



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 20 - 0 2 8 0
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REPORT RE:

DRAFT ORDINANCE APPROVING THE RED CLOUD WIND PROJECT POWER SALES AGREEMENT, NO. BP 20-001, AND THE RED CLOUD WIND PROJECT AGENCY AGREEMENT, NO. BP 20-002, BY AND BETWEEN THE CITY OF LOS ANGELES, ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER, AND THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY; AND DELEGATING TO THE BOARD OF WATER AND POWER COMMISSIONERS AUTHORITY TO AMEND SUCH AGREEMENTS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 20-1217

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance provides for the approval of: (1) the Red Cloud Wind Project Power Sales Agreement, No. BP 20-001 (PSA); and (2) the Red Cloud Wind Project Agency Agreement, No. BP 20-002 (Agency Agreement), both by and between the City of Los Angeles, acting by and through the Department of Water and Power (LADWP), and the Southern California Public Power Authority (SCPPA); and delegates to the Board of Water and Power Commissioners (Board) authority to amend the agreements.

The PSA provides for LADWP's purchase of renewable wind energy that SCPPA acquires from the Red Cloud Wind Project (Project), owned by Red Cloud Wind LLC. The Project is located approximately 85 miles southeast of Albuquerque, New

Mexico, in Lincoln, Torrance, and Guadalupe counties. The Agency Agreement provides for LADWP to serve as SCPPA's agent in the administration of SCPPA's administrative duties relating to the Project. LADWP is the sole participant in the Project.

Background

As part of its Renewable Portfolio Standard (RPS), LADWP must meet a target to supply 44% of its retail energy sales from renewable energy sources by 2024, 52% by 2027, 60% by 2030, and be 100% carbon neutral by 2045. To assist in achieving its RPS requirements, on August 22, 2012, the LADWP Board of Water and Power Commissioners (Board) approved the SCPPA Phase II Renewable Development Agreement No. 12-020 under Resolution No. 013-049, which authorized LADWP to participate with other SCPPA members for the purpose of investigating potential new renewable resources. SCPPA issued a 2017 Request for Proposals (RFP), a competitive selection process, for the purchase and/or acquisition of renewable energy resources.

SCPPA received proposals from developers having the capability to provide renewable energy from various sources. Pattern SC Holdings LLC (Pattern Energy) responded to the RFP with a proposal for this Project.

The Project was shortlisted by SCPPA based on key selection principles. Among other considerations, LADWP's selection of the Project was based on the Project's price, transmission availability, and delivery into LADWP's balancing authority area. LADWP and SCPPA negotiated a Power Purchase Agreement (PPA) with Pattern Energy, pursuant to which a special purpose entity, Red Cloud Wind LLC, will sell to SCPPA 331 megawatts (MWs) of renewable wind energy, capacity and associated environmental attributes from the Project for a total term of 20 years.

The PPA also provides SCPPA with the option to purchase the Project on certain PPA anniversary dates. Pursuant to the PSA, LADWP's approval is required before a purchase option is exercised. Pursuant to the Board's Resolution, LADWP will need prior authorization from the Board prior to SCPPA exercising the purchase option.

Through the PSA, SCPPA sells to LADWP the renewable energy, environmental attributes, and generating capacity rights received from the Project, and passes through to LADWP the rights, benefits, and obligations provided under the PPA.

The Agency Agreement provides for the designation of LADWP as the Project Manager to administer and manage the Project on behalf of SCPPA and for the benefit of the Project participant. SCPPA maintains a very small staff to minimize administrative and general fees charged to the projects, and the largest participant of each project typically acts as SCPPA's agent for project management administration.

Charter Enabling Provisions

Charter Section 674 (a)(1)(A) provides that subject to approval by ordinance, the Board shall have the power to contract with the United States, or any of its agencies, any state or state agency, and any corporation, public or private, located inside or outside of the City of Los Angeles or the State of California for the construction, ownership, operation, and maintenance of facilities for the generation, transformation, and transmission of electric energy that provides for a sharing of benefits and of the capital charges and other obligations associated with those facilities. Charter Section 674(a)(2) provides that, subject to approval by ordinance, the Board shall have the power to contract for the purchase of electric energy or electric generating capacity. In addition, pursuant to Charter Section 101, the City Council has the power to authorize the Board to amend the agreements without further City Council approval.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the agreements are exempt pursuant to CEQA Guidelines Section 15061(b)(3). General Exemptions apply in situations where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Council Rule 38 Referral

Pursuant to Council Rule 38, the draft ordinance has been presented to the Board of Water and Power Commissioners.

If you have any questions regarding this matter, please contact Deputy City Attorney Vaughn Minassian at (213) 367-5297. He or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:VGM:rb
Transmittal