



OFFICE OF THE CITY MANAGER

March 16, 2009

**To:** CITY COUNCIL

**From:** CITY MANAGER

**Subject:** ADDENDUM TO THE AGENDA ITEM: ADOPT A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THE PASADENA FIRST AMENDED AND RESTATED MILFORD WIND CORRIDOR PHASE I PROJECT POWER SALES AGREEMENT BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY AND THE CITY OF PASADENA AND FURTHER APPROVING THE SHARE OF ENERGY AND ASSOCIATED ENVIRONMENTAL ATTRIBUTES TO BE PURCHASED PURSUANT TO SUCH POWER SALES AGREEMENT

**BACKGROUND:**

At the March 11, 2009 meeting, the Municipal Services Committee ("MSC") requested additional information on the potential risks associated with the purchase and ownership obligation which could occur under the proposed contract amendment

Initially, Southern California Public Power Authority ("SCPPA"), a joint powers authority consisting of twelve public owned utilities with Pasadena as one of the members, in conjunction with the project participants i.e. Pasadena Water and Power, Los Angeles Department of Water and Power, and Burbank Water and Power had performed technical and legal due diligence about the project feasibility prior to entering into the original power purchase agreement. The project was found viable.

The expected cost of energy from the Milford Project is substantially lower than other renewable resource options currently available to the City of Pasadena ("Pasadena"). Nevertheless, any long-term resource commitment carries a risk that the future market price of energy will fall below the delivered cost of energy from future resources. Conversely, if market prices retain their current levels or continue to rise, this Contract will provide substantial savings. This price risk is mitigated to some extent by the fact that the Contract will only provide about 1% of Pasadena Water and Power's ("PWP") total energy needs and 6.8% of projected renewable energy needs by 2010.

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5.D.2.

All power resources are subject to outages or equipment failures that may require additional capital investment to repair and reduce their planned energy output. While the default provisions under the Purchase Power Agreement ("PPA") between the developer, Milford, and SCPA would shield PWP from this risk, PWP's average cost of energy received from the project would in fact increase under the ownership alternative if the project were subject to a lengthy outage or needed such repairs. Technology risk is another factor, particularly for wind resources, as future renewable resource technologies may produce power at a lower cost. This risk is present under both the PPA and purchase options, but it is mitigated to some extent by the relatively low energy cost (given today's markets) as well as the relatively small contribution the project makes to PWP's overall portfolio.

The change in weather patterns affecting wind profile would affect the net energy output from the project, therefore, affecting the net cost to PWP. However, historically, the weather changes occur gradually over a very long period. There are several other wind projects under development in the general area where this project is located. The cost and environmental benefits from this project are considered to outweigh any long term weather induced adverse impacts.

The energy from Milford 1 will be transmitted to Pasadena through three major transmission systems (i) Southern Transmission System (STS) owned by Intermountain Power Authority in which Pasadena has sufficient excess capacity rights associated with its entitlements in the Intermountain Power Plant until year 2027, (ii) Los Angeles Department of Water and Power transmission system in which Pasadena has contractual rights co terminus with STS, and (iii) California Independent System Operator (CAISO) transmission system in which Pasadena has rights as a Participating Transmission Operator. There is a risk of transmission availability and associated cost associated with power purchase agreement as well as ownership option. Such transmission risks are inherent to most renewable energy resources. PWP is confident that transmission capacity will be available to deliver the energy beyond 2027, but the price and terms for such transmission services will not be known until that date approaches. This is generally true of all resource commitments in today's regulatory paradigm.

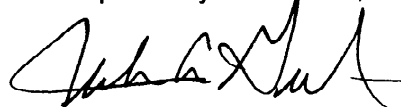
The purchase cost analysis assumes SCPA's ability to finance the purchase through municipal bonds for 30 years @ 6% interest. The assumed terms of financing may be different when the funds are needed. Given the considerable discount in purchase price compared to power purchase contract, the savings under ownership should outweigh the risk of higher debt service.

