

First Amendment to Net Energy Billing Credits Agreement

This First Amendment to the Special Conditions of the Net Energy Billing Credits Agreement (“Amendment”) is made and entered into as of this _____ day of September, 2022, between ER Cape Landfill Solar, LLC a Vermont limited liability company (“Provider”), and the Town of Cape Elizabeth (“Purchaser”; and, together with Provider, each, a “Party” and together, the “Parties”).

WHEREAS, the Parties entered into a Net Energy Billing Credits Agreement (the “NEBCA”) on December 14, 2020;

WHEREAS, the Parties now wish to amend the NEBCA;

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the Parties agree as follow.

Agreement

1. Definitions. Unless the context otherwise requires, capitalized terms used and not defined herein shall have the same meanings as set forth in the NEBCA.

2. Amendments. Exhibit B of the NEBCA shall be replaced in its entirety with the new Exhibit B attached hereto as Exhibit 1.

3. Ratification. The NEBCA shall continue in full force and effect in accordance with the provisions thereof on the date hereof. As used in the NEBCA, the terms "Agreement", "this Agreement", "herein", "hereinafter", "hereto" and words of similar import shall, unless the context otherwise requires, mean the NEBCA as amended hereby.

4. Governing Law. This Amendment shall be governed by and interpreted and enforced in accordance with the laws of the state of Maine without giving effect to any conflict of law rules thereof that would require or permit the application of the law of any other jurisdiction.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document. Signatures to this Amendment transmitted by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

6. Representations and Warranties. Each Party represents and warrants that it has the power and authority to execute, deliver and perform its obligations under this Amendment. This Amendment has been duly authorized, executed and delivered by each Party and is binding and enforceable against each Party in accordance with its terms.

7. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns pursuant to the NEBCA, as amended by this Amendment.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have each executed this First Amendment as of the date listed above.

ER Cape Landfill Solar, LLC

By: _____

Name: _____

Title: _____

The Town of Cape Elizabeth

By: _____

Name: _____

Title: _____

Exhibit 1

Year	\$/kWh
1	\$0.1247
2	\$0.1247
3	\$0.1275
4	\$0.1303
5	\$0.1333
6	\$0.1363
7	\$0.1393
8	\$0.1425
9	\$0.1457
10	\$0.1490
11	\$0.1523
12	\$0.1557
13	\$0.1592
14	\$0.1628
15	\$0.1665
16	\$0.1702
17	\$0.1741
18	\$0.1780
19	\$0.1820
20	\$0.1861