City of Springfield

Special Meeting

~ Agenda ~

36 Court Street
Springfield, MA 01103
http://www.springfieldcityhall.com

Linda Fitzpatrick
413-787-6559

Monday, August 25, 2014 | 6:00 PM | Clodo Concepcion Community Center at Greenleaf

I. Call to Order

6:00 PM Meeting called to order on August 25, 2014 at Clodo Concepcion Community Center at Greenleaf, 1188 Parker Street, Springfield, MA.

II. Orders

1. Order (ID # 2718)

Collective Bargaining Ratification - UFCW

HISTORY:

08/18/14 **City Council** **REFERRED TO COMMITEE**
Next: 08/25/14

ATTACHMENTS:

- UFCW Report to City Council (PDF)
- UFCW Tentative Agreement 6-20-14 (PDF)

2. Order (ID # 2741)

Order Authorizing Execution of a Personal Property Tax Agreement with Chicopee River Solar, LLC

ATTACHMENTS:

- EXHIBIT A, DRAFT PERSONAL PROPERTY TAX AGREEMENT WITH CHICOPEE RIVER SOLAR, LLC (PDF)
- Solar tax agreement official memo to City Council August 20 2014 (DOCX)

3. Order (ID # 2742)

Order Authorizing Negotiation of a Tax Agreement with Chicopee River Solar, LLC

FINANCIAL IMPACT:

This Order is related to Order #2741.

ATTACHMENTS:

- Solar tax agreement official memo to City Council August 20 2014 (DOCX)

City of Springfield

TABLED

Meeting: 08/25/14 06:00 PM
Initiator: Mitchell Doty
Sponsors: Mayor Domenic J. Sarno
DOC ID: 2718

Collective Bargaining Ratification - UFCW (Mayor Sarno)

WHEREAS, the City's Labor Relations Director has received confirmation from the United Food and Commercial Workers' Union - **UFCW** - that this bargaining unit has ratified a new collective bargaining agreement for the time period of July 1, 2012 through June 30, 2014 and July 1, 2014 to June 30, 2016; and

WHEREAS, the Labor Relations Department is requesting that the City Council approve the terms of the Collective Bargaining Agreement, which are described in a letter from the Labor Relations Director which is attached hereto; and

WHEREAS, the Agreement includes wage increases effective July 1, 2012 of zero per cent (0%), wage increases effective July 1, 2013 of zero per cent (2%), wage increases effective July 1, 2014 of zero per cent (2%), and wage increases effective July 1, 2015 of zero per cent (2%); and

WHEREAS, the Chief Administrative and Financial Officer has certified that after an evaluation of all pertinent financial information reasonably available, that the City's financial resources and revenues are and will continue to be adequate to support the proposed expenditures and obligations involved in this City Council Order, without a detrimental impact on the continuous provision of the existing level of municipal services, in accordance with Section 2(f) of Chapter 656 of the Acts of 1989, as amended by Section 1 of Chapter 468 of the Acts of 2008;

NOW THEREFORE, the City Council hereby approves the report of the Labor Relations Director regarding the ratification of the collective bargaining agreement between the City of Springfield and the United Food and Commercial Workers' Union - **UFCW**, and the terms thereof, as described in the attached documents, for the time of July 1, 2012 through June 30, 2013, and July 1, 2014 through June 20, 2016.

CITY OF SPRINGFIELD, MASSACHUSETTS
HUMAN RESOURCES AND LABOR RELATIONS
36 Court Street, Room 005
Springfield, MA 01103
413-787-6068

July 24, 2014

To the Springfield City Council

Please be advised that this department has received confirmation from the representative of **United Food and Commercial Workers Union (UFCW) Local 1459**, that this bargaining unit has ratified two (2) new collective bargaining agreements for the time periods of July 1, 2012 to June 30, 2014 and July 1, 2014 to June 30, 2016 with the City of Springfield.

We hereby submit to you this report for approval by the City Council which would reflect the following wage increases in the **UFCWs wage scale.**

Wages Increases:	Effective July 1, 2012	Zero percent (0%)
	Effective July 1, 2013	Two percent (2%)
	Effective July 1, 2014	Two percent (2%)
	Effective July 1, 2015	Two percent (2%)

Please note that the parties also agreed on the following language.

> Art.41.03 add "Employee requests for a residency waiver shall be submitted to the Mayor's office for consideration within 10 days of receipt by the Department Head. Should the employer determine that it will take disciplinary action against members of the bargaining for non-compliance with the ordinance it will provide a one-time notice of six months to the Union before taking said action and will begin impact bargaining negotiations should the Union desire same. Impact bargaining negotiations will not extend beyond 60 days of the above referenced one-time notice and in the event that an agreement is not reached the Employer will then implement its last offer/position."

A financial order reflecting the cost of the wage increase is attached.

In accordance with the Acts of 656 of 1989, the Chief Financial Officer must give in writing his opinion relative to the financial impact of the agreement on the existing level of municipal services.

If any other questions exist please feel free to contact this office.

