

EXECUTION VERSION

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into this 25th day of April 2019 (the “Effective Date”), between the Town of Durham, New Hampshire, with Town Offices located at 8 Newmarket Road, Durham, New Hampshire 03824 (the “Town”), and Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”), a New Hampshire corporation, of 780 North Commercial Street, Manchester, New Hampshire 03101. Eversource and the Town may be collectively referred to herein as “the Parties”.

WHEREAS, Eversource has received a Certificate of Site and Facility from the New Hampshire Site Evaluation Committee (“SEC”) in SEC Docket 2015-04 to construct, own, operate and maintain a new approximately 13-mile 115-kV electric transmission line between existing substations in Madbury, New Hampshire and Portsmouth, New Hampshire and to upgrade said existing substations (collectively known as the Seacoast Reliability Project (the “Project”)); and

WHEREAS, a portion of the Project will be located in the Town; and

WHEREAS, Eversource will also undertake construction activities to install, upgrade and/or relocate certain electric distribution lines and related facilities in the Town (“Distribution Facilities”); and

WHEREAS, the Town was granted status as an intervener in SEC Docket 2015-04 and fully participated in the adjudicative hearings; and

WHEREAS, both the Town and Eversource desire that the Project and Distribution Facilities be constructed in a manner that, to the extent practical, minimizes impacts to the environment and disruption to the public, provides reasonable assurance to the Town and its residents that construction impacts will be avoided, minimized, and mitigated, and facilitates the use of efficient construction methods; and

WHEREAS, the Town and Eversource executed a Memorandum of Understanding dated October 26, 2018; and

WHEREAS, the Town made certain legal and factual claims and arguments during the adjudicatory hearings before the SEC in SEC Docket 2015-04;

WHEREAS, the SEC issued an order granting Eversource a Certificate of Site and Facility on January 31, 2019;

WHEREAS, the Town filed a Partially Assented-to Motion for Rehearing on March 4, 2019 and Eversource objected to that Motion on March 8, 2019;

WHEREAS, on March 11, 2019, the SEC deliberated on and orally denied the Town’s Motion for Rehearing;

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WHEREAS, on April 11, 2019, the SEC issued an order denying the Town's Motion for Rehearing;

WHEREAS, the Town seeks to appeal the SEC's issuance of a Certificate of Site and Facility before the New Hampshire Supreme Court;

WHEREAS, the Parties wish to finally and completely resolve, compromise and settle all disputes, claims, and controversies, concerning the construction of the Project, all in accordance with the terms and conditions set forth herein;

WHEREAS, the Parties agree that the execution of this Agreement is not the product of any duress or coercion caused or imposed by Eversource but is instead entirely a voluntary decision by the Town and by Eversource;

WHEREAS, the Town and Eversource agree to work cooperatively in good faith, prior to, during, and after construction of the Project and Distribution Facilities;

NOW, THEREFORE, in consideration of the foregoing, the Town and Eversource hereby agree as follows:

1. Town Consideration. The Town hereby agrees that this Agreement completely resolves and settles any claims, disputes, and controversies, concerning the construction of the Project, and agrees not to file a notice of appeal or a motion for a stay the SEC's decision in Docket 2015-04 to the New Hampshire Supreme Court. The Town further agrees not to file any lawsuit in district or superior court to stop or enjoin the Project.
2. Lay Down Areas.
 - a. The Town agrees to lease to Eversource to be used to support the construction of the Project and/or Distribution Facilities:
 - i. Approximately 3 acres of Durham owned property, referred to as the Solar Array Location at the Gravel Pit for the use as a laydown and/or marshalling yard. See Exhibit A for location.

Solar Array Location at the Gravel Pit
411 Packers Falls Road
Lee, NH 03861
 - ii. Approximately 1 acre of Durham owned property, to Eversource, referred to as the Durham Wastewater Treatment Facility site for the use as a laydown and/or marshalling yard. See Exhibit B for location.

