
MassCEC-Community Contract

February 19, 2016

City of Somerville
City Hall Annex
50 Evergreen Avenue
Somerville, MA
02145

Re: Solarize Massachusetts Program

Dear Russell Koty,

Congratulations on being selected to participate in the Solarize Massachusetts Program (the “Program”). The Massachusetts Clean Energy Center (“MassCEC”) is excited to collaborate with you to increase outreach, education and adoption of solar photovoltaic (“PV”) systems within your community.

This letter (the “Letter Agreement”) will set out the mutual understanding between MassCEC and the City of Somerville (“Community”) regarding the Community’s participation in the Program and the provision of marketing materials to the Community by MassCEC. For the avoidance of doubt, this Letter Agreement supersedes the letter agreement between the Community and MassCEC dated January 19, 2016.

1. Solarize Massachusetts Program

a) The Community agrees to participate in the Solarize Massachusetts Program, which will drive the community adoption of solar PV projects through a partnership with MassCEC and the solar installer (the “Installer”) selected by the Community (with assistance from MassCEC and a solar technical consultant) through a competitive process. As more customers contract for the purchase of solar PV installations within the Community, higher tiers will be reached, increasing the overall project savings to all customers under the program, whether they purchase the system directly, enter into a Power Purchase Agreement (“PPA”), or enter into a lease agreement.

2. Marketing Grant

a) MassCEC will provide the Community with a marketing grant and in-kind services, including but not limited to, template marketing documents and trainings for the selected Community Solar Coach and Municipal Representative (the “Materials”). The Materials will be specific to the Solarize Massachusetts Program and will assist the community with its education, outreach, and marketing efforts in order to gain attendance at local meetings, increase lead generation, and encourage participation in the

Program. MassCEC will also participate in certain community events, including leading the Meet the Installer presentation.

b) MassCEC will provide the Community, in accordance with Section 4 below, with up to two marketing grants, with payments of up to Two Thousand Five Hundred Dollars (\$2,500), for a total of Five Thousand Dollars (\$5,000) for the reimbursement of any miscellaneous marketing expenses directly related to the Program (the "Reimbursement Funds"), including, but not limited to, the costs of printing the Materials, postage for mailings, and any fees/deposits necessary to secure venues for community meetings (the "Expenses"). Up to One Thousand (\$1,000) of the Five Thousand Dollars (\$5,000) of the Reimbursement Funds may be allocated, upon approval by the Community, as a stipend to the Community Solar Coach for services rendered during the Program (the "Stipend"). A One Thousand dollar Stipend for the solar coach can be included as part of the first marketing grant, or the second marketing grant. It is the responsibility of the Community to determine whether to, and how to, allocate the Stipend to the Community Solar Coach. The Community is not required to allocate any of the Reimbursement Funds as a Stipend, and may use all of the Reimbursement Funds for Expenses directly related to marketing and outreach. The Community acknowledges that this is a maximum authorization, and MassCEC is under no obligation to transfer the full amount to the Community, or any amount, in the event the Community does not satisfy any requirements upon it to be completed prior to disbursement.

c) A Community is only eligible to receive the second marketing grant of \$2,500 when the Community demonstrates that the first \$2,500 in Reimbursement Funds has been expended on Materials and activities approved by MassCEC, and can additionally demonstrate the specific intended use for an additional \$2,500 marketing grant. At that time, MassCEC reserves the right to issue an additional \$2,500 marketing grant to the community.

3. Community Commitment and Deliverables

The Community agrees that it shall:

a) Acknowledge that the Community-designated Installer Proposal Review team is responsible for developing and posting an installer Request for Proposals ("RFP"), and will be the lead participant in the competitive selection of the Installer under the Program selection process;

b) Provide a fully developed Installer RFP to MassCEC for review prior to finalization and public launch;

c) Acknowledge that the Community or the Community-designated Installer Proposal Review team will enter into a letter agreement with the competitively selected Installer for the installer participation in the Solarize Mass program and shall ensure that the Installer agrees to certain Program terms and conditions as contained in Exhibit 1.

d) Cooperate and collaborate with MassCEC, the selected Installer, and the selected Community Solar Coach;

e) Ensure that the Community Solar Coach agrees to, signs, and abides by the Program Terms and Conditions form;

f) Ensure that all members of the External Review Team agree to, sign, and abide by the External Review Form;

