



CITY OF ASHEVILLE
Sustainability Policy

Subject: Renewable Energy Public Private Partnership Policy

Effective Date:

Filing Instructions:

Issued and maintained by:

Revision number:

Approved by:

Gary W. Jackson, City Manager

CONTENTS

1. City of Asheville Renewable Energy Goals

In April 2011, Asheville City Council enhanced their commitment to address climate change by updating the municipal carbon reduction policy with more aggressive goals. The policy now states: The City of Asheville will reduce the municipal carbon footprint 4% each year with a reduction of 80% by the year 2030. The Sustainability Management Plan was created to guide the organization in pursuit of this policy goal. A guiding principle of this plan is to “support continued development of a diverse regional green economy”. Renewable energy is specifically addressed in two of the 23 specific goals of the Sustainability Management Plan: (1) Increase renewable energy use for City operations; and (2) Increase renewable energy use for water production and distribution.

2. Purpose

The purpose of this policy is to establish a process with roles and responsibilities for establishing renewable energy public private partnerships.

3. Policy Goals

The City of Asheville will seek the most qualified, responsible partners possible to increase the quantity of renewable energy produced in Asheville.

The City of Asheville will pursue renewable energy partnerships to support economic development in clean technology to support better energy choices in Asheville.

The City of Asheville will ensure any agreement meets a public purpose and protects public assets.

4. Background

4.1. Renewable Energy Development Models: Currently, the most financially viable model for pursuing the City of Asheville’s renewable energy goals is to lease public property to a private developer/producer for use in renewable energy facility projects. A partnership of this nature lowers the total project costs because a private company can utilize tax credits for which a local government is not eligible. There is no model where a private company develops and produces renewable energy for sale to the city. This is because third party sale of electricity is currently not authorized in North Carolina.

4.2. Power Purchase Agreements (PPA’s): In order to pursue the aforementioned model, the private partner will negotiate directly with the utility to secure a power purchase agreement (PPA). A PPA is a contract between the utility and the energy producer (in this case the private company) that locks in the price of energy and the price of the renewable energy credit (REC). PPA agreements in NC are typically twenty (20) year contracts. NC electricity utilities are mandated by Senate Bill 3 to increase the amount of renewable energy they produce and/or purchase over time. Each year, as the utility creates a portfolio of PPAs to satisfy this mandate, they adjust the pricing structure and project dynamics for which PPAs proposals they accept.

4.3. Renewable Energy Investors: Most renewable energy production companies capitalize project costs through investors who then receive various tax incentives and rebates over the first 5-7 years

of the project. The ability of a private company to effectively negotiate both utility support through a PPA AND investor support determines if a project is feasible. Once these relationships are solidified, the private company can establish their financial model including lease payments to the property owner.

4.4. **Municipal Purchasing, Contracting or Leasing Requirements:** General statutes establish municipal purchasing, contracting (NCGS 143-129, 143-131, 143-132) and leasing (NCGS 160A-272) requirements. The purchasing/contracting statutes, in general, require competitive bidding on construction and purchase contracts above a certain amount. The leasing statute generally limits leases of municipal owned property to ten (10)years. However, special provisions have recently been enacted that allow greater flexibility in terms of contracting and leasing for renewable energy facilities that are located in specific municipalities. In 2010 (per Session Law 2010-57, Senate Bill 1114), the City of Asheville was added to the list of municipalities that are exempt from competitive bidding requirements when contracting for materials/supplies/equipment used as part of local pilot programs aimed at increasing energy efficiency. Asheville is also authorized to enter into leases for the siting and operation of a renewable energy facilities for up to twenty (20) years without treating such leases as a sale and without giving notice by publication. A renewable energy facility is defined as a facility that either generates electric power by the use of a renewable energy resource (i.e. solar, wind, hydropower, geothermal); generates combined heat and power derived from a renewable energy resource; or is a solar thermal energy facility [NCGS 62-133.8 (a)(7)]. By statute, this extended lease term provision for renewable energy facilities is only in effect until June 30, 2015.

5. Process and Procedure

The City of Asheville intends to pursue its renewable energy goals through public property lease agreements (most likely for rooftop space) with private partners. These agreements are directly negotiated by staff and presented to the Asheville City Council for approval.

- 5.1. **Process:** City Staff will identify suitable public property for the consideration of renewable energy partnership leases. Examples of ideal property areas include, but are not limited to, roof tops, open land and the sides or tops of parking structures where solar roofing could be added. Critical factors to be evaluated in site selection include:
- a. Age and current condition of public infrastructure
 - b. Roofs are considered eligible if they have been/or will be replaced within two years of the partnership evaluation. Ideally the partnership is evaluated before roof replacement, and the renewable energy project is installed at the same time the roof is replaced.
 - c. Existing use and long terms plans for public property in consideration
 - d. Capital improvement prioritization ranking for public property in consideration
 - e. Distance and access to necessary electrical connections
 - f. Square footage and solar exposure to public property in consideration
 - g. Current electrical consumption of public property in consideration
 - h. Roof top warranty criteria

In January of each year, the City will publish on the City's Web site a list of properties that may be feasible sites for renewable energy facilities. This list will include any properties with roofs replaced in the current fiscal year and projected properties with roof replacements for the next fiscal year. Staff will engage qualified and interested renewable energy partners that are interested in a property on the published list or any other property for which feasibility can be verified. Critical factors for evaluation include:

- i. Partner experience with installing, financing and maintaining similar systems
- j. Partner comparable experience securing power purchase agreements with the applicable utility

The City will negotiate a lease agreement with the selected partner. Once a suitable draft is agreed upon by both parties, it will be presented to City Council for approval to enter into the lease.

5.2. Legal Considerations: As previously explained, per NCGS 160A-272, the City is authorized to enter into renewable energy facility leases for a period of up to 20 years without treating the lease as a sale of property and without giving notice by publication. Additionally, there are no competitive bidding requirements for purchasing contracts that are part of a project aimed at energy efficiency. Leases must be approved by City Council at a regularly scheduled meeting.

5.3. City of Asheville General Responsibilities (specifics to be defined in lease):

- a. Provide reasonable access to the premises (i.e. rooftop) to install, operate and maintain the system
- b. Preventing other buildings, structures or flora located on City property from overshadowing or otherwise blocking access of sunlight to the system.

5.4. Private Partner General Responsibilities (specifics to be defined in lease):

- a. Maintenance of system for duration of ownership
- b. Any necessary engineering assessments associated with roof load capacity
- c. Incorporating rooftop access walk ways into plans and installation
- d. Obtain all necessary approvals/permits from all governmental agencies and utility providers

5.5. Negotiable Elements to be Defined in Contract

- a. Lease payment amount
- b. Duration of lease
- c. Long term ownership of system
- d. Any costs associated with transition of ownership if applicable
- e. Termination clause to include considerations about need for public buildings or equipment that could impact solar power generation (i.e. the need for HVAC roof top units developing in the future, equipment for the intent of public safety)
- f. A roof access agreement
- g. Roof repair agreement: to establish roles and responsibilities for moving/uninstalling/reinstalling equipment should a roof repair issue develop or the roof needs to be replaced before the lease contract expires

6. Contact Information

Interested parties may submit a proposal for entering into a lease agreement for the installation of renewable energy facilities on City owned property to the city Energy Coordinator. At a minimum the proposal should include the: location, energy production capacity, demonstration of experience installing/financing/and maintaining similar systems, demonstration of comparable experience securing power purchase agreements with the applicable utility, range of lease payments to the city.

Office of Sustainability:

Maggie Ullman, Energy Coordinator. 828.271.6141 mullman@ashevillenc.gov