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Durham Wastewater Treatment Facility
50 Piscataqua Road (aka US Route 4)
Durham, NH 03824

- b. The term of the lease for the two properties listed in Paragraph 2(a) above shall be for a period of three (3) years commencing on April 29, 2019. The terms of the lease shall include a fixed annual rental payment of \$120,000 per year, payable within 90 days of the execution of this Agreement and on an annual basis thereafter by January 1, 2020 and January 1, 2021. As soon as the lease is executed, Eversource may proceed with laydown area preparation.
 - c. The lease will include a term addressing the property tax notice language set forth in RSA 72:23; however, the Town acknowledges that taxes on such an unimproved property for the limited use proposed by lease shall be a nominal assessment, not to exceed \$500 per annum in property taxes arising from the property within the Town pursuant to the lease. As to the use of the Solar Array Location at the Gravel Pit in Lee, Eversource understands that it may be subject to taxation pursuant to the tax laws and provisions of the Town of Lee, New Hampshire. The lease will include terms that address hours of operation, no lighting or nighttime use of the leased property, the right of the lessee to cut trees and bush to improve the access way width, and to deposit crushed stone or gravel materials on the access way or site to improve the access and site use; however, the lease shall allow for exceptions to these terms under exigent circumstances that are approved by the direction of the Durham Department of Public Works or authorized representative. The lessee shall propose a best practice management plan for the laydown yard that shall include but shall not be limited to site use, erosion control, safeguards for any on site refueling of vehicles or equipment, and site restoration (which the Town shall review with its engineer and reasonably modify).
 - d. The Town and Eversource agree that the laydown and marshalling yard lease commitments outlined in Paragraph 2(a) to (c) above shall satisfy the Town's concerns about the New Hampshire Department of Transportation ("NHDOT"), New Hampshire Department of Environmental Services ("NHDES") or other agency oversight of the laydown and marshalling yards in the Town, and that the parties shall notify NHDOT, NHDES, or the appropriate agency that the identified leased area(s) reflect the parties' commitment to work in good faith to identify suitable laydown and marshalling yard areas, and the parties will continue to do so in good faith if a need arises for another location as the Project proceeds.
3. Wetlands Mitigation and Aquatic Resources Mitigation ("ARM") Fund.
- a. The Parties have worked together to identify a wetlands mitigation project, namely, Phase II of the restoration of a living shoreline at Wagon Hill

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Farm in the Town, which would compensate for the Project's wetland impacts pursuant to the NHDES wetland rules ("Wetlands Mitigation Project"). The Wetlands Mitigation Project was to have a cost of \$213,763.28, which was to be paid into the ARM fund by Eversource and issued to the Town. For reasons beyond the Parties control, the NHDES will not guarantee to provide money from the ARM fund to support the Wetlands Mitigation Project. Accordingly, the Town must still apply directly to the ARM Fund for potential funding of the Phase II of the Wagon Hill Farm Project or other qualifying project.

- b. Whether or not NHDES makes an award to the Town from the ARM Fund, Eversource shall pay to the Town the amount of \$213,763.28 by January 1, 2020 to further support the Wetlands Mitigation Project.
4. Additional Contribution to Support Great Bay Estuary. Eversource shall provide, independent of this Agreement, financial support for efforts to improve the overall ecological health of the Great Bay Estuary. Funds may be used to support community outreach and education and other tools to reduce non-point source pollution, enhance monitoring efforts, restoration and/or expansion of oyster farming to reduce nitrogen levels, and other efforts that will lead to an improved Great Bay Estuary. Immediately upon execution of this Agreement, Eversource shall work collaboratively and in good faith with the Town to identify an appropriate third party to administer the use and/or disbursement of such funds in a tax efficient manner in accordance with the terms of this agreement. Upon mutually identifying the appropriate third party/parties, Eversource shall promptly convey said funds to such third party/parties for disbursement in support of qualifying programs or entities. Initial funding to occur not later than May 10, 2019, or as mutually agreed by the parties. The details of this financial commitment are set forth in a draft letter to the New Hampshire Charitable Foundation, attached as Exhibit C.
5. Additional Contribution to Orchard Drive Woods Trail Plan. Eversource shall commit to donate \$5,000 to the Orchard Drive Woods Trail Plan project aimed at developing a regional trail network that will enhance public access and create walkable connectivity between downtown Durham, schools and neighborhoods.
6. Improvements to the Town's Emergency Management System. Eversource agrees to work cooperatively and in good faith with the Town to attempt to identify one or more suitable locations, if any, within the Town of Durham geographic area, to allow for the Town's installation and operation of the Town's Emergency Management System facilities or equipment, consisting of wireless communication antenna(s) and/or other related equipment, to assist with the Town's ongoing efforts to improve its emergency management and public safety communications capabilities. Any such location proposing the use of Eversource real property (land or easement) or infrastructure (inclusive of poles or structures) shall only be made available in accordance with Eversource's land disposition policy's, requirements and conditions and the terms of any underlying easements