The major risk is that the project will not be completed on a timely basis, or at all. The construction finance provider will bear most of this risk due to the fact that SCPA will not purchase (fund) the project until it is completed and operational. Also, the purchase

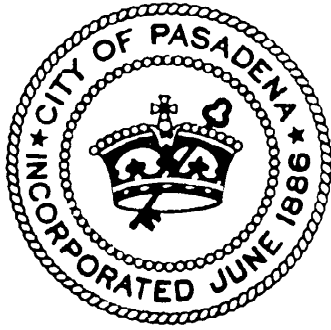
price will decrease if this date is delayed beyond December 31, 2009, thus PWP is reasonably well protected from these risks.

While bringing a higher degree of risk due to the large up front capital investment, the ownership alternative has substantial value that we believe warrants the risk. The expected levelized cost is lower and PWP (via SCPA) will retain ownership of the site and equipment for its useful life. Once the bonds have been paid off, the on-going operating costs, and therefore average energy cost, will be very low. Furthermore, under the ownership option, the project participants will have control over on-going operations and capital improvements that may be warranted over time as turbine technologies and market conditions warrant. Finally, the ownership option has less counterparty credit risk than a long-term contract with a private, limited liability company counterparty. Pasadena will hold an interest in the real property held by SCPA that is more secure than a long-term contract with a private counterparty that may be discharged through a bankruptcy proceeding.

Respectfully submitted,



COM MICHAEL J. BECK  
City Manager



# Agenda Report

March 16, 2009

**To:** CITY COUNCIL  
**Through:** MUNICIPAL SERVICES COMMITTEE

**From:** CITY MANAGER

**Subject:** ADOPT A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THE PASADENA FIRST AMENDED AND RESTATED MILFORD WIND CORRIDOR PHASE I PROJECT POWER SALES AGREEMENT BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY AND THE CITY OF PASADENA AND FURTHER APPROVING THE SHARE OF ENERGY AND ASSOCIATED ENVIRONMENTAL ATTRIBUTES TO BE PURCHASED PURSUANT TO SUCH POWER SALES AGREEMENT

## **RECOMMENDATION:**

It is recommended that the City Council adopt a resolution authorizing the execution and delivery of the Pasadena First Amended And Restated Milford Wind Corridor Phase I Project Power Sales Agreement ("Amended PSA") amending the Milford Wind Corridor Phase I, LLC Wind Generation Project Power Sales Agreement #19,488 ("PSA") with the Southern California Public Power Authority ("SCPPA") for a 5 MW (2.5% of 200 MW) share of the Milford Wind Corridor Phase I Project. This Amended PSA is exempt from competitive bidding pursuant to City Charter Section 1002(h), contracts with other governmental agencies or their contractors.

## **BACKGROUND:**

City Council approval of the Amended PSA will permit SCPPA to commit to purchase the wind generating facility upon the completion of construction if the developer is unable to secure long-term financing due to the current uncertainty in the financial markets. The Amended PSA would provide for a lower purchase price and a reduced price for the initial energy to be generated from the project.

On April 9, 2007, the City Council approved and authorized the City Manager to execute and deliver a PSA between the City and SCPPA for the output associated with 2.5% (5 MW) of the Milford Wind Corridor Phase 1, LLC ("Milford") facility located in Utah. Council action included approval of an ordinance, as the PSA includes an option for SCPPA to purchase the facility during the term of the PSA with Pasadena's

proportionate share of the cost being financed through bonds issued by SCPA. The PSA set forth mutual covenants and agreements in order to pay SCPA for Pasadena Water and Power ("PWP") share of energy and capacity from the Project. The Project capacity is 200 Megawatts ("MW"). The SCPA participants that will be taking shares of the output are as follows: LADWP (185MW, 92.5 percent); City of Burbank (10MW, 5 percent); and City of Pasadena (5MW, 2.5 percent). The facility is expected to provide approximately 1 percent of PWP's resource requirements.

