

PAYMENT AGREEMENT, 8/26/15

THIS PAYMENT AGREEMENT (this "Agreement") is entered into as of August 26th, 2015 (the "Effective Date"), by and between The Town of South Windsor ("Town") and CTS Energy, LLC ("CTS") and dck development north america, LLC ("Developer"). CTS and Developer are collectively referred to herein as the "Master Developer."

WHEREAS, the Developer has proposed a mixed use development of approximately forty acres of land located within the I-291 Corridor Development Zone in South Windsor, Connecticut and consisting of five contiguous land parcels bounded within Ellington Road (Route 30), John Fitch Boulevard (Route 5), and Chapel Road, including the acquisition, construction and improvement of all or a portion of the following components: (a) site preparations, site improvements, site utilities, critical facilities, offsite improvements, public easements, and other supporting infrastructure within, adjacent, or to the benefit and/or service of the Development site and related soft costs (Collectively, the "Public Infrastructure Improvements"); (b) up to five (5) buildings totaling up to 225,000 gross square feet for commercial uses; (c) one or two large scale buildings totaling up to 150,000 gross square feet for industrial uses; (d) one (1) full service restaurant, and (e) up to 50,000 gross square feet of retail space and additional or alternative facilities and improvements as mutually agreed between the Town and Developer (collectively, the "Development"); and

WHEREAS, the Development includes infrastructure that shall be funded by the Town using revenue bonds on a tax exempt basis and a lease from a single purpose 501c3 entity. The Town and Developer are negotiating a Development Agreement under which the Town will fund using such bonds, in the amounts of \$2,750,000 for the onsite microgrid, \$3,500,000 for Public Infrastructure Improvements related to the Development, and \$2,000,000 for Emergency Service Improvements as described below; and

WHEREAS, as part of the Development, a 4.98 megawatt fuel cell electric generation facility (the "Facility") is expected to be constructed to generate revenue from the sale of electricity and other environmental attributes as set forth in a Power Purchase Agreement ("PPA") between CTS and The Connecticut Light and Power Company d/b/a Eversource Energy ("Eversource"). The Facility qualifies as a RPS Class I Renewable Generation Unit; and

WHEREAS, Town shall apply for microgrid design and installation grant proceeds of \$2,750,000 from the Microgrid Pilot Program facilitated by Connecticut Department of Energy and Environmental Protection ("DEEP") or other funding sources as permitted by law. Developer shall design and install a microgrid in conjunction with the Facility. Pending receipt of funding by Town from DEEP or such other funding sources as permitted by law, Town shall remit \$2,000,000 to the South Windsor Redevelopment Agency of which 2/3 shall be given to the Developer, and 1/3 of which will be loaned to the Developer with a payment schedule amortized over 20 years at 1% simple interest, said sum to be used by the Developer to support the ongoing Project. The Town shall be the applicant and recipient of the microgrid design and installation grant proceeds of \$2,750,000 from the Connecticut DEEP; and

WHEREAS, the Facility will generate revenue from the sale of electricity as set forth in a Power Purchase Agreement ("PPA") between CTS Energy, LLC, and Eversource (previously

Connecticut Light and Power), such PPA having been amended by the Developer and approved by the Department of Energy and Environmental Protection; and

WHEREAS, the Development includes infrastructure that shall be funded by the Town using revenue bonds on a tax exempt basis and a lease from single purpose 501(c)(3) entity; and for which the infrastructure scope shall include \$2,750,000 for the microgrid, \$3,500,000 for Public Infrastructure Improvements related to the first phase of the Development (of which \$400,000 is for the permanent easement described in paragraph five below), and \$2,000,000 to provide the Town with access to emergency power from the fuel cell to new or existing critical facilities ("Emergency Service Improvements") which shall be determined by the Town and Developer and which may include: onsite public sheltering, an onsite transformer pad that would provide the Town with access to emergency power from the fuel cell, extending power lines from the microgrid to the Town EOC center on Sullivan Avenue, capital improvements to the EOC center, extending power lines from the microgrid to Pleasant Valley Elementary School for use as an emergency shelter, extending power lines from the microgrid to the Ellington Road Fire Station. The infrastructure payments by the Town shall be paid for from the future fuel cell payments as provided for in this agreement. Public Infrastructure Improvements shall be \$3,100,000 which shall run from the entrance on Chapel Road to the roundabout/cul-de-sac as depicted on various site proposals. The Developer has agreed to make the purchase of private property on which the fuel cell and microgrid will be located.

