



**TO: Solar Participants**

**FROM: MEAG Power**

**DATE: November 30, 2022**

**SUBJECT: First Amendment to the Power Purchase Contract (“PPC”) between Municipal Electric Authority of Georgia and the Undersigned Participant**

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This memo will provide the background concerning the need for the attached First Amendment to the PPC. As you may recall, the original PPC executed by each Solar Participant last summer included Exhibit A, a copy of the Solar Power Purchase Agreement (“SPPA”) between MEAG Power and Pineview Solar LLC (the Solar Developer).

As a result of some significant changes that have occurred the last few months impacting the solar industry, MEAG Power agreed to a conditional amendment to the SPPA with Pineview Solar LLC, which increases the price of the power from \$25.91 per MWh to \$29.06 per MWh and reduces the term from 20 years to 15 years. Absent approval of these provisions, the solar developer will abandon the project. The condition to this amendment is obtaining the approval of the Solar Participants to the new contract terms.

Accordingly, the attached First Amendment to the PPC adds Exhibit B which reflects the new pricing and reduced term with respect to the solar energy. Also, reflected in Exhibit B is an option for MEAG Power to buy the solar facility at the end of the term if beneficial to Solar Participants. Your approval of this Amendment will signify your agreement to these new terms.

Please contact either Steve Jackson at 770-563-0314, Michele Jackson at 770-563-0313 or Pete Degnan at 770-661-2893 with any questions.

FIRST AMENDMENT TO THE POWER PURCHASE CONTRACT  
BETWEEN MUNICIPAL ELECTRIC AUTHORITY OF  
GEORGIA AND THE UNDERSIGNED PARTICIPANT

This First Amendment to the Power Purchase Contract (this “**Amendment**”), made and entered into as of \_\_\_\_\_, 2022, by and between the Municipal Electric Authority of Georgia (the “**Authority**” or “**MEAG Power**”), a public body corporate and politic and a public corporation and an instrumentality of the State of Georgia, created by the provisions of the Municipal Electric Authority Act, Ga. L. 1976, p. 107, as amended (the “**Act**”), and the City of Cartersville (the “**Solar Participant**”), a political subdivision of the State of Georgia.

WITNESSETH:

WHEREAS, the Authority has previously entered into the Power Purchase Contract (“PPC”) made and entered as of August 5, 2021, with the City of Cartersville (the “Solar Participant”);

WHEREAS, Section 1.1 of the PPC references as Exhibit A that certain Power Purchase Agreement with Pineview Solar LLC (the “**Company**”) for the output and services of approximately 80 MWac from a photovoltaic solar energy generation facility located in Wilcox County, Georgia (the “**Facility**”) to be constructed, owned, operated, and maintained by the Company (hereinafter the “**SPPA**”);

WHEREAS, as the result of changes that have occurred impacting the solar industry and subject to the approval of each of the Solar Participants, MEAG Power’s Board has authorized MEAG Power’s President and CEO to execute Amendment No. 1 to the SPPA in substantial form;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

1.

Section 1.1 of the Power Purchase Contract between Municipal Electric Authority of Georgia and the Solar Participant is hereby amended by adding Exhibit B which reflects the changes to the SPPA agreed to by the Authority and the Company.

2.

All other provisions of the Power Purchase Contract between Municipal Electric Authority of Georgia and the Solar Participant shall remain in full force and effect and binding upon the parties hereto.

3.

In witness whereof, the Authority has caused this Amendment to be executed in its corporate name by its duly authorized officers and the Authority has caused its corporate seal to be hereunto impressed and attested; the Solar Participant has caused this Amendment to be executed in its corporate name by its duly authorized officers and its corporate seal to be hereunto impressed and attested, and delivery hereof by the Authority to the Solar Participant is hereby acknowledged, all as of the day and year first above written.

MUNICIPAL ELECTRIC AUTHORITY OF  
GEORGIA

By: \_\_\_\_\_  
Name: James E. Fuller  
Title: President and CEO

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(SEAL)

[Solar Participant Signature is on the next page]

CITY OF CARTERSVILLE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**

**AMENDMENT NO. 1 TO THE SPPA**

**AMENDMENT NO. 1 TO THE  
POWER PURCHASE AGREEMENT BETWEEN  
PINEVIEW SOLAR LLC  
AND  
MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA**

THIS AMENDMENT NO. 1, dated as of November 14, 2022 (“Amendment”), amends the Power Purchase Agreement by and between PINEVIEW SOLAR LLC (“Seller”) and the MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA (“Buyer”) dated as of September 10, 2021 (“PPA”). Seller and Buyer are individually referred to herein as a “Party” and collectively as the “Parties.”