Sincerely,

William E. Mahoney
Director of Human Resources & Labor Relations
cc: Mayor Domenic J. Sarno
cc: T.J. Plante - CAFO
cc: Chris Cignoli, Director DPW
cc: Patrick Sullivan, Director PBRM
cc: John Barbieri, Police Commissioner
cc: File

City of Springfield
Package proposal
To
UFCW

June 20, 2014
Tentative Agreement

The above named parties agree the following tentative agreement resolves all collective bargaining for a successor contract. The Union will present this tentative agreement to the Union body for a ratification vote. Once the Union body has approved same it will be presented to the Springfield City Council for a ratification vote.

1. Art.3.04 Delete the first 2 paragraphs of 3.04.
2.
3. Art. 3.05 add "In the event that an employee fails to complete his given route more than three (3) times in a month and additional personnel are assigned to assist with the completion of the route, said employee shall be moved to the bottom of the overtime eligibility list for the entirety of the following month. If an employee does not finish his route due to a motor vehicle accident, workers compensation injury to the employee, or mechanical breakdown, this will not count as a failure to complete his route. In the event of multiple employees being moved to the bottom of the overtime list in a given month, the least senior employee shall be at the bottom of the list and then the next least senior shall be just above him, etc. "
4. Art. 4.04 delete
5. Art. 12.01.A **Contract 1** 2% wage increase effective 7-1-13 for employees on payroll at time of effective date and time of ratification by City Council. **Contract 2** 2% wage increase 7-1-14, 2% wage increase 7-1-15
6.
7. Art. 15.02.A amend to read "A meal allowance of eight dollars ($8) shall be paid to employees working continuously two (2) hours from the end of the employee's regularly scheduled working day and for every four (4) hours thereafter." Art. 15.c add If an employee's pre-scheduled work goes beyond ten (10) hours a meal allowance will be provided."
8.
9. Art. 23 add "Employees hired on or after July 1, 2014, in lieu of any other sick leave benefit referenced in this contract, will be provided with ten (10) sick leave days on July 1st of each year (a pro rata number of sick leave days for employees hired after July 1 in their first year of employment in this bargaining unit). In the event that an employee uses four (4) or less sick leave days in a given fiscal year they will be provided with an additional five (5) sick leave days (a pro rata number of sick leave days for employees hired after July 1 in their first year of employment in this bargaining unit) at the end of the fiscal year. Use of bereavement, personal or vacation leave days for absences shall not count towards

the threshold four (4) days sick leave referenced above. Also use of sick leave for an approved workers compensation leave will not count toward the threshold four (4) days sick leave referenced above."

10.
11.
12. Art. 23.07 Increase sick leave buyback upon retirement from $15.00 to $30.00 per day.
13.
14.
15. Art.27.01.A amend " He shall submit proof of relationship and death satisfactory to his Department Head, whereupon he shall be granted bereavement leave with full pay not to exceed three (3) regularly scheduled consecutive working days (five (5) regularly scheduled consecutive working days in the event of the death of the employee's spouse if she is living with the employee at the time of death, parent or a child of the employee), such leave not to extend more than one (1) day beyond the date of the funeral of the deceased relative."
16. Art.30.01 replace with "In the event that a section(s) of this Agreement is deemed to be illegal by a court of competent jurisdiction, the parties agree that the rest of the Agreement shall remain in full force and effect and that the parties will meet to negotiate substitute language for the section(s) of the contract deemed to be in violation of the law."
17. Art. 35.03 amend "Boots- Effective July 1, 2014 all bargaining unit members who are employed by the City on July 1 of a given year shall be provided with a one hundred dollar ($100.00) boot allowance which the employee shall use for the purchase of steel toe boots. The employer will endeavor to make this a reimbursable program, provided there are no tax restrictions. Said boots must be worn while at work."
18. Art. 41.02 Add ""The employer may designate FMLA to run concurrently with paid sick or vacation leave"
19. Art. 41.08 add "**Direct Deposit**. The employer reserves the right to pay all members of the bargaining unit through direct deposit. If the employer exercises this right the employer will give the affected employees and the Union two (2) weeks notice. Employees will be required to complete documentation and provide the employer with necessary account information to arrange for direct deposit. In the event that an employee does not have a bank account the employer reserves the right to pay the employee by crediting a debit card with the employees pay earned during the pay period. If the Employer causes debit cards to be issued it will be by a bank that does not charge a debit card fee when the card is used at the issuing bank."
20. Art. 41.09 add "The employer may elect to provide payroll advices to employees, on a voluntary basis, through email. The employer shall provide the Union with 30 days notice prior to making this change. All employees voluntarily opting for electronic payroll advices shall provide the Payroll Department with an email address to arrange for the transmission of this information. An employee who opts into this service may opt out at a later date."

