

0150-10651-0000

TRANSMITTAL

TO Marcie L. Edwards, General Manager Department of Water and Power	DATE	COUNCIL FILE NO. 14-0735; 14-0736
FROM The Mayor	COUNCIL DISTRICT	

FIRST AMENDMENT TO AGREEMENTS BETWEEN THE DEPARTMENT OF WATER AND POWER AND SUSTAINABLE POWER GROUP LLC RELATING TO THE DEVELOPMENT OF BEACON SOLAR PROJECT SITES 1, 3, AND 4

Approved and transmitted for further processing including Council consideration.
See the City Administrative Officer report attached.

MAYOR

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: April 28, 2016

CAO File No. 0150-10651-0000
Council File No. 14-0735; 14-0736
Council District:

To: The Mayor

From: Miguel A. Santana, City Administrative Officer *MAS*

Reference: Communication from the Department of Water and Power dated March 25, 2016; referred by the Mayor for report on March 24, 2016

Subject: **FIRST AMENDMENT TO AGREEMENTS BETWEEN THE DEPARTMENT OF WATER AND POWER AND SUSTAINABLE POWER GROUP LLC RELATING TO THE DEVELOPMENT OF BEACON SOLAR PROJECT SITES 1, 3, AND 4**

SUMMARY

The Department of Water and Power (DWP) requests approval of a proposed resolution and ordinance authorizing the First Amendment to Power Purchase Agreements (Agreements) BP 14-008, BP 14-010, and BP 14-012 with the Sustainable Power Group LLC (SPower), formerly Hecate Energy, relating to the Beacon Solar Project (Beacon). In December 2012, DWP acquired the 2,500 acre Beacon property, located in Kern County, California, for development of a solar facility on five subdivided sites at the property. In 2014, DWP executed agreements with developers to construct and maintain solar facilities on each of the five sites totaling 250 megawatts (MW).

The proposed Agreements relate to the development of 162 Megawatts (MW) of solar capacity on three of the five Beacon sites. City Council approval, by ordinance, is required in accordance to City Charter Section 674(a). The City Attorney has reviewed and approved the proposed resolution as to form and legality.

Approval of the proposed resolution will affect various provisions of the Agreements including the Commercial Operation Date (COD), the cost of energy, facility purchase options, and administrative policies. Significant modifications proposed include:

- i. Extending the Project COD from December 31, 2016 to July 31, 2017;
- ii. Reducing the contractual cost of energy by \$2.00 per megawatt hour (MWh); and
- iii. Modifying the first purchase option for the facility from the fifth contract year to the seventh contract year and adjusting the minimum and maximum option prices based on any potential reduction in capacity.

Additionally, approval of the proposed resolution will authorize, by ordinance, the DWP Board of Commissioners (Board) to act on and approve all future amendments to the Agreements without further approval by the City Council, pursuant to Charter Sections 101, 373, and 674. This authorization excludes any matters that increase costs or extend the term of the Agreements.

The proposed First Amendment was requested by the SPower to facilitate its project financing requirements. Approval of the proposed Amendment could benefit the DWP with a negotiated \$2.00 per MWh reduction in the cost of energy for each site, as illustrated below. The annual cost savings is expected to be approximately \$782,000 and \$20 million¹ over the 25 year term.

Current cost of energy:

- Site 1 - \$52.61 per MWh
- Site 3 - \$51.97 per MWh
- Site 4 - \$52.61 per MWh

Proposed cost of energy (First Amendment):

- Site 1 - \$50.61 per MWh
- Site 3 - \$49.97 per MWh
- Site 4 - \$50.61 per MWh

In addition to cost savings, the proposed First Amendment benefits the Department by aligning the delivery of renewable energy to the availability of limited personnel resources required to phase-in these new generating sites.

The Beacon Project when fully operating is expected to support the California mandated Renewable Portfolio Standards (RPS) by providing the DWP with 2.5 percent of its renewable energy requirements. Although the amendment delays energy deliveries until after the compliance deadline, DWP still forecasts it will comply with the 2016 RPS mandate of 25 percent renewable energy from other renewable generation assets achieving approximately 26.4 percent.

The modification to the related facility purchase option adjusts the first purchase option date from the fifth contract year to the end of the seventh contract year. This change is requested to allow the developer and associated financing partners sufficient time to utilize any available investment tax credits (ITCs). An additional modification to the option agreements adjusts the minimum and maximum option prices based on any potential reduction in capacity.

ALTERNATIVE

DWP asserts that not approving the proposed amendments increases the possibility of the developer not acquiring project financing. This could lead to the developer defaulting on development of the Sites and eventual termination of the Agreements.

If a developer defaults and does not develop their respective sites before the contractual COD, the current Agreements allow DWP to collect liquidated damages (LDs) daily against the developer's LOC provided for each site. The LOC for Sites 1 and 3 is \$10,080,000 and Site 4 is \$9,000,000 resulting in a total of \$29,160,000.

¹ Present Value is \$11 million with a 5 percent discount rate.

RECOMMENDATIONS

That the Mayor:

1. Approve the proposed resolution authorizing the First Amendment to Agreements BP 14-008, BP 14-010, and BP 14-012 with the Sustainable Power Group LLC relating to the development of Beacon Solar Project Sites 1, 3, and 4; and
2. Return the proposed resolution to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed resolution benefits the Power Revenue Fund by reducing the cost of energy by approximately \$782,000 annually and totaling \$20 million over the 25 year term. There is no impact to the City's General Fund. The proposed Agreement complies with the Department's adopted Financial Policies.

MAS:RR:10160084