

**FOR DISTRIBUTION AT THE
REGULAR CITY COUNCIL
MEETING
MARCH 7, 2023**

AGENDA NO. 2023-055

PROPOSED AMENDMENT NO. 1

AN ORDINANCE AMENDING CHAPTER 50, SECTION 50.21 AND CHAPTER 52, SECTION 52.40 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, RELATING TO ELECTRIC AND WATER LIENS

AGENDA NO. 2023-094

AN ORDINANCE ACCEPTING AN AGREEMENT WITH GLACIER SANDS WIND POWER, LLC FOR THE PURCHASE OF ALL AVAILABLE MISO-ACCREDITED CAPACITY FOR FIVE (5) YEARS IN AN AMOUNT NOT TO EXCEED \$12,771,360.00, FOR THE OFFICE OF PUBLIC UTILITIES

**AN ORDINANCE AMENDING CHAPTER 50, SECTION 50.21 AND
CHAPTER 52, SECTION 52.40 OF THE 1988 CITY OF SPRINGFIELD CODE
OF ORDINANCES, AS AMENDED, RELATING TO ELECTRIC AND WATER
LIENS**

PROPOSED AMENDMENT NO. 1

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, it is in the best interest of the City to amend Chapter 50, Section 50.37 and Chapter 52, Section 52.40 of the 1988 City of Springfield Code of Ordinances, as amended, relating to electric and water liens.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
SPRINGFIELD, ILLINOIS:**

Section 1: That the City Council hereby amends Chapter 50, Section 50.37 and Chapter 52, Section 52.40 of the 1988 City of Springfield Code of Ordinances, as amended, as shown on attached Exhibit "A".

Section 2 That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 3: That this ordinance shall become effective immediately upon its passage and publication in pamphlet form.

PASSED: _____, 2023

SIGNED: _____, 2023

RECORDED: _____, 2023

Mayor James O. Langfelder

ATTEST: _____
City Clerk Frank J. Lesko

Approved as to legal sufficiency:

Requested by: Alderman McMenamin,
Alderman Gregory,
Mayor James O. Langfelder



Office of Corporation Counsel / Date

EXHIBIT A

AGENDA ITEM NO. 2023 -- 055 --- Proposed Amendment No. 1

TITLE V: - PUBLIC WORKS

CHAPTER 50. – ELECTRIC UTILITY

ARTICLE I. – GENERAL TERMS AND CONDITIONS

§ 50.21. Electric lien.

- (a) The charges or rates for electric service are liens on the real estate on or for which service is supplied, when the charges or rates become delinquent as provided for pursuant to regulations promulgated under section 50.20 fixing such a delinquency date, except the charges or rates established by contract for the supply of electricity to another municipality.
- (b) The lien of the city shall have no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of a notice of such a lien in the office of the recorder of deeds of the county in which such real estate is located, but shall be superior to all other liens and encumbrances, except tax liens.
- (c) The notice of lien shall consist of a sworn statement setting out:
 - (1) A description of such real estate sufficient for the identification thereof;
 - (2) The amount of money due for such service; and
 - (3) The date when such amount became delinquent.
- (d) The city has the power to foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate as delineated in 735 ILCS, Article XV. Suit to foreclose this lien shall be commenced within seven years after the date of filing notice of lien.
- (e) On payment of the delinquent charges for electric service, together with filing fees, court costs and attorney's fees, if any, by the owner or persons interested in or occupying such property after notice of lien has been filed, the city shall deliver a release of lien to the payor of the above charges, or at the direction of the payor. It shall not be the responsibility of the city to cause the release to be filed for record.
- (f) The charges for such electric service shall not be a lien on the real estate affected unless a notice shall be personally served or sent by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, or the owner of the property or the affected occupants of the property. The notice shall contain the substance of this section and of the notice of lien, and shall recite that:

"The receiver of this notice is entitled to a hearing with the designee of the director of public utilities within ten days of receiving this notice. A lien may be filed on the real estate for which service is supplied, unless payment of the delinquent electric charges is made within such time."

- (g) The general manager of public utilities may negotiate and settle any lien for an amount less than the delinquent amount stated in the lien where the general manager of public utilities, in consultation with the office of corporation counsel, determines that it is in the best interest of the public utility and in accordance with best commercial practices to settle such lien for a lesser amount. Any settlement which reduces the original lien amount by more than \$20,000.00 but less than \$50,000.00 shall be subject to approval by the mayor. Any settlement which reduces the original lien amount in excess of \$50,000.00 shall be subject to approval by city council. A copy of all settlements shall be placed on file with the city clerk and be available for public inspection.
- (h) The general manager of public utilities shall cause liens to be filed when the charges or rates become delinquent in an amount exceeding \$20,000.00 and more than 90 days past due. The general manager may cause liens to be filed when the charges or rates become delinquent for lesser amounts when it is in the best interest of public utility in accordance with best commercial practices.

