
TOWN OF HINESBURG

TO: SELECTBOARD
FROM: TODD ODI, TOWN MANAGER
SUBJECT: LEASE OPTION AMENDMENT
DATE: 12/7/2022

ISSUE:

The issue is whether the Selectboard will approve an amendment to the Lease Option Agreement between Acorn Renewable Energy Co-op and the Town.

DISCUSSION:

As discussed at the November 16, 2022 meeting, the lease option agreement between Acorn and the Town expires on December 11, 2022. To continue with the project, this option needs to be extended. There are three proposed changes: 1) extend the lease option expiration date to December 11, 2023; 2) extend date for post-closure certification by the town to June 30, 2023; and 3) require a payment by Acorn to the town if they fail to exercise the option by the expiration date.

COST:

Not applicable.

RECOMMENDATION:

It is recommended that the Selectboard approve the proposed amendment to the Lease Option Agreement between Acorn Renewable Energy Co-op and the Town.

**AMENDMENT No.1 to
Lease Option Agreement between
Acorn Renewable Energy Co-op and
The Town of Hinesburg, Vermont**

December 7, 2022

The undersigned are parties to that certain Lease Option Agreement dated December 11, 2020 (the "Lease Option") by and between the Town of Hinesburg, a Vermont municipal corporation having a mailing address of 10632 Route 116, Hinesburg, Vermont 05461 (the "Town"), and Acorn Renewable Energy Co-op, a Vermont cooperative corporation having an address of P.O. Box 66, Middlebury, Vermont 05753, its successors and assigns ("Acorn" and with the Town, the "Parties").

The Parties wish to extend certain deadlines included in the Lease Option. Section 17 of the Lease Option requires that any modification to the Lease Option be in writing and signed by the Parties. In accordance with Section 17 of the Lease Option, the Parties agree as follows:

Lease Option Section 2 is hereby amended to extend the Lease Option term to December 11, 2023 and the definition of the Expiration Date is hereby amended to mean that date.

Lease Option Section 2 is hereby further amended to require a payment by Acorn in the amount of \$1,000.00 to the Town in the event that Acorn fails to exercise the Option prior to the Expiration Date.

Lease Option Section 12 required the Town shall use its best efforts to comply, at its cost, with any requirements properly imposed by the Vermont Agency of Natural Resources (whether post-closure certification or otherwise) relating to the closed landfill on the Option Property as required by the Vermont Agency of Natural Resources by no later than August 1, 2021. The Parties hereby extend that August 1, 2021 deadline to June 30, 2023.

No other terms of the Lease Option are modified by this Amendment No. 1. In the event of any conflict between the terms of the Lease Option, and this Amendment, the terms of Amendment No.1 shall govern. A copy of this Amendment No.1 shall be filed by Acorn in the Town land records at Acorn's expense.

IN WITNESS WHEREOF, the undersigned have executed this Amendment No. 1 as of the date first written above.

TOWN OF HINESBURG

By: _____

Name: Todd Odit

Title: Town Manager and Duly Authorized Agent

ACORN RENEWABLE ENERGY COOPERATIVE



By: _____

Name: Benjamin Marks

Title: President