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or licenses provided, however that Eversource shall only charge the Town for the lease or use of such location in accordance with the same charges or fees Eversource requires from other users of or attachers to its real property or infrastructure, and provided further that any charges or fees imposed or required by any landowner or other third party from whom the Town must obtain easement rights or other rights or permission shall be borne entirely by the Town.

7. Durham Historic Association (“DHA”). Pursuant to Section V.C. of the Memorandum of Understanding (“MOU”) executed between the Parties on October 26, 2018, “[a]n Eversource representative, or its designee, shall at the request of the Town meet with or participate in a conference call with the Durham Public Works Director or Town Engineer, or their designee, on a weekly basis, unless mutually agreed to otherwise.” As part of this Settlement, the Town may, as appropriate and in its sole discretion, include the DHA in the weekly meetings described in Section V.C. of the MOU.
8. Microgrid Collaboration with the Town and University of New Hampshire. Eversource agrees to work collaboratively with the Town and the University of New Hampshire to identify suitable locations within the Town of Durham for microgrid solutions and to evaluate a potential joint application to the United States Department of Energy for a grant that would allow for implementation of microgrid, renewable energy (i.e. solar facilities) and energy storage solutions that would improve community resiliency.
9. Eversource’s Commitment to Affected Landowners or Businesses and Compliance with Certificate Conditions.
 - a. Eversource shall comply with all Conditions of its Certificate of Site and Facility for the Project, including but not limited to, the following Conditions:
 - i. Eversource, upon request, shall work in good faith with landowners along the Project route that will be affected by tree trimming, tree clearing, or from the construction of structures in the right-of-way and will work to develop reasonably compatible vegetation planting plans that will not interfere with the safe access, operation, construction and maintenance of Eversource’s high and low voltage lines and appurtenant equipment and facilities.
 - ii. If a business or property owner’s concerns remain unresolved after discussions with Eversource’s Project team and/or Executive Review, as described in the Certificate Conditions, a business owner or property owner that claims to have suffered damage to property, loss of business or loss of income, and/or diminution in value of real property, as a result of construction or operation of the Project, a business or property owner may elect to have the

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dispute resolved through the Dispute Resolution Process outlined in the Certificate Conditions, and as more fully described in the Applicant's and Counsel for the Public's Joint Proposed Dispute Resolution Process Procedures.

10. Distribution Line Relocation.
 - a. The Town agrees to work in good faith with Eversource concerning both the construction of the Distribution Facilities and related tree trimming that will be undertaken as part of the upgrades to the Distribution Facilities.
 - b. The Town agrees not to unreasonably withhold or delay any necessary additional reviews or approvals related to the Distribution Facilities, including but not limited to, the approval of the pole licenses for the distribution lines and any associated tree trimming. The Town agrees to waive any fees arising from such local approvals.
11. No Admission of Liability. The execution of this Agreement is not to be construed as an admission of liability on the part of any of the Parties.
12. Heirs, Successors and Assigns. This Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns and beneficiaries, and shall inure to the benefit of the Parties hereto.
13. Entire and Voluntary Agreement. This Agreement represents the entire agreement and understanding between and among the Parties related to the Project. All prior agreements between and among the Parties with respect to the Project and the subject matter of this Agreement (excluding the MOU executed between the Parties on October 26, 2018) are hereby merged into this Agreement. This Agreement may not be amended, altered or modified, or otherwise changed, except by a writing executed by a duly authorized representative of each of the Parties. The Parties agree and acknowledge that the execution of this Agreement is a voluntary, knowing act performed after review by, and in consultation with, their respective independent counsel of their choosing, and that it was entered solely upon the promises provided for herein and through no other inducements or representation of any nature.
14. Notice. Any notice, request, instruction or other document to be given hereunder by a Party hereto shall be in writing and shall be deemed to have been given (a) when received if given in person, (b) upon delivery, if delivered by a nationally known commercial courier service providing next day delivery service (such as Federal Express), or (c) upon delivery or refusal of delivery if deposited in the U.S. mail, certified or registered mail, return receipt requested, postage prepaid:

