

PAYMENT IN LIEU OF TAXES AGREEMENT
(Keys Energy Center)

This Payment in Lieu of Taxes (“**PILOT**”) Agreement (the “**Agreement**”) is made effective as of this ____ day of _____, 2014, by and between Keys Energy Center LLC, a Delaware limited liability company (“**Keys**”), and Prince George’s County, Maryland, a body corporate and politic and political subdivision of the State of Maryland (“**County**”) (collectively referred to as the “**Parties**”).

RECITALS AND PURPOSE

WHEREAS, Keys wishes to develop, build and operate the Keys Energy Center Generating Facility, a nominally rated 735 MW electric generating plant (the “**Project**”) described in the Certificate of Public Convenience and Necessity (“**CPCN**”) filed with the Maryland Public Service Commission on July 3, 2012, to be located at a Parcel 88 on Tax Map 146 (District 11 Account 1183086), a former sand and gravel mining site in the Brandywine area on North Keys Road in Prince George’s County (the “**Site**”); and

WHEREAS, Maryland imports approximately 30% of its electricity from out of state sources and nearly 80% of in-state generation is over 20 years old; and

WHEREAS, the Project, among other things, will increase the amount of Maryland’s in-state generation and reduce transmission congestion costs and the need to build transmission facilities; and

WHEREAS, the Project will use clean natural gas as its primary source of fuel and employ advanced state-of-the-art combustion turbines and emission control equipment; and

WHEREAS, the Project has a 33 month construction schedule and will employ up to 400 construction workers during peak construction periods; and

WHEREAS, upon Commercial Operation, the Project will employ approximately 25 full time, highly skilled employees with annual salaries and benefits estimated to be in excess of \$3.2 million dollars and incur annual non-fuel maintenance and plant services costs in excess of \$2.5 million dollars; and

WHEREAS, the Project represents a capital investment of approximately \$750 million; and

WHEREAS, the Project will significantly increase the County’s tax base while having a minimum impact on its infrastructure and minimal impact on service delivery; and

WHEREAS, the Project has applied for a CPCN from the Maryland Public Service Commission, pursuant to which it will be required to meet all pertinent environmental standards and safeguards; and

WHEREAS, the County believes that the Project’s construction and location in Prince George’s County would not only contribute to a secure and environmentally friendly power

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supply for the State, but would also significantly benefit the County's residents and businesses by virtue of the temporary construction and full time operating employment, and the personal income and property tax revenues to be derived from the Project.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Capitalized terms used herein shall be defined as follows unless otherwise defined elsewhere within this Agreement:

“Commercial Operation” shall mean an event that is deemed to occur when the Project is substantially completed and capable of regular commercial operation as determined by all required regulatory approving agencies, authorities, departments, instrumentalities, and/or bodies.

“Commercial Operation Date” shall mean the date on which the Project has achieved Commercial Operation.

“Construction Financing” shall mean any loan or other financing secured for the construction of the Project prior to the Commercial Operation Date.

“Construction Financing Period” shall mean, with respect to the Construction Financing, that period commencing with the Date of Financial Close and expiring on the Commercial Operation Date.

“Date of Financial Close” shall mean, with respect to the Construction Financing, the date on which all conditions have been satisfied (except for any post-closing conditions) or waived, all required documents have been executed or waived, and disbursements of funds associated with such Construction Financing becomes permissible.

2. **Exemption.** In accordance with Section 7-514(c) of the Maryland Tax-Property Article (“**MD T-P**”), the Project shall be categorized as exempt from County property taxes (the “**County Taxes**”). This exemption shall apply from the Date of Financial Close on the Project's construction for personal property taxes and as of the Commercial Operation Date for real property taxes, and shall extend until the end of the 19th year of Commercial Operation. Real property taxes during the Construction Financing Period will be based on the property's current assessed value as of June 1, 2014.