**BACKGROUND RECITALS:**

A. Pursuant to the PPA, Seller is planning to construct, own, and operate a solar photovoltaic electric generation facility on a site located in Wilcox County, Georgia and Seller intends to sell and deliver to Buyer the power, output and services of the Facility to provide Supplemental Power to the Solar Participants, and Buyer intends to purchase the same from Seller in accordance with the terms and conditions of the PPA; and

B. Consistent with Section 21 of the PPA, Seller and Buyer agree to amend the PPA as set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises, the mutual promises and agreements contained herein and in the PPA and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties each intending to be legally bound hereby agree as follows:

**A. Amendments to PPA.**

The Parties hereby agree to amend the PPA as follows:

**1. Section 1.1 – Definitions.**

(a) Contract Price. The Contract Price of \$25.91 per MWh is replaced with the following: \$29.06 per MWh.

(b) Notice to Proceed Date. The definition of Notice Proceed Date is deleted and replaced with the following:

“Notice to Proceed Date” means the date on which notice is issued by Seller to its contractor under the engineering, procurement and construction agreement or similar contract relating to the construction of the Facility, authorizing and directing the full and unrestricted commencement of construction of the Facility. The Notice to Proceed Date shall occur on or before April 1, 2023.

(c) **Guaranteed Commercial Operation Date.** The definition of Guaranteed Commercial Operation Date is deleted and replaced with the following:

“Guaranteed Commercial Operation Date” means November 1, 2024, provided that the Guaranteed Commercial Operation Date shall be extended on a day-for-day basis for each day of delay in Seller’s development, permitting, construction, interconnection or completion of the Facility associated with (a) the occurrence of a Force Majeure event, (b) a breach by Buyer of any of its obligations under this Agreement, (c) the occurrence of an Emergency condition, or (d) a delay in the in-service date of the Interconnection Facilities beyond the expected date set forth in the Generation Interconnection Agreement, including as a result of a delay in the completion of any Network Upgrades, provided that such delay is not the result of Seller’s failure to perform its obligations under the Generation Interconnection Agreement.

2. **Term.** Section 2.1 is deleted in its entirety and replaced with the following:

2.1 **Term.** This Agreement is entered into as of the date hereof (the “Effective Date”) and, unless earlier terminated as provided herein, shall remain in effect until the end of the fifteenth (15th) Contract Year (the “Term”).

3. **Contract Price.** Section 5.1 is deleted in its entirety and replaced with the following.

5.1 **Contract Price.** Commencing on the Commercial Operation Date and continuing through the Term, Buyer shall pay the Contract Price for all deliveries to Buyer of the Products. The Contract Price includes the consideration to be paid by Buyer to Seller for the Products, and Seller shall not be entitled to any compensation over and above the Contract Price for the Products, except as set forth in Section 4.4.2. Seller agrees to reduce the Contract Price by \$0.50/MWh for each \$0.01/watt reduction in module pricing Seller obtains below \$0.44/watt, as of the Notice to Proceed Date, on a pro rata basis. Seller further agrees to provide Buyer with an “open book” approach to Seller’s module pricing. So, by way of example, if Seller obtains modules at \$0.43/watt, Seller agrees to reduce the Contract Price to \$28.56/MWh.

4. **Buyer Transmission Services.** Section 6.5 is deleted in its entirety and replaced with the following:

6.5 **Buyer Transmission Services.** Beginning no later than October 1, 2023 and continuing throughout the Term, Buyer shall be responsible for arranging and paying for all transmission service required to effectuate the receipt of Test Energy and Net Output at the Point of Delivery. As between Buyer and Seller, Buyer shall bear all responsibility, liability, costs, fees, penalties and any other expenses associated with any failures, errors or omissions solely due to Buyer’s performance of such obligations, including the failure to timely perform such obligations in

accordance with this Agreement or the requirements of any Electric System Authority. Buyer shall indemnify, hold harmless and reimburse Seller for any liability, costs, fees, penalties and any other expenses assessed against or incurred by Seller that are Buyer's responsibility pursuant to the preceding sentence.