21. Art. 41.14 add "All DPW employees will continue to be subject to the progressive discipline policy issued by Director Chwalek on 2-6-95."
22. Art. 42.01.A amend to read "Effective July 1, 2014 all employees whose positions require that they maintain a Commercial Driver's License, or who are assigned to the civil service title of Automated and Semi-Automated Refuse Collection drivers, Motor Equipment Operator, Heavy Motor Equipment Operator, or Special Heavy Motor Equipment Operator and who drive City vehicles for at least 200 working days in one year (from July 1 through June 30) with no preventable accident, as determined by the DPW Vehicle Accident Review Committee, or in the case of the Parks Department, the Director of Parks, or violation of existing City Motor Vehicle Regulations, shall be awarded a one hundred dollar ($100) bonus, to be paid on or about August 31.

    B. Eligible employees who have received five (5) consecutive Safe Driving Awards, will receive a two hundred and fifty dollar ($250) bonus in place of the usual one hundred dollar ($100) bonus for any subsequent awards."

23. Art. 44.01 Delete "2005" and "2008" and replace with language reflecting two 2 year contracts beginning 7-1-12 through 6-30-14 and 7-1-14 through 6-30-16." Delete 2d paragraph.
24.
25. Exhibit A Work Rules and Regulations for the Solid Waste Division. All Solid Waste Division employees will continue to be subject to the General Safety Work Rules book issued by the Department." Will be referred to a joint labor management committee for negotiations.
26.
27. All previous tentative agreements.
28. Art. 12.06 Effective July 1, 2014 increase tool allowance to two hundred dollars ($200) annually.
29. Art. 12.02 Effective July 1, 2014 increase shift differentials from .83 to $1.10, and from .88 to $1.15
30. Art. 12.03 Effective July 1, 2014 increase weekend shift differential from .88 to $1.15
31. Art.41.03 add "Employee requests for a residency waiver shall be submitted to the Mayor's office for consideration within 10 days of receipt by the Department Head. Should the employer determine that it will take disciplinary action against members of the bargaining for non-compliance with the ordinance it will provide a one-time notice of six months to the Union before taking said action and will begin impact bargaining negotiations should the Union desire same. Impact bargaining negotiations will not extend beyond 60 days of the above referenced one-time notice and in the event that an agreement is not reached the Employer will then implement its last offer/position."
32. Art. 41.08 add "Up to five (5) Union stewards will be released for one (1) day with pay for the purpose of attending the UFCW's annual stewards training."

For the City

For the Union

Date

Date

City of Springfield

SCHEDULED

Meeting: 08/25/14 06:00 PM
Initiator: Kathy Breck
Sponsors: Mayor Domenic J. Sarno
DOC ID: 2741

Order Authorizing Execution of a Personal Property Tax Agreement with Chicopee River Solar, LLC (Mayor Sarno)

WHEREAS, Chicopee River Solar, LLC ("CRS") proposes to build a two-megawatt solar photovoltaic generating facility on approximately 40 acres of land on Cadwell Drive; and

WHEREAS, the City supports the proposed development, which would add value to the City's tax base and further enhance the City's status as a Green Community; and

WHEREAS, M.G.L. c. 59 § 38H allows municipalities and certain generation companies to enter into agreements governing the payment of taxes for such developments; and

WHEREAS, the City and CRS have agreed on a schedule of personal property tax payments that CRS will make to the City, over the course of 25 years, in lieu of its ordinary tax obligations; and

WHEREAS, said payments are the result of good faith negotiations and constitute the equivalent of CRS' personal property tax obligations based on full and fair cash valuation; and

WHEREAS, both parties believe that it is in their best interests to enter into such an agreement, which will provide an accurate projection of expenses and revenues, and will insulate the taxable value of the development's personal property from a fluctuating regulatory environment;

NOW THEREFORE, BE IT ORDERED that the City Council hereby approves and authorizes the execution of a tax agreement for the payment of personal property taxes with CRS in substantially the same form as the agreement attached hereto as Exhibit A.

EXHIBIT A

TAX AGREEMENT
FOR PERSONAL PROPERTY

between

THE CITY OF SPRINGFIELD, MASSACHUSETTS

and

CHICOPEE RIVER SOLAR, LLC

AGREEMENT OF TAX PAYMENTS
FOR PERSONAL PROPERTY

THIS AGREEMENT FOR PAYMENT OF TAXES FOR PERSONAL PROPERTY ("Agreement") is made and entered into as of the date of execution hereof by all necessary parties by and between Chicopee River Solar, LLC (the "Developer"), a Massachusetts limited liability corporation, and the City of Springfield, Massachusetts, a municipal corporation duly established by law and located in Hampden County, Massachusetts (the "City"). The Developer, and the City are referred to collectively as "Parties" and individually as "Party."

