

DOCKETED	
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Organization:	Stantec Consulting Services, Inc.
Submitter Role:	Applicant Consultant
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December 14, 2023

California Energy Commission
Attn: Lon Payne
Docket Unit MS-4, Docket No. 23-OPT-01
715 P Street
Sacramento, CA 95814

Re: Fountain Wind Project Community Benefits Agreement Update & Submittal

Dear Mr. Payne,

On behalf of Fountain Wind, LLC (“Applicant”), I am writing to inform you that the Applicant has executed a legally binding and enforceable agreement with the Northeastern California Building & Construction Trades Council, a community-based organization located within Shasta County, in accordance with the requirement in Public Resources Code section 25545.10.

The Applicant is providing this update pursuant to 20 CCR section 1878(c), which states, “No later than 45 days after an application is deemed complete, or a later date set forth by the executive director, **the applicant shall provide information updating or supplementing** the information in the application to support the findings required by Public Resources Code sections 25545.9 and 25545.10.” Although Public Resources Code section 25545.10 only requires the Applicant to execute a Community Benefits Agreement prior to certification of a site and related facility, and nothing in 20 CCR section 1878 requires the Applicant to execute a Community Benefit Agreement within 45 days of the application being complete, the Applicant has entered into this agreement within the requested 45-day timeframe as part of its demonstrated commitment to local community benefits.

Additionally, Public Resources Code section 25545.10 requires the Applicant to enter into “**one or more**” agreements. Therefore, this agreement satisfies the requirements of section 25545.10. However, as was mentioned during the Applicant’s presentation during the November 28th, 2023, Public Scoping Meeting, and as a further update under 20 CCR section 1878(c), the Applicant is working with additional community-based organization(s) on additional Community Benefit Agreement(s). The Applicant will provide more information on those agreements on the public record once they have been executed and are in full force and effect; however, to the extent they are executed outside the requested 45-day timeframe, CEC staff should not delay continued processing of the opt-in application.

Respectfully,



Henry Woltag
Director, Development

COMMUNITY BENEFITS AGREEMENT

This Community Benefits Agreement (“Agreement”) is made and entered into as of the latest date of execution hereof (the “Effective Date”) by and between Fountain Wind LLC (“Developer”) and Northeastern California Building & Construction Trades Council (“Union”). Developer and Union are herein referred to each as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, Developer intends to develop, construct, and operate and maintain a wind energy project, the Fountain Wind Project (the “Project”), in Shasta County, California, pursuant to the California Energy Commission’s (“Commission”) opt-in program under Assembly Bill 205 (“AB 205”; *see also* Public Resources Code § 25545 *et seq.*);

WHEREAS, under the Commission’s opt-in program, Public Resources Code section 25545.10 requires Developer to enter into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community-based organizations, such as workforce development and training organizations, labor unions, social justice advocates, local governmental entities, California Native American tribes, or other organizations that represent community interests, where there is mutual benefit to the parties to the agreement;

WHEREAS, the Union is a community-based labor organization within the meaning of, and explicitly referenced by, Public Resources Code section 25545.10, and also is located within Shasta County at 900 Locust Street, Redding, CA 96001; the Union is a council comprised of local labor union affiliates that conduct monthly council meetings;

WHEREAS, the Parties desire to enter into this Agreement to provide funding to the Union for purposes consistent with its mission, including improving the community workforce development standards through construction and development advocacy, investment in localized state approved apprenticeship training programs, partnerships with end-users and contractors that employ local residents, and working with other local entities and educators to provide pathways to employment and well-paying careers in the building and construction trades;

WHEREAS, there is mutual benefit to the Parties to this Agreement, as the Union receives significant funding to further its workforce training and development purposes, and Developer satisfies the requirements of Public Resources Code section 25545.10 in furtherance of developing a renewable wind energy project in accordance with the State of California’s renewable energy goals under Assembly Bill 32, Senate Bill 100, and other related legislation and Executive Orders.

NOW, THEREFORE, in consideration of the mutual covenants, promises and undertakings set forth herein, and other consideration, the receipt and adequacy of which the Parties hereby acknowledge, the Parties agree to the following terms and conditions:

AGREEMENT

1) Developer and Union Obligations

A. Workforce Training and Development Funding

- i) Developer agrees pay to the Union \$175,000 (the “Funding Obligation”) for workforce training and development purposes, specifically for workplace health and safety, job quality and job training, worker recruitment, screening, and hiring strategies and practices, targeted hiring planning and execution, investment in workforce training and education, and worker voice and representation in decision making affecting employment and training (individually and collectively, the “Permitted Purposes”).
- ii) The Union shall have discretion in using the funds to further its mission; provided, however, that the Union must use the funds solely to provide services for the Permitted Purposes to support its members residing and working in Shasta County, and provided further that the Union shall use a portion of the funds to (a) conduct Project job fairs in both Redding and Burney on or before commencement of excavation work for the installation of a foundation for a wind turbine included in the Project or excavation work for roads included in the Project (“Project Construction Commencement”) and (b) provide at least two month-long Multi-Craft Core Curriculum (“MC3”) Trainings, as outlined in Exhibit A, in both Redding and Burney on or before commencement of commercial operations. In offering such services and trainings, the Union shall give preference to workers and applicants residing and working in areas near the Project site, including Round Mountain, Montgomery Creek, and Burney, to the extent feasible. Developer agrees to provide Union with notice of Project Construction Commencement.
- iii) Upon hosting a job fair or MC3 training, the Union shall provide a written report to Developer summarizing the results of the event, including total attendance, applications, and any other relevant information.