**5. Purchase Option.** A new Section 4.7, Buyer Purchase Option, is added, as follows:

**4.7 Buyer Purchase Option.**

4.7.1 Purchase Option. Provided that Buyer is not in default under this Agreement, Buyer shall have the option to purchase the Facility (the "Purchase Option") for a purchase price equal to the *greater of* (i) the fair market value of the Facility, or (ii) the depreciated net book value of the Facility (the "Purchase Price"), as follows:

(a) Buyer shall deliver written notice to Seller of its interest in exercising the Purchase Option (the "Preliminary Interest Notice") no less than thirty-one (31) months prior to the end of the 15th Contract Year. If Buyer fails to deliver the Preliminary Interest Notice to Seller 31 months prior to the end of the 15<sup>th</sup> Contract Year, the Purchase Option shall terminate.

(b) Within thirty (30) calendar days following delivery of the Preliminary Interest Notice, Seller shall provide Buyer its proposed Purchase Price, along with an explanation of whether the Purchase Price is based on (i) its determination of the fair market value of the Facility, or (ii) the depreciated net book value of the Facility. Buyer shall then have a period of thirty (30) days after receipt of such information (i) to conditionally confirm the Purchase Price, (ii) retract its interest in exercising the Purchase Option, or (iii) if the Purchase Price specified by Seller is based on Seller's determination of fair market value of the Facility, to disagree with Seller's determination of such fair market value, in each case, by written notice to Seller. Seller will reasonably cooperate with Buyer in providing information Seller used in determining the proposed Purchase Price.

(i) If the Buyer conditionally confirms its interest in exercising the Purchase Option ("Conditional Purchase Option Confirmation Notice"), Buyer will take steps to establish a new Supplemental Power project with interested Participants on whose behalf Buyer would exercise the Purchase Option. Buyer will notify Seller if Buyer elects to exercise the Purchase Option (the "Purchase Option Confirmation Notice") no later than fifteen (15) months prior to the end of the 15th Contract Year. If Buyer does not provide a Purchase Option Confirmation Notice no less than fifteen months prior to the end of the 15<sup>th</sup> Contract Year, the Purchase Option shall terminate.



(ii) To the extent the Purchase Price is based on Seller's determination of the fair market value of the Facility, such value is greater than the Facility's depreciated net book value, and Buyer disagrees with Seller's determination of the proposed Purchase Price, Buyer shall so notify Seller of its objection in writing, and the Parties shall determine fair market value of the Facility in accordance with Section 4.7.2 below (the "FMV"). Once FMV has been established pursuant to Section 4.7.2, and Buyer conditionally confirms its interest in exercising the Purchase Option ("Conditional Purchase Option Confirmation Notice"), Buyer will take steps to establish a new Supplemental Power project with interested Participants on whose behalf Buyer would exercise the Purchase Option. Buyer will notify Seller if Buyer elects to exercise the Purchase Option (the "Purchase Option Confirmation Notice") no less than thirty (30) days following the determination of FMV under Section 4.7.2 below.

#### 4.7.2 Determination of Fair Market Value.

(a) If the Purchase Price indicated by Seller in accordance with Section 4.7.1 is based on Seller's determination of the fair market value of the Facility and Buyer disagrees with such stated Purchase Price, then the Parties shall each select and retain, at their own cost and expense, a nationally recognized independent appraiser with experience and expertise in appraising power generation facilities to determine separately the FMV of the Facility. Subject to the appraisers' execution and delivery to Seller of a suitable confidentiality agreement in a form reasonably acceptable to Seller, Seller shall provide each appraiser access to the Facility and its applicable books and records during business hours and upon prior written notice. The appraisers shall act reasonably and in good faith to determine the FMV of the Facility and the Parties shall use their best efforts to cause each appraiser to complete such respective determination no later than ninety (90) calendar days following delivery of the Preliminary Interest Notice. Buyer and Seller may provide to each appraiser a list of factors which they suggest be taken into consideration when the appraisers generate their respective appraisals, consistent with industry standards prevailing at such time for appraising renewable power generation facilities similar to the Facility. Any information provided to an appraiser by Seller or Buyer shall be provided to the other appraiser and the other Party at the same time, it being the intent of the Parties that the appraisers have access to the same information. Buyer and Seller shall deliver the results of their respective appraisal to the other when completed. If so requested by either Buyer or Seller, the appraisals shall be exchanged simultaneously. After each appraisal is completed and exchanged, the Parties and their appraisers shall promptly confer and attempt to agree upon the FMV of the Facility.

