




**City of East Peoria
Department of Buildings & Inspections
Facilities Management Division
100 S. Main St.
East Peoria, IL 61611**

DATE: February 10, 2023
TO: The Honorable Mayor and City Council
THRU: Mark Hill, Commissioner of Finance
FROM: Robert Cole, Director of Buildings & Inspections 
SUBJECT: Renewal of Demand Response Agreement

DISCUSSION: Demand Response is a cost-free, no risk opportunity for the City to earn money by reducing electricity demand for brief periods of time in response to grid stress, instability, or extremely high prices. The Midcontinent Independent System Operator (MISO) ensures grid reliability by using DR as a proven and cost-effective alternative to turning on more power plants.

Voltus Inc. is a leading provider of cash-generating energy products and has been selected as a supplier of the Illinois Power Agency's Midcontinent Independent System Operator Capacity Procurement Program.

The City has identified (7) seven sites that have large enough electricity loads to qualify for the program. The 2-Year agreement from Voltus would offer 65% of total energy savings identified which could result in an estimated \$40k- \$50k in annual revenue that would be paid out seasonally to the City of East Peoria until its expiration on May 31, 2025. If the City is dispatched for an event Voltus pays an additional \$2,000 per event which is usually 4-hour increments.

The current agreement is due to expire December 31, 2023 and it is recommended to renew the agreement for 2-year term starting June 1, 2023 to May 31, 2025.

RECOMMENDATION: Accept a renewal agreement for the Demand Response Agreement from Voltus for the terms starting June 1, 2023, through May 31, 2025.

RESOLUTION NO. 2223-148

East Peoria, Illinois
_____, **2023**

RESOLUTION BY COMMISSIONER _____

**RESOLUTION ACCEPTING AND APPROVING RENEWAL AGREEMENT
WITH VOLTUS, INC. FOR PROVIDING REVENUE TO
THE CITY OF EAST PEORIA WHEN THE CITY
REDUCES ELECTRICITY DEMAND DURING HIGH-DEMAND PERIODS**

WHEREAS, the City of East Peoria (the “City”) seeks to save money and earn revenues by reducing electricity demand for brief periods of time in response to electrical grid stress, instability, or extremely high prices (the “Demand Response Program”); and

WHEREAS, the Demand Response Program will allow the City to earn additional revenue and seek reduction on expenditures by reducing electricity demand during high demand periods at specified City facilities with large electric loads; and

WHEREAS, the City previously entered into an agreement with Voltus, Inc. (“Voltus”) to earn additional revenue from the savings achieved pursuant to the Demand Response Program that expires on December 31, 2023 (the “Demand Response Agreement”); and

WHEREAS, City Officials seek to renew the Demand Response Agreement with Voltus to replace the current Demand Response Agreement on June 1, 2023, and then extend the term of the new Agreement to an expiration date of May 31, 2025, in substantially the form attached hereto and labeled as “Exhibit A” (the “Renewal Demand Response Agreement”); and

WHEREAS, it is in the best interests of the City to enter into the Renewal Demand Response Agreement with Voltus for the Demand Response Program;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The above recitations are found to be true and correct.

Section 2. The City hereby approves the Renewal Demand Response Agreement with Voltus for the City’s participation in the Demand Response Program through May 31, 2025.

Section 3. The Mayor (or his designee) is authorized and directed to execute the Renewal Demand Response Agreement (Exhibit A) with Voltus, Inc. on behalf of the City,

together with such changes therein as the Mayor in his discretion deems appropriate; provided, however, that the City shall have no obligation under the Renewal Demand Response Agreement with Voltus until such time as an executed original of such documentation has been delivered to Voltus.

APPROVED:

Mayor

ATTEST:

City Clerk

EXHIBIT A

Renewal Demand Response Agreement: Voltus, Inc.



Amended & Restated Distributed Energy Resource Agreement

This Amended & Restated Distributed Energy Resource Agreement ("Agreement"), effective as of June 1, 2023 ("Effective Date"), is made between Voltus, Inc. ("Voltus" and "Party"), located at 2443 Fillmore St. #380-3427, San Francisco, CA 94115, and the City of East Peoria ("Customer" and "Party"), located at 2232 E. Washington St., East Peoria, Illinois 61611. Any Exhibit or Appendix attached hereto shall be incorporated herein by reference and be binding on the Parties.

