

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Michael Rock, Town Manager 

Date: March 3, 2010

Subject: Authorize the Town Manager to sign the Memorandum of Understanding with the Marin Energy Authority guaranteeing a portion of the Marin Clean Energy's working capital loan in the amount of \$100,000 and receive an annual discount of \$7,368 in energy costs from the deep green or light green renewable energy product for five years for a total discount of \$36,840

RECOMMENDATION

Authorize the Town Manager to sign the MOU providing a guarantee for a portion of MEA's working capital loan in the amount of \$100,000 and receive an annual discount of \$7,368 per year in energy costs from MEA's deep green (100% renewable) or light green (25% renewable) energy product for five years, a total savings to the Fairfax General fund of \$36,840. This guarantee would be used to cover the revolving working capital that fills the rolling time lag between when MEA energy is purchased and when customer revenue is received. There is no cash requirement for providing this guarantee unless MEA defaults on loan payments.

DISCUSSION

The MEA is composed of eight elected representatives, one from each member jurisdictions as follows: Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausalito, Tiburon, and the County. The purpose of MEA is to address climate change by reducing energy related greenhouse gas emissions and securing energy supply, price stability, energy efficiencies and local economic and workforce benefits. It is the intent of MEA to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar and wind energy production at competitive rates for customers.

On May 7th the MEA Board approved and released a Request for Proposal (RFP) for 'full requirements' electricity supply. This competitive solicitation process resulted in 12 bids for power with prices in the expected range described in Marin's CCA business plan. The power costs projected in the bid proposals would be at or below PG&E's projected rates for the light green option (starting at 25% renewable energy, growing to 50% in four years). The deep green option (100% renewable energy) would also be available to customers for a slight premium (\$3.50 per month for an average residential customer) above PG&E's projected rates.

On October 1st the MEA Board approved and released a draft contract for power purchase. Feedback on the draft contract was incorporated from the city and town attorneys, a sub-set of the City Managers group, staff, technical and legal consultants, and input from each of the member jurisdictions, including your Board. In addition, feedback from an independent peer review by MRW and Associates was incorporated into the final draft.

On November 5th the MEA Board approved and released a final draft contract for power purchase. This action initiated a 90-day review period for the final contract. During this process each member agency was provided with their final opportunity to withdraw before contract execution. Eight of the nine original members chose to remain in MEA under the terms of the contract insuring that all of the energy customers in their jurisdiction, both residential and commercial, will comprise the energy load of the MCE Program, allowing it to achieve economies of scale that would not be possible if the County acted alone.

The following actions to launch a CCA program in Marin have been accomplished from 2004 to 2010 as follows:

- ✓ Initial Feasibility Study Conducted
- ✓ Risk Analysis Conducted
- ✓ Bond Council/Legal Review Completed
- ✓ Business Plan Prepared
- ✓ JPA formed: Marin Energy Authority
- ✓ RFP Process for Power Supplier Conducted
- ✓ Data Management Agreement Prepared
- ✓ Power Supply Contract Prepared and Reviewed Publicly for 90 days
- ✓ Eight Jurisdictions Commit their Customer Base to MCE (subject to individual opt out)
- ✓ Term-sheet for Implementation Loan Prepared by Financial Institution
- ✓ Implementation Plan Approved by the CPUC
- ✓ Grants totaling \$240,000 from CEC, BAAQMD & MMWD awarded to support CCA efforts
- ✓ 6 Expert Third-Party Peer Reviews Completed between 2005 – 2009

The development and design of the MCE Program has been a deliberate process encompassing many years of analysis and preparation. The majority of start-up risks of the program have already been overcome and the Program is now positioned for implementation.

Supporting the Marin Clean Energy Program at this stage through implementation will result in a one-time risk of budget exposure that is unlikely to occur. By contrast, providing this support will result in direct recurring budget savings through reduced and locked in energy costs that ease pressure on the general fund on a recurring basis. Few, if any, programs are currently available to the Town that can result in such substantial ongoing savings.

FISCAL IMPACT

One impact is a savings of \$7,368 annually for five years or a total savings of \$36,840 to the Town's energy costs. The worst case scenario is the MEA defaults on the loan and the Town will not recover the \$100,000 or the deep green discounts totaling \$36,840.

ATTACHMENTS

1. MOU between the Marin Energy Authority and the Town of Fairfax Regarding Loan Guarantee
2. Exhibit A: Loan Agreement
3. Exhibit B: Commercial Guarantee

Memorandum of Understanding Between the Marin Energy Authority and the Town of Fairfax Regarding Loan Guarantee

Whereas, the Marin Energy Authority (MEA) is a joint powers agency formed by the Marin Energy Authority Joint Powers Agreement (MEA JPA) and operating under the authority of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.) to form and operate a separate public agency for Community Choice Aggregation (CCA) electric power service, along with other purposes enumerated in the MEA JPA; and

Whereas, the Town of Fairfax (Fairfax) is a Party to the MEA JPA, and pursuant to section 2.3 of the MEA JPA the obligations of the MEA are not the debts, liabilities or obligations of the Parties to the MEA JPA; and

Whereas, for the purposes of this Memorandum of Understanding, Fairfax is acting in its individual capacity as a town; and

Whereas, the MEA has requested that Fairfax guarantee \$100,000 of a bank loan in the form of a \$500,000 working capital facility for the MEA to provide funds for the initiation and operation of the MEA CCA electric service; and

Whereas, the Joint Exercise of Powers Act at Government Code section 6508.1 permits a party to the joint powers agreement to separately contract for, or assume responsibility for, specific debts, liabilities or obligations of a joint powers agency; and

Whereas, the Town Council's action in approving the loan guarantee was made on March 3, 2010 as memorialized below by this Memorandum of Understanding;

Now, therefore the MEA and Fairfax agree as follows:

1. The MEA represents that it has the legal authority under the laws of the State of California to enter into the working capital loan transaction in the amount of \$500,000 from River City Bank, as evidenced by the Loan Agreement attached hereto as Exhibit A (hereinafter referred to as the River City Loan.)
2. In reliance upon the above representation and agreement, Fairfax will sign the Commercial Guarantee in the form attached hereto as Exhibit B. In furtherance of the loan guarantee, Fairfax will set aside \$100,000 in a [name type of Fairfax account] for the period of time until the loan has been satisfied by MEA or by drawing upon Fairfax's guarantee for the full amount. MEA agrees Fairfax's liability under this agreement is for the specific bank loan guarantee identified herein only, that Fairfax shall not be liable for any other debts, liabilities or obligations of the MEA as provided by section 2.3 of the MEA JPA.
3. In making the loan guarantee referenced above, Fairfax is acting in its individual capacity as a town, and is not acting as a Party to the MEA JPA, as a member of the MEA joint powers authority, or as an alter ego of the MEA.

APPROVED BY TOWN OF FAIRFAX

By: _____
Michael Rock, Town Manager

Dated: _____

APPROVED BY MEA

By: _____
Dawn Weisz, Interim Executive Director

Dated: _____