- g) Refer to the Program as “Solarize Massachusetts” or “Solarize Mass” in all community outreach materials and marketing efforts;
- h) Direct individuals interested in participating in the Program to www.solarizemass.com, or in the event that the Community sets up its own website to publicize the Program, link to MassCEC’s Solarize Massachusetts website;
- i) Request approval from MassCEC for all Community-developed marketing materials in advance of distribution. The Community agrees that MassCEC shall have the right to make use of and disseminate, in whole or in part, all work products, reports, and other information produced by the Community in the course of the Program. Community agrees to include the “MassCEC”, “DOER”, “Solarize Mass” and “Installer” logos on **any** additional outreach materials that may be developed directly by the Community;
- j) Provide MassCEC, upon request, with all email addresses of leads and contacts collected through the Program;
- k) Notify MassCEC in advance and collaborate with MassCEC on any events or news conferences concerning the Program. In any media produced by the Community, the Community will not represent that positions taken or advanced by it represent the opinion or position of MassCEC. All media produced by the Community is subject to MassCEC approval;
- l) Develop and track a plan to disperse marketing materials to be provided to MassCEC in order to evaluate how successful various disbursement methods were relative to the sign-up and adoption rate within the community;
- m) License or otherwise make available to MassCEC in perpetuity, without charge, all non-confidential materials prepared and produced for the Program, including without limitation, all plan and analyses developed in connection with the Program for MassCEC’s use and public dissemination;
- n) Provide feedback at the end of the Program to assist MassCEC in the analysis of the efficacy of different outreach strategies and community drivers in increasing community adoption of solar;
- o) Utilize the Reimbursement Funds only for Program-related marketing, outreach and education efforts (or up to One Thousand Dollars (\$1,000) for the Stipend, if applicable);
- p) Maintain accurate records of cost accounting. In addition, at the close of the sign-up period of the Program, the Community shall provide MassCEC with an itemized list of Expenses or Stipend, if applicable, that were reimbursed with the Reimbursement Funds; and
- q) If applicable, provide a written plan to MassCEC detailing how any remaining Reimbursement Funds will be used for solar-related efforts within the community at the close of the Program.

4. Invoice and Payment Terms

- a) All Expenses must be approved by MassCEC in advance (in writing, by email) in order to be considered approved for reimbursement by the Community, and;

- b) The Reimbursement Funds for the first \$2,500 Marketing Grant shall become payable by MassCEC within thirty (30) days of receipt by MassCEC of a signed scanned copy of this Letter Agreement. The Reimbursement Funds for the second \$2,500 Marketing Grant shall become payable by MassCEC within thirty (30) days of receipt by MassCEC proof that first Marketing Grant has been expended, and MassCEC approval of plan for use of second Marketing Grant funds.

5. 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 Program, which will last one year after the final PV system application award date (the "Term").

b) This Letter Agreement may be terminated by MassCEC with thirty (30) days written notice to the Community if the Community is in material breach of any term of the Letter Agreement, and such breach has not been cured within the thirty (30) day period. In the event of such termination, the Community shall return to MassCEC all Reimbursement Funds not utilized for Expenses approved and incurred prior to termination.

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.

6. Required Legal Terms and Conditions

a) Indemnification. To the fullest extent permitted by law, the Community 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 Materials or Reimbursement Funds (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 Community, or (ii) any negligent acts or omissions or reckless or intentional misconduct of the Community or any of the Community's agents, officers, directors, employees or subcontractors. Without limiting the foregoing, the Community 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 Community or any agents, officers, directors, employees or subcontractors. The foregoing notwithstanding, the Community 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 Community or for claims of infringement of a third party's intellectual property by Community, the aggregate liability of the Community under this Letter Agreement shall not exceed the greater of the amount of the Materials and Reimbursement Funds received or the amount recovered under any applicable insurance coverage.

b) Compliance with Law. The Community agrees to comply with all applicable Federal and State statutes rules, and regulations, including, but not limited to, promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the

hiring of any applicant for employment nor shall any qualified employee be demoted, discharged, or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, or for exercising any rights afforded by law.

c) Audit. At any time period prior to the conclusion of the Program and as otherwise provided in this Section, MassCEC will have the right to audit the Community's or the Community's other agents' records to confirm the use of the Reimbursement Funds provided. If such audit reveals that any portion of the Reimbursement Funds were utilized for purposes not permitted under this Letter Agreement, then the Community shall refund to MassCEC the amount determined by such audit within thirty (30) days of receipt of such audit and demand. The Community shall maintain books, records, and other compilations of data pertaining to the payments made under this Letter Agreement to the extent and in such detail as shall properly substantiate use of such payments. All such records shall be kept for a period of seven (7) years, starting on the first day after final payment under this Letter Agreement (the "Retention Period"). If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the Retention Period, all records shall be retained until completion of the audit or other action and resolution of all issues resulting therefrom, or until the end of the Retention Period, whichever is later. MassCEC or the Commonwealth or any of their duly authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy of the Community's books, records, and other compilations of data which pertain to the Program. Such access may include on-site audits, review and copying of records.

