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City of Dover, New Hampshire

OFFICE OF THE CITY MANAGER

December 9, 2015

Mr. James J. Walker
Vice President
Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701

**RE: Letter of Intent ("LOI") for Ameresco, Inc. ("Ameresco") to Exclusively
Develop Proposals to Finance, Construct, Own, and Operate certain Solar PV
Facilities in the City of Dover, New Hampshire**

Dear Mr. Walker,

Ameresco has been selected by the City of Dover to conduct a feasibility study (including certain development, engineering, and economic tasks) regarding the potential development, construction, ownership, and operation of solar arrays at City-owned sites. Thereafter, Ameresco and the City shall in good faith negotiate the terms of a solar photovoltaic ("PV") electricity or net metering credit supply agreement under a Power Purchase Agreement and Lease Agreement ("PPA/Lease") for the viable sites as mutually determined and agreed to by the parties.

As soon as possible after executing this Agreement, the City shall provide Ameresco with the following information if currently available:

- (a) Any available geotechnical studies and topographical plans showing the ground elevation of the sites, the soil composition, wetland areas, sacred or historically important areas, protected wildlife areas, and flood zones. All plans shall be provided to Ameresco in AutoCAD, if available or otherwise in hard copy or PDF;
- (b) Where applicable, any available building plans showing building structural drawings for the roofs as well as electrical drawings of the building switchgear and interconnection with the utility. All plans shall be

provided to Ameresco in AutoCAD, if available or otherwise in hard copy or PDF;

- (c) A listing, along with the associated fee structure for all required local permits, and any other fees to be assessed during the project development project phase or during the term of the PPA/Lease; and
- (d) Contact information for City of Dover stakeholders in proposed project sites;
- (e) Copies of any title commitments or policies, site plans, surveys, zoning information, environmental reports and other available information regarding state and local laws and regulations affecting the sites;
- (f) Such other information as may be reasonably requested by Ameresco.

After Ameresco has obtained all information it needs as appropriate, Ameresco shall complete the feasibility study, which shall included the following evaluation and development work under this Letter of Intent (the "Project Development Work"):

- (a) Screen and evaluate all City of Dover owned buildings and land, to establish a detailed project scope of work to move forward by;
 - 1. Conduct site visits to obtain detailed information on site measurements, solar shading, site conditions, and Utility interconnection;
 - 2. Conduct preliminary evaluations, including the use of licensed professional engineers where applicable, of structural, environmental, permitting, interconnection, design, development, installation, and commissioning considerations;
 - 3. Conduct interviews with City of Dover decision makers on site availability for solar PV installation;
- (b) For screened sites considered commercially viable and approved by the City of Dover;
 - 1. Complete 30% design drawings and calculations including solar PV layouts, electrical one-line diagrams, and a calculation of expected solar PV power generation;
 - 2. Obtain firm price quotations from local contractors and professional services firms; and

3. Prepare and deliver to the City draft PPA/Lease Agreements for such Sites, which shall include:
 - (i) The PPA price for each year of the term of the PPA (the "PPA Price");
 - (ii) A description of each PV System with a set of layout and electrical drawings, equipment selection, and annual generation production in kWh;
 - (iii) A lease agreement for leasing such Sites to host the PV Systems;
 - (iv) Construction procedures;
 - (v) Electric generation metering, measurement, and verification specifications, hourly and monthly generation reporting, and online platform for displaying the real-time and historical generation performance of the PV Systems;
 - (vi) Invoicing and payment provisions;
 - (vii) Loss, default, and indemnification provisions;
 - (viii) Warranties;
 - (ix) Insurance; and
 - (x) Other customary and reasonable terms for financing, construction, and operating such PV Systems at such Sites.

The City acknowledges and agrees that Ameresco will expend significant resources and dedicate significant time to performing the Project Development Work. In recognition of Ameresco's effort, the City agrees that for the term of this agreement it shall work exclusively with Ameresco in developing the PV Systems.

Ameresco's receipt of an executed copy of this LOI shall be evidence of the City's authorization of and notification to Ameresco to proceed with the Project Development Work.

This LOI and exhibits hereto, if any, shall: (a) constitute the entire agreement between the parties relating to the subject matter hereof, (b) supersede all previous agreements, discussions, communications and correspondences with respect to the subject matter hereof and (c) only be amended, supplemented or modified by a written instrument executed by both parties. If any provision of this LOI is held by a court of competent jurisdiction to be unenforceable, no other provision shall be affected thereby, and the

remainder of this LOI shall be interpreted as if it did not contain such unenforceable provision.

