



**M E M O R A N D U M**

**TO:** Mayor Diane Wolfe Marlin and Members of the Urbana City Council  
**FROM:** William R. Gray, Public Works Director  
Scott R. Tess, Environmental Sustainability Manager  
**DATE:** May 24, 2018  
**RE:** Assignment of a Power Purchase Agreement to WCP Financials, LLC

Attached please find an ordinance to approve a power purchase agreement between WCP Financials, LLC and the City of Urbana. Approval of this agreement will assign the City's power purchase agreement to a separate entity owned by WCP Solar Services, LLC, with whom the City currently holds an agreement.

There is no financial impact to this change in assignment.

**ORDINANCE NO. 2018-05-041**

**AN ORDINANCE APPROVING AN ASSIGNMENT OF A POWER PURCHASE AGREEMENT FROM WCP SOLAR SERVICES, LLC TO WCP FINANCIALS, LLC**

**WHEREAS**, on December 19, 2016, the City Council passed Ordinance No. 2016-12-114, approving a power purchase agreement between WCP Solar Services, LLC and the City of Urbana (“City”); and

**WHEREAS**, section 26.5 of the power purchase agreement authorizes WCP Solar Services, LLC to assign its rights, title, and interest in this agreement to a separate entity owned by or otherwise related to WCP Solar Services, LLC; and

**WHEREAS**, WCP Solar Services, LLC has entered into an Assumption and Assignment of Contract Agreement by which it has assigned its rights, title, and interest in the power purchase agreement to WCP Financials, LLC, a related entity; and

**WHEREAS**, the City Council, after due consideration, finds that the City’s consent to such assumption and assignment is in the best interests of the residents of the City and is desirable for the welfare of the City’s government and affairs.

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

**Section 1.**

A consent to the Assumption and Assignment of Contract Agreement, in substantially the form of the copy of the instrument entitled, “Consent,” 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 Consent 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. Upon approval of this Ordinance, the City Clerk is directed to transmit one certified copy to Sharlene Hammond, Customer Service Manager, WCP Solar Services, LLC, 1057 Shore Road, Naperville, Illinois 60563-8758, and one certified copy to Chief County Assessment Officer Paula Bates, County Assessment Office, 1776 East Washington Street, Urbana, Illinois 61802-4581.

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


**ASSUMPTION AND ASSIGNMENT OF CONTRACT AGREEMENT**

This Assumption and Assignment of Contract Agreement is made this 2nd day of April, 2017, by and between WCP Solar Services, LLC, ("Assignor"), a Illinois limited liability company with its principal place of business at 1057 Shore Rd., Naperville, IL 60563, and WCP Financials, LLC, ("Assignee"), an Illinois limited liability company with its principal place of business at 1057 Shore Rd., Naperville, IL 60563, and hereby agrees as follows:

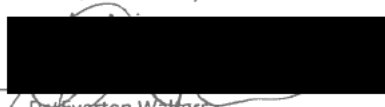
1. **Transfer to Assignee.** Assignor assigns to Assignee all rights, title and interest under the Power Purchase Agreement, ("PPA"), between the Assignor as Provider and City of Urbana as Purchaser. The PPA was for the installation of a 14.88 kWp solar photovoltaic system at 1210 East University Avenue, Urbana, IL 61802 and was executed at WCP Solar Services, LLC located at 1057 Shore Road, Naperville, IL 60563 on February 2, 2017. A true copy of the PPA is attached hereto as Exhibit "A" and made a part of this Assignment.
2. **Assignor Warranties.** Assignor warrants and represents that said PPA is in full force and effect and is fully assignable. Assignor further warrants that it has the full right and authority to transfer said PPA and that contract rights herein transferred are free of lien, encumbrance or adverse claim. Assignor also warrants that said PPA has not been modified and remains on the terms contained therein.
3. **Assignee Assumption of PPA.** Assignee hereby assumes and agrees to perform all remaining obligations of Assignor under the PPA and agrees to indemnify and hold Assignor harmless from any claim or demand resulting from non-performance by Assignee. Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.
4. **Consideration.** As consideration for the Assignment under this Agreement, Assignee agrees to engage Assignor to perform engineering, construction, and installation services, ("Services"), for the system described in the PPA for valuable consideration. The terms and conditions of such Services is subject to the Photovoltaic System Supply and Installation Agreement, entered in to between Assignor and Assignee; a true copy of which is attached hereto as Exhibit "B" and made a part of this Agreement.
5. **Reimbursement for Assignor's Performance.** To the extent that the Assignor may be required by the city of Urbana to perform any duty delegated to the Assignee under this Assignment, or to be required to do so by virtue of the Assignee's failure to perform or to perform correctly, the Assignee agrees to reimburse the Assignor in any amount equal to what the Assignee would have had to pay to any qualified third party in a competitive market to perform the equivalent tasks. This reimbursement shall not be less than the price of performance in terms of its proportionate amount of the total price under the assigned PPA.
6. **Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder shall continue in full force and effect and shall be unaffected.
7. **Entire Agreement.** This Agreement and its accompanying attachments, agreements, and addendums as articulated herein, contain the complete and exclusive statement of the Agreement between Assignor and Assignee and cannot be amended, altered, or changed, except by written instrument signed by the Parties.
8. **Choice of Law, Venue, Jurisdiction.** This Agreement shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, Parties by their duly authorized representatives, have executed this Agreement effective from the Effective Date.

WCP Solar Services, LLC

Signature:   
 Print Name: Dr. Everton Walters  
 Date: April 02, 2017

WCP Financials, LLC

Signature:   
 Print Name: Dr. Everton Walters  
 Date: April 02, 2017

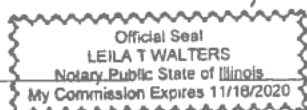
STATE OF Illinois  
 COUNTY OF DuPage

STATE OF Illinois  
 COUNTY OF DuPage

Subscribed and sworn to before me this 2<sup>nd</sup> day of April, 2017.

Subscribed and sworn to before me this 2<sup>nd</sup> day of April, 2017.

  
 Notary Public



  
 Notary Public

**CONSENT**

I consent to the assignment of the above described contract to WCP Financials, LLC and expressly accept the delegation of duties to that party. I expressly reserve all rights against the Assignor under both the original PPA and the above assignment.

Executed at \_\_\_\_\_ on \_\_\_\_\_ (Date)

City of Urbana

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_