WHEREAS, the Developer plans to build and operate a metered ground-mounted solar photovoltaic facility (the system hereinafter referred to as the "Project") with an estimated "nameplate capacity" of approximately 2.0 MW (AC), with this system being located on a portion of an approximately 39.69 acre parcel of land owned by WestMass Area Development Corporation and located at Cadwell Drive WS, which 39.69 acres of land (Parcel: 021950100) is shown on a plan of the Project attached hereto as Exhibit A (the "Property");

WHEREAS, the Developer represents and warrants that it is a "generation company" or "wholesale generation company" as those terms are used and/or defined in M.G.L. c. 59 § 38H (b) and M.G.L. c. 164 § 1, and the City relies on this representation and warranty in entering into this Agreement;

WHEREAS, it is the intention of the Parties that, in accordance with M.G.L. c. 59 §38H (Acts of 1997 Chapter 164, Section 71(b), as amended) and the Massachusetts Department of Revenue regulations adopted in connection therewith, the Developer shall make annual payments to the City for the term of this Agreement for personal property taxes for the Project;

WHEREAS, because both the Developer and the City need an accurate projection of their respective expenses and revenues with respect to the Project and Property, the Parties believe that it is in their mutual best interests to enter into this Agreement fixing the formula for calculation of payments that will be made with respect to all personal property attributable to the Project for the full term of this Agreement;

WHEREAS, the Parties intend that, during the term of the Agreement, the Developer will not be assessed for any personal property taxes to which it might otherwise be subjected under M.G.L. c. 59 for the Project, and that this Agreement will provide for the exclusive personal property tax payments during the term hereof, provided, however, that the Parties do not intend for this Agreement to affect any other payments that the Developer or Property owner is otherwise obligated to pay the City, including, but not limited to, real estate taxes for buildings or (other than the Project) fixtures on the Property;

WHEREAS, the City is authorized to enter into this Agreement with the Developer, provided that the payments of personal property taxes over the term of the Agreement are reasonably expected, as they are so expected, to approximate the tax payments that would otherwise be determined under M.G.L. c. 59 based on full and fair cash value; and

WHEREAS, the Parties have reached this Agreement after good faith negotiations;

NOW THEREFORE, in exchange for the mutual commitments and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Payment of Personal Property Taxes. The Developer agrees to make quarterly payments to the City for personal property taxes for the Project for a period of twenty-five (25) consecutive years commencing with fiscal year 2016 and ending with fiscal year 2040 (each fiscal year running from July 1-June 30). Such payments shall be made on August 1, November 1, February 1 and May 1 of each fiscal year. The first payment shall be due on August 1, 2015, and the last payment shall be due May 1, 2040.

The Parties agree that the tax payments for the personal property incorporated into the Project will be fixed for a term of twenty-five (25) years, as described in Exhibit C, except, however, to the extent that the Developer adds new equipment or personal property to the Project or replaces the property listed on the Inventory, as such term is defined in Section 2, in which event the valuation shall be adjusted upward, as described in Sections 3 and 4.

On or before July 1, October 1, January 1 and April 1 of each year, the City shall deliver a quarterly bill to the Developer indicating the specific amount of the quarterly payment due on July 1, October 1, January 1 and April 1 of that year, respectively. In each such bill, the City shall include the amount of any upward adjustment on account of the addition or replacement, if any, of equipment or personal property; provided, however, that any failure of the City to provide any such bill, or to provide a bill by such dates, shall not relieve Developer of its obligations to make timely payments under this Agreement. Furthermore, in the event that the City adopts a semi-annual (or other) tax billing schedule, the billing schedule for payments under this Agreement shall, at the sole election of the City, be adjusted to conform to such tax billing schedule.

2. Inventory. Attached hereto as Exhibit B is an itemized inventory of the equipment or personal property that shall be incorporated into the Project as of the first year of this Agreement (fiscal tax year 2016) and otherwise subject to taxation (the "Inventory"). The Parties understand, acknowledge and agree that the equipment and personal property actually installed for the Project may differ from that shown in Exhibit

B. Therefore, upon completion of such installation, if the equipment and personal property incorporated into the Project differs from the property shown in Exhibit B, the Parties shall update the Inventory and replace Exhibit B with the updated Inventory, and the depreciation and valuation schedule in Exhibit C shall be modified accordingly by the City.

The Developer will update the Inventory annually on or before January 1 of each year, and an updated written Inventory will be provided to the City on or before March 1 of each year. Together with each updated Inventory, the Developer will provide (i) a description of all additions or replacements of equipment and personal property that have occurred since the preceding year (including any new or replacement equipment or personal property below the De Minimus Annual Amount, as defined in Section 4 below) and (ii) a separate itemized listing of only the De Minimus Annual Amount (as defined in Section 4 below) including the items of new or replacement equipment or personal property cognizable under the De Minimus Annual Amount and such equipment's cost. Developer agrees that any false and misleading statements furnished to the City in connection with the Inventory/updated Inventory shall constitute a material breach of this Agreement for which the City may terminate the Agreement without any cure rights to Developer.

The City, its officers, employees, consultants and attorneys will have the right to inspect the Project at reasonable times, upon reasonable prior notice to Developer, to verify the Inventory and all updates thereto. The City, its officers, employees, consultants and attorneys shall at all times comply with all reasonable safety and other operating procedures established by the Developer and provided in writing in advance of any site inspection. At its election, Developer may have City accompanied by an employee or agent of Developer during any such inspection.