The City hereby agrees to provide timely and complete access to all information which it has in its possession which is necessary for Ameresco to perform its obligations under this LOI; provided that, the City shall not be required to obtain or create information which the City does not currently have in its possession. City will make available the assistance of its personnel as may be reasonable and necessary for Ameresco's performance of the Project Development Work hereunder.

Ameresco shall indemnify and hold the City harmless for any and all damages to person or property resulting from Ameresco's negligence, including but not limited to reasonable attorney's fees. In no event shall Ameresco be liable for any special, consequential, incidental, punitive, exemplary or indirect damages in tort, contract or otherwise, including, without limitation, loss of profits, loss of use of the Sites or other property, or business interruption, howsoever otherwise caused, in connection with this LOI. Ameresco shall maintain customary liability and other commercial insurance coverage during the term of the LOI, and shall provide a certificate evidencing such insurance coverage to the City upon request.

Ameresco and the City represent and warrant to each other that (a) the execution, delivery and performance of this LOI have been duly authorized and approved by all necessary organizational action on the part of such party, (b) the signatories hereto have been duly authorized by all necessary organizational action of such party to sign and deliver this LOI and (c) upon execution this LOI will constitute a legal, valid and binding obligation of such party.

Ameresco will have no responsibility to the City under this LOI for any subsequent use by the City or a third party of the PPA not in connection with a project implemented by Ameresco.

Each party shall bear its own costs in negotiating the PPA/Leases, whether or not the parties enter into the PPA/Leases. In the event negotiations end, the City acknowledges that all documents created by and submitted by Ameresco to the City (the "Ameresco Documents") shall be kept confidential, subject to disclosures required by applicable law, and shall not be used to circumvent or compete with the efforts of Ameresco. Ameresco has sole and exclusive ownership of all right, title and interest in and to its Ameresco Documents, including, without limitation, ownership of all patents, copyrights, trademarks, trade secrets or any other intellectual and/or proprietary rights pertaining thereto, subject only to the rights and privileges expressly granted by it. The City agrees that it does not acquire any rights to use, and expressly agrees not to use, in advertising, publicity or other marketing activities, any name, trade name, trade mark, or other

designation of Ameresco. Nothing herein shall be construed as granting or conferring upon the City hereunder, expressly, impliedly or otherwise, any licenses or other rights under any such patents, trademarks or other intellectual and/or proprietary rights which the other party hereunder now owns or may hereafter acquire.

This LOI shall be deemed executed within, and interpreted in accordance with, the laws of the State of New Hampshire.

Notwithstanding anything to the contrary in this LOI:

- (a) Nothing in this LOI requires any resident of the City (and therefore the City shall not be required under any circumstances) to interfere with or improperly influence any City official, board, committee or other body responsible to receive, review, and/or make decisions regarding any local governmental permits, consents, or approvals;
- (b) To the extent binding on the City, this LOI requires nothing more of the City than that it engage in good faith negotiations for the purposes stated in the LOI. In the event of any alleged failure of the City to comply with any of the terms of this LOI, Ameresco's sole remedy shall be to terminate this LOI, and the City shall not be responsible for any costs, expenses or fees incurred or paid by Ameresco in connection with the efforts outlined in this LOI, including, but not limited to, the costs, fees or expenses referenced in the LOI;
- (c) The City shall not be required to perform any activity or expend any monies for which funds have not been appropriated or made available.
- (d) This LOI is subject to all applicable laws and regulations;
- (e) This LOI shall terminate three hundred and sixty five (365) days after the date of this LOI, unless earlier terminated by written agreement of both parties or by either party for any material failure of the other party to comply with this LOI. Upon termination of this agreement the parties shall have no continuing obligation(s) to the other. The LOI may be extended by mutual written agreement;
- (f) This LOI may be executed by facsimile or electronically and in counterparts, each of which shall be deemed an original and all of which together shall constitute one LOI;
- (g) The parties acknowledge that execution of the PPA/Leases will be subject to approvals by the relevant City committees and by the City, acting by

and through its City Council and City Manager, as well as the Dover
School District acting by and through its School Board and Superintendent.

Sincerely,

City of Dover, New Hampshire

By: _____

J. Michael Joyal, Jr.
City Manager

With respect to the School Sites:

By: _____

Dr. Elaine M. Arbour
Superintendent of Schools

ACCEPTED AND AGREED TO:
AMERESCO, INC.

By: _____

Name: _____

Title: _____