TITLE V: - PUBLIC WORKS

CHAPTER 52. – WATER UTILITY

ARTICLE VI. – WATER RATES AND COLLECTION

§ 52.40. Water liens.

- (a) The charges or rates for water service are liens on the real estate on or for which service is supplied, when the charges or rates become delinquent as provided for pursuant to regulations promulgated under section 52.05 fixing such a delinquency date, except the charges or rates established by contract for the supply of water to another municipality.
- (b) The lien of the city shall have no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of a notice of such a lien in the office of the recorder of deeds of the county in which such real estate is located, but shall be superior to all other liens and encumbrances, except tax liens.
- (c) The notice of lien shall consist of a sworn statement setting out:
 - (1) A description of such real estate sufficient for the identification thereof;
 - (2) The amount of money due for such service; and
 - (3) The date when such amount became delinquent.
- (d) The city has the power to foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate as delineated in 735 ILCS Article XV. Suit to foreclose this lien shall be commenced within seven years after the date of filing notice of lien.
- (e) Upon payment of the delinquent charges for water service, together with filing fees, court costs, and attorney's fees, if any, by the owner or persons interested in or occupying such property after notice of lien has been filed, the city shall deliver a release of lien to the payor of the above charges, or at the direction of the payor. It shall not be the responsibility of the city to cause the release to be filed for record.
- (f) The charges for such water service shall not be a lien on the real estate affected unless a notice shall be personally served or sent by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, or the owner of the property or the affected occupants of the property. The notice shall contain the substance of this section and of the notice of lien, and shall recite that:

"The receiver of this notice is entitled to a hearing with the designee of the general manager of public utilities within ten days of receiving this notice. A lien may be filed on the real estate for which service is supplied, unless payment of the delinquent water charges is made within such time."
- (g) The general manager of public utilities may negotiate and settle any lien for an amount less than the delinquent amount stated in the lien where the general manager of public utilities, in consultation with the office of corporation counsel, determines that it is in the best interest of the public utility and in accordance with best commercial practices to settle such lien for a lesser amount. Any settlement which reduces the original lien amount by more than \$20,000.00 but less than \$50,000.00 shall be subject to approval by the mayor. Any settlement which reduces the original lien amount in excess of \$50,000.00 shall be subject to approval by city council. A copy of all settlements shall be placed on file with the city clerk and be available for public inspection.
- (h) The general manager of public utilities shall cause liens to be filed when the charges or rates become delinquent in an amount exceeding \$20,000.00 and more than 90 days past due. The general manager may cause liens to be filed when the charges or rates become delinquent for lesser amounts when it is in the best interest of public utility in accordance with best commercial practices.

AN ORDINANCE ACCEPTING AN AGREEMENT WITH GLACIER
SANDS WIND POWER, LLC FOR THE PURCHASE OF ALL
AVAILABLE MISO-ACCREDITED CAPACITY FOR FIVE (5) YEARS IN
AN AMOUNT NOT TO EXCEED \$12,771,360.00,
FOR THE OFFICE OF PUBLIC UTILITIES

WHEREAS, this Ordinance approves and authorizes execution of an agreement with Glacier Sands Wind Power, LLC ("Glacier Sands") in an amount not to exceed \$12,771,360.00 for the purchase of all available MISO-accredited capacity for five (5) years, and

WHEREAS, in accordance with the provisions of Sections 38.38(a) of the City Code, the Purchasing Agent has determined that this contract is not subject to Sealed Competitive Bidding.

WHEREAS, the proposal documents with Glacier Sands shall be on file in the Office of the City Clerk.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1. The Council of the City of Springfield, Illinois, hereby approves and accepts the agreement with Glacier Sands for the purchase of all available MISO-accredited capacity for five (5) years in an amount not to exceed Twelve Million Seven Hundred Seventy-One Thousand Three Hundred Sixty Dollars and No Cents (\$12,771,360.00) for the City of Springfield Office of Public Utilities.

Section 2. The Mayor and the City Clerk are hereby authorized and empowered to execute said agreement on behalf of the City of Springfield Office of Public Utilities.

Section 3. The payment by the City of Springfield Office of Budget and Management to Glacier Sands in the amount not to exceed Twelve Million Seven Hundred Seventy-One Thousand Three Hundred Sixty Dollars and No Cents (\$12,771,360.00) from Account No. 102-100-CBD-7758-1424 is hereby authorized, approved, and directed.

Section 4. This Ordinance shall become effective immediately upon its passage and recording with the City Clerk.

