tenant shall have a six-month period following the expiration of the Term or the earlier termination of the Agreement to decommission the solar project.
4. Assignment. The Agreement and Tenant’s rights and obligations thereunder may not be assigned without Landlord’s prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Tenant shall be entitled to collaterally assign its interests under the Agreement to secure any Tenant indebtedness relating to the solar project without Landlord consent. The burdens of the Agreement and other rights contained in the Agreement shall run with and against the Leased Premises and easement areas and shall be a charge and burden thereon for the duration of this Agreement and shall be binding upon and against Landlord and its successors and assigns. Landlord shall notify Tenant in writing of any sale, assignment or transfer of any of Landlord’s interest in the Leased Premises, or any part thereof, and shall cause any such successor to agree to be bound by the terms of the Agreement.
5. Subordination. The Agreement provides that from and after its effective date, any right, title or interest created by Landlord in favor of or granted to any third party shall be subject to the Agreement and all of Tenant’s rights, title and interests created thereby.
6. Agreement Controls. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Landlord and Tenant executed and are recording this Memorandum solely for the purpose of providing constructive notice of the Agreement and Tenant’s rights thereunder.

7. Addresses.

- a. The mailing address of Landlord is:

Town of Bristol
PO Box 249
Bristol, Vermont 05443
Attn: Valarie Capels

- b. The mailing address of Tenant is:

Acorn Energy Solar 3, LLC
c/o Acorn Renewable Energy Co-op
P.O. Box 66
Middlebury, Vermont 05753

8. Location of Original Agreement. A copy of the original Agreement is on file with Landlord and Tenant.

9. Counterparts. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

LANDLORD:

TOWN OF BRISTOL

By: _____
Name:
Title:

TENANT:

ACORN ENERGY SOLAR 3, LLC

By: _____
Name:
Title:

STATE OF VERMONT
ADDISON COUNTY, SS.

At Bristol, Vermont this ____ day of _____, 2020, personally appeared _____, duly authorized signatory for the Town of Bristol and acknowledged the foregoing instrument by him/her signed and sealed to be his/her free act and deed and the free act and deed of the Town of Bristol.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

STATE OF VERMONT
ADDISON COUNTY, SS.

At _____, Vermont this ____ day of _____, 2020, personally appeared _____, duly authorized signatory for Acorn Renewable Energy Co-op and acknowledged the foregoing instrument by him/her signed and sealed to be his/her free act and deed and the free act and deed of Acorn Renewable Energy Co-op.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

Exhibit A to Memorandum of Lease Agreement

Description of the Landlord's Property

Exhibit D to Lease Option Agreement

Summary of Principal Lease Terms

Landlord	<ul style="list-style-type: none">• Town of Bristol
Tenant	<ul style="list-style-type: none">• Acorn Renewable Energy Co-op or its affiliate
Leased Premises	<ul style="list-style-type: none">• The leased premises will consist of a portion of Bristol’s closed landfill located at 80 Pine Street in Bristol, Vermont. The ballast mounted array will cover approximately 3.57 acres. The fenced area surrounding the array will enclose approximately 3.10 acres of the landfill, which is a 12.34-acre parcel of land, and any associated improvements on town-owned land required by a Public Utility Commission final order related to the Project. The parcel is owned by the Town of Bristol and is identified as parcel number 060153 in the Town of Bristol land records.
Use of Leased Premises	<ul style="list-style-type: none">• The Tenant will develop and operate a solar electricity generation facility with a capacity of up to 500 kW AC, including the construction, operation, maintenance, repair, replacement, upgrading and decommissioning of such system (the “Project”).
Interconnection	<ul style="list-style-type: none">• The Project will be interconnected to the Green Mountain Power electrical grid. The final lease agreement shall permit the installation of interconnection equipment. The Landlord shall grant the Tenant and/or GMP an easement over such property to allow for interconnection.
Access Easement	<ul style="list-style-type: none">• In connection with the Lease, the Landlord shall grant Tenant an easement providing the Tenant access to the Property.
Term of Lease	<ul style="list-style-type: none">• The Lease will have an initial term of twenty-five (25) years, commencing on the date the project begins commercial operations.• The Tenant and Landlord may mutually agree upon any extension or renewal of the initial term.
Lease Commencement	<ul style="list-style-type: none">• The Lease will commence at the time of the financial closing for the project
Rent and Taxes	<ul style="list-style-type: none">• Annual rent payments of \$3,000 per year. The first installment shall be paid at the commencement of the Lease and subsequent installments shall be paid on each one-year anniversary of the first payment (i.e., once every twelve months thereafter).• Annual personal property tax payments will be made based on the Town’s valuation of the solar array and are initially estimated

