

ORDINANCE NO. 24-942

AN ORDINANCE AUTHORIZING CCU TO EXECUTE A 30-YEAR PURCHASE POWER AGREEMENT WITH SPADRA HOLDINGS 1.0, LLC; WAIVING FORMAL BIDDING, DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, on or about May 8, 2023, the City of Clarksville, Arkansas (“City”) acting pursuant to Ark. Code Ann. § 14-201-201, et seq., adopted Ordinance No. 23-911 and thereby established the Clarksville Connected Utilities Commission (“CCU”) for the purpose of delegating certain City authorities and assigning certain City responsibilities regarding the operation and control of the City-owned utility; and

WHEREAS, Ordinance 23-911 included limiting language that is now codified in Section 2.60.03(4) of the City’s municipal code empowering CCU to execute long-term power purchase agreements when approved by the City; and

WHEREAS, CCU seeks approval to execute a long-term power purchase agreement (“Agreement”) that is substantially similar in form and content as the document attached hereto as Exhibit A and containing the following terms (“Key Terms”):

Generation Output: 13 – 26 megawatts (MW) direct current (DC)
Location: City property leased at nominal rate
Price: \$0.0499/kWh
Price Escalator: 2.5% annually
Term: 30 years

WHEREAS, the Agreement was not solicited through bidding; rather, it was proposed as an important part of a larger economic development project expected to bring numerous jobs and economic activity to the City; and

WHEREAS, the City Council is authorized by Ark. Code Ann. § 14-58-303(b)(2)(B) to waive the requirements of competitive bidding in exceptional situations where competitive bidding is deemed not feasible or practical or as provided under Ark. Code Ann. § 14-58-104, including Ark. Code Ann. § 14-58-104(9) which exempts from bidding utility services purchased at wholesale; and

WHEREAS, Ark. Code Ann. § 14-203-115(b) provides that contracts for the purchase of electric power may be made and that the rates, fees, and charges for electric power and energy may be fixed to provide sufficient revenues to secure payments of amounts due under such contract when approved by ordinance published one (1) time in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, ARKANSAS, THAT:

SECTION 1: Agreement Approved. In accordance with Section 2.60.03(4), the City hereby approves, and authorizes CCU to execute, a purchase power agreement with SPADRA HOLDINGS 1.0, LLC in substantially similar form and content as the document attached as Exhibit A that contains all Key Terms identified in this Ordinance.

SECTION 2: Bidding Waived. The Agreement described in Section 1 is part of a larger economic development project expected to bring numerous jobs and economic activity to the City. As such, the City Council hereby finds pursuant to Ark. Code Ann. § 14-58-303(b)(2)(B) that an exceptional situation exists and the requirements of competitive bidding are not feasible or practical. Further, as the power purchased under this Agreement is made at wholesale for the purpose of reselling to retail customers, the City Council finds that bidding is not required under Ark. Code Ann. § 14-58-104(9).

SECTION 3: Publication. The City Council acknowledges that the Agreement approved by this ordinance is for the purchase of electric power as described in Ark. Code Ann. 14-203-115(b) subject to repayment by rates, fees, and charges imposed by CCU and directs CCU to publicize this ordinance one (1) time in a newspaper of general circulation in the municipality. Exhibit A shall not be publicized but made available for inspection in compliance with the Arkansas Freedom of Information Act.

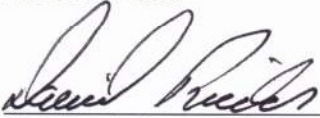
SECTION 4: Severability. That the provisions of this resolution are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 5: Conflicts. Any ordinance or resolution in conflict with this ordinance is hereby repealed to the extent of the conflict.

SECTION 6: Emergency. The City Council hereby finds that approval of the Agreement described above is needed to accelerate vital economic development in the City and that time is of the essence to ensure prospective economic development projects proceed. Thus, an emergency is declared and, as this Ordinance is immediately necessary for the preservation of the public peace, health and safety of the City, this Ordinance shall be in full force and effect from and after its passage and approval.

Passed this 9th day of April, 2024.

APPROVED:



David Rieder, Mayor

ATTEST:



Barbara Blackard, City Clerk/Treasurer