PASSED: _____, 2023

SIGNED: _____, 2023

RECORDED: _____, 2023

MAYOR

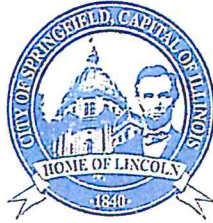
ATTEST: _____

Approved as to legal sufficiency:



Office of the Corporation Counsel/Date

Requested by the Office of Public Utilities/Mayor Langfelder



OFFICE OF BUDGET AND MANAGEMENT
PURCHASING DEPARTMENT
CITY OF SPRINGFIELD, ILLINOIS

MEMORANDUM

TO: Michelle Carlisle
FROM: Anthony Quinones 
DATE: March 6, 2023

SUBJECT: Request for Exemption from Competitive Bidding

I have reviewed the Ordinance Fact Sheet with Glacier Sands Wind Power, LLC for the purchase of all available MISO-accredited capacity for five (5) years in an amount not to exceed \$12,771,360.00 for CWLP – Office of Public Utilities.

In accordance with the requirements of Section 38.38(a) and/or Section 38.41 of the Purchasing Code of the City of Springfield pertaining to Competitive Sealed Proposals, I have determined that it would be neither practical nor advantageous to the City to utilize the Sealed Competitive Bid process to obtain bids for these goods or services. Based on my determination, this procurement is exempt from the City's requirement for Sealed Competitive Bids.

ORDINANCE FACT SHEET

AGENDA NUMBER:

DATE OF 1ST READING: 03-07-23

ORDINANCE REQUEST NUMBER: _____

DEPARTMENTAL INFORMATION

OFFICE REQUESTING: PUBLIC UTILITIES

STAFF MEMBER: MICHELLE CARLISLE

EMERGENCY PASSAGE: YES/NO If yes, list justification.

BUDGETARY/STAFFING INFORMATION

FISCAL IMPACT: \$12,771,360.00 (5 yr.-Total) BUDGETED: YES/NO NEW POSITION: YES/NO

STAFFING IMPACT: N/A

TYPE OF ORDINANCE: Capacity Purchase Agreement

ACCOUNTING INFORMATION: Account No. 102-100-CBD-7758-1424

PRIOR ORDINANCE INFORMATION: Not Applicable.

GLACIER SANDS WIND POWER, LLC/AWARD INFORMATION

CONTRACTOR NAME: Glacier Sands Wind Power, LLC CONTRACT AMOUNT: \$ 12,771,360.00
(Original Amount if Change Order)

CONTRACT TERM: 5 years TYPE OF AWARD: Capacity Purchase Agreement

CHANGE IN SCOPE ___ Y X N CHANGE ORDER # N/A ADDT'L AMOUNT \$ 0

STAFF ANALYSIS: (This includes description of work, background on issue and the justification of why the ordinance was not low bid. If you need additional space, please continue on the back of this form.)

The Office of Public Utilities is recommending entering into a capacity purchase agreement with Glacier Sands Wind Power, LLC ("Glacier Sands") for a five (5) year term to buy all available MISO-accredited capacity in an amount not to exceed \$12,771,360.00. This dollar amount includes an approximate five (5) percent buffer amount.

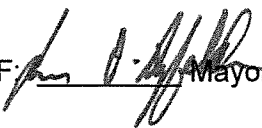
The Utility is required to purchase capacity from the market, bi-lateral contracts, or auction when there are insufficient Utility resources. MISO sets capacity requirements to cover our load each year. The Utility is in need of additional capacity at this time. The Energy Authority has identified a wind farm willing to sell its capacity for a five (5) year term below the market value of \$7.00 per kw-month.

The expectation for the future capacity market is tightening supply as more coal plants retire and there will not be enough renewables built in the time frame that is needed to lower capacity prices. There is considerable volatility in this market and is expected to continue this trend for some time. This contract will be considerably less than the market and a hedge against auction prices that are expected to clear near the current market prices or higher. This information or guidance comes from The Energy Authority and with discussions with other utilities. The Energy Authority is recommending that we purchase this capacity to meet our capacity obligation in MISO.

Annual capacity supply from this contract for the planning year 2023/2024 per season:

Planning Year	Season	NRIS ZRCs
2023/2024	Summer	33.1
2023/2024	Winter	52.1
2023/2024	Spring	53.1
2023/2024	Fall	42.7

These numbers can vary slightly from year to year based on the capacity value set by MISO. For this planning season, MISO has set the capacity numbers from this wind farm, so the total cost for this year will be \$3.25M. The estimated value for this contract is \$12,163,200 based on achieving the same capacity numbers each year in MISO. The Utility is asking for \$12,771,360.00 which includes a five (5) percent buffer.

SIGN OFF:  Mayor's Office _____ OBM
(When Applicable)

Rev: 6-21-96

The information supplied on this form is not confidential information.