

## Environment Committee

For the Metropolitan Council meeting of July 24, 2013

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**Subject:** Authorization to Execute a Power Purchase Agreement and Land Lease for Solar Energy at the Blue Lake WWTP

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### Proposed Action

That the Metropolitan Council authorizes the Regional Administrator to execute a Power Purchase Agreement (PPA) and Land Lease with Oak Leaf Energy Partners, LLC (Oak Leaf).

### Summary of Committee Discussion/Questions

There was considerable discussion relative to the vendor's intentions to pay prevailing wages, use local labor, utilize DBE firms, and why Minnesota-made solar panels are not required.

Motion to approve proposed action was made, seconded, and passed unanimously, contingent on staff providing answers to council members' concerns.

Following the meeting staff gathered input from appropriate Council staff and the vendor, shown below:

1. Why were MN manufactured solar panels not required?

Response: Requiring Minnesota made solar panels now on this procurement is not possible since it was not specified in the original RFP. We are aware that the Oak Leaf – the selected developer, contacted and considered the primary two companies that assemble panels in the state. It is not known if either is still under consideration. Any decision to require Minnesota made panels on future projects is a policy decision that would need to be investigated for its legality and then be adopted by the Council.

2. What is the contractor's intention to utilize DBE firms?

Response: While this was not required, the contractor has committed to use at least one Council certified MnCUP contractor – Mouli Engineering – and will make additional efforts to utilize other DBE contractors and suppliers for the construction of the array.

3. What are the contractor's intentions for the utilization of local labor?

Response: Again, while not required, the contractor has committed to use local labor for the construction of the solar array. The contractor will provide a written, project specific Local Workforce Program to the Council's Authorized representative.

4. What is the contractor's intention for paying prevailing wages?

Response: According to the Council's Office of General Counsel, Minnesota prevailing wages are not required for the Blue Lake Solar project. They would only be required for public buildings or public works financed by state funds. Federally funded work may also require federal prevailing wages. The solar project is not a public building or public works because it will be owned and financed by Oak Leaf. There are no Council capital funds involved either. While Council (wastewater fees) will be used to pay Oak Leaf for power delivered, a prevailing wage requirement would be more than is required of Xcel, the incumbent provider of electricity to the site. The state statute is below:

"It is in the public interest that **public buildings and other public works** be constructed and maintained by the best means and highest quality of labor reasonably available and that persons working on public works be compensated according to the real value of the services they perform. It is therefore the policy of this state that wages of laborers, workers, and mechanics on **projects financed in whole or part by state funds** should be comparable to wages paid for similar work in the community as a whole." Minn. Stat. Sec. 177.41 (emphasis added).

## Environment Committee

Meeting date: July 9, 2013

For the Metropolitan Council meeting of: July 24, 2013

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**Subject:** Authorization to Execute a Power Purchase Agreement and Land Lease for Solar Energy at the Blue Lake WWTP

**District(s), Member(s):** All

**Policy/Legal Reference:** Council Policies: i) 3-3 Expenditures – Procurement of Goods and Services Over \$250,000; and ii) 1-2 Sustainability

**Staff Prepared/Presented:** Jason Willett, 651.602.1196

**Division/Department:** MCES c/o Leisa Thompson 651-602-8101

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### Proposed Action

That the Metropolitan Council authorizes the Regional Administrator to execute a Power Purchase Agreement (PPA) and Land Lease with Oak Leaf Energy Partners, LLC (Oak Leaf).

### Background

In 2012, the Council solicited proposals from solar contractors for a 25-year (plus possible extension) contract with private parties to design, build, own and operate a solar facility on the Blue Lake plant site. The electricity to be purchased will normally be entirely consumed by the plant. Six proposals were received and Oak Leaf was the least expensive and was judged well on quality of proposal and experience of the vendor.

Successful negotiations with Oak Leaf and a staff team, including Council's Office of General Counsel, have occurred over the last several months, and we have substantial agreement on the terms of the PPA and lease.

Changes in solar economics pricing due to legislation and PUC action have improved the economics. Moreover Xcel costs, which will be in part avoided, have continued to rise faster than inflation. The agreement has a condition precedent to any Council obligation related to satisfying the Council's financial hurdle; staff now believe that in almost all scenarios, the price, with or without a grant is likely to be a cost savings for our customers (on a net present value basis over the lifecycle).

### Rationale

On April 1, Oak Leaf, with MCES support, submitted a grant application to the Renewable Development Fund which is expected, if awarded, would provide the additional subsidy required to make the project more economically feasible for customers. The prospect for getting the grant may be impacted by uncertainty between the project partners, so it appears in our interest to get the PPA and lease terms executed now.

Moreover solar power provides substantial environmental and societal benefits, and it will reduce the uncertainty in a portion of MCES energy costs.

### Funding

While the final price for the energy will not be determined until the grant award is known, the costs of this energy will be included in MCES budgets, as is done now for energy purchased from Xcel.

### Known Support / Opposition

None