If to the Town, addressed as follows:

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Todd I. Selig, Administrator
8 Newmarket Road
Durham, New Hampshire 03824

With a copy to:

Orr & Reno
Attorney Douglas Patch
45 S Main Street
Concord, NH 03301

If to Eversource, addressed as follows:

Eversource Energy
Attorney Elizabeth Maldonado
780 North Commercial Street
Manchester, NH 03101

With a copy to:

McLane Middleton, PA
Attorney Barry Needleman
11 South Main Street, Suite 500
Concord, NH 03301

15. Severability. If any provision of this Agreement or the application thereof is held to be invalid or unenforceable, such defect shall not affect other provisions or applications of this Agreement that can be given effect without the invalid or unenforceable provision or application, and to this end the provisions and applications of the Agreement shall be severable.
16. Attorneys' Fees, Costs and Expenses. Except as set forth in this Agreement, each Party shall bear its own costs, expenses and attorneys' fees, whether taxable or otherwise, incurred in or arising out of or in any way related to the lawsuits referenced herein and the settlement thereof, including, but not limited to, the negotiations for and preparation of this Agreement.
17. Enforcement. The Parties hereby agree that the Strafford County Superior Court shall be the exclusive forum for the resolution of any such dispute, with rights of appeal therefrom.
18. Reasonable Cooperation. The Parties shall take all other action, including, but not limited to, the execution and filing of additional documents, necessary to cause the settlement to be implemented as required by its terms, and shall reasonably cooperate in its implementation.

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- 19. Interpretation. The Parties acknowledge that this Agreement and every term in it are the result of arm's length negotiations between the Parties. This Agreement shall not be interpreted according to any presumption or construction against any Party hereto, each Party expressly waiving the doctrine of *contra proferentem*.
- 20. Execution in Counterparts. This Agreement shall be executed in counterparts, each having the same force and effect as the other.
- 21. Headings. The headings herein are inserted for convenience of reference only and shall not affect the construction or interpretation hereof.
- 22. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Hampshire. Any action to enforce the provisions of this Agreement shall be brought in New Hampshire.

IN WITNESS WHEREOF, the Parties, individually and by their duly authorized representatives, have executed this Agreement before a witness as of the date first written above.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY

By: *Sandra Cagnon for Kenneth Bowes*
Name: Kenneth B. Bowes
Title: Vice President of ISO, Siting & Compliance
Date: 4/25/19

Town of Durham, New Hampshire, by its Administrator, duly authorized by the Durham Town Council

By: *[Signature]*
Name:
Title: Todd I. Selig
Date: Administrator 4/25/19
Town of Durham

