

Request for City Council Committee Action From the Department of Public Works

Date: February 23, 2008

To: Honorable Scott Benson, Chair Health, Energy and Environment Committee

To: Honorable Paul Ostrow, Chair Ways & Means Committee

Subject: Solar Photovoltaic Project – Convention Center

Recommendation:

1. If, by June 5, 2009, EyeOn Energy, LLC (EyeOn) produces signed contracts (Solar Services Agreement, Site Lease, and Grant Contract) that meet the terms of the RDF Board and City Council direction, then

- a) Authorize City officers to execute a new twenty-year Solar Services Agreement and Site Lease with EyeOn Energy, LLC for the purchase of renewable electric energy produced by EyeOn Energy, LLC at the Minneapolis Convention Center. The purchase of the renewable electric energy will be paid for from Fund 08650 Department 8650100. No additional appropriation is required.
- b) Authorize City officers to execute a grant contract with EyeOn Energy, LLC (coapplicants) and Northern States Power (NSP), as required to obtain the \$2,000,000 of grant funding from the Renewable Development Fund (for the Solar Photovoltaic Project) as administered by the Public Utilities Commission.
- 2. If, by June 5, 2009, EyeOn Energy, LLC (EyeOn) does **not** produce signed contracts (Solar Services Agreement, Site Lease, and Grant Contract) that meet the terms of the RDF Board and City Council direction or EyeOn voluntarily withdraws from the project prior to that date, then
 - a) Direct staff to redefine the project and to formally request the Renewable Development Board and the Public Utilities Commission re-designate the grant award to the City as a sole applicant.
 - b) Direct staff to issue a Request for Proposals (RFP) to qualified parties. The issuance of the RFP will be subject to Permanent Review Committee (PRC) review and approval.

Previous Directives:

- May 22, 2009 Staff directed to provide a timeline and update of attempts to contact EyeOn Energy, and an update on EyeOn Energy's Colorado project and the timeliness of those projects.
- o August 22, 2008 Item referred back to H.E. & E. and W&M/Budget Committees

 August 8, 2008 - Council approved accepting the grant, and directed staff to negotiate the Power Purchase Agreement (PPA) and the agreements associated with the grant as required by the Public Utilities Commission.

Prepared by: Greg Goeke, Director of Property Services

Approved by:

Steven A. Kotke, P.E., City Engineer, Director of Public Works

Steven Bosacker, City Coordinator

Presenters: Greg Goeke, Director of Property Services

Reviews

| Permanent Review Committee (PRC): | Approval | Yes | Date July 17, 2008 |
|--------------------------------------|----------|-----|---------------------------|
| Civil Rights Affirmative Action Plan | Approval | NA | Date |
| Policy Review Group (PRG): | Approval | NA | Date |

Financial Impact

X No financial impact - or - Action is within current department budget

Community Impact

Neighborhood Notification: Not Applicable

City Goals: Not Applicable

Comprehensive Plan: Not Applicable

Zoning Code: Not Applicable

The Proposed Project

The proposed project is envisioned to install up to 600 kW of direct current (DC) solar photovoltaic (PV) panels on the roof of the Minneapolis Convention Center and will be the largest PV installation in the state of Minnesota and the Upper Midwest region. The system will have the potential to produce 770,000 Kw of renewable electric energy on a yearly basis.

The systems will be owned, operated, and maintained by EyeOn Energy LLC. Payments from the RDF will be directed to EyeOn as solar kWh targets are met during the first two project years.

EyeOn and the City of Minneapolis will enter into a new twenty-year Solar Services Agreement (SSA) and associated Site Lease for the delivery and sale of the solar energy produced onsite. It is projected that the cost of the Power Purchase Agreement will be approximately \$46,000 per year. The City will only pay for the power the system produces. The costs will be offset by a reduction in yearly electrical charges normally paid to Xcel energy.