SCPA entered into a Power Purchase Agreement ("Milford Agreement") with Milford, a wholly owned subsidiary of First Wind Management LLC, which provides for the purchase of renewable wind energy from the Milford Corridor Phase 1 Project ("Project") located in Beaver and Millard Counties in Utah for a period of 20 years starting on December 31, 2008. The Milford Agreement is structured as a 20-year power purchase agreement with a 10-year buyout provision. SCPA will take delivery of the entire output of the Project then sell this energy to the Project participants under terms of the PSA. Milford retains ownership of the generating facility unless and until SCPA executes the buyout option. This arrangement enabled SCPA to extract maximum benefit by taking advantage of production tax credits, depreciation laws, and tax-exempt bond financing opportunities.

In October 2008, the instability and tightening of the financial credit and tax equity investor markets began to occur and continues. As a result, Milford has been unable to find a tax equity investor whose investment would pay off a construction loan. Consequently, Milford's original construction lender backed out of providing funds for the Project's construction. In order to obtain the necessary construction financing from a replacement lender to complete the Project, Milford requested SCPA to amend the Milford Agreement. The amendment extends the dates for default termination and adds a new provision committing SCPA to purchase the Project in the event commercial operations are achieved and Milford is unable to obtain a tax equity investor.

#### Likely Outcome Under Existing Agreement Provisions

In the event Milford is not able to obtain long-term financing for the facility once construction has been completed, under the Milford Agreement:

- Milford will pay SCPA \$7.2 million in liquidated damages;
- the Project will not be commissioned by the termination date of September 30, 2009; and
- the Milford Agreement will be terminated.

The effect of terminating the Milford Agreement would be receipt of \$180,000 as Pasadena's share of liquidated damages, but a delay in PWP's ability to reach its Renewable Portfolio Standard ("RPS") goals and having to replace the Project with a more expensive alternative resource.

### Proposed Changes

Under the Amended PSA:

- SCPPA commits to purchase the Project if Milford does not find a new tax equity investor, but on terms more favorable than the buyout provisions in the original PSA.
- In recognition of the delays that have occurred in the Project schedule, the dates are extended for incurring liquidated damages and termination based upon default, thereby giving Milford additional time to complete the Project.
- Additionally, during the interim period, between Commercial Operation and the date on which SCPPA must purchase the Project (or until Milford finds a new tax equity investor in the Project), SCPPA will pay a lower Project energy price.

In return for taking on this financial risk, SCPPA has negotiated a discount of 23% on the price of the initial energy delivered from the Project and a 2.44% discount on the purchase price of the Project.

The Amended PSA can result in a number of different outcomes based on whether the developer is able to get long-term financing, and the date on which the Project is commissioned:

**Scenario 1:** *Milford is able to obtain the tax equity financing prior to September 30, 2010:*

The base energy price remains at \$52.50 per MWh as provided under the original terms of the PSA and SCPPA receives liquidated damages until the project achieves commercial operation. The levelized cost of energy for Pasadena's share of the project over the 20-year term of the PSA is expected to average \$947,000 per year, or \$74.48/MWh.

**Scenario 2:** *Milford is not able to obtain tax equity financing prior to September 30, 2010, and the project is commissioned before December 31, 2009:*

The Amended PSA would commit SCPPA to purchase the facility at a price of \$2,000 per installed kW for a total of \$400 million, with PWP's share being \$10 million. From the Commercial Operation Date until the Facility Purchase Date, SCPPA would pay \$50 per MWh for all delivered energy. The purchase date will be no earlier than 90 days following the Commercial Operation Date and no later than 90 days after September 30, 2010. Assuming SCPPA issues 30-year bonds at 6% to purchase the facility, PWP's levelized share of the cost would be approximately \$726,000 per year, or \$62.15/MWh, for energy delivered after Facility Purchase Date, a savings of \$221,000 per year.

**Scenario 3:** *Milford is not able to obtain tax equity financing prior to September 30, 2010, and the project is commissioned after December 31, 2009:*

The Amended PSA would commit SCPPA to purchase the facility within 90 days following the Commercial Operation Date at a purchase price of \$1,900 per installed kW for a total of \$380million, with PWP's share being \$9 million. Again assuming that SCPPA will issue 30-year bonds at 6% to purchase the facility, PWP's levelized share of the cost would be approximately \$690,000 per year, or \$59.30/MWh, a savings of \$257,000 per year.

