

Mayor Alex B. Morse
Mayor's Office
563 Dwight Street
Holyoke, MA, 01040

May 14, 2014

Dear Mayor Morse,

The purpose of this letter (the "Letter Agreement") is to set out the terms of the grant of services (the "Grant of Services") provided by the Massachusetts Clean Energy Technology Center ("MassCEC") to the City of Holyoke (the "City") (each a "Party," together the "Parties") pursuant to Chapter 64 of the Acts of 2013. Through this Grant of Services, MassCEC will work with the City on a study for the coal-fired electric generating power plant (Mount Tom Power Station) in the City (the "Site") that is expected to be decommissioned (the "Study").

MassCEC and City hereby agree to the following:

1. Grant of Services

- a) Following the creation of a scope of work to the mutual satisfaction of the Parties, MassCEC will secure a consultant to carry out the site assessment and reuse studies for the Sites (the "Consultant") through a competitive solicitation process (the "RFP"). City shall collaborate with MassCEC to jointly interview applicants and select a consultant to perform the Study.
- b) MassCEC shall contract directly with the selected Consultant, incorporating the scope of work as agreed upon by the City and MassCEC. The Consultant hired by MassCEC will provide Technical Assistance to the City. MassCEC shall manage the contract, including final approval of deliverables and invoicing.
- c) City and MassCEC shall cooperate and work together throughout the term of the Study, collaborating on outreach to stakeholders, review of deliverables and, if required, adjustments to the scope of the Study.

2. City Commitment and Deliverables

In consideration of the Grant of Services from MassCEC, City agrees that it shall:

- a) Review applications that meet the RFP criteria and collaborate with MassCEC to make a determination as to the top consultants to interview and then ultimately select;
- b) Cooperate and collaborate with the MassCEC and the selected Consultant;
- c) Refer any requests for changes in scope of the Study, or any other items related to the Consultant's contract, to MassCEC.

3. Term and Termination

- a) This Letter Agreement shall take effect as of the first date listed above (the "Effective Date"), and shall remain in effect for the duration of the Study, which will last eighteen months after the Effective Date (the "Term").
- b) This Letter Agreement may be terminated by MassCEC by thirty (30) days written notice to the City if the City is in material breach of any term of the Letter Agreement, and such breach has not been cured within the thirty (30) day period.
- c) MassCEC may terminate this Letter Agreement in the event of loss of availability of sufficient funds for the purposes of this Letter Agreement or in the event of an unforeseen public emergency or other change of law mandating immediate MassCEC action inconsistent with performing its obligations under this Letter Agreement.

4. Amendments, Entire Agreement, and Attachments

- a) All conditions, covenants, duties and obligations contained in this Letter Agreement may be amended only through a written amendment signed by the City and MassCEC. The Parties understand and agree that this Letter Agreement supersedes all other verbal and written agreements and negotiations by the Parties regarding the Study set forth herein.

5. Required Legal Terms and Conditions

- a) Indemnification. To the fullest extent permitted by law, the City shall indemnify and hold harmless the Commonwealth, MassCEC, and each of their respective agents, officers, directors and employees (together with the Commonwealth, MassCEC the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs and expenses (including reasonable attorney's fees), judgments and awards related to or arising out of the Study (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person related to or arising out of the Materials or

Reimbursement Funds resulting from (i) the breach of any of the terms of this Letter Agreement or any false representation by the City, or (ii) any negligent acts or omissions or reckless or intentional misconduct of the City or any of the Community's agents, officers, directors, employees or subcontractors. Without limiting the foregoing, the City shall indemnify and hold harmless each Covered Person against any and all Damages that may directly or indirectly arise out of or may be imposed because of the failure to comply with the provisions of applicable law by the City or any agents, officers, directors, employees or subcontractors. The foregoing notwithstanding, the City shall not be liable for (i) any Damages sustained, incurred or suffered by or imposed upon any Covered Person resulting from any negligent acts or omissions or reckless misconduct of MassCEC, and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of City or for claims of infringement of a third party's intellectual property by City, the aggregate liability of the City under this Letter Agreement shall not exceed the greater of the amount of the value of the Grant of Services received or the amount recovered under any applicable insurance coverage.

- b) Compliance with Law. The City agrees to comply with all applicable Federal and State statutes rules, and regulations.
- c) Public Records. As a public entity, MassCEC is subject to the Massachusetts Public Records Law (set forth at M.G.L. c.66) and thus documents and other materials made or received by MassCEC and/or its employees are subject to public disclosure. All information received by MassCEC shall be deemed to be subject to public disclosure, unless the limited exception at M.G.L. c. 23J, Section 2(k) or another statutory exception applies. For more information, please see Chapter 66 of the Massachusetts General Laws.
- d) Waivers. Conditions, covenants, duties, and obligations contained in this Agreement may be waived only by written agreement between the parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.
- e) Counterparts. This Letter Agreement may be executed in two or more counterparts, and by different parties hereto on separate counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- f) Amendments, Entire Agreement, and Attachments. All conditions, covenants, duties and obligations contained in this Letter Agreement may be amended only through a written amendment signed by the City and MassCEC. The Parties understand and agree that this Letter Agreement supersedes all other verbal and written agreements and negotiations by the parties regarding the Program set forth herein.

MassCEC is excited to work with the City on this Study. If you accept the terms and conditions referenced herein, please sign and scan one original copy of this letter and email to sgriffith@masscec.com. Please maintain one original copy of this letter for your records.

I look forward to our work together in addressing this important topic.

Very truly yours,



Alicia Barton
Chief Executive Officer

Accepted & Agreed

City of Holyoke

By: *Alex Morse*

Name: *Alex Morse*

Title: *Mayor*

Date: *05-15-2014*