

**SUPPLEMENT TO
AMENDED AND RESTATED
POWER SALES CONTRACT**

BETWEEN

VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION # 1

AND

THE CITY OF HARRISONBURG, VIRGINIA

**SUPPLEMENT TO
AMENDED AND RESTATED
VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION # 1
POWER SALES CONTRACT**

This SUPPLEMENT TO AMENDED AND RESTATED POWER SALES CONTRACT (“Supplement”) between VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION # 1 (“VMEA”) and the CITY OF HARRISONBURG, VIRGINIA (“Participant”) is made and entered into this ____ day of _____, 2020.

WITNESSETH

WHEREAS, VMEA is a non-stock not-for-profit corporation created by its members pursuant to Virginia Code Sections 13.1-801 et seq. and 15.2-1300 to act on behalf of its members with regard to their bulk electric power supply matters and other related matters;

WHEREAS, the Participant and the other members of VMEA own and operate electric utility systems and are authorized under the laws of the Commonwealth of Virginia to contract to buy from VMEA the electric power and energy required for their present and future requirements;

WHEREAS, the Participant and the other participating members of VMEA purchase from VMEA electric power and energy and other related services;

WHEREAS, VMEA purchases from Virginia Electric and Power Company (“VEPCO”) all of the electric power and energy needed to meet the needs of VMEA’s members except for allocations of electric power and energy purchased from the Southeastern Power Administration and/or certain electric power and energy output from electric generation facilities owned and operated by the Participant or other members of VMEA, individually or jointly as tenants in common with other members;

WHEREAS, VMEA and Participant have entered into an agreement entitled “Amended and Restated Virginia Municipal Electric Association # 1 Power Sales Contract” and dated August 13th, 2009 (“Amended and Restated Power Sales Contract”);

WHEREAS, the Participant desires to provide its retail customers with access to electricity generated from a solar facility located within Participant’s city limits (the “Solar Facility”);

WHEREAS, the output from the Solar Facility is intended to qualify as “Renewable Energy” under the Virginia Renewable Energy Portfolio Standard Program pursuant to Virginia Code Sections §56-576 and 56-585.5 of the Commonwealth of Virginia Code, or such other

program as permitted by Section 9 of the General Terms and Conditions (the “Applicable Program”);

WHEREAS, VMEA desires to facilitate the Participant’s access to electricity generated from the Solar Facility;

WHEREAS, in furtherance of the development of the Solar Facility, VMEA intends to enter into an agreement with the City of Harrisonburg entitled “Solar Project Ground Lease Agreement” (“Lease”) and VMEA intends to enter into an agreement with Virginia Electric and Power Company (“VEPCO”) entitled “Solar Project Ground Sublease Agreement” (“Sublease”);

WHEREAS, VMEA intends to enter into a “Letter Supplement for the Purchase of Electric Energy from Solar Facility for the Provision of Electric Service to Virginia Municipal Electric Association No. 1” (“Letter Supplement”); and

WHEREAS, in order to enable VMEA to pay for the services acquired on behalf of the Participant in connection with the Solar Facility and to fulfill obligations set forth in the agreements it intends to enter into with the City of Harrisonburg and VEPCO, it is necessary for VMEA to enter into this Supplement with the Participant;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties as follows:

DEFINITIONS

Capitalized terms that are not expressly defined herein shall have the meanings given to them in the Amended and Restated Power Sales Contract. To the extent there is a conflict between a definition in this Supplement and the Amended and Restated Power Sales Contract, the definition in this Supplement shall control.

“Commercial Operation Date” means the date on which all of the following conditions have been satisfied: (a) the Solar Facility is capable of operating and delivering Net Electrical Energy Output to the Delivery Point; and (b) VMEA has received written notice from VEPCO specifying the Commercial Operation Date and certifying that the Solar Facility is ready to begin commercial operations.

“Delivery Point” means the electrical interconnection between the Solar Facility and the electrical distribution system of Harrisonburg Electric Commission.

“Environmental Attributes” means any aspect, claim, characteristic or benefit, howsoever entitled, associated with the generation of a quantity of electric energy by the Facility, other than the electric energy, capacity or other energy-related attributes, produced, and that is capable of being measured, verified or calculated. Environmental Attributes include Renewable Energy Certificates but do not include federal, state and local tax credits or other incentives.

“Net Electrical Energy Output” or **“NEEO”** means the electrical energy output per hour measured in kWh that is delivered to the Delivery Point.

“Renewable Energy Certificate” or **“REC”** means the certificate or other transferable indicia created under the Applicable Program associated with one (1) megawatt hour (“MWh”) of electric energy generated by the applicable renewable generation facility.

“VMEA-VEPCO Agreement” means the Amended and Restated Agreement for the Purchase of Electricity for Resale Between Virginia Electric and Power Company and Virginia Municipal Electric Association No. 1 effective January 1, 2011.

TERM OF CONTRACT

2.1 The effective date of this Supplement coincides with the effective date of the Letter Supplement.

2.2 The term of this Supplement coincides with the term of the Letter Supplement (twenty-five (25) years commencing on the Commercial Operation Date).