(b) If, within fifteen (15) calendar days after completion of each appraisal described above, Buyer and Seller cannot agree on the FMV of the Facility, and the values of the appraisals are within five percent (5%) of each other, the FMV of the Facility shall be the simple average of the two appraisals. If the

values of the two appraisals differ by five percent (5%) or more, the appraisers shall choose a third independent appraiser experienced in appraising renewable power generation assets similar to the Facility. The third appraiser shall have access to the same information as was available to the first two appraisers. Buyer and Seller shall direct the third appraiser to determine the FMV of the Facility within forty-five (45) calendar days following retention of the third appraiser. The costs and expenses of such third appraiser shall be shared equally by Buyer and Seller. Upon completion of the FMV of the Facility by such third appraiser, the FMV of the Facility will be the simple average of the three (3) appraisals completed in accordance with this Section 4.7.2. In each of the determinations of the FMV by the first two appraisers or the determination of the FMV by the third appraiser, as applicable, Buyer shall have a period of thirty (30) days to exercise the Purchase Option or retract its interest in exercising the Purchase Option, and at the end of which period the Purchase Option will terminate.

#### 4.7.3 Closing of Purchase Option; Termination of Agreement; Continuation of Agreement.

(a) Upon reaching agreement on the Purchase Option, (i) the Parties shall promptly execute all definitive agreements necessary to cause title to the Facility to pass to Buyer, free and clear of any unpermitted Liens; and (ii) Buyer shall pay the Purchase Price to Seller in immediately available funds and in accordance with any previous written instructions delivered to Buyer by Seller for payments under this Agreement. Buyer shall also execute such documents reasonably necessary for Buyer to accept, assume and perform all then-existing agreements related to the Facility.

(b) The Facility will be sold as is, where is, with all faults. Seller will assign to Buyer any manufacturer's warranties that are in effect as of the date of purchase and which are then assignable pursuant to their terms, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the Facility (other than as to title). Seller shall also provide Buyer all Facility operation and maintenance manuals and logs in Seller's possession and provide Buyer basic training on the operation and maintenance of the Facility upon Buyer's reasonable request. Upon purchase of the Facility, Buyer shall assume complete responsibility for the operation and maintenance of the Facility and liability for the performance of (and risk of loss for) the Facility, and, except for any Seller obligations that survive termination as expressly provided in this Agreement, Seller will have no further liabilities or obligations hereunder for the Facility. Each Party shall bear its respective fees, costs and expenses incurred in connection with such Purchase Option transaction

(c) In the event the Purchase Option transaction closes prior to the end of the Term, this Agreement shall terminate upon the closing of such transaction.

(d) In the event Buyer retracts its intent to exercise the Purchase Option or does not timely confirm the Purchase Option in accordance with Section 4.7.1,

in each case, prior to the end of the Term, the provisions of the Agreement shall continue in full force and effect as if Buyer had not notified Seller of its intent to exercise the Purchase Option.

4.7.4 For the avoidance of doubt, in addition to Buyer's remedies set forth in Section 11.2.1, Buyer shall have the remedy of specific performance to compel Seller's performance of its duties hereunder with respect to the Purchase Option.

**B. Conditions Precedent.**

This Amendment shall have no force or effect unless and until it is approved by each of the Solar Participants.

**C. Other Provisions.**

1. Unless otherwise specifically provided in this Amendment, capitalized terms in this Amendment shall have the meaning assigned to such terms in the PPA.

2. This Amendment has been duly authorized, executed and delivered by each Party.

3. Except as amended hereby, the terms and conditions of the PPA shall remain in full force and effect. Each reference in the PPA to the PPA shall be a reference to the PPA as amended hereby.

4. This Amendment may be executed by facsimile or PDF (electronic copy) and in multiple counterparts, all of which taken together shall have the same force and effect as one and the same original instrument.

5. This Amendment shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other because of the preparation or other event of negotiation, drafting or execution hereof.

IN WITNESS WHEREOF, the Parties have duly executed this Amendment as of the date first written above.

**PINEVIEW SOLAR LLC**

BY: \_\_\_\_\_

NAME: Ilan Caplan

TITLE: Authorized Signatory

**MUNICIPAL ELECTRIC AUTHORITY  
OF GEORGIA**

BY: \_\_\_\_\_

NAME: James E. Fuller

TITLE: President & CEO