3. Value of Improvements, Additions to Project. To the extent that the Developer adds new equipment or personal property to the Project in addition to or in replacement of the property listed on the Inventory, the remaining agreed payments of taxes to be made by Developer will be increased as described in Section 4. Notwithstanding anything to the contrary in this Agreement, the agreed payments of taxes shall not be reduced during the term of this Agreement on account of any retirements of Project equipment or any reduction of property listed in the Inventory.

4. Calculation of Adjustment. Except as set forth in the second paragraph of this Section 4, to the extent that the Developer adds new equipment or personal property to the Project or replaces the property listed on the Inventory, the remaining annual payments of taxes under this Agreement will be increased. The increase will be calculated by incorporating the value of the property, as determined by the City using the "Enclosed Depreciation Schedule" for the new property in effect in the year the property was added or replaced, into the Inventory (Exhibit B) and the "Personal Property Depreciation & Valuation Schedule as of the First Fiscal Year of this Agreement"

(Exhibit C).

Notwithstanding the provisions of the preceding paragraph of this Section 4, new equipment or personal property added or replacing the property listed on the Inventory, the aggregate cost and value of which is equal to or less than $25,000 in and for any calendar year (such new or replacement equipment or personal property is the "De Minimus Annual Amount"), shall not give rise to an increase in annual agreed payments of taxes otherwise required in the preceding paragraph of this Section 4; provided however, that at no time shall the cost of new or replacement equipment or personal property constituting solar photovoltaic modules, inverters or transformers be included within the De Minimus Annual Amount. For the avoidance of doubt, in the event in and for any calendar year the aggregate cost of new or replacement equipment or personal property (other than solar photovoltaic modules, inverters or transformers) exceeds $25,000, the entire value of such equipment or personal property (and not merely the amount that exceeds $25,000) shall give rise to an increase in the amount of annual agreed payments of tax in accordance with the preceding paragraph of this Section 4.

5. Payment Collection. Interest at the rate of 14 percent per year will accrue on overdue payments in accordance with M.G.L. c. 59. In the event the interest rate for overdue tax/assessment payments set forth in M.G.L. c. 59 s. 57C shall be increased by the Massachusetts General Court to more than 14 percent, said increased rate shall apply to overdue payments under this Agreement after the effective date of the legislation. All rights and remedies available to the City for the collection of taxes shall apply to the agreed payments of taxes hereunder, including, but not limited to, the rights and remedies provided in M.G.L. c. 59 and M.G.L. c. 60, and all such rights and remedies are hereby reserved notwithstanding anything to the contrary herein. The provisions of the General Laws, including M.G.L. c. 59 and M.G.L. c.60, will govern the collection of any agreed payments of taxes provided for in this Agreement as though they were personal property taxes due and payable to the City. Notwithstanding anything to the contrary in this Agreement, for tax purposes and for the purpose of collection of agreed payments of taxes under this Agreement, the Project shall be deemed real property.

6. Additional Information. The Developer shall promptly provide such other information as may be reasonably requested by the City from time to time to determine and verify the existence, condition, cost and valuation of any and all equipment and personal property and any additions thereto. In addition to any other rights of inspection hereunder, the City, its officers, employees, consultants and attorneys will have the right to periodically inspect the Project on reasonable notice to the Developer, provided that Developer may, at its election, have the City accompanied by an employee or agent during any inspection. The City, its officers, employees, consultants and attorneys shall also have the right to review and audit at its cost and expense (excluding payment of any costs incurred by Developer in cooperating with such review and audit) any and all documents in the possession of the Developer relating to this Agreement and the Project for the purposes, among others, of implementing this Agreement, and of confirming and

verifying that the Developer has accurately updated the Inventory.

7. Successors and Assigns. This Agreement may not be assigned by the Developer without the advance written consent of the City; provided that Developer may collaterally assign its rights and obligations under this Agreement in connection with a financing of the Project without the City's written consent.

8. Statement of Good Faith. The Parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration of the full and fair cash value of the Project and the Property, to the extent that such value is determinable as of the date of this Agreement, in accordance with M.G.L. c. 59 § 38H. Each Party was represented by counsel in the negotiation and preparation of this Agreement and has entered into this Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this Agreement is fair and mutually beneficial because it reduces the likelihood of future disputes over personal property taxes, establishes tax and economic stability, and fixes and maintains mutually acceptable and reasonable payments of taxes for the Project and the Property. The City acknowledges that this Agreement is beneficial because it will result in mutually acceptable, steady, predictable, and reasonable payments of taxes to the City. The Developer acknowledges that this Agreement is beneficial because it ensures that there will be mutually acceptable, steady, predictable, and reasonable payments of taxes for the Project and the Property.

9. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service or otherwise. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

Chicopee River Solar LLC:	Brian Morrissey c/o Citizens Energy Suite 342 88 Black Falcon Ave. Boston, MA 02210
City of Springfield:	Mr. Richard Allen Chairman, Board of Assessors City of Springfield 36 Court Street, Room 9 Springfield, MA 01103
Copy To:	City Solicitor City of Springfield Law Department 36 Court Street, Room 210 Springfield, MA 01103

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

10. Applicable Law. The laws of the Commonwealth of Massachusetts shall govern the validity, interpretation, construction and performance of this Agreement. The sole and exclusive forum for the resolution of any question of law or fact arising out of this Agreement, to be determined in any judicial proceeding, shall be brought in a court of competent jurisdiction, including the Superior Court of Hampden County, or the United States District Court for the Western District of Massachusetts, sitting in Springfield, Massachusetts. It is the express intention of the parties that all legal actions and proceedings related to this Agreement or the rights or relationship of the parties arising therefrom shall be solely and exclusively brought and heard in said Courts.

11. Good Faith. The Parties shall act in good faith to carry out and implement this Agreement and to resolve any disputes between them.

12. Force Majeure. The Parties recognize that there is the possibility during the term of this Agreement that all or a portion of the Property or Project may be damaged or destroyed or otherwise rendered unusable due to events beyond the control of either Party. These events are referred to as "Force Majeure." As used herein, Force Majeure includes, without limitation, the following events: (a) Acts of God including floods, hurricanes, earthquakes, fires or other natural calamity; or (b) Acts of War or other civil insurrection or terrorism.

In the event a Force Majeure occurs during the term of this Agreement with respect to all or substantially all of the Project rendering the Project unusable for the production of electricity for a period of more than 180 consecutive days, then the Developer may, at its election, notify the City of the existence of this condition, and of the Developer's decision whether it will rebuild (or make usable) the Project. If the Developer elects not to do so, then it may notify the City of its termination of this Agreement and the Project and personal property will thereafter be assessed and taxed as though this Agreement does not exist. Notwithstanding the foregoing and any Force Majeure, Developer shall continue to make all payments required under this Agreement without any reduction unless and until this Agreement is terminated, if at all, in accordance with this Section 12.

13. Developer's Covenants/Representations/Warranties.

a. Developer hereby covenants, represents and warrants as follows:

i. During the term of the Agreement, the Developer will not do any of the following:

1) seek to invalidate this Agreement.

2) fail to pay the City all amounts due hereunder when due in accordance with the terms of this Agreement.

3) seek, for any reason, an abatement or reduction of any of the amounts assessed in accordance with the terms of this Agreement, except as may be expressly provided herein.

4) seek to amend or terminate this Agreement on account of the enactment of a new law or regulation or a change in any existing law or regulation affecting the method for calculating tax payments for renewable energy facilities.

b. The Developer further represents and warrants:

i. It is a corporation or other business entity duly organized, validly existing and in good standing under the laws of the state in which it was formed, and if a foreign corporation, is registered with the Massachusetts Secretary of State, and has full power and authority to carry on its business as it is now being conducted.

ii. This Agreement constitutes the legal, valid and binding obligation of the Developer enforceable in accordance with its terms, except to the extent that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting other enforcement of creditors' rights generally or by general equitable principles.

iii. It has taken all necessary action to authorize and approve the execution and delivery of this Agreement.

iv. None of the documents or information furnished by or on behalf of the Developer to the City in connection with negotiation and execution of this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein, or omits any material fact necessary to ensure that the statements contained in this Agreement or such documents or information are not misleading.

v. The person executing this Agreement on behalf of the Developer has the full power and authority to bind it to each and every provision of this

Agreement.

vi. The Developer is a "generation company" or "wholesale generation company" as those terms are used and defined in M.G.L. c. 59, § 38H(b) and M.G.L. c. 164 § 1.

14. Determination of Illegality. The Parties understand and agree that this Agreement shall be void and that no portion of this Agreement shall be enforceable, if (a) this Agreement, or any material portion of this Agreement, is determined or declared by a court having jurisdiction to be illegal, void, or unenforceable; or (b) the Developer is determined or declared by a court or agency having jurisdiction not a "generation company" or "wholesale generation company" as those terms are used and defined in M.G.L. c. 59 § 38H (b), and M.G.L. c. 164 § 1. In such event, any payments previously made by Developer shall not be reimbursed to Developer and shall be, and remain, property of the City.

15. No Other Application. Notwithstanding anything to the contrary herein, other than personal property taxes for the Project for which the Developer makes agreed payments of taxes under this Agreement, the Developer shall pay, and this Agreement shall not apply to, any and all other fees, charges, assessments, taxes and betterments for which the Developer is responsible, including, but not limited to, taxes for personal property that is not included in the Project.

16. Termination for Breach. In the event of a breach of the Agreement by Developer, the City may give Developer notice and ten (10) days to cure such breach (or to commence efforts to diligently pursue a cure if such breach is not capable of cure within such time), and if the Developer does not cure such breach or commence efforts to cure, as applicable, within said period, the City shall have the right, but not the obligation, to terminate this Agreement upon notice to Developer, in which event the City shall assess taxes for the Project and Property in accordance with applicable laws and regulations. For avoidance of doubt, it will be a breach of this Agreement if Developer, among other things, fails to make all payments in the amounts and on the dates set forth in this Agreement.

