

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of MHG Solar LLC for a certificate of)
public good, pursuant to 30 V.S.A. §§ 8010 and)
248 authorizing the installation and operation)
of a 500 kW group net-metered solar)
generation facility located off Richville Road in)
Manchester, Vermont to be known as the)
“Richville Road Solar Project”)

Case No. 19-1261-PET

MEMORANDUM OF UNDERSTANDING BETWEEN THE VERMONT DIVISION
OF HISTORIC PRESERVATION AND MHG SOLAR LLC

This Memorandum of Understanding (“MOU”) dated as of July 10, 2020, sets forth the agreement of the Vermont Division of Historic Preservation (“VDHP”) and MHG Solar LLC (“MHG” or “Petitioner”) regarding the above-captioned proceeding. DHP and MHG are also referred to collectively herein as the “Parties” and individually as a “Party.”

PRELIMINARY STATEMENT

On May 19, 2019, MHG filed a petition and supporting testimony and exhibits with the Vermont Public Utilities Commission (the “Commission”) requesting a certificate of public good (“CPG”) under 30 V.S.A. §§ 8010 and 248 authorizing the installation and operation of a 500 kW solar electric generation facility off Richville Road in Manchester, Vermont (the “Project”).

On May 15, 2019, VDHP had conducted a site visit to the Project area, which consists of alluvial terraces adjacent to the Bourn Brook and the Battenkill River. Two general areas of archaeological sensitivity were identified within the northern and central portion of the proposed Project footprint. The VDHP understands that the Petitioner will complete all necessary archaeological investigations in the defined archaeologically sensitive areas prior to construction. VDHP also considered the Project’s effect on above-ground historic structure, districts, and landscapes. The house located to the south of the project area at 3195 Richville Road in Manchester, Vermont is listed in the National Register of Historic Places as the Amos Lawrence House.

STIPULATIONS

1. Petitioner shall conduct archaeological investigation(s) and prepare related reports to identify, evaluate, and mitigate, if necessary, impacts to archaeological sites within the Project area. Petitioner's archaeological consultant shall submit any scope of work to the VDHP for review and approval before commencing the work which shall not be unreasonably withheld.
2. Prior to the completion of all relevant archaeological investigations, the Petitioner, in consultation with the VDHP, shall identify the two archaeologically sensitive areas as not-to-be-disturbed archaeological buffer zones. Topsoil removal, grading, scraping, cutting, filling, stockpiling, logging or any other type of ground disturbance shall be prohibited within the archaeological buffer zones until all necessary archaeological work is completed.
3. All relevant archaeological studies to identify, evaluate, or mitigate impacts to archaeological sites shall be carried out by a qualified consulting archaeologist. All such studies and associated reports shall follow the VDHP Guidelines for Conducting Archaeological Studies in Vermont (2017). A digital copy of the final report shall be submitted to the VDHP. Any archaeological reports submitted to the Public Utility Commission shall have specific archaeological site locational information redacted in accordance with 22 V.S.A. § 761(b) and 1 V.S.A. § 317(c)(20).
4. The archaeological investigations shall be scheduled so that mitigation measures, if any are determined to be necessary, can be satisfactorily planned and accomplished prior to construction of the Project. Any archaeological sites within the Project area that are discovered during the investigations shall not be impacted until mitigation measures have been completed. Proposed mitigation measures shall be approved by the VDHP prior to implementation. Mitigation may include but is not limited to further site evaluation, data recovery, redesign of one or more proposed Project components, or modification of the buffer zone boundaries or the specific conditions that refer to the same.
5. Through these processes, site areas will be preserved, and the Project will not result in an adverse effect on archaeological resources.

6. The existing vegetation between 3195 Richville Road and the proposed solar facility will be retained to provide visual screening for the historic site.
7. The Parties agree that the Commission may approve the Project and issue an Order and CPG in this matter in accordance with the plans and specifications submitted with the Petition and including the terms and conditions of this MOU. The Parties agree that to the extent any testimony or evidence submitted in this proceeding differs from the provisions of this MOU, the provisions of the MOU shall control.
8. This MOU represents the entire agreement between the Parties with respect to the Project. This MOU may be modified only upon mutual written agreement by the Parties, and is subject to any necessary Commission approvals.
9. This MOU is governed by Vermont law and any disputes under this MOU shall be decided by the Commission.
10. The Parties agree that this MOU shall not be construed by any party or tribunal as a waiver as to jurisdiction or otherwise having precedential impact on any future proceeding involving either Party, except as necessary to implement this MOU or to enforce an order of the Commission resulting from this MOU.
11. The Parties agree that, should the Commission fail to approve this MOU in all material aspects or acts to overrule or disapprove any substantial portion hereof, the Parties shall have the right to submit filings in this docket, and the Parties' agreements in this MOU shall not be construed by any party or tribunal as having precedential impact on any testimony or positions that may be advanced in these proceedings..
12. VDHP supports issuance of a Certificate of Public Good for the Project and will not take actions during the Section 248 proceeding to oppose or otherwise undermine this Stipulation, except as necessary to implement this Stipulation or enforce an order of the Commission resulting from this Stipulation, subject to VDHP's obligations under applicable state law.

Dated at Richmond, Vermont this 10th day of July, 2020.

VERMONT DIVISION FOR HISTORIC PRESERVATION

By:

/s/ Maxwell Krieger
Maxwell I. Krieger, Esq., General Counsel
Vermont Division for Historic Preservation

Dated at Burlington, Vermont this 10th day of July, 2020.

MHG SOLAR LLC

By:

/s/ Zoë E. Sajor
Zoë E. Sajor, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
Attorneys for MHG Solar LLC