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CITY ATTORNEY

REPORT NO. R 1 6 - 0 0 7 9

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REPORT RE:

DRAFT ORDINANCE APPROVING (1) THE SPRINGBOK 3 SOLAR FARM POWER SALES AGREEMENT, NO. BP 15-032, AND (2) THE SPRINGBOK 3 SOLAR FARM AGENCY AGREEMENT, NO. BP 15-033, 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 Springbok 3 Solar Farm Power Sales Agreement, No. BP 15-032 (PSA), and (2) the Springbok 3 Solar Farm Agency Agreement, No. BP 15-033 (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 solar energy that SCPPA acquires from 64KT 8ME, LLC (64KT 8ME). 64KT 8ME is the owner of the Springbok 3 Solar Farm that will be constructed in Kern 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. Los Angeles is the sole Project participant.

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 22, 2012, the LADWP Board of Water and

Power Commissioners (Board) approved 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 Request for Proposals (RFP) for the purchase and/or acquisition of renewable energy resources. Over 300 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 Springbok 3 Solar Farm was shortlisted by SCPPA participants based on key selection principles. Among other considerations, LADWP's selection of the Project was based on the Project's production of RPS Portfolio Content Category "Bucket 1" energy, the Project's ability to use the existing transmission capacity at LADWP's Beacon substation, and the location of the Project, which is in an area with excellent solar insolation and where LADWP has existing operation and maintenance crews. SCPPA and LADWP negotiated the Springbok 3 Solar Farm Power Purchase Agreement (PPA) with 64KT 8ME, pursuant to which 64KT 8ME would sell to SCPPA 90 megawatts (MWs) of renewable energy from solar power generating facilities located in Kern County, California.

The PPA between SCPPA and 64KT 8ME allows for the purchase of energy, environmental attributes and generating capacity rights for a total term up to 30 years. The PPA also provides SCPPA with the option to purchase the Project on certain anniversary dates. Pursuant to the PSA, LADWP's approval is required before a purchase option is exercised. Pursuant to the Board's Resolution No. 016-208, LADWP will need further authorization from the Board and City Council in order to recommend that SCPPA exercise the purchase option.

As the sole participant, LADWP will take the entire Project capacity of 90 MWs. The purchase of 90 MWs of renewable energy capacity or an average of 235,000 MW-hours annually will enable LADWP to meet approximately 0.9 percent of LADWP's renewable resource requirements. The renewable energy will be delivered to the Beacon substation, which is directly connected to LADWP's transmission system.

Through the separate PSA between SCPPA and LADWP, SCPPA sells all of 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 LADWP. 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.

Summary of Ordinance Provisions

The enclosed draft ordinance approves the Springbok 3 Solar Farm Power Sales Agreement, No. BP 15-032, and the Springbok 3 Solar Farm Agency Agreement, No. BP 15-033, both by and between LADWP and SCPPA. It also delegates authority to the Board of Water and Power Commissioners to act upon and approve amendments to these agreements, provided that such amendments are ministerial and administrative in nature and do not increase the costs or extend the total term of the agreements.

Charter Section 647(a)(1) 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 State of California for the construction, ownership, operation and maintenance of facilities for the generation, transformation and transmission of electric energy. Charter Section 674(a)(2) further provides that subject to approval by ordinance the Board shall have the power to contract for the sale, purchase, exchange or pooling 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

The Project will be located in Kern County, California. Pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines, the Kern County Planning Commission approved an environmental impact report for this Project and issued a Notice of Determination on May 11, 2015.

In accordance with CEQA, it has been determined that entering into agreements with SCPPA to purchase power and provide project management services is exempt pursuant to the General Exemption described in 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

A copy of the 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 Felix Lebron at (213) 367-4625. He or another member of this Office will be present when you consider this matter to answer any questions that you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:FL:pj
Transmittal