B. Funding Conditioned on Project Approval

Developer’s Funding Obligation under this Agreement is subject to its receipt of the Final and Unappealable certification to construct and operate the Project by the Commission and Final and Unappealable resource agency permits necessary for Project construction, including but not limited to applicable permits from the Regional Water Quality Control Board and U.S. Army Corps of Engineers (collectively, the “Project Approvals”) and issuance by the Developer of full notice to proceed to the primary engineering, procurement, and construction contractor under the relevant engineering, procurement, and construction agreement for the Project (“FNTP Issuance”). If the Project Approvals are not obtained or if FNTP Issuance does not occur, this Agreement shall terminate and be null and void and of no further force or effect, and Developer shall have no further obligations under this Agreement, including without limitation the Funding Obligation. “Final and Unappealable” means final for all purposes and not subject to further legal or administrative challenge or appeal or, if a legal or administrative challenge is filed, a final judgment or resolution upholding the Project Approvals.

2) General Provisions

A. Meet and Confer.

In the event any dispute arises between the Parties with respect to this Agreement or the Project, the Parties agree to, before taking any other judicial or administrative action concerning that dispute, provide written notice of the dispute to the other Party and meet and confer in a good-faith effort to resolve the dispute within fifteen (15) days, unless otherwise mutually agreed. If the dispute is not resolved within fifteen (15) days after such meeting, either Party may commence formal dispute resolution proceedings, pursuant to section 2(B) below. If judicial or administrative action concerning the dispute is subject to a statute of limitations that may expire within 60 days before or after the above-referenced 15-day notice period, then Developer may take such actions as are necessary to preserve its legal challenge.

B. Superior Court Jurisdiction and Choice of Law.

In the event a dispute arises that is not resolved pursuant to section (2)(A) above, any litigation that may become necessary to enforce the Parties' rights and obligations under this Agreement shall be adjudicated in a court of competent jurisdiction in California.

C. Specific Performance.

In response to any action to enforce this Agreement, the court may order any equitable or injunctive relief, or issue an order of specific performance, it being the Parties' intent that all of the non-contingent promises in this Agreement shall be carried out in full. Neither Party shall be entitled to, and each Party hereby waives any and all rights to recover, consequential, incidental, and punitive or exemplary damages, however arising, whether in contract, in tort, at law, in equity, or otherwise, in connection with this Agreement, provided, the foregoing shall not limit Developer's right to seek return of the amount set forth in section (1)(A)(i) above.

D. Cooperation.

The Parties agree to cooperate reasonably to draft and execute any documents, or to enter into any further agreements or plans, necessary or convenient to effectuate the intent of this Agreement.

E. Interpretation and Representation of Counsel.

This Agreement shall not be construed for or against either Party by reason of that Party or its counsel having drafted all or part of the Agreement. All Parties mutually warrant and represent that they are and have been represented by counsel of their own choosing in the negotiation and drafting of this Agreement and that they understand fully and voluntarily consent to all provisions herein.

F. Assignments.

Developer is permitted, in its sole discretion, to assign any or all of its rights, benefits, and obligations under this Agreement to any successor(s) in interest to all or any part(s) of the Project. Any such assignment shall be by a written instrument. In the event of any such assignment(s), Developer must ensure that the assignee(s) become contractually obligated to comply with all of Developer's obligations under this Agreement pertaining to the assignment(s) in question unless Developer expressly retains one or more of such obligations itself. The Union may not assign any or all of its rights, benefits and obligations under this Agreement without the prior written consent from Developer. This Agreement shall be binding on any and all of the Union's successors and assigns. A direct or indirect change of control of Developer is not and shall not be deemed and to be an assignment.

G. Sole Agreement and Amendments.

This Agreement is the sole agreement among the Parties concerning the matters specifically addressed herein. This Agreement supersedes any written or oral agreement(s) or representation(s) that preceded or may have preceded execution of this Agreement. No Party has relied upon any oral representation(s) in deciding whether to enter into this Agreement. No amendment or modification to this Agreement shall be effective unless it is in writing and signed by the Party or Parties to be bound thereto.