3. **PILOT Payments.** In lieu of paying the County Taxes from which Keys is exempt pursuant to paragraph 2 hereof, Keys shall make the payments set forth in Schedule 1, commencing in the first fiscal year in which Commercial Operation occurs and continuing for 18 years. The payments defined in Schedule 1 are referred to as Payments in Lieu of Taxes (the “**PILOT Payments**”). The PILOT payments shall apply to Keys irrespective of any amendments or modifications to MD T-P Sections 7-237(b)(2) and 7-514(c) (or any successors to such sections). The first PILOT Payment will be due sixty

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(60) days after the Commercial Operation Date. Thereafter the PILOT Payments will be due annually on September 30th.

- 4. Adjustment To Reflect Final Cost.** The PILOT Payments agreed to in Schedule 1 are based upon the parties' assumption that the final cost of the Project's real estate and personal property subject to property tax will be \$656,100,000 ("Assumed Cost"). If Keys reports to the State Department of Assessment and Taxation ("SDAT") an assessed value for the real property, long-lived generation assets, and electrical equipment comprising the Project for the year in which Commercial Operation begin that is more than 10% greater than the Assumed Value, Keys will provide the County with a copy of such assessed value and the PILOT Payments will be increased to reflect such assessed value on a pro-rata basis, and the parties will agree to a new Schedule 1 reflecting such adjustments.
- 5. Financial Information.** Keys will provide the County copies of all SDAT filings related to the Project within thirty (30) days of filing with SDAT, including any revised filings.
- 6. Local MBE Utilization.** Keys will submit a Local/Minority Business Plan which will include a minimum of twenty percent (20%) of the subcontracted work for local business enterprise (LBE), which will include as a subset a minimum of ten percent (10%) of the subcontracted work for local minority business enterprise (LMBE). It is estimated that the total subcontracted value available for LBE/LMBE participation is approximately \$100 million. In addition, twenty percent (20%) of the direct hire labor will be local hires of which ten percent (10%) will be minority direct hires. It is estimated that the direct hire labor for the project will be approximately 1.3 million man hours (an estimated value of \$87 million dollars). The Plan will be approved by the County's Minority Business Compliance Officer.
- 7. Enforcement and Collection.** The failure to make a required PILOT Payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes to the extent permitted by law.
- 8. Event of Default.** An "Event of Default" shall occur upon failure by Keys to perform any material covenant, condition or agreement required of Keys under this Agreement for a period of thirty (30) days after written notice of such default has been given to Keys by the County and during which time such default is neither cured by Keys nor waived in writing by the County, provided that, the Keys shall not be in default if the failure stated in the notice cannot be corrected within said thirty (30) day period and corrective action is instituted within the sixty (30) day period and diligently pursued to completion.
- 9. Remedies on Default.** Whenever any Event of Default by Keys shall have occurred and be continuing, the County may terminate this Agreement and retain all past PILOT payments made to the County. Keys acknowledges and agrees that upon termination of this Agreement, the Project shall be assessed and taxed in accordance with applicable State and local law as if this Agreement did not exist.

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- 10. Binding Effect.** The provisions of this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective heirs, personal representatives, successors and permitted assigns.
- 11. Statement of Good Faith.** The Parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration of the full and fair cash value of the Project, to the extent that such value is determinable as of the date of this Agreement. Each Party was represented by counsel in the negotiation and preparation of this Agreement, and has entered into this Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this Agreement is fair and mutually beneficial to them because it reduces the likelihood of future disputes over real and personal property taxes, establishes tax and economic stability at a time of continuing transition and economic uncertainty in the electric utility industry in Maryland and the region, and fixes and maintains mutually acceptable, reasonable and accurate payments in lieu of taxes for the Project that are appropriate and serve their respective interests. The County acknowledges that this Agreement is beneficial to it because it will result in mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes to the County. Keys acknowledges that this Agreement is beneficial to it because it ensures that there will be mutually acceptable, steady, predictable, accurate and reasonable payments in lieu of taxes for the Project.
- 12. Notices.** All notices permitted or required by this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the Party or person intended, or upon facsimile transmission to the fax numbers set forth herein, or after deposit with a nationally recognized overnight commercial courier service, air bill prepaid, or after deposit in the United States mail, postage prepaid, certified mail return receipt requested, addressed by name and address to the Party as follows:

