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February 24, 2022

Client/Matter No. 19306/29

## **INCLUDED WITH APPLICATION**

New Jersey Board of Public Utilities  
South Clinton Avenue, 7<sup>th</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

**Re: CEP Renewables, LLC d/b/a BEMS Community Solar East, LLC and  
BEMS Community Solar West, LLC  
Application for Acceptance in the State of New Jersey's Community  
Solar Pilot Program, Year 2 – Big Hill (BEMS) Sanitary Landfill**

To Whom It May Concern:

This firm represents CEP Renewables, LLC and its affiliates, BEMS Southampton Solar Farm, LLC, BEMS Community Solar East, LLC, and BEMS Community Solar West, LLC (collectively, the "*Applicant*"). This letter is intended to supplement the above-referenced Application and evidence further support as to why this Application should receive the highest possible score under the Community Solar Pilot Program, Year 2 (the "*Program*") scoring rubric. It is the Applicant's position that all relevant targets have been achieved with this Application and the Application should receive a score of 105 points out of a possible score of 100 points. As detailed in the attached, this tremendous Project is the result of a true "public-private" partnership between the Applicant and the Township of Southampton, utilizing the redevelopment process set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1, et. seq. (the "*LRHL*"). As highlighted below, this project *must* be selected for inclusion in the Program if it is to have any reasonable likelihood of success from an economic feasibility standpoint. We respectfully request the Board utmost consideration of this Application and a favorable determination as to the inclusion in the Program of both co-located facilities.

By way of background, the Big Hill (a/k/a Burlington Management Environmental Services or "BEMS") Sanitary Landfill (the "*Landfill*") operated as a sanitary landfill between the late 1960s and 1982. During that time, municipal wastes, septic sludges, and some hazardous wastes were deposited in the Landfill. Located in Southampton Township, Burlington County, the Landfill occupies approximately 40 acres a 113-acre tract of land. Two sides of the landfill closely border the LeisureTowne housing development, a large retirement community. Burlington

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Environmental Management Services Incorporated (BEMS, Inc.), operated the Landfill between the mid-1970s and 1982. Prior to closing, BEMS installed a soil cover over the site in 1983, but it failed to perform properly. According to NJDEP, precipitation continued to infiltrate the landfill, generating large quantities of leachate that contaminated the ground water and surface waters and caused foul odors. In addition, storm water runoff from the landfill occasionally caused nearby properties to flood, and methane gas generated by the decomposing waste migrated through the soil and into private yards.

In 1985, NJDEP directed BEMS to investigate and remediate the site, but shortly thereafter the company declared bankruptcy. NJDEP has been the *de facto* caretaker of the site since that time, implementing several Interim Remedial Measures (“IRMs”) to address the problems experienced by residents living adjacent to the landfill. The IRMs included installing a methane collection system and a flare to address off-site soil vapors, constructing a storm water retention basin, improving surface water drainage, and dredging sediments contaminated with landfill leachate from Canterbury Pond in LeisureTowne.

In 1991, NJDEP signed a Decision Document that required capping of the landfill with an impermeable membrane cap and installation of a site-wide methane gas collection and treatment system. NJDEP completed construction of these remedial measures in 1999 and currently operates and maintains them. NJDEP also conducted a Remedial Investigation/Remedial Action Selection (RI/RAS) to identify the extent of the contamination at the site and evaluate cleanup alternatives. The RI/RAS revealed that ground water at the landfill is contaminated with organic and inorganic compounds at levels above New Jersey’s Ground Water Quality Standards. Landfill-related contaminants were also detected in several nearby surface water bodies, but at levels that do not present an immediate threat to human health or the environment. Based on these findings, NJDEP issued a Decision Document in 1995 that required remediation of the ground water and re-dredging of Canterbury Pond. NJDEP re-dredged Canterbury Pond in 2006 and completed installation of the ground water remediation system in 2008. The ground water remediation system will remain in operation until testing shows the levels of contaminants in the aquifer are reduced to Ground Water Quality Standards. Sampling of the ground water monitoring wells in 2013 showed contaminant levels remain low or continued to decline. However, the Landfill remains an NJDEP responsibility to this day.

All the while, the Landfill property, formally designated as Lots 3, 4, 5, 7, and 8 in Block 2702 on the Township of Southampton’s tax map (the “Property”) continued to accrue real estate taxes. Because BEMS abandoned the Landfill in the early 1980s, these taxes remained unpaid, causing a tax drain on the Township. The current amount of back taxes due, as of late 2020, is nearly \$2.1 million.