H. Counterparts, Electronically Delivered Signatures, and Authorization.

This Agreement may be executed in counterparts and may be executed by electronically delivered signatures. If so executed, any copy of this Agreement bearing original or electronically delivered signatures may be used to establish the contents and valid execution of this Agreement. Each person signing this Agreement represents and warrants that he or she is fully authorized to execute this Agreement on behalf of the Party for which he or she is signing, and by so executing to bind such Party to the terms herein.

I. Force Majeure.

The Parties shall not be responsible or liable for any failure or delay in the performance of its obligations pursuant to this Agreement arising out of or caused by, directly or indirectly, forces beyond the reasonable control of the Parties, including, without limitation, fire, explosion, flood, acts of war or terrorism, non-Union strikes, and riots, provided that the Parties use commercially reasonable efforts to avoid or remove such causes of non-performance and promptly continue performance under this Agreement whenever such causes are removed.

J. Severability.

Each material term of this Agreement was an inducement to the Parties to agree to other material terms. Accordingly, if any material term of this Agreement as applied to either Party or to any circumstance is adjudged by a final determination of a court with all available appeals exhausted to be void or unenforceable, that may deprive the other Party of a benefit without which that other Party might not have agreed to this Agreement that Party may file litigation seeking the court's equitable action to alter or terminate that Party's obligations hereunder but only to the degree that the court determines in its equitable discretion is necessary to restore

that Party as closely as reasonably possible to the position it would have been in had the material term in question not been adjudged to be void or unenforceable.

K. Captions and Headings.

Captions and paragraph headings used in this Agreement are for convenience and shall not be used to govern, construe, or interpret this Agreement.

L. Incorporation of Recitals.

The recitals contained herein are hereby incorporated by this reference and are binding upon the Parties hereto.

M. No Third-Party Beneficiaries.

The rights contained in this Agreement belong solely to the Parties and to any assignee pursuant to Section (2)(F) above. No other person or entity shall have any rights under this Agreement.

N. Parties' Designees to Receive Notices.

Any notice required under this Agreement to be given to any Party shall be given to the relevant Party's designee(s) listed, who are the signatories to this Agreement, at the address below such signatory's name, to be sent overnight mail by a reputable carrier. Any Party may update its person(s) so designated by given written notice to all other Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the Effective Date.

Fountain Wind LLC

Northeastern California Building & Construction Trades Council

DS
M.D

DocuSigned by:
By: Mark Eilers
0628F8CB1EE847C...

Print Name: Mark Eilers

Title: Authorized Representative

Date: 12/12/2023

DocuSigned by:
B: Stephanie LaPier
0D6BD32D7D4742A...

Print Name: Stephanie La Pier

Title: Authorized Representative

Date: 12/12/2023

By: Matt Goody

Print Name: Matt Goody

Title: President

Date: 12/13/2023

Address:
900 Locust Street,
Redding, CA 96001

Address:
c/o Avangrid Renewables, LLC
Attn: Development
2701 NW Vaughn Street
Suite 300
Portland, OR 97210

EXHIBIT A

MULTI-CRAFT CORE CURRICULUM (MC3) TRAINING OVERVIEW

In 2007, North America's Building Trades Unions ("NABTU") Standing Committee on Apprenticeship and Training created a multi-craft training curriculum for use in Building Trade Apprenticeship Readiness Programs ("ARPs"). ARPs were designed to prepare interested young people and transitioning adults to enter and succeed in registered apprenticeship programs, which are gateways to good middle-class jobs in the U.S. construction industry. The more than 150 ARPs across the United States are sponsored by State and Local Building Trades Councils, Training Coordinators and Joint Apprenticeship Training Committees ("JATCs") in partnership with local community groups, construction contractors, government agencies, and schools.

The goals of the ARPs are to (1) increase the number of qualified candidates for apprenticeship across all crafts, (2) to increase the diversity of apprenticeship candidates by recruiting women, people of color, and veterans, and (3) to increase the retention rate among apprentices by providing them with a deeper understanding of both the industry and the role of craft unions in construction.

The educational foundation for the ARPs is the Multi-Craft Core Curriculum, or MC3, a standardized, comprehensive, 120-hour construction curriculum designed to help young people and transitioning adults choose and succeed in an apprenticeship program that is appropriate for them. In 2012, the U.S. Department of Labor recognized the MC3 with its Registered Apprenticeship Innovator and Trailblazer Award. There are nine units in the MC3:

- Construction Industry Orientation
- Tools and Materials
- Construction Health and Safety
- Blueprint Reading
- Basic Math for Construction
- Heritage of the American Worker
- Diversity in the Construction Industry
- Green Construction
- Financial Literacy

To date, Northeastern California Building & Construction Trades Council has conducted five MC3 classes in Redding, CA. Classes have been held at both local Union member offices as well as Shasta Community College. The participation in these classes averaged ten to twelve students per class. In addition to the Redding classes, the Union has also conducted MC3 training programs in Chico, Eureka, Marysville and Yuba City and 93 MC3 graduates have been placed into Union Apprenticeship Programs to date.