1. **Term.** This Agreement will start on the Effective Date and shall terminate on May 31, 2025. If, for any reason, Customer is not enrolled in a distributed energy resource program ("Program") within the initial six (6) months following the Effective Date, this Agreement shall automatically be terminated on such six (6) month anniversary of the Effective Date.
2. **Voltus Managed Services**
 - a. *Scope of Services:* Voltus will manage Customer's participation in the Program(s) listed on Exhibit 1, in accordance with rules set forth by Voltus, the grid operator, and/or utility ("Operator"). Voltus will (i) work with Customer to develop an appropriate curtailment plan; (ii) manage all aspects of Customer's participation in the Program(s) and (iii) process all Program financial settlements in accordance with the rules set forth by the Operator. Voltus shall enroll Customer as soon as practicable in the next Program period for each Program following the Effective Date.
 - b. *Voltlet and VoltApp:* Upon Customer's authorization, Voltus will equip Customer with a system that collects energy data ("Voltlet") and provides visibility of this data through the Voltus cloud ("VoltApp"). At the Customer's request, such system may enable remote distributed generation control and direct load management. Voltus will install the system at each Customer facility as identified on Exhibit 1, which may be amended with the Customer's written consent, including email, to reflect additional locations. All energy data that identifies Customer ("Customer Energy Data") collected by the Voltlet shall be at all times the property of Customer and may not be sold or utilized by Voltus without the express written consent of Customer, except as necessary for the performance of services by Voltus pursuant to the terms of this Agreement. Upon written request by Customer at the termination of this Agreement, Voltus shall provide to Customer all Customer Energy Data collected by the Voltlet and shall destroy or delete any duplicate copies thereof in the possession of Voltus. Customer may access and download its Customer Energy Data at any time during the term of this Agreement. Notwithstanding the foregoing, Voltus may aggregate and anonymize energy data collected pursuant to this Agreement and create anonymized and aggregated data records that do not identify Customer ("Aggregate Data") and Voltus may use such Aggregate Data for any legitimate business purpose.
3. **Customer Requirements**
 - a. *Utility Data:* Customer hereby authorizes utility data access for Voltus for facilities listed on Exhibit 1.
 - b. *Voltlet Installation:* In the event a Voltlet needs to be installed, Customer will provide Voltus personnel, or their designee, with access to meters and/or equipment at facilities listed on Exhibit 1. The Voltlets shall be installed at the sole and exclusive expense of Voltus. Title to the installed Voltlets shall pass to Customer upon installation. Repairs and maintenance to the installed Voltlets shall be made by Voltus at no cost to Customer during the term of this Agreement.
 - c. *Acceptance Testing:* If the Program requires acceptance testing, Customer will work with Voltus to validate Customer capability at each facility in a timely manner.
 - d. *Performance:* Customer will use best efforts to execute its curtailment plan when notified by Voltus in accordance with Program rules. The capacity listed on Exhibit 1 represents the Parties' best estimate of performance and actual enrollment may vary.
4. **Payments**
 - a. *LMR Capacity Payments:* The payment rate for participation in the MISO Load Modifying Resource ("LMR") Program for the Program periods 2023-24 and 2024-25 shall be \$33,000 per megawatt (MW) per year owing to Customer's performance, less \$350 per Voltlet per month.
 - b. *Additional Capacity Payments:* Voltus will pay Customer 63% of all payments obtained by Voltus owing to Customer's performance in the MISO Operating Reserves ("OR") and Economic Demand Response ("DR") Programs, up to the total enrolled amount, by facility.
 - c. *Energy Payments:* If Voltus is dispatched by MISO for the Energy Demand Response ("EDR") Program and Customer is enrolled in such Program, Voltus will pay Customer \$2,000 per MWh to Customer's performance by facility.
 - d. *Underperformance:* By complying herewith, in no event shall Customer be penalized for underperformance.
 - e. *Payment Timing:* Voltus will issue Customer payment within 45 days of Voltus's receipt of payment from the Operator for (i) each Program season if the Program has a fixed season, or (ii) the preceding quarter. In the event this Agreement is terminated early, Voltus's payment obligations in this Section 4 for participation through the last day of the term of this Agreement shall survive such early termination of this Agreement.
5. **General Terms**
 - a. *Limitation on Liability:* Voltus is not liable for Customer performance in the Program(s). Each party's aggregate liability for all direct damages arising out of this Agreement, whether in contract, tort, or otherwise, shall in no event exceed an amount equal to the sum of the payments made to Customer pursuant to Section 4 in the twelve (12) months preceding the event giving rise to such claim. Neither party shall be liable to the other party for any indirect, punitive, special, consequential, or incidental damages, lost profit, or other business interruption damages.
 - b. *Indemnification:* Voltus shall defend, indemnify and hold harmless Customer against any and all damages, losses, liabilities, judgments, awards and costs as may be awarded by a court or agreed to in a final settlement (including reasonable attorneys' fees and expenses) (collectively "Loss") in any third-party claim, action, lawsuit, or proceeding (individually and collectively "Claim") arising out of an allegation that Voltus's grossly negligent, or intentional actions or omissions caused a Loss, provided however that Voltus's obligation to indemnify will not apply if Customer's actions or inactions were in any way a contributing factor to the Claim. Customer shall defend, indemnify and hold harmless Voltus against any Loss in any Claim arising out of an



allegation that Customer's grossly negligent, or intentional acts or omissions caused a Loss, provided however that Customer's obligation to indemnify will not apply if Voltus's actions or inactions were in any way a contributing factor to the Claim.

- c. *Program Changes.* In the event that Program rules materially change, the Parties shall enter into good faith negotiations to update the terms of the Agreement. In the event the Parties are unable to enter into a mutually agreeable amendment within 30 days of the effective date of a material Program rule change, this Agreement shall terminate on such 30th day. Payment obligations shall survive in accordance with Section 4(e) above.
- d. *Assignment.* Neither Party shall assign or transfer this Agreement, including pursuant to a change of control, without the other Party's prior written consent, such consent not to be unreasonably withheld, conditioned, or delayed.
- e. *Termination for Material Breach.* Either Party may terminate this Agreement upon 10 days' prior written notice to the other Party if the other Party materially breaches the terms of this Agreement and fails to cure the breach within such 10-day period.
- f. *Entire Agreement.* This Agreement and applicable Exhibits shall constitute the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior and contemporaneous agreements or communications with respect to such subject matter. This Agreement may not be modified in any manner unless in writing signed by both Parties.
- g. *Venue & Governing Law.* Venue for any claims arising under this Agreement shall be in the Circuit Court of the county in which Customer's principal office is located. Illinois law shall apply to this Agreement.
- h. *Miscellaneous.* This Agreement consolidates, amends, restates and supersedes in their entirety any and all Distributed Energy Agreements and other similar agreements between the Parties with respect to the subject matter hereof.

Voltus, Inc.

Name: _____
 Title: _____
 Date: _____
 Email: _____
 Signature: _____

Customer

Name: Robert Cole
 Title: Director of Buildings + IT/Operations
 Date: 2/13/2023
 Email: Robert.Cole@cityofeastrovin.com
 Signature: _____

