



## MUNICIPAL INFRASTRUCTURE

### PLDW Attorneys Help Fall River, MA Become a “Green City” Through Solar Power



#### The Challenge

The city of Fall River is located in Bristol County, Massachusetts, approximately 46 miles south of Boston and 16 miles southeast of Providence, Rhode Island. It is the state’s tenth largest city with a population of approximately 88,857 (2010 US Census). Fall River borders the eastern shore of Mount Hope Bay at the mouth of the Taunton River, and since the 19th Century has been historically known as a leading textile manufacturing center in the U.S.



Like all U.S. cities and towns, it is challenged with reduced operating budgets, rising costs, and stressed infrastructure, yet a desire to develop sustainability initiatives that meet the needs of its residents and protect scarce resources.

In 2007, Governor Deval Patrick of Massachusetts set a ten-year goal for the Commonwealth of Massachusetts to adopt 250 megawatts of solar power. As part of the Commonwealth’s Green Communities Act, the state offered incentives to municipalities utilizing solar power. In 2009, William A. Flanagan was elected

Mayor of the city of Fall River. Once in the leadership position, Mayor Flanagan was determined to create an environment of innovation and excellence for the residents of the city through partnerships and initiatives that were cost-effective and efficient. One such program he identified as worthy of investigation and beneficial to Fall River and its residents was the Governor’s incentive funding under the Green Communities’ Act. To accomplish his goal of participating in the program and to contribute toward the Governor’s ten-year plan of a creating a ‘greener’ state, the Mayor determined that Fall River would enter into the solar market. In doing so, Mayor Flanagan sought the counsel of the highly skilled teams of attorneys belonging to Pannone Lopes Devereaux & West’s (PLDW) Municipal Infrastructure Team.



#### The Solution

At the City’s request, a team of Municipal Infrastructure attorneys met with the City Solicitor to move the process of negotiations forward and to review legal, procurement and operational issues that may impact the City ensuring that Fall River would be able to take advantage of the incentive funds from the Green Communities Act, and fulfill the goal of becoming a ‘green city’. PLDW’s first step was to collaborate with city officials to develop the terms of the Power Purchase Agreement (PPA) and outline the following goals:

- Complete the sale of the land from the Fall River Redevelopment Authority to Fall River Solar
- Take full advantage of participating in the Commonwealth’s Green Communities program
- Reduce electricity costs for the City



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In December of 2011, the City of Fall River entered into a 20-year agreement for solar power from Fall River Solar LLC. The private company agreed to build, own and operate one or more solar generation facilities within the city. Fall River Solar LLC is a subsidiary of SunMark Andover LLC, which is headquartered in Newton, MA. The PPA required that the company would construct the facility on land purchased at market value from the Fall River Redevelopment Authority. The resulting arrangement between the City and Fall River Solar, LLC stipulated the following:

- Fall River Solar will construct a solar generation facility on 49 industrial acres of property being purchased from the Fall River Redevelopment Authority.
- The land purchase, in the amount of \$3,123,750, would accommodate enough solar panels to produce up to 8 megawatts of electricity.
- The city and the private company would share in the financial incentives of net metering as envisioned in the Commonwealth's Green Communities Act.

Furthermore, the PPA stated that the city would initially be the solar generation facility's sole customer, purchase all eight megawatts of electricity it produced, and provide for the eventual expansion of the facility's production of electricity to 28 megawatts – estimated to be enough electricity necessary to power all of the city's municipal needs.



### The Result

As a result of the joint effort between PLDW attorneys and city officials, Fall River taxpayers stand to benefit from significant energy savings over many years by taking advantage of the financial incentives of the net metering provisions of the state's Green Communities Act. Furthermore, the electricity needs of Fall River's municipal buildings, its Housing Authority's buildings and its school buildings will be met with renewable energy, making it a 'green city' - the key goal of city officials. In addition, the process of setting reachable goals and building mutually beneficial incentives to achieve the objectives in the agreement establishes the roadmap that will facilitate and guide future development of renewable generation of resources in the community and adds a new element to the city's tax base. By locating the solar generation facilities on land sold at market value to the private solar generation company through the city's Redevelopment Authority, additional financial benefits were also captured on behalf of the its residents.

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