

--MEMORANDUM--

TO: City Council

**FROM: Gregory E. Buckley
City Manager**



DATE: June 13, 2024

SUBJECT: Assignment of Real Estate Purchase Option Agreement for Woodland Industrial Park Property from Swift Energy Storage, LLC to Hawk Energy Storage, LLC

Since July 2021, Swift Energy Storage, LLC has held an Option to Purchase an approximately 9 acre parcel of land at the City's Woodland Industrial Park. That parcel is proposed as the site for a major battery energy storage facility, which was granted a conditional use permit (CUP) by the City Council in March of this year. That conditional use permit anticipated a transfer of the option in question from Swift Energy Storage, LLC to Hawk Energy Storage, LLC—such a transfer is in fact a condition of the CUP.

The July 2021 option agreement contains the following specific language with respect to assignment:

24. **Assignment.** Developer may assign its rights under this Agreement with the prior written consent of Owner. Upon Developer's assignment of its entire interest under this Agreement, Developer shall be relieved of all further liability and obligations under this Agreement.

On May 28, 2024, my office received the attached letter, signed by representatives of the two LLC's identified above, requesting the City's consent to assignment of the option agreement as described therein.

Consistent with the terms of the original agreement and the City's understanding of what entity is ultimately planning to develop the battery energy storage facility at the Woodland Industrial Park, I recommend that the City Council approve the City's consent to this assignment.

Attorney Bruce has reviewed the assignment letter and finds it to be in an acceptable form and consistent with the terms of the original Real Estate Purchase Option Agreement.

May 16, 2024

Gregory Buckley, City Manager
City of Two Rivers
1717 East Park Street
Two Rivers, WI 54241

Re: Assignment of Real Estate Purchase Option Agreement

Dear Mr. Buckley,

This letter serves as notice to City of Two Rivers, Wisconsin (“**Landowner**”) that Swift Energy Storage, LLC, a Delaware limited liability company (“**Assignor**”) intends to assign all of its interest in that certain Real Estate Purchase Option Agreement between Landowner and Assignor, dated as of July 20, 2021 (“**Agreement**”) to Hawk Energy Storage LLC, a Delaware limited liability company (“**Assignee**”) (the “**Assignment**”).

By its signature below and pursuant to the Assignment, Assignee has agreed to assume all of Assignor's rights, obligations, covenants, conditions, and liabilities under the Agreement.

By your signature below, you acknowledge that:

1. You are an authorized representative of Landowner, with due authority to countersign this letter on behalf of Landowner and thereby make the acknowledgements contained herein on behalf of Landowner.
2. Pursuant to Section 24 of the Agreement, Landowner hereby consents to the Assignment and agrees that Assignor shall be released from its obligations under the Agreement upon the consummation of the Assignment.

From and after the date of this letter, all notices and other communications to Developer under Section 17 of the Agreement should be sent to:

Hawk Energy Storage LLC
c/o Copenhagen Infrastructure V K/S
412 W 15th Street, 15th Floor
New York, NY 10011

Thank you for your time and attention to this matter.

Sincerely,

Swift Energy Storage, LLC, a Delaware limited liability company

DocuSigned by:
Tim Evans
AFB8FFAAFFB44D...
By: _____
Name: Tim Evans
Title: Partner

ASSIGNEE HEREBY CONSENTS TO THE ASSIGNMENT AND AGREES TO BE SUBJECT TO ALL OF THE OBLIGATIONS, COVENANTS AND CONDITIONS APPLICABLE TO THE AGREEMENT.

Hawk Energy Storage LLC, a Delaware limited liability company

DocuSigned by:
Sean Toland
DAAFB132C879462...
By: _____
Name: Sean Toland
Title: Authorized signor

ACKNOWLEDGED AND AGREED

City of Two Rivers, Wisconsin

By: _____
Name: _____
Title: _____