



DEPARTMENT OF PUBLIC WORKS

Environmental Sustainability Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members
FROM: William R. Gray, Public Works Director
Scott R. Tess, Environmental Sustainability Manager
DATE: November 27, 2017
SUBJECT: Amendment to Power Purchase Agreement

Background

On December 21, 2016 City Council approved a power purchase agreement with WCP Solar which provided for WCP Solar to design, build, operate, and decommission a solar array to be located on City property and powering the City of Urbana Arbor Shop. The City agreed to pay for all of the electricity the system generated and provided to the Arbor Shop on a fixed fee schedule.

The Agreement signed by the City and WCP Solar contains a technical error that has caused a tax implication not intended by either party. The original agreement provided for a legal description of the solar site as constituting the entirety of two parcels of land. Since the solar array is a commercial operation, the site of the solar array is no longer tax exempt. WCP Solar, the operator of the solar array, is contractually obligated to pay any taxes associated with the array. It was not either party's intent to utilize or make taxable the entirety of two parcels of land.

The Ordinance authorizing this Amendment to the Agreement establishes a new legal description that comports to the land actually occupied by the solar array and therefore will obligate WCP Solar to pay taxes on only that portion of the parcel they are utilizing.

Recommendation

Approval of the Ordinance is recommended.

ORDINANCE NO. 2017-11-068

AN ORDINANCE APPROVING AMENDMENT NO. 1 TO A POWER PURCHASE AGREEMENT WITH WCP SOLAR SERVICES, LLC

WHEREAS, on December 19, 2016, the City Council passed Ordinance No. 2016-12-114, approving a power purchase agreement with WCP Solar Services, LLC; and

WHEREAS, WCP Solar Services, LLC and the City of Urbana have determined that the best interests of both parties are served by making and entering into an amendment to such agreement, as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1.

An amendment to the power purchase agreement between WCP Solar Services, LLC and the City of Urbana, in substantially the form of the copy of the instrument entitled, "Amendment No. 1 to Power Purchase Agreement," attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said amendment as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

This Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ___ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, _____.

Diane Wolfe Marlin, Mayor

AMENDMENT NO. 1 TO POWER PURCHASE AGREEMENT

WCP Solar Services, LLC, an Illinois limited liability company (“Provider”), and the City of Urbana, an Illinois municipal corporation (“Purchaser”), mutually agree to the following amendments to the Power Purchase Agreement authorized by Ordinance No. 2016-12-114 and entered into on December 21, 2016:

1. Exhibit D-1, “Description of Premises,” is attached to and made a part of this amendment.
2. Exhibit D is hereby replaced in its entirety by Exhibit D-1.
3. All references to “Exhibit D” are changed to “Exhibit D-1.”
4. All references to “1210 East University Avenue” are changed to “901 North Smith Road.”
5. All other terms and conditions of the agreement remain in full force and effect.
6. This amendment will take effect upon execution by the Provider and the Purchaser.

The parties are signing this agreement on the dates indicated below their signatures.

WCP Solar Services, LLC

City of Urbana, Illinois

By: WCP Realty, LLC
a Manager

By: _____
Dr. Everton Walters
its Manager

By: _____
Diane Wolfe Marlin
Mayor

Date: _____, 2017

Date: _____, 2017

Attest:

Charles A. Smyth City Clerk
Ordinance No. 2017-11-068

Exhibit D-1

A part of the Northwest Quarter of Section 10, Township 19 North, Range 9 East of the Third Principal Meridian, being a part of Tract II, as shown on a plat of survey prepared by Thomas B. Jordan, Illinois Professional Land Surveyor Number 2014, dated November 5, 1982 and recorded in Plat Book "Z" at page 23 as Document Number 1982R14957 in the Office of the Recorder of Deeds, Champaign County, Illinois, being more particularly described as follows:

Commencing at the southwest corner of the Northwest Quarter of said Section 10, also being the southwest corner of said Tract II; thence, North 00 degrees 33 minutes 18 seconds West, along the west line of said Northwest Quarter, also being the west line of said Tract II, 363.53 feet; thence, North 89 degrees 26 minutes 42 seconds East, along a line perpendicular to the west line of said Northwest Quarter, 649.72 feet, to the Point of Beginning; thence, continuing North 89 degrees 26 minutes 42 seconds East, 185.00 feet; thence, South 00 degrees 33 minutes 18 seconds East, along a line parallel with the west line of said Northwest Quarter, 168.00 feet; thence, North 57 degrees 01 minutes 54 seconds West 150.00 feet; thence North 81 degrees 55 minutes 51 seconds West 100.00 feet; thence North 20 degrees 07 minutes 43 seconds West 133.04 feet, to the Point of Beginning. Said tract containing 22,352.546 square feet (0.513 acres) more or less, all situated in the City of Urbana, Champaign County, Illinois.