The three scenarios are summarized in the following table.

Scenario #	Power Purchase/ Ownership	Term (years)	Projected PWP Share (MWh/yr)	Estimated Levelized Debt (\$/yr)	Levelized Average Energy Cost At Plant Bus + est. lease, royalty, O&M (\$/MWh)	Annual Savings (\$/yr)
1	Power Purchase	20	12,711	947,000	74.48	
2	Ownership	30	12,711	726,000	62.15	221,000
3	Ownership	30	12,711	690,000	59.30	257,000

If the Project qualifies for grants under the federal stimulus package, the cost of purchasing the Project will be 30% less. Competition for renewable resources has increased due to legislative pressure and customer choice. Conversely, the current instability and tightening of the financial markets have caused the number of viable renewable projects to decline. This proposed amendment will allow Milford to continue construction of the Project to completion, which in turn will allow the City of Pasadena to continue making progress towards meeting its RPS goals.

**FISCAL IMPACT:**

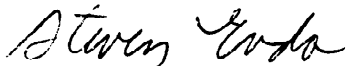
Should the terms of the Amended PSA be invoked (Scenarios 2 and 3), PWP ratepayers will see a reduction of \$221,000 to \$257,000 per year in the previously projected cost of this energy. Bonds required to purchase the completed facilities will be issued by SCPPA and PWP will pay its share of the debt service from the Power Fund budget (account 8114-401-841500-0561). All costs associated with those bonds will be recovered in the Energy Charge component of Pasadena's electric energy rates.

Respectfully submitted,



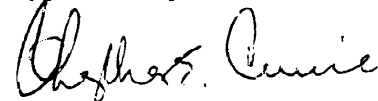
MICHAEL J. BECK  
City Manager

Prepared by:



STEVEN ENDO  
Principal Engineer  
Power Supply

Approved by:



PHYLLIS E. CURRIE  
General Manager



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA AUTHORIZING THE EXECUTION AND DELIVERY OF THE PASADENA FIRST AMENDED AND RESTATED MILFORD WIND CORRIDOR PHASE I PROJECT POWER SALES AGREEMENT BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY AND THE CITY OF PASADENA AND FURTHER APPROVING THE SHARE OF ENERGY AND ASSOCIATED ENVIRONMENTAL ATTRIBUTES TO BE PURCHASED PURSUANT TO SUCH POWER SALES AGREEMENT

WHEREAS, on April 9, 2007, the City Council approved the Milford Wind Corridor Phase I Project Power Sales Agreement between the Southern California Public Power Authority ("SCPPA") and the City of Pasadena (Contract No. 19,488); and

WHEREAS, the General Manager of the Pasadena Water and Power Department has recommended that the City Council approve a First Amended and Restated Milford Wind Corridor Phase I Project Power Sales Agreement in order to incorporate new business terms therein necessary for project financing, design and construction to continue:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

1. The First Amended and Restated Milford Wind Corridor Phase I Project Power Sales Agreement, in a form approved by the City Attorney, is hereby approved.

2. The City Manager is hereby authorized to execute the First Amended and Restated Milford Wind Corridor Phase I Project Power Sales Agreement, with such non-material changes, insertions and omissions as may be made to it prior to execution; provided, that the City's share of the capacity, energy and environmental attributes of the Project shall not exceed five megawatts, or 2.5 percent, of the anticipated project output of 200 megawatts. The City Clerk is hereby authorized to attest.

3. The City Manager is further authorized to execute and deliver any and all other documents and instruments and to do and cause to be done any and all acts and things necessary or advisable for carrying out the transactions contemplated by this Resolution, including other necessary scheduling and displacement agreements for the benefit of the City and the other participants in the Milford Wind Corridor Phase I Project.

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Adopted at the regular meeting of the City Council of the City of Pasadena on the

\_\_\_\_\_, day of \_\_\_\_\_,

2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED AS TO FORM:



Scott D. Rasmussen  
Senior Assistant City Attorney