

Mihelich, Patricia

From: Kevin D. Batt <batt@andersonkreiger.com>
Sent: Thursday, May 30, 2019 11:05 AM
To: Twogood, Mark; White, Margaret
Cc: Mina S. Makarios; Mihelich, Patricia
Subject: RE: First Amendment to Solar PPA
Attachments: First Amendment to Power Purchase Agreement (Winchester HS) (A0617593-2xB0BA5).docx

Mark,

Matt only received the amendment yesterday. I had been waiting for input from you and Meg. I am attaching the copy that he and I discussed. But I expect he will need a bit more time to circulate and have it approved. There is nothing complicated or magic about the wording of the Amendment. The SB can approve in substance and authorize the Town Manager to sign. I would hate to see any more delay, especially as this project has been subject to numerous delays already due to issues raised by the Town. I recommend you include the item on the agenda, and circulate the draft attached for action and ask the Board to act on the following motion

Motion: to approve an amendment to the Power Purchase Agreement (PPA) with Solect Energy for the Winchester High School, substantially in the attached form and to authorize the Town Manager to approve minor insubstantial changes as may be necessary and to execute the First Amendment to the PPA.

By next week, we should have a final okay from Matt, and be able to execute, as long as the SB has approved in substance.

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From: Twogood, Mark <mtwogood@winchester.us>
Sent: Thursday, May 30, 2019 10:00 AM
To: Kevin D. Batt <batt@andersonkreiger.com>; White, Margaret <mwhite@winchester.us>
Cc: Mina S. Makarios <mina@andersonkreiger.com>; Mihelich, Patricia <pmihelich@winchester.us>
Subject: RE: First Amendment to Solar PPA

Hi Kevin

Have you reviewed the amendment with Matt? I will be able to add it to the Select Board's agenda but will need to know today if it is ready.

**FIRST AMENDMENT TO POWER PURCHASE AGREEMENT
(Winchester High School)**

This First Amendment (“Amendment”) to the Power Purchase Agreement (Winchester High School) is made as of the ___ day of ___, 2019 by and between **Town of Winchester**, acting through its Select Board and its School Committee, (“**Host**”), and Solect Energy Development, LLC, (“**Solect**” or “**Provider**”) a Limited Liability Company located in Hopkinton, Massachusetts (together, the “**Parties**”). Capitalized terms used in this Agreement shall have the same meaning as set forth in the Glossary of Terms identified in Section 1 of the Power Purchase Agreement.

WHEREAS, the Parties have executed, contemporaneously with this First Amendment thereto, a certain Power Purchase Agreement in which the Provider shall design, permit and install the Project at the Premises and the Host shall purchase the electric energy produced from the Project; and

WHEREAS, the Host has identified certain leaks in the rooftops at the Premises where the Project is to be installed; and

WHEREAS, the Parties wish to accommodate the Town’s expeditious repair of such leaks prior to the Construction Start Date; and

WHEREAS, the value of Environmental Attributes and Tax Attributes, including SMART incentives and federal investment tax credits, will be reduced as the time for completion of the Project is delayed.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Power Purchase Agreement as follows:

1. Extension of Construction Start Date and Commercial Operation Date. A new subsection (g) shall be added to Section 2 as follows: “The Construction Start Date and the Commercial Operation Date shall be extended on a day-for-day basis for each day that construction is delayed beyond the date construction otherwise would have commenced (following completion of design, permitting and receipt of all other necessary approvals for commencement of construction) on account of Host’s performance and completion of roof repairs and issuance of a notice to proceed with construction to the Provider.”
2. Temporary Access Limitation. Section 3(c) is hereby amended by inserting at the end thereof the following: “Notwithstanding anything to the contrary herein, the Provider shall not have access to the Premises for purposes of installation of the Project until the Host provides a notice to proceed, said notice to be provided when the Host in its sole discretion has determined that the roof leaks have been repaired and weather events following said repair have confirmed the adequacy of the repairs to make the Premises weather tight. To avoid uncertainty, nothing herein shall prevent the Provider from accessing the Premises for design, inspection and other requirements prior to Project installation.”

3. Exhibit A. Exhibit A is hereby amended by replacing the table therein with the following table:

PPA Rate (\$/kWh) Years 1-20

Certificate of Completion no later than December 31, 2019

SMART Block 2	SMART Block 3	SMART Block 4	SMART Block 5
0.073	0.083	0.094	0.104

Certificate of Completion in 2020

SMART Block 2	SMART Block 3	SMART Block 4	SMART Block 5
0.085	0.096	0.107	0.118

The remainder of the Exhibit, including text and footnote, are not changed.

4. No Further Changes. No other changes are hereby made to the Power Purchase Agreement (Winchester High School).

(rest of page left blank intentionally – signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this First Amendment to the Power Purchase Agreement (Winchester High School) as of the date first set forth above.

Solect Energy Development, LLC a Massachusetts Limited Liability Corporation

By: _____

Name (printed): _____

Title: _____

Town of Winchester, a Massachusetts Municipality, as duly authorized

By: _____

Name (printed): _____

Title: Town Manager

By: _____

Name (printed): _____

Title: Superintendent of Schools