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

1. Town agrees to support CTS's amendments to the PPA and assist in obtaining support from the State, including the Connecticut Department of Economic Development, Eversource, and regulatory approval from the Public Utilities Regulatory Authority;
2. Town and Master Developer agree to negotiate in good faith to enter into a Development Agreement and such other agreements as may be necessary for the completion of the Development;
3. Master Developer agrees to provide or secure easement(s) for the Town or its designated 501(c)(3) representative / agent in designated areas where the Town provides the funding for Public Infrastructure Improvements as necessary to maintain the tax-exempt status of the revenue bonds to be issued. Town agrees that these public and infrastructure improvements will be maintained by the Town throughout the duration of the easement(s);
4. Town agrees to fund the Public Infrastructure Improvements, Emergency Service Improvements, and the microgrid as referenced above following completion and successful commercial operation of the fuel cell Facility and upon commencement and continuation of fuel cell payments as provided herein. Notwithstanding the foregoing, the Town agrees to fund these improvements prior to the operation of the fuel cell and the commencement of fuel cell payments, provided the following conditions are satisfactorily met: (i) a fully executed PPA, (ii) executed purchase order for the fuel cell with a statement from the fuel cell manufacturer indicating the estimated delivery date, (iii) submission of a critical path schedule ending with commissioning of the fuel cell and commencement of PPA payments,

(iv) executed term sheet for both fuel cell construction financing and permanent end loan, (v) executed term sheet for purchase of the federal Renewable Energy Tax Credits, (vi) evidence of site control, (vii) Town and dck mutually agreed upon guaranteed maximum pricing proposal for designated scope relating to the cost of public infrastructure and the fuel cell microgrid, (viii) permanent easement on Developer's real property that encompasses the public infrastructure, (ix) approved Development Agreement;

5. Town agrees to include as a Public Infrastructure Improvement expense, \$400,000 as payment to Developer in exchange for a permanent easement on the Developer's real property that encompasses the public infrastructure, including roadways and utilities;
6. Upon completion of the Facility and achievement of the commercial operation date, and upon operation of the Facility, CTS will pay the Town the sum of \$514,000 annually, prorated for the first year of operation, and for each subsequent year of operation thereafter, for a total of twenty (20) years. This payment obligation shall be binding upon CTS and its assigns, and shall remain binding upon the lawful owner of the Facility, and this obligation shall not be dischargeable in bankruptcy. Said sums shall become due and owing in two (2) annual installments each year after successful commercial operation date of the Facility, the first on January 1st of each year and the second on July 1st of each year. The Parties agree that the annual \$514,000 payments shall be due and owing the Town regardless of whether the Developer has undertaken the Development. If the Developer does not undertake the Development, the \$514,000 payments will remain due and owing from CTS to the Town. Consideration for said payments is the Town's agreement as set forth in paragraph 1 above;
7. The parties intend to enter into further agreements concerning public infrastructure for the area South of the cul-de-sac, and such further agreements may include an agreement by the Town to fund such public infrastructure up to an amount of \$2,000,000 to be paid in substantially the same manner as the infrastructure described herein, and in addition, that the land South of the cul-de-sac would revert to the Town in the event the Master Developer does not achieve agreed upon milestones as relates the Development North of the cul-de-sac;
8. The Parties hereby acknowledge and reincorporate the recitals above as if restated herein.