July 15, 2021

AGENDA ITEM NO. 3

SUBJECT: Resolution No. 2021-7-2, authorizing the sale of the Gibbons Creek Lignite Mine; describing the conditions and circumstances for the sale, and the public purposes that will be achieved; and resolving matters incidental and related thereto.

DISCUSSION: [Note: This agenda item summary and Resolution has been revised in light of the opening of sealed bids on July 13, 2021.]

This Resolution authorizes the sale of the Gibbons Creek Lignite Mine (the "Mine").

On February 11, 2021, the Board authorized a contract with Republic Ranches, LLC ("Republic") for real estate brokerage services relating to the sale of the Mine. Republic has marketed the Mine extensively, and has received numerous proposals. In June 2021, Republic requested sealed bids from the five highest bidders. The bids were received on July 13, 2021.

The highest and best bid was submitted by 3S Real Estate Investments, LLC ("3S"). 3S proposes to pay $75 million for the Mine, approximately 11,025 acres. Under the transaction as proposed, the Agency will reserve a reclamation easement which will allow it to continue reclamation activities on the bonded areas until all mine bonding is released.

The attached Resolution describes the conditions and circumstances for the sale, and the public purposes that will be achieved, as required by law.

BACKUP MATERIAL: None

ACTION REQUESTED: Consideration and action on Resolution No. 2021-7-2.

RESOLUTION NO. 2021-7-2

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE TEXAS MUNICIPAL POWER AGENCY (“AGENCY”) AUTHORIZING THE SALE OF THE GIBBONS CREEK LIGNITE MINE; DESCRIBING THE CONDITIONS AND CIRCUMSTANCES FOR THE SALE, AND THE PUBLIC PURPOSES THAT WILL BE ACHIEVED; AND RESOLVING MATTERS INCIDENTAL AND RELATED THERETO.

WHEREAS, as authorized by Section 163.073, Utilities Code, the Member Cities have, by the adoption of concurrent ordinances, elected for the Agency to be governed by Subchapter C-1, Utilities Code, effective April 30, 2016;

WHEREAS, Section 163.080 of Subchapter C-1 authorizes the Agency to “sell, lease, convey, or otherwise dispose of any right, interest, or property of the agency, including its electric facilities”, and including property that “was purchased by the agency for mining purposes”;

WHEREAS, the Board desires to authorize the sale of the Gibbons Creek Lignite Mine (the “Mine Property”), and;

WHEREAS, pursuant to Section 3.2.4 of the Joint Operating Agreement, as amended, the Board hereby determines that the sale of the Gibbons Creek Lignite Mine, as authorized by this Resolution, is for not less than the fair market value of the Gibbons Creek Lignite Mine;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS MUNICIPAL POWER AGENCY:

1. That the above recitals are true and correct;

2. That the Board authorizes the General Manager, or a person acting at his direction, to execute and close a contract for the sale of the Gibbons Creek Lignite Mine;

3. That the contract shall substantially comply with the conditions set forth in Exhibit “A”, attached to this Resolution;

4. That, for purposes of Section 272.001(k), Local Government Code: (i) the conditions and circumstances for the sale are as set forth in Exhibit “A” and (ii) the public purposes that will be achieved include the production of revenue from the sale of surplus property that is no longer needed for Agency operations, and the avoided costs of land maintenance;

5. That the General Manager, or his designee, may take such actions as are necessary, desirable, or required to consummate and complete the transactions contemplated by this Resolution; and

6. That it is officially found and determined that notice of this meeting of the Board of Directors of the Agency was given as required by law.

PASSED AND APPROVED THIS 15TH DAY OF JULY, 2021.

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Sue Ann Harting, President
Board of Directors
Texas Municipal Power Agency

ATTEST: ________________________________
Buppy Simank, Secretary
Board of Directors
Texas Municipal Power Agency

EXHIBIT “A”

CONDITIONS AND CIRCUMSTANCES OF THE SALE

A.
CIRCUMSTANCES OF THE SALE

The Mine is no longer needed for mining purposes and may be sold as surplus property provided the Agency retains a reclamation easement or lease to continue reclamation operations until completion and until bond release from the Railroad Commission of Texas.

B.
CONDITIONS OF THE SALE

The Mine property to be sold consists of approximately 11,025 acres.

The purchaser is 3S Real Estate Investments, LLC, 1302 Waugh Drive #539, Houston, TX 77019.

The sales contract will be the Farm And Ranch Contract form promulgated by the Texas Real Estate Commission, including addenda and exhibits.

The sales price will be $75 million.

The earnest money will be $7.5 million.

The conveyance will be by special warranty deed. The deed will contain:

-The conveyance of the mineral estate.

-The conveyance of wells and water rights.

-The reservation of a reclamation easement or lease to continue reclamation operations in the Mine until reclamation is completed and all mine bonding is released.

-A provision that the Mine Property is being conveyed on an “AS-IS” basis.

-The conveyance of the spur right-of-way between the Mine and State Highway 6.