

## **COUNCIL ACTION FORM**

**SUBJECT: APPROVAL OF AGREEMENT WITH THE IOWA AGENCY FOR MUNICIPAL WIND (IAMWIND) FOR IMMEDIATE WITHDRAWAL**

**BACKGROUND:**

In March of 2007 the City Council authorized participation in Phase I of an assessment of the feasibility of development of wind energy in conjunction with the Iowa Association of Municipal Utilities (IAMU). IAMU contracted with a private firm (JW Prairie Wind) to select possible wind turbine sites and a possible project developer. The Council authorized an amount not to exceed \$50,600 for this assessment.

Between March and October of 2007, potential participants in the project decreased and the City was asked to increase its level of participation from 14MW to 21.7 MW. The City committed to increasing its financial commitment to \$56,138. At this point, Iowa State University (ISU) expressed an interest in purchasing 5 MW of the City's 21.7 MW and agreed to reimburse the City for its proportional cost.

On June 10, 2008, the City Council and EUORAB met in a joint session to discuss power supply options for the City of Ames for the next 20 to 25 years. As a part of that discussion, it was determined that the City would achieve a goal of 10% renewables above the current RDF amount by 2015. This goal would then increase to 15% by 2018, and to 20% by 2021. These goals would be met by participation in IAMWind and/or other entities, including issuing a Request for Proposals (RFP) for capacity and/or energy.

In October of 2008, IAMU transferred assets and management of the potential wind project to IAMWind, a separate entity formed under Iowa Code, Chapter 28, Section E. At that time, the City Council was asked to become a founding member of IAMWind and commit, not to exceed, \$400,800 for development of Phase II of what would be referred to as the Ridgeport Project.

City staff identified several concerns with the 28E Agreement as it was presented to the City Council in October 2008. The City Council approved participation under the condition that the 28E would be revised so that it could not be altered with less than a unanimous vote. To date, the Board of IAMWind has not taken any action to approve this requested change.

Additionally, IAMU was involved in the study and possible development of a wind farm near Carroll, Iowa. Participants in Phase II of the Ridgeport Study were given the opportunity to purchase windpower from that facility. To date, that wind facility has yet to be developed.

In April of 2009, City Council authorized staff to solicit proposals for renewable energy from sources other than IAMWind while continuing work on the Phase II Ridgeport Study. Staff issued the RFP shortly after the Council authorization.

Ten proposals were received on May 28, 2009. A review committee consisting of the Director of Electric Services, Director of Finance, Assistant Director of Utilities at Iowa State University, and an Assistant City Manager analyzed and rated the proposals against eight weighted factors. The highest weighted factors were price and total cost of delivery, company experience and resources, and level of development risk. The highest rated proposals provided wind energy from long-established and industry leading companies. The best pricing was available only at the higher end of the megawatt purchase (25 to 30) range provided in the RFP.

Under the highest-rated proposals, the City of Ames could receive renewable energy by January 2010 from facilities either currently in operation, or on-schedule to be in commercial operation prior to the first of next year. In September of 2009, the City Council approved a power purchase agreement with NextEra Energy Resources LLC, doing business as Garden Wind LLC. The agreement provides the City with 30MW of wind energy and 6 MW for Iowa State University. This amount is the maximum of wind energy that the City can incorporate into its portfolio at this time.

The City of Ames began receiving wind energy from Garden Wind, LLC, in late December 2009. This contract has allowed the City to meet the goal of 10% new renewable energy by 2015.

**Continuing with the IAMWind project presents several substantial risks to the City of Ames. First, staff still does not have a completion date for the Phase II Feasibility Study, as most dates for completion of specific tasks have already been missed and have not been re-established. Second, in addition to the feasibility study not being complete, IAMWind has still not produced what City staff considers a workable business plan. Third, the feasibility study has identified a number of possible methods of funding the potential project, but no particular method has been chosen. The financial portion of the feasibility study has relied heavily on federal tax credits, including the Investment Tax Credit (ITC) to make the project affordable. There is financial risk in continued investment in an entity with no combined experience in development, construction, or maintenance of a wind power facility. Without Board approval, the Secretary/Treasurer submitted an application to the IRS requesting authority to issue Clean Renewable Energy Bonds (CREB) financing. The IRS subsequently granted the authority to issue the bonds even though the Board has yet to take any formal action to approve the request. Finally, there is a risk of future indebtedness related to the continued IAMWind involvement. The CREB application states that municipal revenue bonds would be issued to pay the balance of development costs not covered by the CREB. Additionally, the repayment of the funds**

**borrowed through the CREB process (should CREB bonds actually be issued by IAMWind) could become an obligation of the City of Ames if we remain a member.**

#### Agreement for Early Withdrawal from IAMWind

The attached Exhibit A is an agreement proposed by IAMWind to allow the City of Ames to immediately withdraw from the Agency without the one year notice period. In order to waive the one year requirement, the City of Ames is being asked to forward the sum of \$56,440.46 to the Agency on or before March 15, 2010. In return for the final Phase II payment and execution of this agreement, the City of Ames shall no longer be a member or participant in the Agency and all of the City's rights and obligations to the Agency cease.

