



City of Grand Island

Tuesday, January 25, 2022

Council Session

Item G-6

#2022-22 - Approving Amendment No. 1 to the Renewable Energy Credit Purchase

Staff Contact: Tim Luchsinger, Stacy Nonhof

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director
Stacy Nonhof, Interim City Attorney

Meeting: January 25, 2022

Subject: Amendment No. 1 to Renewable Energy Credit Purchase and Sale Agreement – City of Neligh

Presenter(s): Timothy Luchsinger, Utilities Director

Background

On June 9, 2015, Council approved execution of a Power Purchase Agreement with Invenergy Inc., for the Prairie Breeze III (PBIII) Wind Energy Project. On September 8, 2015, Council approved an agreement with the City of Neligh for the sale of approximately 5.59% of the PBIII output including the Renewable Energy Credits (REC's). Currently, the Grand Island Utilities Department is maintaining Neligh's RECs in a subaccount of the Grand Island Utilities Department's REC registry account. Discussions by the Grand Island Utilities Department with Neligh management resulted in the request by Neligh to participate in the Grand Island Utilities Department's REC marketing process. An agreement with Evergy, for the purchase and sale of RECs by the Department's wind facilities, including PBIII, was approved by Council on October 12, 2021.

Discussion

Based on the recommendation of Fraser Stryker, the outside legal counsel used in the original agreement with the PBIII power purchase agreement and the Neligh sale agreement, an amendment to the Neligh agreement, authorizing Grand Island to include Neligh RECs in the Evergy agreement with the revenue realized on transactions to be returned to Neligh, was drafted. Grand Island Utilities Department and Legal staff recommend approval of Amendment No. 1 to the Renewable Energy Credit Purchase and Sale Agreement executed with the City of Neligh.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee

3. Postpone the issue to a future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve Amendment No. 1 to the Renewable Energy Credit Purchase and Sale Agreement executed with the City of Neligh.

Sample Motion

Move to approve Amendment No. 1 to the Renewable Energy Credit Purchase and Sale Agreement executed with the City of Neligh.

**AMENDMENT NO. 1 TO RENEWABLE ENERGY CREDIT
PURCHASE AND SALE AGREEMENT**

This Amendment No. 1 (“Amendment No. 1”), is made and effective this 25th day of January, 2022 by and between the CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation and city of the first class organized and existing pursuant to Neb. Rev. Stat. §§ 16-101 et seq. (“GRAND ISLAND”), and the CITY OF NELIGH, NEBRASKA, a municipal corporation and city of the ___ class organized and existing pursuant to Neb. Rev. Stat. §§ _____ et seq. (“BUYER”). GRAND ISLAND and BUYER may be referred to individually herein as “Party” and collectively as “Parties.”

WHEREAS, effective June 9, 2015, Grand Island entered into a Power Purchase Agreement with Prairie Breeze Wind Energy III, LLC for the output of a 35.8 Megawatt wind energy facility (the "Plant"); and

WHEREAS, on October 15, 2015, Grand Island and Buyer entered into a Renewable Energy Credit Purchase and Sale Agreement ("Agreement") by which Grand Island agreed to sell and Buyer agreed to purchase certain Environmental Attributes related to the Plant (as those capitalized terms are defined in the Agreement); and

WHEREAS, contemporaneously with the execution of this Amendment No. 1, Grand Island intends to enter into a Renewable Energy Certificate Purchase Agreement ("REC Agreement") with Evergy Central, Inc. ("Evergy") by which Evergy will market the sale of Renewable Energy Certificates ("RECs") associated with generation from the Plant; and

WHEREAS, Buyer desires to have Grand Island include Buyer's RECs under the Agreement in the marketing of Grand Island's RECs by Evergy under the REC Agreement, pursuant to the terms of this Amendment No. 1.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. **Capitalized Terms.** For purposes of this Amendment No. 1, unless otherwise stated, capitalized terms shall have the meaning set forth in the Agreement.

2. **Marketing of RECs.** Under the terms of the Agreement, Grand Island agrees to sell and deliver, and Buyer agrees to purchase, approximately 5.59 percent (5.59%) of the RECs associated with generation from the Plant (the "Buyer's RECs"). As Grand Island is entering into a Renewable Energy Certificate Purchase and Sale Agreement with Evergy Kansas Central, Inc. (Evergy), Buyer elects to have Grand Island include Buyer's RECs in the marketing of Grand Island's RECs under the terms of the REC Agreement with Evergy. Grand Island shall include the Buyer's RECs in the RECs to be marketed by Evergy under the REC Agreement, and in all respects such Buyer's RECs shall be subject to the terms of the REC Agreement. For reference, Exhibit A of the Evergy REC Agreement is attached to this Amendment No. 1 as Exhibit A.

Buyer shall cooperate reasonably with Grand Island and, as required, with Evergy, with respect to the marketing and sale of the Buyer's RECs, including the execution of all documents needed in connection therewith. Within a reasonable time of its receipt of payment from Evergy for any sale of the Buyer's RECs, Grand Island shall make payment for such sales to Buyer.

2. **Effect of Amendment No. 1.** Except as expressly modified in this Amendment No. 1, the Agreement shall remain in full force and effect.

This Amendment No. 1 to the Renewable Energy Purchase and Sale Agreement is executed in duplicate originals this 25th day of January, 2022.

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: _____
Title: _____

CITY OF NELIGH, NEBRASKA

By: _____
Name: _____
Title: _____

EXHIBIT A

Renewable Energy Certificate Purchase and Sale Agreement Exhibit A

RESOLUTION 2022-22

WHEREAS, on June 9, 2015, Council approved the execution of a Power Purchase Agreement with Invenergy Inc., for the Prairie Breeze III Wind Energy Project, on September 8, 2015 Council approved an agreement with the City of Neligh for the sale of approximately 5.59% of the PBIII output including the Renewable Energy Credits, and on October 12, 2021 Council approved an agreement with Evergy for the purchase and sale of REC's by the Department's wind facilities; and

WHEREAS, the Grand Island Utilities Department is maintaining Neligh's Renewable Energy Credits in a subaccount of the Grand Island Utilities Department's REC marketing process; and

WHEREAS, Neligh has requested to participate in the Grand Island Utilities Department's REC marketing process.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Amendment No. 1 to the Renewable Energy Credit Purchase and Sale Agreement is approved, and the Mayor is hereby authorized to sign the amendment on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, January 25, 2022.

Roger G. Steele, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
January 21, 2022	☒ City Attorney