



September 12, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Update on the Low Carbon Fuel Standard Program

Overview

On March 14, 2016, the Orange County Transportation Authority Board of Directors approved the selection of Element Markets Renewable Energy, LLC, as the firm to provide renewable natural gas and consulting services for the management of the Low Carbon Fuel Standard Program. The Low Carbon Fuel Standard Program has been in effect for slightly over two years with very positive results.

Recommendation

Receive and file as an informational item.

Background

As a consumer of natural gas for its bus operation, Orange County Transportation Authority (OCTA) is able to receive revenue generated from its use of renewable natural gas based on programs at the state and federal level.

California's Low Carbon Fuel Standard (LCFS) Program was enacted to support the California Global Warming Solutions Act of 2006. The LCFS Program is designed to lower greenhouse gas emissions by requiring producers of petroleum-based fuels to reduce the carbon intensity of their transportation fuels. One of the ways that producers of petroleum-based fuels can meet this requirement is to buy credits from entities who use low carbon fuels, such as OCTA. OCTA's fleet of buses are powered by 100 percent renewable natural gas. OCTA opted into the LCFS Program as a registered party in March 2014 and has since generated 81,977 credits.

In addition to the State of California's LCFS Program, there is a federal Renewable Fuel Standard (RFS) Program to ensure that transportation fuel in the United States contains a minimum volume of renewable fuel. The

RFS Program requires entities that refine, import, or blend fossil fuels to meet certain individual RFS quotas based on the volume of fuel they introduce into the market. In order to meet their quotas, these entities must submit Renewable Identification Numbers (RINs) to the Environmental Protection Agency to demonstrate compliance. These entities can generate RINs by supplying renewable fuel to transportation agencies, such as OCTA, and will often share a fixed percentage of the dollar value of each RIN generated using the renewable fuel with the transportation agency. To date, OCTA has generated 20,811,054 RINs credits.

Several transit agencies in California, including OCTA, have found it more economical to purchase renewable natural gas using a Core Transport Agent (CTA). CTAs are companies or consortiums that arrange for the delivery of natural gas on behalf of customers. CTAs also provide for the administration and monetization of LCFS credits and share a percentage of the value of the RINs with their customers.

Discussion

On March 9, 2016, the OCTA Board of Directors (Board) Finance and Administration Committee (Committee), as part of their review of the selection recommendation, voiced a concern that none of the proposing firms offered to OCTA a fixed amount of revenue that would be recouped from the sale of these credits. While the proposals provided amounts of revenue that OCTA could realize, they did not offer a fixed guaranteed amount. To protect OCTA against not realizing the projected revenue, the Board Committee directed staff to negotiate, as part of the contract, assurances and security, including minimum guarantees for all aspects of the contract.

On March 14, 2016, the Board selected the firm, Element Markets Renewable Energy, LLC, (Element Markets) to act as OCTA's CTA in providing renewable natural gas and in assisting OCTA in managing the LCFS Program. OCTA delegated its regulatory obligations to Element Markets to sell the LCFS credits and assume all responsibilities associated with LCFS Program management, as well as regulatory and compliance issues. The term of the contract was for three years with two, two-year options.

As part of the terms and conditions of the contract, Element Markets was required to issue to OCTA a minimum receipt guarantee in the form of a bond, in the amount of \$8,963,181, as a security to satisfy the concerns of the Board. This amount represented the revenue that Element Markets projected OCTA could receive from the sale of LCFS credits and RINs during the initial three-year term.

Agreement No. C-5-3636 was executed on June 8, 2016. OCTA has steadily received revenue monthly from the sale of the credits. As of June 2018, OCTA had received \$7,661,983, from the sale of credits conducted by Element Markets. During the month of June 2018, Element Markets contacted OCTA and requested that they be able to prepay the remaining amount left of the minimum receipt guarantee bond equal to \$1,301,198. Because OCTA's contract with Element Markets allowed for a prepayment of the bond amount, OCTA agreed to accept a prepayment. On July 2, 2018, Element Markets wired the balance amount to OCTA. Revenue from the monthly credit sales will be deducted from this prepayment amount until the amount is exhausted, then Element Markets will return to submitting monthly revenue to OCTA. Element Markets exceeded their bonded amount one year earlier than originally projected.

The revenue received from this program is used to pay for bus service, fuel, and transit capital equipment needs. As OCTA moves into other alternative fueled vehicles, Element Markets is assisting staff in obtaining permission from the California Air Resources Board. Currently OCTA and Element Markets are working to obtain the necessary approvals to begin selling credits from the use of hydrogen buses as soon as they are delivered to OCTA and placed into service.

Summary

Orange County Transportation Authority contracted with Element Markets Renewable Energy, LLC, to provide renewable natural gas and consulting services for the management of the Low Carbon Fuel Standard Program. The program has been in effect for slightly over two years and Orange County Transportation Authority has received more revenue in a shorter period than originally established in the minimum receipt guarantee provided by Element Markets Renewable Energy, LLC.

Attachment

None.

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