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CITY ATTORNEY

REPORT NO. R 1 4 - 0 3 6 6

SEP 2 6 2014

REPORT RE:

DRAFT ORDINANCE APPROVING (1) THE SPRINGBOK I SOLAR FARM POWER SALES AGREEMENT, NO. BP 14-03, AND (2) THE SPRINGBOK I SOLAR FARM AGENCY AGREEMENT, NO. BP 14-04, 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 I Solar Farm Power Sales Agreement, No. BP 14-03 (PSA), and (2) the Springbok I Solar Farm Agency Agreement, No. BP 14-04 (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 62SK8me, LLC. 62SK8me, LLC is the owner of the Springbok I 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 April 4, 2006, the LADWP Board of Water and Power Commissioners approved SCPPA Development Agreement No. 96125-76 under Resolution No. 006-157, 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), a competitive selection process, 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 I Solar Farm was shortlisted by 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 LADWP negotiated the Springbok I Solar Farm Power Purchase Agreement (PPA) with 62SK8me, LLC in which 62SK8me would sell to SCPPA 100 MWs (plus or minus five MWs) of renewable energy from geothermal power generating facilities, located in Kern County, California.

The PPA between SCPPA and 62SK8me allows for the purchase of energy, environmental attributes and generating capacity rights for a 25 year term. 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, 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 95-105 MWs. The purchase of 100 MWs of renewable energy capacity, or an average of 264,684 MWhs annually, will enable LADWP to meet approximately 1.19% of LADWP's resource requirements. The renewable energy will be delivered directly to the Beacon substation, which is directly connected to LADWP's transmission system.

Through a separate Power Sales Agreement 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.

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 March 27, 2014.

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.

Summary of Ordinance Provisions

The enclosed draft ordinance approves the Springbok I Solar Farm Power Sales Agreement, No. BP 14-03 (PSA), and the Springbok I Solar Farm Agency Agreement, No. BP 14-04 (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). It further authorizes ministerial and administrative amendments that do not increase the costs or extend the term of agreements.

Charter Section 647(a)(1) provides that the City Council has the power to approve contracts for the construction, ownership, operation and maintenance of facilities for the generation, transformation and transmission of electric energy. 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. Charter Section 303 authorizes the Council to approve long-term contracts.

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 this 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



DAVID MICHAELSON
Chief Assistant City Attorney

DM:WHK:
Transmittal

ORDINANCE NO. _____

An ordinance approving (1) the Springbok I Solar Farm Power Sales Agreement, No. BP 14-03, and (2) the Springbok I Solar Farm Agency Agreement, No. BP 14-04, 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 Springbok I Solar Farm Power Sales Agreement, No. BP 14-03, and the Springbok I Solar Farm Agency Agreement, No. BP 14-04, approved by the Board of Water and Power Commissioners by the adoption of Resolution No. 015-037, that are on file with the City Clerk, are hereby approved.

Sec. 2. The Board of Water and Power Commissioners is authorized without further approval by the City Council to act on and approve all future amendments to the Springbok I Solar Farm Power Sales Agreement No. BP 14-03, and the Agency Agreement, No. BP 14-04, provided that such amendments are ministerial and administrative in nature and do not increase the costs or extend the term of the agreements.

Sec. 3. 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, City Clerk


By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
WILLIAM H. KYSELLA, JR.
Deputy City Attorney

Date 9-26-14

File No. _____