Exhibit A

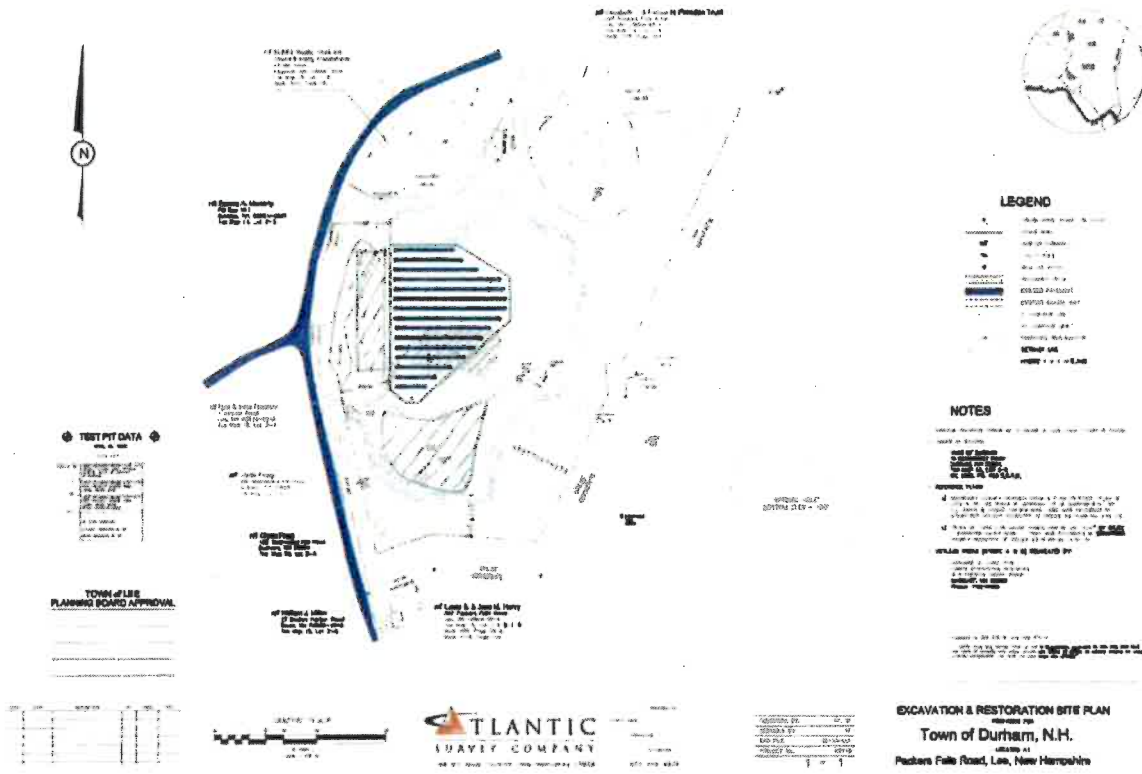
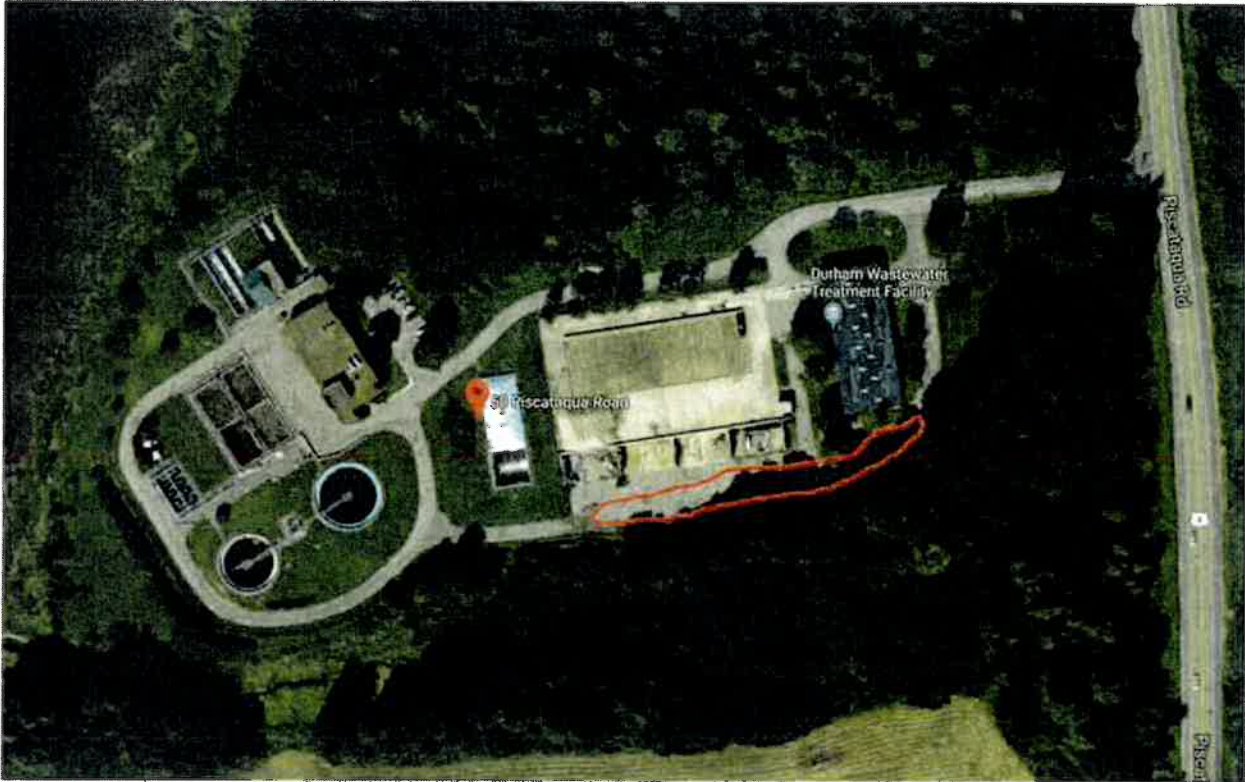


