

MIKE FEUER
CITY ATTORNEY

REPORT NO. R 1 3 - 0 2 4 2
AUG 1 6 2013

REPORT RE:

DRAFT ORDINANCE APPROVING (1) THE HEBER-1 GEOTHERMAL ENERGY PROJECT POWER SALES AGREEMENT, NO. BP 13-033, AND (2) THE HEBER-1 GEOTHERMAL ENERGY PROJECT AGENCY AGREEMENT, NO. BP 13-034, 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

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

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 Heber-1 Geothermal Energy Project Power Sales Agreement, No. BP 13-033 (PSA), and (2) the Heber-1 Geothermal Energy Project Agency Agreement, No. BP 13-034 (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). The PSA provides for LADWP's purchase of geothermal energy that SCPPA acquires from Heber Geothermal Company (HGC). HGC is the owner of the Heber-1 Geothermal Energy Project in Imperial County, California (Project). The Agency Agreement provides for LADWP to serve as SCPPA's agent in the administration of SCPPA's administrative duties relating to the Project. The Imperial Irrigation District (IID) and LADWP are the Project participants (Participants).

Background

As part of its Renewable Portfolio Standard, LADWP must meet a target to supply 33 percent of its retail energy from renewable energy sources by 2020. To

assist in achieving that goal, on August 21, 2012, the LADWP Board of Water and Power Commissioners approved SCPPA Phase II Renewable Development Agreement No. BP 12-020 under Resolution No. 013-049, which authorizes LADWP to participate with other SCPPA members for the purpose of investigating potential new renewable resources.

SCPPA issued a Request for Proposals (RFP), a competitive selection process, for the purchase and/or acquisition of renewable energy resources. Two Hundred Twenty (220) proposals were received from several firms having the capability to provide renewable energy from sources such as solar, wind, biomass, landfill gas, geothermal, hydroelectric, and other sources.

The Heber-1 Geothermal Energy Project was shortlisted by several SCPPA participants based on key selection principles. Among other considerations, LADWP's selection of the Project was based on its production of RPS "Bucket 1" energy, the ability to use existing transmission capacity, and the production of base load energy. SCPPA and the Participants negotiated the Heber-1 Geothermal Energy Project Power Purchase Agreement (PPA) with HGC, in which HGC would sell to SCPPA 46 MWs of renewable energy from geothermal power generating facilities located in Imperial County, California.

The PPA between SCPPA and HGC allows for the purchase of energy, environmental attributes and generating capacity rights for a ten-year term. The Project capacity is 46 MWs with Participants' shares as follows: From 2016 to 2018, the LADWP share is 66.67 percent, which is approximately equivalent to an annual average of 30.67 MW or 255 gigawatt-hours (GWh); from 2019 to 2025, the LADWP share increases to 78.0 percent, which is approximately equivalent to an annual average of 35.88 MW or 299 GWh. IID has a share of 33.33 percent of the Project energy from 2016 to 2018 and 22.0 percent from 2019 to 2015. LADWP's purchase of an average annual output of 34.32 MW for the term of the Agreements, or 300,643 MWh annually, will enable LADWP to meet approximately 1.3 percent of LADWP's resource requirements in 2020. The renewable energy will be delivered through the 230 kV bank of the Mead 230 kV Substation, which is directly connected to LADWP's transmission system.

Through separate Power Sales Agreements between SCPPA and each Participant, SCPPA sells all of the renewable energy, environmental attributes and generating capacity rights received from the Project and passes through to each Participant in accordance with its respective output entitlement share, 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 all the Participants. 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 and administration.

CEQA Findings

In accordance with Section 15060(c)(2) of the California Environmental Quality Act (CEQA) Guidelines, an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable direct physical change in the environment. Since the PPA would involve the purchase of power generated from an existing geothermal power generating facility, approval of the PPA, PSA and AA are not subject to CEQA.

Summary of Ordinance Provisions

Charter Section 647(a)(2) provides that the City Council has the power to approve contracts for the sale, purchase, exchange or pooling of electric energy or electric generating capacity.


Council Rule 38 Referral

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

If you have any questions regarding this matter, please contact Deputy City Attorney Bill Kysella at (213) 367-5296. He or another member of our Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:WHK:pj
Transmittal

ORDINANCE NO. _____

An ordinance approving (1) the Heber-1 Geothermal Energy Project Power Sales Agreement, No. BP 13-033, and (2) the Heber-1 Geothermal Energy Project Agency Agreement, No. BP 13-034, both by and between the City of Los Angeles, acting by and through the Los Angeles Department of Water and Power, and the Southern California Public Power Authority.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The Heber-1 Geothermal Energy Project Power Sales Agreement, No. BP 13-033, and the Heber-1 Geothermal Energy Project Agency Agreement, No. BP 13-034, approved by the Board of Water and Power Commissioners by the adoption of Resolution No. 013 310, that are on file with the City Clerk, are hereby approved.

Sec. 2. The City Clerk shall certify to the passage of this Ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, Interim City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By William KySELLA (CPBE)
WILLIAM KYSELLA
Deputy City Attorney

Date Aug 16, 2013

File No. _____