In 2020, the Township declared the landfill an “area in need of rehabilitation” in accordance with the LRHL and designated the Applicant as the redeveloper of the Property. The



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redeveloper is an affiliate of the applicant in this matter and the entities are under common ownership. Pursuant to the Applicant's purchase and sale and redevelopment agreement with Southampton Township, the Applicant has agreed to acquire the municipally-owned tax sale certificates applicable to the Property. The Applicant has also agreed to bear the expense of foreclosing on those tax sale certificates. At the end of the foreclosure process, which, pursuant to the New Jersey Tax Sale Foreclosure Act, is a strict foreclosure the Applicant will perfect its title to the Landfill and reimburse the Township *all back taxes owed on the Property*. This means that the Applicant will make, at a minimum an approximately \$2.1 million investment in Southampton Township by acquiring the Landfill. All the while, during the pendency of the development process, the Applicant has agreed to make quarterly progress payments to Southampton Township in the amount of \$25,000 per quarter.

Moreover, as a condition of the Applicant's redeveloper designation, the Applicant has agreed to enter into an Administrative Consent Order ("ACO") with the NJDEP. The ACO will provide, at a minimum, that upon interconnection of the Project, the Applicant will assume NJDEP's responsibilities with respect to operation and maintenance of the Landfill. While the terms of the ACO are presently being negotiated, the Applicant also anticipates that the ACO will require the Applicant to make certain infrastructure improvements with respect to the Landfill, repair any damage to the Landfill's existing cap, and reimburse NJDEP for certain prior costs incurred by NJDEP since NJDEP's oversight of the Landfill began nearly 40 years ago. This is the same procedure that the Applicant has successfully employed in connection with its redevelopment of the Combe Fill North Landfill in Mount Olive, Morris County, NJ, which was recently the subject of an NJBPU approval under Subsection "t" of the Solar Act of 2021. The Applicant has tremendous experience in working through the various issues associated with this type of landfill redevelopment and has the expertise necessary to carry this Project to completion.

In light of the foregoing, this Project is an ideal candidate for inclusion in the Program. It meets or exceeds all Program requirements for the Low- and Moderate-Income and Environmental Justice Inclusion, Siting, Community and Environmental Justice Engagement, Product Offering, Other Benefits, and Project Maturity factors as outlined herein. The Project team has the experience and knowledge required to shepherd this Project through the approvals process and into operation. The Project has been in development since March 2020 and Applicant has invested a significant amount of effort and capital into due diligence investigations and permitting requirements to ensure that this Project will get constructed in a timely manner once selected.

Additionally, the Program provides the only realistic opportunity for the Project to be constructed. Given the high cost of acquiring the Landfill, the costs associated with the ongoing maintenance of the Landfill once the Project is constructed, and the soft costs associated with obtaining the necessary approvals for the Project, the Project must be selected for inclusion in the Program and conferred eligibility for the Transition Incentive Program ("TREC's"). The costs of constructing this Project on a former landfill are astronomical, much higher than, for example, a



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facility of similar size constructed on a commercial or industrial rooftop (where such facilities do not have to worry about extraordinary costs like designing landfill infrastructure, ongoing landfill maintenance, and the added expense of a ballasted versus roof-mount system). Given the siting of this Project on a closed landfill and the substantial barriers to entry required to implement this Project as designed, it is imperative that the Project (inclusive of both co-located facilities) be included in the Program.

We are mindful that the Applicant did previously submit an application to the NJBPU seeking certification of a much larger version of the Project (approximately 16 MW dc versus the 10 MW dc now proposed) as “connected to the distribution system” under Subsection “t” of the Solar Act. The Applicant has committed to abandoning that Subsection “t” application and any resulting award if selected for inclusion in the Program. Regardless, due to certain information that has come to light relative to the methodology employed by PJM Interconnection, L.L.C. to interconnect Subsection “t” facilities to the regional grid, a Subsection “t” award and grid-supply connection is not an economically feasible approach to having this important Project actually achieve interconnection. In fact, the Generation Interconnection Combined Feasibility Study / System Impact Study Report for Queue Project AG1-190 (the larger version of this Project for which the Applicant submitted a Subsection “t” application) states that, for a grid-supply project, the Applicant will be responsible for a Total Physical Interconnection Cost of **\$22,717,000**. This is the result of a 22-mile run to reach the nearest point of interconnection.

