



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

File #: BL2021-877

Type: Bill (Ordinance) **Status:** Passed

File created: 8/27/2021 **In control:** Metropolitan Council

On agenda: 10/5/2021 **Final action:** 10/5/2021

Title: An ordinance approving a contract between the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services and LightWave Renewables, LLC for the design, construction, operation, management, and administration services related to photovoltaic solar facilities located at Central Wastewater Treatment Plant, Whites Creek Wastewater Treatment Plant and Omohundro Water Treatment Plant.

Sponsors: Kyonzte Toombs, Bob Nash, Ginny Welsch, Burkley Allen

Indexes:

Code sections:

Attachments: 1. BL2021-877 Contract Exhibit

Date	Ver.	Action By	Action	Result
10/6/2021	1	Mayor	approved	
10/5/2021	1	Metropolitan Council	passed on third reading	
9/21/2021	1	Metropolitan Council	passed on second reading	
9/21/2021	1	Public Works Committee	approved	
9/20/2021	1	Budget and Finance Committee	approved	
9/7/2021	1	Metropolitan Council	passed on first reading	

An ordinance approving a contract between the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services and LightWave Renewables, LLC for the design, construction, operation, management, and administration services related to photovoltaic solar facilities located at Central Wastewater Treatment Plant, Whites Creek Wastewater Treatment Plant and Omohundro Water Treatment Plant.

WHEREAS, renewable energy sources are inexhaustible, and free of climate-warming pollution that is harmful to human and environmental health; and,

WHEREAS, Metropolitan Code of Laws Section 2.32.080 sets forth renewable energy portfolio standards to power Metro General Government operations, with the Metropolitan Government required to utilize 35% tier-one renewable energy sources by 2025, 2.45% of which must be derived from solar, and by 2041 to utilize 100% tier-one renewable energy, 10% of which must be from solar; and,

WHEREAS, Metro Water Services desires to enter into a contract with LightWave Renewables, LLC for the design, construction, operation, management, and administration services of three (3) solar facilities, the (“System”), located at Metro Water Services’ Central Plant, Whites Creek Plant and Omohundro Plant; and,

WHEREAS, the term of the agreement is thirty (30) years, calculated from the date at which Lightwave gives MWS written notice that the System is mechanically complete and capable of providing energy to the delivery point; and,

WHEREAS, in order to construct the System, pursuant to the contact, Metro must agree to lease a portion of

the premises where the System will be located to Lightwave ("Site Lease Agreement"); and,

WHEREAS, Section 4.12.160 of the Metropolitan Code limits the term of contracts for supplies to sixty (60) months, unless otherwise authorized by the Metropolitan Council; and,

WHEREAS, it is in the best interest of the Metropolitan Government of Nashville and Davidson County that this contract be approved.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the contract between the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services, and Lightwave Renewables, LLC for the design, construction, operation, management, and administrative services related to photovoltaic solar facilities located at Central Wastewater Treatment Plant, Whites Creek Wastewater Treatment Plant and Omohundro Water Treatment Plant, attached hereto and incorporated herein, is hereby approved, and the Metropolitan Mayor is authorized to execute the same.

Section 2. That the Director of Public Property Administration, or his designee, is authorized to execute the Site Lease Agreement, attached hereto as Exhibit A, Section 5, and incorporated herein, in the form attached hereto or in substantially similar form.

Section 3. Amendments to this legislation shall be approved by resolution.

Section 4. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance approves a contract between the Metropolitan Government and LightWave Renewables, LLC related to photovoltaic solar facilities located at Central Wastewater Treatment Plant, Whites Creek Wastewater Treatment Plant, and Omohundro Water Treatment Plant. The agreement is in furtherance of the Council's approval of Ordinance No. BL2019-1600, now codified as Metro Code of Laws Section 2.32.080, which in part requires Metro to utilize 35% tier-one renewable energy sources by 2025, 2.45% of which must be derived from solar, and to utilize 100% tier-one renewable energy by 2041, 10% of which must be from solar. Section 4.12.160 of the Metro Code requires Council approval of contracts in excess of sixty months.

This is an assignment of a contract originally approved by BL2021-613. The contract was originally with LightWave Solar, LLC, who has agreed to assign the contract to the newly named LightWave Renewables, LLC ("Lightwave"). The contract approved by BL2021-613 will be replaced by the contract approved by this ordinance.

Lightwave was originally selected through a request for proposals process to design, construct, and maintain solar arrays at the three MWS facilities (the "System"). The term of the agreement is for 30 years commencing on the date when LightWave gives written notice to MWS that the System is mechanically complete and capable of providing electric energy. Lightwave will remain the owner of the System and will provide to MWS all of the electrical energy generated by the System during term of the agreement. MWS will be responsible for delivering any electric energy generated by the System that is in excess of the MWS facility's requirements to Nashville Electric Service.

MWS will make monthly payments to Lightwave in the amount of \$31,090.99 throughout the term of the

agreement. Metro can terminate the agreement for any reason with 90 days written notice and upon the payment of a termination fee, which is calculated as the sum of (1) a percentage of the System value after depreciation, (2) the net present value of the remaining monthly payments, and (3) the costs of removal. If Lightwave terminates the agreement early, Metro will be entitled to a termination payment consisting of the net present value of the expected cost of the electricity that is in excess of the monthly fee.

MWS cannot make alterations to the System that could adversely affect operation of the System without Lightwave's consent. MWS can be "off line" up to 48 daylight hours per year without penalty. Being off line for more than 48 hours in a year will require MWS to reimburse Lightwave for lost environmental incentives or lost sales. MWS will have the option to purchase the System at fair market value at the end of the 6th, 15th, 20th, and 25th contract year.

This ordinance also approves a site lease for the solar array areas for the duration of the solar energy agreement with Lightwave.

Future amendments to the agreement may be approved by resolution.

Fiscal Note: The estimated total value over the life of this contract is \$11,192,756.40. This would be paid from the Water and Sewerage Operating Fund #67331, Business Unit #65560210.