The City's initial obligation to IAMWind for Phase II (including ISU's portion) was \$395,330.60. To date, the City has paid \$197,665.30. The University has reimbursed the City \$45,545 of that payment. Over the past 15 months, additional utilities have joined IAMWind, resulting in a reduction of the City's proportionate share of the total Phase II costs. By approving this early withdrawal agreement, the City's total payment to IAMWind would be \$254,105.76. It should be noted that communication has been received from ISU, confirming that it will pay its portion of the \$56,440.46 (approximately \$12,981).

It should be noted that in the event the expenses for Phase II are less than the original budgeted amount of \$1,366,345, the City would be refunded its proportionate share after final accounting of project cost. Also, should the Ridgeport Project site be sold without any further obligations on the part of IAMWind, the City will be returned – after final closing – its share of revenues or other funds generated from the sale.

While \$254,105.76 is a great deal of money to have expended without any wind generation facilities constructed by IAMWind, this was a risk that the City was aware of at the time that approval was given to participate in the Phase II Ridgeport Study. However, the City has been successful in obtaining 30 MW (plus an additional 6 MW for ISU) under very favorable terms from a private entity. The objective of adding 10% of additional renewable energy to the City's portfolio has been accomplished ahead of the Council's original timeline.

#### **ALTERNATIVES**

1. Approve the early withdrawal agreement between the City of Ames and the Iowa Agency for Municipal Wind as proposed in Exhibit A.
2. Propose modifications to the withdrawal agreement and ask staff to negotiate with the board of directors of the Iowa Agency for Municipal Wind.
3. Remain a member of the Iowa Agency for Municipal Wind and allow the one year withdrawal notice requirement to lapse.

## **MANAGER'S RECOMMENDATION**

The idea of obtaining additional renewable energy as a part of the City's total energy portfolio is an important step in making the City of Ames a more sustainable community in which to live and work. When originally proposed, the Ridgeport Project seemed to be a viable option for obtaining this renewable energy. However, the NextEra Resources Energy LLC's Garden Wind operation – with its proximity to Ames – has proven to be a better alternative and allowed the City to obtain cost effective wind energy well ahead of the City Council's timeline and with no risk of indebtedness.

It remains unknown whether or not the Ridgeport site will ultimately be developed and if so at what cost. At this time, the City of Ames has no need for the 21.7MW which was our proportionate share of that project. The risk of further financial commitment on the part of the City of Ames with no demonstrated need for the energy that may eventually be produced from the site is a risk that staff feels should be avoided.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 and accept the proposed agreement (Exhibit A) with the Iowa Agency for Municipal Wind and make payment in the amount of \$56,440.46 to achieve waiver of the one year notice requirement for withdrawal from the Agency. Funding for this payment will come from the Electric Fund balance.

## **EXHIBIT A**

### **AGREEMENT REGARDING THE WITHDRAWAL OF THE CITY OF AMES FROM THE IOWA AGENCY FOR MUNICIPAL WIND.**

BE IT REMEMBERED that for the mutual promises, covenants and other considerations herein contained the City of Ames and the Board of Directors of the Iowa Agency for Municipal Wind have entered into the following Agreement to wit:

Section 1: The City of Ames shall deposit with the treasurer of the Iowa Agency for Municipal Wind, on or before March 15, 2010, the sum of \$ 56,440.46 (fifty six thousand four hundred forty dollars and forty six cents) which represents the remainder of "Phase II" budgeted costs attributable to the City of Ames, and all other indebted or obligations of the City of Ames to the Iowa Agency for Municipal Wind.

Section 2: In the event the Iowa Agency for Municipal Wind's cost for Phase II are less than the budgeted amount of \$1,366,345, the City of Ames shall be refunded its proportionate share upon final accounting of project costs. In the event the Ridgeport site is sold without any contractual obligations to the Iowa Agency for Municipal Wind, the City of Ames will be returned, upon final closing, its proportionate share of revenues or other money generated like any other member.

Section 3: Upon execution of this Agreement, the City of Ames ceases to be a member of the Iowa Agency for Municipal Wind and ceases to be a participant under the Participation Agreement dated October 31, 2008.

Section 4: Upon execution of this Agreement, the City of Ames shall no longer be a member or participant in the Agreement Creating Iowa Agency for Municipal Wind under Iowa Code Chapter 28E, and all its rights and obligations thereunder cease and are held for naught.

Section 5: The City of Ames acknowledges and agrees that by this Agreement it waives all and any claims it may have of every and all nature to claim or receive any share of electric generation from the Ridgeport site.

Section 6: Iowa Agency for Municipal Wind agrees that any other entity which wishes to withdraw from present agreements shall be allowed to withdraw upon the same basis as set forth in this Agreement.

Section 7: This is the entire Agreement of the parties, all prior agreements, contracts and understanding are hereby held for naught.