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CITY ATTORNEY

REPORT NO. R17-0106
APR 12 2017

REPORT RE:

DRAFT ORDINANCE APPROVING (1) THE ORMAT NORTHERN NEVADA GEOTHERMAL PORTFOLIO PROJECT POWER SALES AGREEMENT, NO. BP 16-023, AND (2) THE ORMAT NORTHERN NEVADA GEOTHERMAL PORTFOLIO PROJECT AGENCY AGREEMENT, NO. BP 16-024, 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 LIMITED 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, CA 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 Ormat Northern Nevada Geothermal Portfolio Project Power Sales Agreement, No. BP 16-023 (PSA), and (2) the Ormat Northern Nevada Geothermal Portfolio Project Agency Agreement, No. BP 16-024 (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 limited authority to amend the agreements. The PSA provides for LADWP's purchase of geothermal energy that SCPPA acquires from ONGP LLC. ONGP LLC is a subsidiary of Ormat Nevada Inc., and together with Ormat Nevada Inc., controls existing or contemplated geothermal

power plants (Project Companies) in the state of Nevada. SCPPA will enter into a separate Power Purchase Agreement (PPA) between the ONGP LLC (Project). The Agency Agreement provides for LADWP to serve as SCPPA's agent in the administration of SCPPA's duties relating to the Project. LADWP is the only SCPPA participant in the Project.

Background

As part of its Renewable Portfolio Standard (RPS), LADWP must meet a target to supply 33% of its retail energy sales from renewable energy sources by 2020 and 50% by 2030. To assist in achieving that goal, 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 2016 Request for Proposals (RFP), a competitive selection process, for the purchase and/or acquisition of renewable energy resources. SCPPA received over 100 proposals from several firms having the capability to provide renewable energy from sources such as solar, wind, biomass, landfill gas, geothermal, hydroelectric and other sources. Of these, seven proposals were from geothermal developers, including the ONGP Project from Ormat Nevada Inc.

The Project 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 price, insignificant integration costs compared to intermittent resources like wind and solar, ability to provide baseload energy, utilization of existing transmission infrastructure and delivery into LADWP's balancing authority. LADWP and SCPPA negotiated the PPA with ONGP LLC, pursuant to which ONGP LLC will sell to SCPPA 150 megawatts (MWs) of renewable energy from geothermal power generating facilities located in Nevada.

The PPA between SCPPA and ONGP LLC allows for the purchase of energy, environmental attributes and generating capacity rights for a total term of 26 years. The renewable energy will be delivered to the Crystal 500 kV substation, which is directly connected to LADWP's transmission system.

Through the PSA between SCPPA and LADWP, SCPPA sells 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 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 administration.

Charter Enabling Provisions

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 PSA No. BP 16-023 for 150 MW of geothermal capacity from the ONGP Project's new and existing plants in Northern Nevada, and AA No. BP 16-024 for project management services with SCPPA are statutorily exempt pursuant to Section 15277 of the CEQA Guidelines. This section states that CEQA does not apply to any project located outside of California which is subject to environmental impact review pursuant to the National Environmental Policy Act (NEPA). In addition, this project would not result in any emissions or discharges that would have a significant effect on the environment in the State of California, which would be subject to CEQA.

Because the United States Department of Interior, Bureau of Land Management (BLM) exercises jurisdiction over the involved leased federal lands, the ONGP Project's existing plants have been, and new plants will be, subject to compliance with NEPA.

In accordance with the California Code of Regulations Title 20, Chapter 11, Section 2903(b)(1), the ONGP Project is determined to be compliant with the Emission Performance Standard.

Council Rule 38 Referral

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

If you have any questions regarding this matter, please contact Deputy City Attorney William 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
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Transmittal