Obviously, a project of this size cannot absorb an interconnection cost of nearly **\$1.5 million per MW**. The only realistic and potentially feasible alternative to have this project interconnected is through participation in the Program. The Program will allow the Applicant to downsize the Project to two co-located 5 MW facilities, each of which can be accommodated in the local distribution lines servicing the Landfill and the surrounding properties. There is no realistic possibility of achieving a grid-supply project at this location. In order to facilitate the purchase of the Property from the Township and the release of NJDEP from certain of its obligations with respect to this Landfill, a result that both parties desperately want, the only alternative is for this project to be selected for inclusion in the Program. We implore the NJBPU to take the importance to the Township, the NJDEP, the State of New Jersey, and the surrounding Southampton community into account when considering this Application. The pandemic has wreaked havoc on many small municipalities, including municipalities like Southampton. Southampton needs to expand its ratable base so that it does not have to raise taxes on its residents to support rising municipal service costs and school budgets. This Project can help by providing an immediate infusion of cash in the form of payment of back taxes due and by creating a ratable for the Township to draw on for years to come. This is an enormously important Project to Southampton Township and we feel it deserves the highest possible consideration by the NJBPU.

With the foregoing in mind, the Application also demonstrates that it should receive all possible credit with respect to the Program scoring criteria:



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- **Low and Moderate Income and Environmental Justice Inclusion.** *The Project should receive the maximum possible 25 points.* The Project meets the definition of an LMI Project as LMI customers will represent 51% of the program subscribers. The Applicant has partnered with PowerMarket, an experienced subscriber organization with specialization in LMI engagement, whose background is detailed in the Application. The Applicant is committed to support the local LMI community and committed itself to work with the Township of Southampton to accomplish this important Program goal.
- **Siting.** *The Project should the maximum possible 20 points plus 5 bonus points.* As detailed above, the Project is sited on a former sanitary landfill. The Landfill was previously closed by NJDEP's Site Remediation and Waste Management Program. As a result, the Property is classified as a Higher Preference in the evaluation criteria and the New Jersey Community Solar PV Siting Tool created by the NJDEP's Bureau of Climate Change & Clean Energy. In addition, the Township of Southampton has designated the Property as an "area in need of rehabilitation" in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1, et. seq. (the "LRHL") by resolution 2020-77 dated July 21, 2020. The Applicant was named the conditionally designated redeveloper of the Property by Township resolution 2020-79 dated July 21, 2020 in accordance with the LRHL. The Applicant is committed to further enhancing and protecting the landfill and providing additional environmental benefits by utilizing a native pollinator flower seed mix on the six-inch topsoil portion of the landfill cap. Native plant species will be utilized for vegetative screening. The Applicant is coordinating with the Township and the New Jersey Pinelands Commission to ensure that the appropriate native species are utilized. The proposed stormwater management program for the site will be designed to meet erosion control, stormwater runoff quantity, water quality and recharge standards as set forth by N.J.A.C 7:8 and will meet or exceed the Township's Ordinance, NJDEP regulations, and current industry standards and practices.
- **Community and Environmental Justice.** *The Project should receive the maximum possible 15 points.* The Project is being developed and designed in active collaboration with both the Township and NJDEP. The Applicant is the designated redeveloper of the Property and has entered into a formal agreement with the Township whereby the Township will derive a significant economic benefit. The Applicant is committed to working with NJDEP to craft an appropriate ACO for this Project and that obligation is specifically a condition of the Applicant's designation as redeveloper of the site. As detailed above, the ACO will alleviate the

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NJDEP of certain responsibilities with respect to the Landfill. The Applicant is actively working with both the Township and the New Jersey Pinelands Commission to craft an appropriate redevelopment plan for the Project that will take all the requirements of the Program into consideration. The Applicant has engaged PowerMarket as its subscriber organization. PowerMarket is supported by community environmental groups recognizing the value these projects have for the community. In developing their platform and methodology for customer acquisition, PowerMarket had many discussions with local community environmental groups to better understand what hurdles residents and LMI households face in accessing solar and how to better educate subscribers on how community solar functions, what it means for them and how they can partner with groups to improve sustainability. Finally, as detailed above, the Project is also in accord with the State's environmental justice objectives.