IN WITNESS WHEREOF, each of the parties has caused this instrument to be executed as a sealed instrument by its officers duly authorized as of the day and year the same is executed by all parties listed on the signature pages below.

Witness:

____

Chicopee River Solar, LLC

By:______________________________
Its:______________________________
Date signed:______________________

City of Springfield

____
Domenic J. Sarno, Mayor
Date signed:______________________

Board of Assessors

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Approved as to form:

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City Solicitor or designee
Date signed:______________________

Approved as to appropriation:

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Office of the City Comptroller
Date signed:______________________

Reviewed:

____
Chief Administrative and Financial Officer
Date signed:______________________

EXHIBIT A
THE PROPERTY

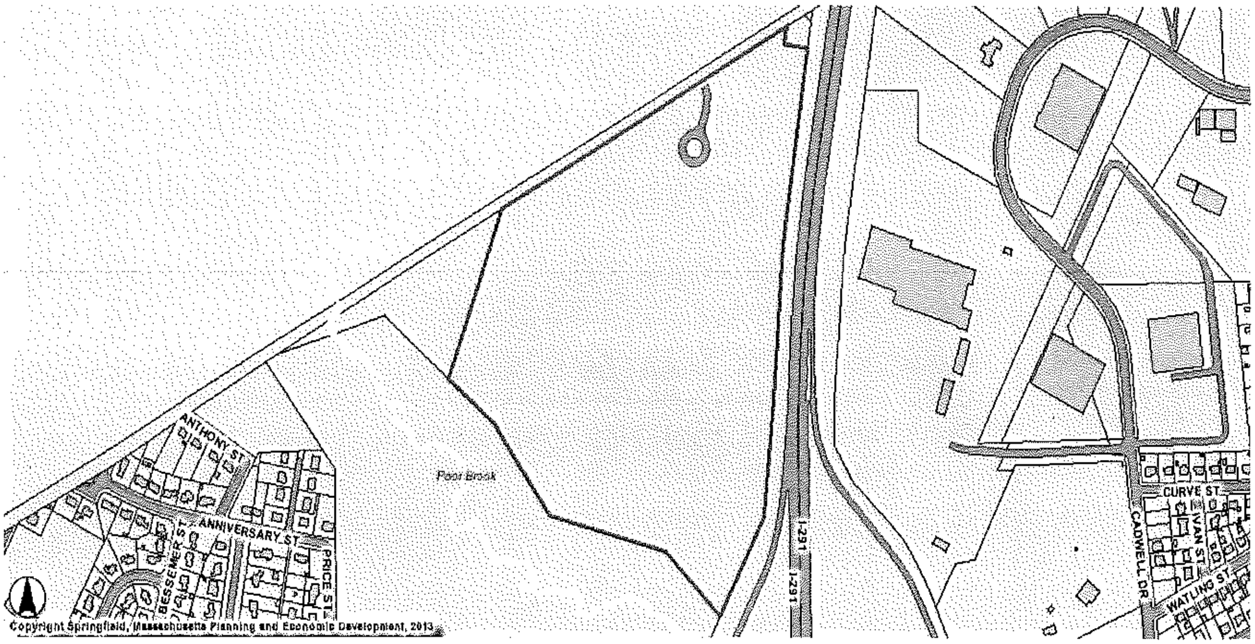

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EXHIBIT B

THE INVENTORY

AS OF THE FIRST FISCAL TAX YEAR OF THIS AGREEMENT

EXHIBIT C

Chicopee River Solar, LLC						
WS Cadwell Drive				Parcel ID: 021950100		
PERSONAL PROPERTY DEPRECIATION & VALUATION SCHEDULE						
Year	**FY**	**Depreciation**	**Total Depreciation**	**Cost Value**	**Estimated Tax Rate**	**Agreed Personal Property Tax**
1	2016	0%	0%	$ 2,140,000	$39.04	**$83,545.60**
2	2017	6%	6%	$ 2,011,600	$39.04	**$78,532.86**
3	2018	6%	12%	$ 1,883,200	$39.04	**$73,520.13**
4	2019	6%	18%	$ 1,754,800	$39.04	**$68,507.39**
5	2020	6%	24%	$ 1,626,400	$39.04	**$63,494.66**
6	2021	6%	30%	$ 1,498,000	$39.04	**$58,481.92**
7	2022	6%	36%	$ 1,369,600	$39.04	**$53,469.18**
8	2023	6%	42%	$ 1,241,200	$39.04	**$48,456.45**
9	2024	6%	48%	$ 1,112,800	$39.04	**$43,443.71**
10	2025	6%	54%	$ 984,400	$39.04	**$38,430.98**
11	2026	6%	60%	$ 856,000	$39.04	**$33,418.24**
12	2027	1%	61%	$ 834,600	$39.04	**$32,582.78**
13	2028	1%	62%	$ 813,200	$39.04	**$31,747.33**
14	2029	1%	63%	$ 791,800	$39.04	**$30,911.87**
15	2030	1%	64%	$ 770,400	$39.04	**$30,076.42**
16	2031	1%	65%	$ 749,000	$39.04	**$29,240.96**
17	2032	1%	66%	$ 727,600	$39.04	**$28,405.50**
18	2033	1%	67%	$ 706,200	$39.04	**$27,570.05**
19	2034	1%	68%	$ 684,800	$39.04	**$26,734.59**
20	2035	1%	69%	$ 663,400	$39.04	**$25,899.14**
21	2036	1%	70%	$ 642,000	$39.04	**$25,063.68**
22	2037	1%	71%	$ 620,600	$39.04	**$24,228.22**
23	2038	1%	72%	$ 599,200	$39.04	**$23,392.77**
24	2039	1%	73%	$ 577,800	$39.04	**$22,557.31**
25	2040	1%	74%	$ 556,400	$39.04	**$21,721.86**
				AVERAGE YEARLY PAYMENT:		**$40,937.34**