To KEYS:

Mr. Robert Place, President
Keys Energy Center LLC
P.O. Box 920001
Needham, MA 02492 USA
Phone: (781) 929-0944
Email: bplace@genesispower.co

To PRINCE GEORGES COUNTY:

Attn: _____
14741 Governor Oden Bowie Drive
Suite 5032
Upper Marlboro, MD 20772-3050
Phone: _____
Email: _____

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- 13. Severability of Provisions.** Except as set forth below, if any of the terms or conditions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions and conditions of this Agreement shall not be affected and shall remain in full force and effect and shall be valid and enforceable to the full extent permitted by law, except that as to any such provisions or conditions declared invalid and unenforceable the Parties agree to negotiate in good faith a comparable substitute provision.
- 14. Captions.** The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define or limit the scope or intent of the various provisions, terms or conditions of this Agreement.
- 15. Modification.** This Agreement may be modified or amended only by written instrument signed by both Parties.
- 16. Governing Law.** This Agreement shall be governed in accordance with the laws of the State of Maryland.
- 17. No Commitment to Construct Project.** Nothing contained in this Agreement shall be construed to obligate Keys to commence or complete construction of the Project or all or any part of the Project. The determination to commence, complete or abandon all or part of the Project shall be in the sole and absolute discretion of Keys. If Keys should decide to not pursue the Project, Keys will be obligated to provide written notice to the County and the Parties agree that the contract herein shall terminate by agreement.
- 18. Entire Agreement.** This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the above-described property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.
- 19. Duly Authorized.** Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a Party. Each Party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.
- 20. Recitals.** The Recitals are expressly incorporated herein by reference.

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IN WITNESS WHEREOF, Keys Energy Center LLC, a Delaware limited liability company, and Prince George's County, Maryland, a body corporate and politic has caused their names to be signed by their respective authorized representatives, on the day and year first hereinabove written.

WITNESS:

KEYS ENERGY CENTER, LLC
a Delaware limited liability company,

By: _____

STATE OF MARYLAND, _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2014 before me, the Subscriber, a Notary Public of the State of Maryland in and for the County aforesaid, personally appeared _____, who acknowledged that he is the _____ of Keys Energy Center, LLC, and, being authorized to do so, stated that he executed the foregoing instrument for the purpose herein contained.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____ WITNESS:

PRINCE GEORGE'S COUNTY, MARYLAND

By: _____

Nicholas A. Majett
Chief Administrative Officer

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STATE OF MARYLAND, COUNTY OF PRINCE GEORGE'S

I HEREBY CERTIFY that on this ____ day of _____, 2014 before me, the Subscriber, a Notary Public of the State of Maryland, personally appeared Nicholas A. Majett, Chief Administrative Officer, and he acknowledged that he is authorized to sign on behalf of the County Executive of Prince George's County, Maryland and is authorized to enter into this Agreement.

AS WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires:_____

Reviewed as to Legal Sufficiency:

Office of Law

This Payment In Lieu of Taxes Agreement was prepared by an attorney licensed to practice in the State of Maryland.

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Schedule 1

Pilot Payment Schedule

Fiscal Year	PILOT Payment
1	Note 1
2	\$3,700,000
3	\$3,600,000
4	\$3,400,000
5	\$3,300,000
6	\$3,100,000
7	\$3,000,000
8	\$2,800,000
9	\$2,600,000
10	\$2,500,000
11	\$2,300,000
12	\$2,200,000
13	\$2,000,000
14	\$1,900,000
15	\$1,700,000
16	\$1,600,000
17	\$1,400,000
18	\$1,200,000
19	\$1,100,000
Total	\$43,400,000 plus Fiscal Year 1 Amount

Notes

1: The payments for the first Fiscal Year shall be equal to: (i) the applicable payment for the second Fiscal Year times (ii) (A) the number of days between the Commercial Operation Date and the end of the Fiscal Year in which the Commercial Operation Date occurs divided by (B) 365.