- **Product Offering.** *The Project should receive the maximum possible 15 points.* The Applicant has committed to providing savings to subscribers of greater than 20% against their conventional electrical bills. The Applicant is committed to offering a Product that is attractive and easy to use for its subscribers, including short-term contracts with no cancellation fees. The Project will service customers throughout Southampton Township, the adjoining LeisureTowne residential community, Burlington County, and, as necessary, adjacent counties within the local electric distribution company territory.
- **Other Benefits.** *The Project should receive the maximum possible 10 points.* The Project will provide significant local job opportunities to the surrounding area. In accordance with New Jersey law and regulation, all construction jobs created will be prevailing wage. Union electricians and civil site workers would be used. The Project would need two foremen and a journeymen installation crew of 22 to 28 workers. Other construction jobs created are project managers, site superintendents, steel workers, racking installers, civil site workers for concrete pad installation crew, tracking pads, gravel road installation, and grubbing and rooting, equipment operators, fence installers, landscapers, native pollinator seeders, and operations and maintenance technicians. In addition to the benefits to the local community, the Project will provide additional benefits to the community of LeisureTowne in Southampton, NJ, which is adjacent to the landfill site. LeisureTowne is a 55 and over adult community which contains 2,255 homes, an administration building, four recreational buildings, a gym, and more than 50 clubs and organized activities. Per the Community Solar Siting Tool, this community is sited as Low to Moderate Income population. As part of the Project, Applicant is offering LeisureTowne energy audits and energy efficiency upgrades for the community's administration and recreational buildings, which will bring down association fees for their LMI



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residents, as well as enhanced landscaping for their community. Applicant has also committed to providing the Township of Southampton public EV Charging Stations at the location of the Township's choosing in connection with the overall redevelopment project.

- **Geographic Limit.** *The Project should receive the maximum 5 points.* The Applicant has committed to providing preference to Southampton Township residents, including those in the LeisureTowne community. The Applicant would prefer that all subscribers be achieved within that community or in the greater Southampton Township. However, the Applicant is also committed to providing 51% of the electricity generated from the facility to low and moderate income households and, as such, the geographic boundary will be expanded, for that purpose only, as necessary.
- **Project Maturity.** *The Project should receive the maximum 5 points.* As noted above, the Project was initially being developed as a Subsection "t" Project by Applicant and has been in development for nearly one year. The Applicant has already invested a significant amount of effort and capital into due diligence investigations and permitting requirements, including the following:
  - Initiated the redevelopment process with Southampton Township, designated as redeveloper and entered into an Agreement of Sale and Redevelopment Agreement
  - Begun crafting a redevelopment plan for the Project in collaboration with the Township of Southampton
  - Prepared to submit for preliminary and final site plan approval within the next 90 days
  - Preliminary Land Use Assessment and Due Diligence Investigation
  - Completed a Phase 1 and Preliminary Assessment
  - Completed topographic, Boundary and utility Surveys
  - Completed a Soil Erosion and Sediment Control Plan
  - Submitted the Permit Readiness Checklist and met with the NJDEP's Office of Permitting and Project Navigation.
  - Entered into negotiations with the NJDEP on a final Administrative Consent Order
  - Reviewed hundreds of boxes of due diligence materials on the Landfill cap and design as provided by NJDEP
  - Applied to PJM and attended a kick-off meeting. Applied to the local EDC.
  - Obtained a combined Feasibility and System Impact Study from PJM.

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- Submitted an application for a grid supply solar project of approximately 17.7327 MWs DC was submitted on September 30, 2020. Applicant will withdraw the Subsection (t) application from consideration upon selection.
- Attended a pre-application meeting with the Pinelands Commission on April 28, 2020.
- Submission of a Letter of Interpretation for a presence/absence determination to the Pinelands Commission.

Since recasting this Project as two co-located 5 MW dc community solar arrays, the Applicant has specifically designed this Project so that it meets every possible requirement of the Program. As demonstrated above, the Project should receive 105 out of a possible 100 points, with 5 bonus points being awarded for extreme attention to detail in the design of the facility and implementation of certain requested environmental measures. The Applicant has taken all of the foregoing considerations into account in designing this Project and believes that it should be among the top scoring projects submitted for inclusion in the Program.

In conclusion, it cannot be overstated how important this Project is to the Southampton Township community and how important participation in the Program is to the Project. Being included in the Program is paramount for the Project's success. We thank you for your consideration of this Application and ask you to please consider the foregoing in evaluating and approving this Application.

Thank you for your attention to this matter.

Very truly yours,



STEVEN P. GOUIN

SPG/

Docs #4884172-v1