OFFICE OF THE BOARD OF ASSESSORS
CITY OF SPRINGFIELD
36 COURT STREET SPRINGFIELD, MA 01103
TELEPHONE 413-787-6164
FAX 413-787-7721
www.cityofspringfieldmass.com

August 20, 2014

To: City Council President Michael Fenton and members of the City Council

From: Board of Assessors Chairman Richard J. Allen

Subject: Orders pertaining to a tax agreement with Chicopee River Solar LLC

I request your approval of two separate orders pertaining to this project. The first order would formally authorize the three members of the Board of Assessors, on behalf of the city, to negotiate a tax agreement for this project. The second order would approve the agreement as presented.

With respect to electricity generation plants and facilities, unlike any other type of property, municipalities have the option of either 1) assessing conventionally; or 2) entering into tax agreements with such projects. Because of unusual economic circumstances regarding privately-developed solar projects, the typical response of municipalities has been to enter into agreements. Dozens of private solar projects have been built around the commonwealth with tax agreements. This would be Springfield's first with a private developer; the two existing solar projects in Springfield are owned by WMECO, which can recover property taxes in its electricity rate base.

Please let me explain the circumstances leading to these proposed orders. The developer has discussed this project with the assessors for the last several months. As recently as mid-July, it appeared that the parties would not agree, and that the project would not proceed. The Council Finance Committee held a meeting on Friday, July 25, at which point a tax agreement was under discussion between the parties. In late July, there was a breakthrough with a tentative agreement on a tax payment schedule. The parties continued to work on the language of an agreement. We were not ready to seek Council approval at the Special Meeting of August 18. In preparing the matter for Council consideration, I determined that the DOR guidance on this type of matter indicates that "authorization to negotiate … should be specifically granted [to municipal officer(s), "such as the Board of Assessors"]…" and that "an agreement… must be approved or ratified by the legislative body to be binding." Under different circumstances, I would present the proposed order designating the authorized officials first, and then, at a later date, bring any proposed tax agreement to the Council at a subsequent meeting.

Regarding the actual agreement, it provides for a twenty-five year tax payment schedule. The tax payments relate to personal property only. The developer will also pay their share of the real estate tax which we bill to the owner, WestMass. The estimated average payment over the life of the agreement is $40,937. This results in an estimated average payment per megawatt of $20,469. Generally, the average per megawatt payment in other communities ranges from $5,000 to $18,000. The estimated payment schedule starts in Fiscal Year 2016 with its highest annual amount, $83,546, and declines over the twenty-five years. The decline reflects depreciation of the panels and equipment as well as the expiration of the Solar Renewable Energy Credits after the first ten years.

Citizens Energy is ready to proceed with construction financing. In that the Council is not scheduled to meet until September 15, I respectfully request approval of these orders at this Special Meeting.

City of Springfield

SCHEDULED

Meeting: 08/25/14 06:00 PM
Initiator: Kathy Breck
Sponsors: Mayor Domenic J. Sarno
DOC ID: 2742

Order Authorizing Negotiation of a Tax Agreement with Chicopee River Solar, LLC (Mayor Sarno)

WHEREAS, Chicopee River Solar, LLC ("CRS") proposes to build a two-megawatt solar photovoltaic generating facility on approximately 11 acres of land on Cadwell Drive; and

WHEREAS, the City desires to negotiate a Personal Property Tax Agreement with CRS pursuant to M.G.L. c. 59 § 38H(b); and

WHEREAS, the Commonwealth of Massachusetts Department of Revenue has advised cities and towns to have the legislative body of the municipality authorize the negotiation of the Agreement; and

WHEREAS, upon completion of the negotiation, the Tax Agreement will be presented to the City Council for approval;

NOW THEREFORE, IT IS ORDERED that the City Council hereby approves and authorizes the Board of Assessors to represent the City in the negotiation of a Personal Property Tax Agreement with CRS, with such Agreement to be presented to the City Council for approval following conclusion of the negotiations.

FINANCIAL IMPACT:

This Order is related to Order #2741.

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