Background/Supporting Information

The City and EyeOn Energy, LLC of Boulder, Colorado (EyeOn) have applied for and received preliminary approval for \$2,000,000 in grant funding from the Renewable Development Fund (RDF) to offset the capital costs to install renewable energy (solar photovoltaic panels) at the

Minneapolis Convention Center. The grants, as well as the existing Federal Tax Incentives for renewable energy, were envisioned to make the project financially feasible without any capital investment by the City.

On August 8, 2008, the City Council approved accepting the grant, and directed staff to negotiate the Power Purchase Agreement (PPA) and the agreements associated with the grant as required by the Public Utilities Commission.

The City, EyeOn and the Chair of the RDF Board had agreed to post-pone the project until 2009 in order to replace the roof at the Minneapolis Convention Center (MCC) and to ensure that Federal Tax Incentives would be extended. The roof bids are scheduled to be received on June 25th and the Federal Tax Incentives have been extended.

On May 22, 2009, Council directed staff to report back as to the status of the project.

Current Status of Project:

The City, EyeOn and the staff of the RDF Board have made substantial progress in negotiations on the Solar Services Agreement (SSA), the Site Lease, and the Grant Contract.

In a conference call on May 12, 2009, EyeOn made a renewed commitment to sign the three contracts by May 15th and have its Due Diligence Requirements (as required for the Grant Contract) submitted by May 20th, 2009 in order to for the City's staff to make recommendation for execution at the June 1, 2009 Health, Energy and Environment Committee meeting. <u>To</u> date, these commitments have not been met.

On May 27th, EyeOn responded with several changes to the Solar Services Agreement. Staff contacted EyeOn expressing the need to resolve these issues and a conference call has been set for May 28th. At committee, staff will provide the results of the conference call.

(Attachment A) is a summary of the City's timeline and communications with EyeOn on this project. It is not inclusive of every phone call or e-mail on the project but is intended as a high level summary of significant information. At committee, staff will also provide its understanding of the status of EyeOn's similar projects on-going in Colorado.

(Attachment B) is a listing of the Due Diligence Requirements for the Grant Contract.

The SSA has reasonable contingencies (that are time certain) in place for both parties. EyeOn has retained several termination clauses, and likewise the City has negotiated termination clauses if EyeOn is unable to perform. The Grant Contract has been structured to limit the City's role (to complete the project) as appropriate. Legal Counsel for the City will available at committee to outline the major issues in the agreements and to answer questions.

The replacement of the roof at the convention center is proceeding with bids due to be received on June 25th, 2009.

Recommendation

The current availability of commercial credit has made the timely delivery of this project more difficult. The developer is trying to obtain financing for this project in combination with other projects they are working on.

Staff recommends that EyeOn be given (as a final and last opportunity) until the end of business on June 5th to conclude negotiations and to produce signed contracts (Solar Services Agreement, Site Lease, and Grant Contract) or be considered non- responsive or to voluntarily withdraw from the project prior to that date.

<u>If EyeOn is responsive</u>, staff recommends:

Authorize City officers to execute a new twenty-year Solar Services Agreement and associated Site Lease with EyeOn Energy, LLC for the purchase of renewable electric energy produced by EyeOn Energy, LLC at the Minneapolis Convention Center. The purchase of the renewable electric energy will be paid for from Fund 08650 Department 8650100. No additional appropriation is required.

Authorize City officers to execute a grant contract with EyeOn Energy, LLC (co-applicants) and Northern States Power (NSP), as required to obtain the \$2,000,000 of grant funding from the Renewable Development Fund (for the Solar Photovoltaic Project) as administered by the Public Utilities Commission.

If EyeOn is non-responsive or voluntarily withdraws, staff recommends:

Direct staff to redefine the project and to formally request the Renewable Development Board and the Public Utilities Commission re-designate the grant award to the City as a sole applicant.

Direct staff to issue a Request for Proposals (RFP) to qualified parties. The issuance of the RFP will be subject to Permanent Review Committee (PRC) review and approval.

Attachments: Attachment A

Attachment B

Cc: Chris Larson, Convention Center Steve Ethier, Convention Center Corey Conover, City Attorney's Office Cara Letofsky, Mayor's Office Gayle Prest, Sustainability Manager