



City Council Agenda Item

City Council Meeting Date: June 16, 2020

TO: Honorable Mayor and City Councilmembers

FROM: Jim Throop, City Manager
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Jeff Malawy, City Attorney
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SUBJECT: Consideration of Community Benefit Agreement Proposed by Strauss Wind, LLC, in Connection with a 100-Megawatt Wind Energy Project to be Located on Private Land Southwest of the City

Recommendation:

Staff recommends the City Council:

- 1) Consider revisions proposed by staff to the Community Benefit Agreement (Attachment 1); and
- 2) Provide direction to staff regarding the agreement terms for further negotiation with Strauss Wind.

Background:

On June 2, 2020, the City Council considered a Community Benefit Agreement proposed by Strauss Wind, LLC, related to the development of an approximately 100-megawatt wind energy project to be located on private land southwest of the City (the Project).

The Project requires various approvals by multiple federal, state, and local government agencies, including but not limited to approval by the City of Lompoc of an Encroachment Permit, Transportation Permits (Oversize Vehicle Permits), and an agreement for roadway repair, for the transport of Strauss's large wind turbines through the City to the Project site.

The June 2 staff report contains a more detailed explanation of the Project background and the status of the City permit applications. (Attachment 2.)

Discussion:

Under the Community Benefit Agreement proposed by Strauss, Strauss would pay the City \$150,000, at the end of the project, in exchange for the City's agreement not to oppose or file a lawsuit to challenge the approvals Strauss seeks or receives from other government agencies. The City would retain all discretion to approve, condition, or deny the City of Lompoc approvals. The \$150,000 payment would be in addition to any costs Strauss is required to cover as conditions of its Lompoc permit approvals, including the cost of all impacts of the Project on City infrastructure, damage and wear and tear on City streets, staff time, and City Attorney time.

However, the Community Benefit Agreement stated the \$150,000 would only be paid if construction commences in all areas of the Project by June 15, 2020, and only if the Project is fully constructed and able to sell electricity by December 31, 2021. The payment would be made when the Project is fully constructed and able to sell electricity.

Staff is proposing the following changes to the Community Benefit Agreement:

1. The Community Benefit Payment will be made when any work begins in the City public right-of-way or any transportation begins on City streets along the Ocean Avenue / I Street route, whichever is earlier. There is no cut-off date after which the payment will not be made.
2. The City will reserve the right to oppose or file a lawsuit to challenge any future modifications to the Project's permits from other government agencies.
3. Mandatory binding arbitration is removed. The parties shall be able to enforce the Community Benefit Agreement in a court of law, and the prevailing party shall be entitled to recover its attorney fees.
4. The amount of the community benefit payment is increased to \$1,000,000.

Attachment 1 is a "marked up" copy of the Community Benefit Agreement, showing these proposed changes.

Fiscal Impact:

The Community Benefit Agreement would provide the amount of the agreed-upon community benefit payment to the City's general fund.

Conclusion:

Staff requests the City Council to review the proposed changes to the Community Benefit Agreement and provide direction regarding the agreement terms for further negotiation.

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Community Benefit Agreement Proposed By Strauss Wind, LLC

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Respectfully submitted,

Jim Throop, City Manager

A handwritten signature in blue ink, appearing to read "J Throop", written over a horizontal line.

Jeff Malawy, City Attorney

- Attachments
- 1) City staff's proposed changes to the Community Benefit Agreement
 - 2) June 2, 2020 City Council Staff Report and attachment