2.3 Participant acknowledges that, by mutual agreement and upon execution of an amendment to the Letter Supplement, VMEA and VEPCO may extend the Delivery Term at any time prior to its expiration.

2.4 VMEA agrees that it will not enter into an agreement to amend the Letter Supplement with VEPCO as provided in the Letter Supplement without the express, written consent of Participant, such consent not to be unreasonably withheld.

SALE AND PURCHASE OF ELECTRIC POWER AND ENERGY

3.1 In accordance with the terms of this Supplement, VMEA will acquire and sell to the Participant, and the Participant will purchase and pay for, all of the NEEO from the Solar Facility.

3.2 VMEA agrees that (i) the NEEO purchased under the Letter Supplement and sold to Participant under this Supplement will reduce Participant’s share of Billing Energy under the VMEA-VEPCO Agreement; (ii) the NEEO purchased by VMEA under the Letter Supplement and sold to Participant shall be included (i.e. added to Participant’s metered load) in the calculation of the Billing Demand for determining Generation Demand Charges under the Agreement; (iii) and when calculating Participant’s share of the true-up under Section 4.3 of the VMEA-VEPCO Agreement, VMEA shall not include any payments under this Letter Supplement.

I RATES

4.1 VMEA shall bill the Participant and the Participant shall pay VMEA for the NEEO from the Solar Facility in accordance with the Supplemental Requirements-Solar Schedule of VMEA in effect from time to time.

4.2 [RESERVED]

4.3 The rates and charges set forth in the Supplemental Requirements-Solar Schedule shall be based upon VMEA's costs associated with the Letter Supplement, the Lease, and the Sub-Lease.

I ACKNOWLEDGMENT OF AGREEMENTS

5.1 Participant acknowledges it has received a copy of the Lease, the Sub-Lease, and the Letter Supplement and expressly concurs with VMEA's execution of the Lease, the Sub-Lease, and the Letter Supplement. Prior to taking any action pursuant to the terms of the Letter Agreement which may result in a material change in the expected benefits or costs to Participant from the Letter Supplement, VMEA shall consult with Participant.

5.2 Participant shall own, install, maintain, and test all interconnection equipment connecting the Solar Facility to Participant's electrical distribution system, at Participant's sole cost and expense and consistent with applicable laws, prudent electrical practices and the terms of the Amended and Restated Power Sales Contract, the VMEA-VEPCO Agreement, and the Letter Supplement.

5.3 Participant directs VMEA to take all such action as may be required to ensure that the Environmental Attributes associated with the NEEO of the Solar Facility are transferred to Participant for retirement or transfer to a retail customer of Participant for retirement. Participant understands that the Environmental Attributes must be retired promptly after receipt, may not be sold or otherwise further transferred except to a retail customer of Participant for retirement, and Participant will ensure the retirement of the Environmental Attributes. Participant may alter its instructions to VMEA for the disposition of Environmental Attributes; however, such instructions must be in writing, will only be effective as permitted in the Letter Supplement, will only be effective in accordance with the provisions of the Letter Supplement and subject to the terms, limitations, and restrictions of the Letter Supplement, and will only be effective after Participant pays any costs incurred by VMEA in connection with the change in disposition of the Environmental Attributes.

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BILLING AND PAYMENT

6.1 Each month, VMEA shall render a bill to the Participant for services provided the Participant by VMEA under this Supplement. The Participant agrees that payment for all such bills shall be received by VMEA or deposited by wire transfer to VMEA's account at a bank designated by VMEA within 15 days of the date of the bill from VMEA. Late bills shall be subject to interest at the rate of 1% per month from the due date until receipt, computed on a daily basis. It is agreed that the bill payment period and interest rate set in this paragraph may be changed from time to time in the Rate Schedule.

6.2 In the event of any dispute as to any portion of any monthly bill, the Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to VMEA within 60 days after the due date. Such notice shall identify the disputed bill, state the amount in dispute, and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as provided in this Section. VMEA shall give consideration to such dispute within 30 days following receipt of such written notice. Upon final determination (whether by agreement or adjudication) of the correct amount, an appropriate adjustment will be made, with interest at such rate as established from time to time by VMEA, which rate shall not be in excess of 1% per month interest.

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**LIABILITY, SERVICE INTERRUPTIONS,
AND FORCE MAJEURE**

The provisions related to liability, service interruptions, and force majeure as set forth in Article XII of the Amended and Restated Power Sales Contract shall apply to this Supplement.

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ASSIGNMENT

8.1 This Supplement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Supplement; provided, however, that, except for the assignment by VMEA authorized by Section 8.2, and except for any assignment in connection with the sale, lease or other disposition of all or substantially all of the Participant's electric utility system as provided in Article VIII of the Amended and Restated Power Sales Contract (other than a disposition pursuant to court order), neither this Supplement nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. No assignment or transfer of this Supplement shall relieve the parties of any obligation hereunder.

