



Los Angeles
Department of
Water & Power

RESOLUTION NO. _____

BOARD LETTER APPROVAL

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MICHAEL S. WEBSTER
Executive Director – Power System
Engineering and Technical Services

A handwritten signature in blue ink, reading 'Martin L. Adams', is written over a horizontal line.

MARTIN L. ADAMS
Chief Operating Officer

A handwritten signature in blue ink, reading 'David H. Wright', is written over a horizontal line.

DAVID H. WRIGHT
General Manager

DATE: November 22, 2016

SUBJECT: Beacon Solar Project – Amendment No. 1 to the Power Purchase Agreements, Interconnection Agreements, Ground Lease, and Option Agreements for Power Purchase Agreements, LADWP Nos. BP 14-006 and BP 14-013 (Beacon Sites 2 and 5)

SUMMARY

The proposed Amendment No. 1 for Beacon Sites 2 and 5 incorporates limited revisions to the Beacon Agreements to facilitate financing for each of the project development entities. In exchange for the revisions, LADWP received a reduction in the purchase price for solar energy. As a result, the City of Los Angeles will have a savings benefit of approximately \$12 million over the 25-year term of the Power Purchase Agreements (PPAs).

The attached Resolution authorizes Amendment No. 1 to the Beacon Agreements between LADWP and the project development entities, which are affiliates of the Developer, conditioned on approval by the Los Angeles City Council (City Council).

City Council approval is required according to City Charter 674(a).

RECOMMENDATION

It is requested that the Board of Water and Power Commissioners (Board) adopt the attached Resolution approving the first amendments, and request the City Council to approve, by Ordinance, the first amendments to the Beacon Agreements.

ALTERNATIVES CONSIDERED

The impact of not executing the first amendments to the Beacon Agreements increases the possibility of not acquiring financing for development of each of the sites, which increases the likelihood of default and subsequent termination of the Beacon Agreements. LADWP would then have to acquire other renewable alternatives to replace the generation in order to maintain compliance with the Renewable Portfolio Standard.

FINANCIAL INFORMATION

The Board approved the original PPAs on June 3, 2014, with an original budget of \$275 million for both Sites 2 and 5 over the 25-year term.

The original fixed energy price for each site is as follows:

- For Site 2, it was \$58.56 per megawatt hour (MWh)
- For Site 5, it was \$59.85 per MWh

After negotiations with the Developer, the Contract Prices for each site was reduced by \$2.50 per MWh throughout the 25-year term of the power purchase agreements with new Contract Prices as follows:

- For Site 2, it is \$56.06 per MWh
- For Site 5, it is \$57.35 per MWh

The new Contract Prices will result in an estimated savings of \$475,000 per year and an estimated \$12 million savings over the term of the two PPAs.

The financial numbers for the respective Option Agreement, as set forth in Appendix J of each PPA, have been modified to accommodate a reduction in the minimum and maximum purchase prices in the event there is a reduction from the original capacity. Also, the timing to acquire the solar generating facilities is delayed for the first seven years after commercial operation.

BACKGROUND

In 2012, LADWP purchased over 2,500 acres of unimproved property in Kern County, California (Beacon Property) for the development of five solar energy generating facilities at different locations on the Beacon Property, called Beacon Sites 1, 2, 3, 4, and 5. The total size of the Beacon Solar Project is 250 MW, which makes up approximately 2.5 percent of LADWP's renewable goals.

In 2014 the Board, by Resolution Numbers 014-228 and 014-229, and the City Council, by Ordinance Numbers 183139 and 183140, approved the Beacon Agreements with five project development entities, one for each of the Beacon Sites, including selecting SunE Beacon Site 2 LLC under LADWP No. BP 14-006 for Site 2 (Beacon Site 2) and

SunE Beacon Site 5 LLC for Site 5 under LADWP No. BP 14-013 (Beacon Site 5). For convenience, SunE Beacon Site 2 LLC and SunE Beacon Site 5 are referred to as the "Seller(s)."

The project development entities for Beacon Sites 2 and 5 were affiliates of SunEdison LLC, who later sold ownership in the project development entities to affiliates of Capital Dynamics LLC, for ease of reference "Developer."

The Developer requested limited amendments to the Beacon Agreements for Site 2 and Site 5 to satisfy their tax equity investors, to secure financing from their lenders, and to take advantage of the extension of the federal Business Energy Investment Tax Credits. In return for the first amendments, LADWP requested a reduction in the Contract Prices, saving approximately \$12 million over the term of the PPAs.

The major amendments to the Beacon Agreements are:

- Extension of cure periods due to Seller's defaults;
- The Commercial Operation Date Default has been extended from December 31, 2016 to December 31, 2017;
- The option of either a Letter of Credit or cash to satisfy the Performance Security provisions and the ability for LADWP to draw on the Letter of Credit if it is not renewed;
- A reduction in capacity (up to 50 percent of the original capacity) due to Force Majeure while not triggering a default and termination of the Beacon Agreements;
- In the event of a reduction in capacity, the expected generation, performance security, and the minimum and maximum option purchase prices are proportionately reduced;
- LADWP has deferred its option to purchase the Facility from after the 5th contract year to after the 7th contract year and clarified the minimum purchase price in the event of default after year 7;
- Administrative information and Business Policies were added; and
- A price reduction of \$2.50 per MWh was applied to the original energy price.

The LADWP General Manager and staff will collaborate with the Developer with approval of the lender's consent.

With the ordinance, the Board of Water and Power Commissioners would be authorized, without further approval by the City Council, to act on and approve all future amendments to LADWP contract numbers BP 14-006 and BP 14-013, including other agreements and documents attached thereto, provided that such amendments would not increase the costs or extend the term of said agreements.

City Administrative Officer (CAO) Report

Due to operational needs, an Executive Directive 4 waiver was granted by the Mayor's Office on November 1, 2016.

ENVIRONMENTAL DETERMINATION

The Beacon Solar Project was originally proposed as a private development and required a Conditional Use Permit (CUP). The Lead Agency under the California Environmental Quality Act (CEQA) was Kern County. An Environmental Impact Report (EIR) was prepared for the project in accordance with the requirements of CEQA. On September 27, 2012, the Kern County Planning Commission certified the EIR and approved the CUP to allow construction and operation of the project. That decision was appealed to the Kern County Board of Supervisors, which denied the appeal and upheld the approval on October 30, 2012. In accordance with CEQA, LADWP is a Responsible Agency for this project and as such, is required to adopt the Mitigation Measure Monitoring Program, Findings of Fact and Statement of Overriding Considerations. On May 20, 2014, the Board took these actions for the Beacon Solar Project and fulfilled its requirements as a Responsible Agency under CEQA. CEQA defines "project" as the whole of the action rather than each separate governmental approval. Amending the PPA, interconnection, ground lease and option agreements for the project site are part of the Beacon Solar Project and are, therefore, covered under the project approval.

CITY ATTORNEY

The Office of the City Attorney reviewed and approved the first Amendment to the Beacon Agreements as to form and legality.

ATTACHMENTS

- Resolution
- Ordinance
- Amendment No.1 to Power Purchase Agreement, Interconnection Agreement, Ground Lease and Option Agreement for Beacon Site 2
- Amendment No.1 to Power Purchase Agreement, Interconnection Agreement, Ground Lease and Option Agreement for Beacon Site 5