Exhibit B



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Exhibit C

April X, 2019 (Upon Settlement Execution)

Kristen Martin
NH Charitable Foundation
37 Pleasant Street
Concord, NH 03301

Dear Ms. Martin,

As we recently discussed, this confirms the commitment of Eversource Energy (“Eversource”) to establish a donor advised fund for the purpose of supporting efforts to improve the overall health of the Great Bay Estuary. Eversource shall provide \$525,000 over a three-year period toward this effort.

As you know, Eversource recently received approval to construct a new transmission line, known as the Seacoast Reliability Project (“Project”), including construction within Little Bay using jet plow and hand jetting technologies. Recognizing that Little Bay and the Great Bay Estuary are important resources to the State and the region, Eversource and its contractors have worked diligently with the State and federal regulators and numerous other stakeholders (including the Towns of Durham and Newington) to ensure that the construction of the Project will not adversely impact Little Bay or the Great Bay ecosystem. This funding commitment reflects our desire to not only avoid adverse impacts to the Estuary, but to contribute to the improvement of the health of the ecosystem in and around Great Bay.

Eversource shall provide \$175,000, representing the funding commitment for year one no later than May 10, 2019 with subsequent equal installments distributed by May 10, 2020 and May 10, 2021, respectively. We recommend that NH Charitable Foundation fund a project or projects aimed at reducing pollution and improving the overall ecological health of the Great Bay Estuary. This effort should support community outreach and education and other tools to reduce non-point source pollution, enhance monitoring efforts, restoration and/or expansion of oyster farming to reduce nitrogen levels, and other efforts that will lead to an improved Great Bay Estuary. Historically, there have been various efforts to reduce pollutants and to increase eelgrass and oyster populations in the Estuary. Notwithstanding these efforts, the region’s population continues to grow rapidly, placing additional pressures on the ecosystem. The development of a framework, including a “custom designed toolbox of community-based non-point source interventions” to avoid or limit the impact of these pressures on the ecosystem and provide for the protection of the Great Bay Estuary into the future is specifically the type of initiative that the funds should be directed to.

In finalizing a Funding Agreement, Eversource would like to work in conjunction with the NH Charitable Foundation and the Durham Town Administrator, as a Donor Advisor, to assist in assigning these funds to a meaningful project with the objectives described above.

Eversource looks forward to contributing to the improved ecological health of the Great Bay Estuary to help ensure this important resource is protected for years to come.

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Sincerely,
EVERSOURCE ENERGY

Kenneth B. Bowes
Vice President of ISO, Siting and Compliance

CC: Durham Town Administrator, Todd Selig