

Barnstable County Agricultural Society

Special Executive Board Meeting

August 4, 2020

Present: Joe Amaral, Jay Zavala, Susan Forte, Judy Flynn, Pat Briggs, Wendy Brown, Judy Collins.

Absent: Randy Aronson, Lynn Barry, Karen Schwalbe, and Russell Norton.

Meeting was held via Zoom call as well as members on speaker phone.

Presented to all members of the Executive Board was access to the lease agreement between Sol-Systems and Barnstable County Agricultural Society for the construction and development of solar canopy system on the Fairgrounds. There are 2 separate lease agreements identical in nature only difference is geography and acreage. Our legal counsel has determined that this is a mutually supportive and effective agreement. During the construction phase Sol Systems must submit a plan and the Society shall have the right to refuse or change plans as needed to ensure unobstructed use of grounds.

A note from the Society President Jay Zavala:

Executive Board,

I'm pleased to report that Sol Systems, LLC, the firm selected by the Executive Board on September 13, 2018, a duly called meeting for and with notice given, from a competitive field of solar energy developers, is now ready and prepared to enter into a long-term binding Site Lease Agreement to rent approximately 28.37 aggregated acres of the Society's open space parking areas located on the Eastern and Western sides of the fairgrounds on Nathan Ellis Highway, East Falmouth.

The Society's General Manager, Wendy Brown, and I, serving as the Society's President and Chair of the Executive Board, with the Executive Board's direction, working under the watchful attention of the Society's astute outside legal counsel, and driven to protect the interests of and minimize the risks to the Society, have negotiated in good faith with Sol Systems. In fact, counsel for both parties ultimately joined in discussions to ensure delicate elements such as indemnification, rights of first offer, insurance, liens, hazard materials, and other potentially sticky issues were brought forward and addressed in detail to ensure scrutiny and satisfaction by all. Together, we have now drafted what both parties agree is a fair and reasonable Site Lease Agreement for the development, construction and installation, operation and maintenance, and the ultimate decommissioning of a solar voltaic energy producing system designed to participate in the Commonwealth's SMART incentive program established to support the development of solar in Massachusetts over the next twenty (20) to possibly thirty (30) years.

As envisioned, this transaction does not involve or will not result in a material change in the nature of the activities conducted by the Society at the fairgrounds; the leased acreage will continue to be used for event parking. However, as intended, it will affirm the Society's mission to improve and advance one of its core objectives – to promote energy conservation and prevent wasteful use of diminishing natural resources.

It remains possible that during the Development Period either party can find cause to terminate the Agreement. In fact, the 20 years period of performance does not start until the Construction & Installation Period is completed and the local electric power distribution company, Eversource, has issued its permit to operate the system.

Our best intentions for reaching a more timely accord were hindered in large part by the complexities unique to this endeavor, a mutual insistence on protecting the interests of both parties, and more over by the muddled bureaucracy of local government and the lethargic attention of a large, indifferent utility. And, of course, we must include a global pandemic that has disrupted daily life and the routine machinations of business over a protracted timeframe.

Nonetheless, Wendy and I can also affirm that the Executive Board's selection of Sol Systems remains a sound determination. Over these previous two years, working directly with Sol Systems' senior business development and engineering managers and its legal counsel, we have gained invaluable insight into the firm's organizational structure, project development history, financial strength, technical expertise, emphasis on quality, the character of its managers, and the capacity of its subcontractors - all essential evaluation factors for confidently going forward.

Authority: The Executive Board is reminded that the Society was organized under Massachusetts General Law 180 and numerous related statutes cited therein. As such, under related statute MGL 156B, Section 55, the Society's Board of Director delegated its business and financial authority to the Executive Board and incorporated that authority into its corporate Bylaws, Article III, Section 4. Further, MGL 180, Section 8A(a) provides that a corporation may authorize, by a two-thirds of its members entitled to vote thereon, at a meeting duly called for the purpose, with notice given, the lease or other disposition of all or substantially all of its property, except that no such vote shall be required if such transaction does not involve or will not result in a material change in the nature of the activities conducted by the corporation. But, as I noted below, counsel urges that, for the record, a vote be called to approve the agreement so as to not only better engage the Executive Board but also to diminish potential risks the President and General Manager could be exposed to from unintended or unrecognized negative consequences.

With that said, for the record, and with counsel's urging, I formally move that the Executive Board of the Barnstable County Agricultural Society, Inc. accept and approve this recommendation to proceed with forging a long term contractual relationship with Sol Systems by authorizing the president of the Society to execute this Site Lease

Agreement that is deemed fair and reasonable, is intended to minimize risk, and serves the best interests of the parties without involving or resulting in a material change in the nature of the activities conducted by the Society.

Due to the confidential nature of the transaction, a copy of the Site Lease Agreement can be viewed in the offices of the General Manager.

With the above-mentioned motion, a second by Judy Flynn. Roll call taken by Jay Zavala to all board members on the call. All in favor, as well as an email in favor response from Lynn Barry to Wendy Brown. With all in favor the motion is so moved.

Multiple thanks and gratitude to Wendy and Jay for their tireless efforts to make this project become a reality and further securing revenue producing options for the fairgrounds.

Judy Flynn motioned to adjourn, second by Pat Briggs

Respectfully Submitted by

Susan Forte

Secretary