

NORTH UNIT IRRIGATION DISTRICT

RESOLUTION NO. 2024-05

ADOPTING FINDINGS OF FACT AND AUTHORIZING A SOLE-SOURCE PROCUREMENT FOR HYDROKINETIC TECHNOLOGY

WHEREAS, the North Unit Irrigation District (“District”), an Oregon irrigation district formed pursuant to Oregon Revised Statutes (“ORS”) chapter 545, is subject to Oregon’s public contracting laws, including ORS chapter 279B relating to procurements of goods and services; and

WHEREAS, the District intends to implement its Main Canal Floating Photovoltaics Project, a pilot project using floating solar and hydrokinetic technologies to enhance water security, lower the cost of water, and promote clean energy goals (“the Project”); and

WHEREAS, the District has determined that conducting a competitive process for the floating solar technology portion of the Project will provide the most comprehensive survey of available products and qualified vendors, and ensure the best overall value for the District’s landowners and surrounding community; and

WHEREAS, the District has further determined that contracting with Emrgy, a renewable energy development company, to provide its proprietary hydrokinetic technology for the Project will take advantage of Emrgy’s demonstrated success on similar projects throughout the United States, including in the Pacific Northwest; and

WHEREAS, ORS 279B.075 permits the District’s Board of Directors, acting as the Local Public Contract Review Board, to forego competitive bidding and authorize procurement from a sole source, after adopting written findings of fact in compliance legal requirements, to wit:

- That the efficient utilization of existing goods requires acquiring compatible goods or services;
- That the goods or services are for use in a pilot or an experimental project; or
- Other findings that support the conclusion that the goods or services are available from only one source; and
- To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms that are advantageous to the contracting agency.

WHEREAS, the District has drafted written findings of fact to support the exemption from competitive bidding and the sole-source procurement, which are attached hereto as Exhibit A and incorporated herein by this reference;

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NOW, THEREFORE, the District’s Board of Directors, acting as the Local Contract Review Board, hereby resolves as follows:

1. The written findings of fact attached hereto as Exhibit A are hereby adopted.
2. An exemption from traditional bidding processes is hereby declared and a sole-source procurement is hereby authorized.
3. Staff is directed to enter into contract negotiations directly with Emrgy for procurement of hydrokinetic technology for the Project, seeking to obtain contract terms that are advantageous to the District.

APPROVED AND ADOPTED on _____, 2024.

Board President

ATTEST:

Recording Secretary

EXHIBIT A

FINDINGS OF FACT

IN SUPPORT OF A SOLE-SOURCE PROCUREMENT OF HYDROKINETIC TECHNOLOGY FOR THE MAIN CANAL FLOATING PHOTOVOLTAICS PROJECT

History. Landowners within Jefferson County established the North Unit Irrigation District (“the District”) in 1916 to provide a reliable source of irrigation for their farmland. Located in the Deschutes River Basin, the District currently supplies irrigation water to nearly 59,000 acres of farmland in Jefferson County. As a local government entity, the District is governed by a locally elected board of directors. It is under contract with the U.S. Bureau of Reclamation (BOR) and is a part of the Deschutes Basin Board of Control, a consortium of eight irrigation districts and municipalities that collaborate on issues facing Central Oregon and water users.

Project Summary. The Canal Floating Photovoltaics Project (“Project”) is a pilot project that seeks to study the technical and economic feasibility of using floating solar panels in the NUID Main Canal to improve the Bend and Madras communities’ water security, lower the cost of water, and meet projected clean energy goals.

The proposed Project incorporates both floating solar technology and hydrokinetic turbines. In April 2024, the District received a \$2.55 million grant from BOR to implement the floating solar technology, and the District intends to conduct a formal competitive bidding process for this portion of the Project. For the reasons set forth in these written findings, the District intends to enter into a sole-source contract with Emrgy to install its proprietary hydrokinetic technology within BOR and NUID infrastructure. Revenues generated from the Project are expected to cover the cost of Emrgy’s initial investment and produce a revenue stream for NUID.

Findings. The use of a sole-source supplier of hydrokinetic technology will significantly help to address the following relevant factors:

Experimental Project. Although the technologies proposed have been implemented successfully in other parts of the United States, this Project will be the first of its kind in Oregon. The District’s market research finds that floating solar technologies are available from Emrgy as well as other companies, thus warranting a competitive process for that part of the Project to ensure the best overall value for the community the District serves. In contrast, the same research finds that Emrgy’s proprietary hydrokinetic technology is unique, so a competitive process is unlikely to provide an “apples to apples” comparison. Furthermore, Emrgy’s successful employment of its proprietary technology in similar projects will help to minimize the risk to the District of using untested methods.

Time is of the Essence. NUID will be required to submit a Lease of Power Privilege (LOPP) application to BOR by July 17, 2024 for the hydrokinetic portion of the Project. And, BOR must complete the National Environmental Policy Act (NEPA) requirements for the Project in a timely manner to accommodate installation during the fall/winter of 2024/25 while the NUID

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Main Canal is dry. Because Emrgy's proprietary technology can be installed whether or not water is in the canal, the hydrokinetic turbines can be installed even if the LOPP and NEPA process extend beyond the District's off-season (November through March).

Unique Site Conditions. Emrgy's technology is uniquely suited for the smooth bottom and shaped sides of the concrete-lined portion of the NUID Main Canal. Furthermore, Emrgy turbines can be installed at any time whether or not the canal is in operation.

Uniquely Qualified Contractors. Contractors with the qualifications and experience to complete this Project are limited. Knowledge of the site conditions and past experience with projects of this type and scale will be key to successful implementation. Through its work with other irrigation districts in the Pacific Northwest, Emrgy has gained unique expertise in assessing the challenging and ever-changing conditions associated with irrigation canals. With multiple turbines already operating in the region, Emrgy has the necessary knowledge and experience to optimize site conditions and generate as much electrical energy as possible with the given water resources and conditions.

Limited Financial Resources Require Cost Savings. The recently awarded grant funds by the BOR for the Project will not be used to cover the costs of purchasing or installing the hydrokinetic technology, and NUID does not have enough of its own funds to cover these costs. However, an approach has been proposed whereby Emrgy will own the hydrokinetic technology, install it in the NUID Main Canal, and use NUID's irrigation water rights under a secondary use authorization to generate electricity. NUID will not incur any up-front costs and will instead receive a portion of the revenue generated from the sale of electricity.