8.2 VMEA may assign and pledge all of, or any interest in, its right, title, and interest in and to all payments to be made to VMEA under the provisions of this Supplement as security

for the payment of the principal of, and the premium, if any, and interest on any borrowing by VMEA necessary for any working capital fund or power supply development costs and, upon any such assignment or pledge, VMEA may grant to any such assignee any rights and remedies herein provided to VMEA and thereupon any reference herein to VMEA shall be deemed, with the necessary changes in detail, to include such assignee which shall be a third party beneficiary of the covenants and agreements of the Participant herein contained.

ARTICLE IX NOTICES

Any notice, demand, or request required or authorized by this Supplement to be given by one party to the other party shall be in writing and shall be given in accordance with Article XIV of the Amended and Restated Power Sales Contract.

ARTICLE X SEVERABILITY

In the event that any of the terms, covenants or conditions of this Supplement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, the remainder of this Supplement and the application of its terms, covenants or conditions to such persons or circumstances shall continue in full force and effect. In the event of such invalidity, the parties hereto shall promptly renegotiate in good faith valid new provisions to restore the contract to its original intent and effect.

ARTICLE XI APPLICABLE LAW

This Supplement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

ARTICLE XII SURVIVORSHIP OF OBLIGATIONS

12.1 The termination of the Amended and Restated Power Sales Contract shall not discharge either party hereto from any obligation it owes to the other party under this Supplement and this Supplement shall continue in full force and effect following the termination of the Amended and Restated Power Sales Contract.

12.2 The termination of Participant's membership in VMEA shall not discharge either party hereto from any obligation it owes to the other party under this Supplement and this Supplement shall continue in full force and effect following the termination of Participant's membership in VMEA.

**ARTICLE XIII
CONSTRUCTION**

13.1 Headings and the table of contents have been inserted in the Supplement as a matter of convenience of reference only, and it is agreed that such headings and table of contents are not a part of this Supplement and will not be used in the interpretation of any of the provisions of this Supplement.

13.2 All Appendices attached to this Supplement shall be incorporated into and be a part of this Supplement.

13.3 This Supplement together with the Amended And Restated Power Sales Contract shall constitute the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

12.4 In computing any period of time prescribed or allowed under this Supplement, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday in Virginia, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday in Virginia.

**ARTICLE XIII
ENFORCEMENT**

The enforcement of this Supplement shall be in accordance with Article 19 of the Amended and Restated Power Sales Contract against the defaulting party.

IN WITNESS WHEREOF, The City of Harrisonburg, Virginia, has caused this Supplement to Amended and Restated Power Sales Contract to be signed by _____, Chairman, Harrisonburg Electric Commission, pursuant to resolution of the Council adopted the ____ day of _____ 2020; and

IN FURTHER WITNESS WHEREOF, the Virginia Municipal Electric Association #1 has caused this Amended and Restated Power Sales Contract to be signed by Glenn Simpson, its President, pursuant to resolution of its Board of Directors adopted the __ day of _____, 2020.

VIRGINIA MUNICIPAL ELECTRIC
ASSOCIATION # 1

PRESIDENT

Witness

CITY OF HARRISONBURG, VIRGINIA

CHAIRMAN, HARRISONBURG ELECTRIC
COMMISSION

Attest

APPENDIX A

SUPPLEMENTAL REQUIREMENTS-SOLAR SCHEDULE

**SUPPLEMENTAL POWER AND ENERGY REQUIREMENTS-SOLAR
FOR
HARRISONBURG ELECTRIC COMMISSION**

SUPPLEMENTAL REQUIREMENTS SCHEDULE

SUPPLEMENTAL POWER AND ENERGY REQUIREMENTS FOR VMEA PARTICIPANTS

DEFINITIONS

Capitalized terms that are not expressly defined herein shall have the meanings given to them in the Supplement To Amended and Restated Power Sales Contract between Virginia Municipal Electric Association # 1 and the City of Harrisonburg, Virginia.

AVAILABILITY

This schedule is applicable to Harrisonburg Electric Commission for the supply by VMEA to the Harrisonburg Electric Commission of the NEEO from the Solar Facility pursuant to the terms of the "Supplement To Amended And Restated Power Sales Contract" between the City of Harrisonburg and VMEA. All of the applicable provisions of the Supplement To Amended And Restated Power Sales Contract shall apply to service under this Supplemental Requirements-Solar Schedule and the provisions of the Supplement To Amended And Restated Power Sales Contract shall control if there is any conflict with the provisions of this schedule.

SERVICE AVAILABLE

Service hereunder shall be three-phase, 60 Hertz alternating current electricity at the nominal voltage(s) of the Delivery Point(s) and within the delivery voltage range pursuant to the provisions of the "VEPCO Contract".

MONTHLY RATE

The monthly billing to the Participant shall be the sum of all amounts invoiced to VMEA under the Letter Supplement for the Purchase of Electric Energy from Solar Facility for the Provision of Electric Service to Virginia Municipal Electric Association No. 1, all amounts invoiced to VMEA under the Lease, and all amounts invoiced to VMEA under the Sublease.

VMEA and the Participant acknowledge that VMEA shall flow-through the charges and credits that it receives from VEPCO or the City of Harrisonburg in the same manner as the charges and credits are incurred to the extent reasonably possible.