d) Lobbying. No Reimbursement Funds may be used for any activities to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agent" or "executive agent" set forth in the Massachusetts Lobbying Law, M.G.L. c.3, §39.

e) Public Records and Open Checkbook. 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. Communities should also be aware that MassCEC has the right to disclose the name of the Community, the amount of the grant and any other information it may deem reasonably necessary on Open Checkbook, the Commonwealth of Massachusetts' online database of state spending.

f) 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.

g) 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.

h) 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 Community 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 Community to launch this innovative business model and increase solar adoption within your community. If you accept the terms and conditions referenced herein, please sign and scan one original copy of this letter and email to Solarize@MassCEC.com. Please maintain one original copy of this letter for your records.

Very truly yours,

Stephen Pike
Interim Chief Executive Officer

Accepted & Agreed

City of Somerville

Name: _Edward Bean, City Auditor_____

Signature: _____

Date: _____

Name: _Joseph A. Curtatone, Mayor_____

Signature: _____

Date: _____

Name: _Angela Allen, Purchasing Director____

Signature: _____

Date: _____

Name: _Francis X. Wright Jr. City Solicitor_

Signature: _____

Date: _____

Name: _Oliver Sellers-Garcia, Director, OSE_

Signature: _____

Date: _____

Exhibit 1
Installer Required Terms and Conditions

Community shall ensure that in its contract with the selected installer that the installer agrees to abide by the following Program terms and conditions during the course of the program:

- a) Installer and Community agree to work cooperatively to implement the 2016 Solarize Massachusetts Program (the “Program”) in the Community which will drive the community adoption of solar PV projects through a partnership with the Community;
- b) Installer agrees that the term of this Letter Agreement begins as of the Effective Date and shall continue until the final PV system contracted under the Program is installed;
- c) Refer to the Program as “Solarize Massachusetts” in all community outreach materials and marketing efforts;
- d) Provide customers within the Community with pricing available at the appropriate tiered level, and provide tiered pricing reductions, as outlined in the Installer’s competitive bid, to all customers under the Program. Appropriate tiered pricing must be applied to projects at the time that the contracted capacity level is met for the Tier. Installer’s and associated partner’s contracts with the customers must include a “not to exceed” cost or lease payment/PPA payment through [Date of End of Program], at which time the cost will be reconciled based on the appropriate tier that has been reached;
- e) Utilize equipment listed in the *Pricing Proposal* (Attachments B.1 and B.2) submitted by Installer for all projects contracted during the Program. If an equipment substitution is required during the course of the Program, the Installer is responsible for getting the MassCEC appointed Technical Consultant approval in advance of contracting of the system;
- f) Include a disclaimer on all Installer customer intake forms and media (such as website and sign-up sheets) that outlines how customer contact information will be used under the Program and provide the customer with the ability to opt out of communications unrelated to solar PV installations under the Program;
- g) Provide objective information to enable customers to choose either the purchase, lease/power purchase agreement (if offered), or innovative financing (if offered) option;
- h) Track the total contracted capacity under the Program;
- i) Track the pricing associated with each project, and detail why a specific project requires a cost adder;
- j) If there are cost adders associated with a project, Installer must provide customer with a breakout of the cost adders required and their cost above the base pricing. This can be provided at or before contract signing directly in the Customer proposal or on a copy of the Cost Adder Form developed by MassCEC;
- k) Provide weekly metrics to the Community and MassCEC, which shall include, but is not limited to, the number of leads generated, the number of feasible project sites identified, the number of

contracted projects, and the tracked information maintained by Installer pursuant to subsection h) and i);

- l) Agree and acknowledge that all contracted projects will meet the Mass Solar Loan Program Minimum Technical Requirements, except the “Minimum Design and Estimated Production Requirements” section;
- m) Coordinate with the Community to develop a plan to recommend alternative opportunities (i.e. through energy efficiency or other renewable energy projects) for customers without feasible sites for a solar PV project;
- n) Provide a mechanism to share the status of leads captured through the program such that they will be available to the core community volunteer team on a regular basis, and;
- o) Make a reasonable effort to track why customers decide not to contract for a solar PV project;
- p) If requested by MassCEC, Installer shall agree and accept certain program terms with MassCEC including, but not limited to, to the use of MassCEC’s logos, website, and the provision of certain program data.