

## ***Lompoc City Council Agenda Item***

**City Council Meeting Date:** May 3, 2011

**TO:** Laurel M. Barcelona, City Administrator

**FROM:** Ronald V. Stassi, Utilities Director

**SUBJECT: Termination of Existing Western GeoPower Third Phase Agreement. Execution of New Western GeoPower Third Phase Agreement**



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### **Recommendation:**

The City Council adopt Resolution No. 5713(11) authorizing the Mayor to terminate the existing Third Phase Agreement (TPA) that currently exists between the Northern California Power Agency ("NCPA") and Western GeoPower Inc. (WGI), and authorize the Mayor to execute the New Third Phase Agreement for Western GeoPower, Inc.

### **Background/Discussion:**

On May 16, 2008, NCPA entered into a "take and pay" Power Purchase Agreement (PPA) with Western GeoPower Inc. (WGI) to purchase energy, capacity and renewable attributes from its proposed geothermal power plant at the Geysers for a 20-year term at an unescalated rate of \$98/MWh. The subsequent economic recession, financing costs, and increased construction costs created enough economic pressure that WGI was no longer able to develop the project at the \$98 price point. Over the course of many months of negotiations with Ram Power (parent company of WGI) new PPA terms have been agreed to. NCPA members Santa Clara, Roseville, Palo Alto, Lompoc, and the Port of Oakland have agreed to take the energy, capacity, and renewable attributes from the project for a 25-year term at an unescalated rate of \$113/MWh commencing on the commercial operation date for the project, which is presently scheduled for October of 2013. The City of Lompoc will purchase 3.8% or 0.99 MW of the plant's output.

In order to facilitate moving forward with this revised PPA, an Amended and Restated Power Purchase Agreement has been developed (Exhibit A of the new TPA). The amended PPA has been updated to include the new business terms and conditions including: NCPA to act as Scheduling Coordinator; option language for NCPA's right of first offer to purchase the plant should WGI decide to sell the project; and language addressing NCPA's right to take over operations in the event of a default by WGI as defined in the Agreement. In addition, a new TPA has been developed for the project. In order for the new TPA to be executed, it is necessary that the existing TPA be terminated by the participants of that TPA. To that end, a Termination Agreement has been drafted for the original project participants to execute.

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Environmental Analysis

Sonoma County Permit and Resource Management Department took the lead in conducting the CEQA review for the Western Geo project. On July 9, 2009, Sonoma County Permit and Resource Management Department adopted a Mitigated Negative Declaration for the Western Geo project. The Western Geo geothermal project will be constructed and financed by the developer. NCPA has no discretionary authority over the operations or the plant. Rather, the "project" under consideration by the Commission for purposes of CEQA is the approval of a power purchase agreement to purchase power from the geothermal project. CEQA contains an exemption known as the "common sense" exemption, which states that "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." (CEQA Guidelines, sec. 15061(b)(3); see also *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372.) The purchase of geothermal power involves only the transfer of power from the geothermal projects into the power grid and will not, in and of itself, cause any significant adverse impacts to the environment. To the contrary, the purchase of geothermal power will likely have a net benefit to the environment since it will likely displace the need to generate "dirtier" forms of energy.

NCPA Facilities Committee, Legal Committee, and Commissioners along with member Utility Directors have reviewed the aforementioned agreements. The NCPA Legal Committee agreed in principle with the agreements as drafted at the time of their review and recommended NCPA Commission approval. The NCPA Commission approved said agreements during its February 24, 2011 meeting.

Fiscal Impact:

The PPA with WGI is a "take and pay" contract requiring the project participants to pay only the contract price for energy and renewable attributes actually delivered by WGI, except in the rare circumstance where NCPA, as Scheduling Coordinator for the project, opts to curtail project output to avoid CAISO charges. If this should occur, then project participants are still required to pay the contract price for energy that could have been delivered except for the curtailment.

Delivery of energy is expected to commence in Fiscal year 2014. WGI is bearing all development costs for the project and as such, there are no cost impacts to NCPA or the members for entering into this PPA.

Conclusion:

Staff recommends approval of Resolution No. 5713(11) authorizing the Mayor to execute the Termination Agreement for the Third Phase Agreement that currently exists between the Northern California Power Agency ("NCPA") and Western GeoPower Inc. (WGI), and authorizing the Mayor to execute the New Third Phase Agreement.

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Ronald V. Stassi, Utilities Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

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Laurel M. Barcelona, City Administrator

Attachments:

- [Resolution No. 5713\(11\)](#)
- [Existing Third Phase Agreement Termination Agreement](#)
- [New Third Phase Agreement for Western GeoPower, Inc.](#)
- [Exhibit A: Amended and Restated Renewable Energy Power Purchase Agreement](#)
- [NCPA Staff Report and NCPA Resolution](#)