	to be \$8,000 per year.
Subordination and Non-disturbance Agreements	<ul style="list-style-type: none"> • The Landlord shall obtain subordination and non-disturbance agreements with respect to any mortgage on the property in form and substance reasonably satisfactory to the Tenant.
Assignment	<ul style="list-style-type: none"> • Landlord's rights and obligations under the Lease shall be assigned to and assumed by any purchaser of the leased premises.
Memorandum of Lease: Recording	<ul style="list-style-type: none"> • A memorandum of lease shall be recorded in the land records of the Town of Bristol at Tenant's expense
Decommissioning	<ul style="list-style-type: none"> • The Lease will provide that at the end of its term the Project will be decommissioned and the property restored to its original condition to the greatest extent reasonably practicable at Tenant's expense and with no expense to Landlord.
Other Standard Provisions	<ul style="list-style-type: none"> • The Lease will contain other customary and commercially reasonable provisions for solar leases including, without limitation, indemnification of the Town; insurance; condemnation; default, remedies and cures; and representations, warranties and covenants. All such additional provisions will be agreed upon and negotiated in good faith by the parties.

Exhibit E to Lease Option Agreement

Notice of Lease Option Agreement

This Notice of Lease Option Agreement is made as of the 2nd day of June, 2020. Notice is hereby given of a Lease Option Agreement (the “Agreement”) dated as of the date hereof, by and between the Town of Bristol, a Vermont municipal corporation having a mailing address of 1 South St., PO Box 249, Bristol, Vermont 05443 (the “Town”), and Acorn Renewable Energy Co-op, a Vermont cooperative corporation having an address of P.O. Box 66, Middlebury, Vermont 05753, its successors and assigns (“Acorn”).

1. The names and addresses of the parties to the Agreement are as follows:

Option Grantor:	Town of Bristol PO Box 249 Bristol, Vermont 05443
Option Grantee:	Acorn Renewable Energy Co-op P.O. Box 66 Middlebury, Vermont 05753

2. The date of the Agreement is as set forth above.

3. The Town has granted Acorn an option to lease a portion of certain real property owned by the Town and located at 80 Pine Street, Bristol, Vermont. The property subject to the option is a portion of the property described on Exhibit 1 hereto.

4. The term for the exercise of the option commences on the date hereof and expires on the two-year anniversary of the date hereof.

5. A copy of the Agreement is on file with the Town and Acorn.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Notice of Lease Option Agreement effective as of the date first set forth above.

TOWN:

By: _____
Name:
Title:

STATE OF VERMONT
ADDISON COUNTY, SS.

At Bristol, Vermont this ____ day of _____, 2020, personally appeared _____, duly authorized signatory for the Town of Bristol and acknowledged the foregoing instrument by him/her signed and sealed to be his/her free act and deed and the free act and deed of the Town of Bristol.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

ACORN:

ACORN RENEWABLE ENERGY CO-OP

By: _____
Name:
Title:

STATE OF VERMONT
ADDISON COUNTY, SS.

At _____, Vermont this ____ day of _____, 2020, personally appeared Richard A. Carpenter, duly authorized signatory for Acorn Renewable Energy Co-op and acknowledged the foregoing instrument by him signed and sealed to be his free act and deed and the free act and deed of Acorn Renewable Energy Co-op.

Notary Public
My commission expires: 1-31-21
Commission Number: _____

Exhibit 1 to Notice of Lease Option Agreement

Property Description