

# Agenda Report

December 17, 2012

**TO:** Honorable Mayor and City Council

**THROUGH:** Municipal Services Committee (December 11, 2012)

**FROM:** Water and Power Department

**SUBJECT: REPEAL ORDINANCE # 7205, WHICH APPROVED THE ENVIROMISSION, LLC, LA PAZ SOLAR GENERATION PROJECT POWER SALES AGREEMENT**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the recommended action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (General Rule); and,
2. Direct the City Attorney to prepare an ordinance repealing Ordinance # 7205 which approved the Enviromission, LLC, La Paz Solar Generation Project Power Sales Agreement and authorized the City Manager to enter into an agreement with the Southern California Public Power Authority ("SCPPA") to purchase ten (10) Megawatts of the project's output.

## **BACKGROUND:**

On December 6, 2010, the City Council directed the City Attorney to draft an ordinance (Ordinance # 7205) which authorized the City Manager to enter into an agreement with SCPPA for the purchase of 10MW of the proposed 200MW La Paz Solar Generation Project in Arizona. This project was planned to incorporate an innovative solar thermal electric generation design that has not been proven on a large commercial scale.

SCPPA members initially expressed interest in approximately one-half of the project's planned capacity, and worked in good faith with the developer over 20 months to negotiate contract terms and further develop the project. Due to numerous concerns with project progress, SCPPA sent notice to Enviromission on September 26, 2012 to formally withdraw from further negotiations. In the notice, SCPPA cited the following reasons for withdrawing from the project:

1. Enviromission displayed no progress to meet two conditions precedent, to secure financing and letters of credit, causing the execution of the Power Purchase Agreement between Enviromission and SCPPA to be postponed repeatedly and indefinitely;
2. Because of the repeated delays, SCPPA's combined participation share in the project dropped from 102 to 34MW, or approximately 17%, as SCPPA participants lost confidence in the project's viability;
3. The proposed contract price, while attractive in 2010, is no longer competitive with alternative offers from lower cost photovoltaic solar generation projects; and,
4. Concerns that the energy may not satisfy the Portfolio Content Category 1 requirements for renewable energy pursuant to Senate Bill X1-2 (2011).

PWP now recommends that the City Council direct the City Attorney to prepare an ordinance to repeal Ordinance # 7205 so that Pasadena Water and Power ("PWP") may officially terminate participation in this project. Removing any potential risk of perceived commitment and the uncertainty associated with this project's possible contribution to PWP's renewable resource goals allows PWP to pursue other, more conventional, lower cost, and lower risk renewable projects.

#### **COUNCIL POLICY CONSIDERATION:**

Although the proposed repeal of Ordinance # 7205 might appear to be counter to the City's Urban Accords Goals with respect to renewable energy and greenhouse gas emission reduction goals, the General Plan Energy Element, the City Council's Strategic Planning Goals, and the 2009 Power Integrated Resource Plan, it will effectively eliminate a future renewable resource that is not likely to materialize. Replacement of this project by other proven renewable technology projects would achieve the City of Pasadena's ("City") environmental objectives with greater certainty. In lieu of this project, staff is evaluating other conventional PV Solar projects available through SCPPA's 2011 Request for Proposal for Renewable Energy Projects. Conventional PV Solar projects have become available which not only match PWP's load requirements even more favorably but do so at a lower price. Staff will return to Council with a recommendation in the future as appropriate projects are evaluated and selected.

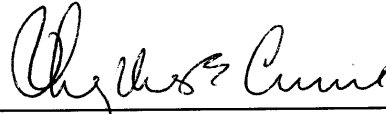
#### **ENVIRONMENTAL ANALYSIS:**

The proposed repeal of Ordinance # 7205 has been determined to be exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3); the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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, the activity is not subject to CEQA. The repeal of Ordinance # 7205 would not have a significant effect on the environment.

**FISCAL IMPACT:**

There is no anticipated immediate fiscal impact as a result of this action and will not have any indirect or support cost requirements. By repealing Ordinance # 7205, PWP is free to pursue other, lower cost, renewable energy projects to meet the City's Renewable Portfolio Standard goals. There will be no anticipated impact to other operational programs or capital projects as a result of this action.

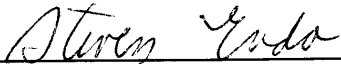
Respectfully submitted,



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PHYLLIS E. CURRIE  
General Manager  
Pasadena Water and Power Department

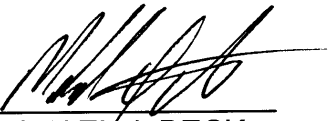
Prepared by:



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Steven Endo, P.E.  
Principal Engineer

Approved by:



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MICHAEL J. BECK  
City Manager

Attachment: Ordinance #7205

Introduced by Councilmember McAustin

ORDINANCE NO. 7205

**AN UNCODIFIED ORDINANCE OF THE COUNCIL OF THE CITY OF PASADENA APPROVING THE POWER SALES AGREEMENT BETWEEN THE CITY OF PASADENA AND THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY FOR THE LA PAZ SOLAR TOWER PROJECT**

The People of the City of Pasadena ordain as follows:

**SECTION 1.** The City Council of the City of Pasadena hereby approves the Power Sales Agreement, including all Appendices and attachments thereto, between the City and the Southern California Public Power Authority with respect to the La Paz Solar Tower Project.

**SECTION 2.** The City Manager is hereby authorized to execute and deliver the Power Sales Agreement, with such changes, insertions and omissions as shall be approved by the City Manager (such approval to be conclusively evidenced by such execution), and the City Clerk is hereby authorized to attest to such execution.

**SECTION 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 responsibilities and transactions under the Power Sales Agreement as contemplated by this ordinance, which shall include, without limitation, (i)

authorization for the City Manager to direct the representative of the City appointed to the Project Coordinating Committee to approve adjustments of the Project capacity to be purchased by the City as provided for under the Power Sales Agreement, and (ii) authorization to execute and deliver any agreements, documents and instruments necessary to carry out the City's participation and responsibilities under the Power Sales Agreement.

**SECTION 4.** If any part of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance, and the City Council hereby declares that it would have passed the remainder of this ordinance if such invalid portion thereof were deleted.

**SECTION 5.** Pursuant to Section 54241 of the Government Code of the State of California, this ordinance is subject to the provisions for referendum applicable to the City.


**SECTION 6.** The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published in full text.

**SECTION 7.** This ordinance shall not be codified.

**SECTION 8.** This ordinance shall take effect upon its publication.

Signed and approved this \_\_\_\_\_ 24<sup>th</sup> \_\_\_\_\_ day of

\_\_\_\_\_  
January \_\_\_\_\_, 2011.

  
\_\_\_\_\_  
William Bogard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the  
City Council at its meeting held January 24, 2011, by  
the following vote:

AYES: Councilmembers Haderlein, Madison, Robinson,  
Vice Mayor Gordo, Mayor Bogaard

NOES: None

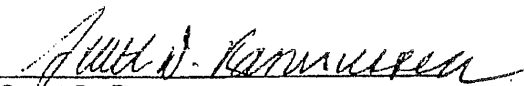
ABSENT: Councilmembers Holden, McAustin, Tornek

ABSTAIN: None

Published: January 27, 2011  
Pasadena Journal

  
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Mark Jomsky, CMC  
City Clerk

APPROVED AS TO FORM:

  
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Scott D. Rasmussen  
Assistant City Attorney