

**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 1 4 - 0 2 8 3

JUN 1 9 2014

**REPORT RE:**

**DRAFT ORDINANCE APPROVING THE RELICENSING PROCESS AGREEMENT  
NO. BP 13-062 BETWEEN THE LOS ANGELES DEPARTMENT OF WATER AND  
POWER AND CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR THE  
SOUTH STATE WATER HYDROPOWER PROJECT NO. 2426 AND AMENDMENT  
NO. 5 TO COOPERATIVE DEVELOPMENT WEST BRANCH CALIFORNIA  
AQUEDUCT CONTRACT NO. 10099**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance: (1) approves the Relicensing Process Agreement (RPA) No. BP 13-062 between Los Angeles Department of Water and Power (LADWP) and California Department of Water Resources (CDWR); (2) approves Amendment No. 5 to the Cooperative Development West Branch Aqueduct Contract No. 10099 (Cooperative Agreement); and (3) authorizes the Authorized Representative, as defined in the RPA, to carry out the provisions of the RPA and to provide liaison between LADWP and CDWR without further City Council approval, subject to the limitations set forth in the ordinance.

Background

The Castaic Power Plant (CPP) is an essential asset in LADWP's in-basin, hydro-electric generation capability. The CPP is a pump storage facility which can pump water during non-peak hours when electricity cost is low. When demand and cost for electricity is high, water is stored and is ready to be released for generation.

Unlike traditional steam-driven turbine generators which may require up to three days to start-up, the CPP can start generating within minutes. This ability is crucial to the reliability of LADWP's electric system. In the event of an emergency, the CPP can lead in recovery efforts because it can start and synchronize without the need for an outside power source

The CPP is also an integral part of LADWP's Renewable Portfolio Standard integration. Since the CPP's pump storage ability can be used to absorb excess energy, it complements variable energy sources, such as wind and solar. The CPP is an important asset to the LADWP system, and LADWP intends to continue its operation of this plant.

In 1966, LADWP and CDWR entered into the Cooperative Agreement for the development of the CPP. LADWP provided additional funding for the project and, in return, increased the original planned output of CPP to 1200 Megawatts (MW) and designed it as a pump storage hydroelectric facility. The Cooperative Agreement outlines the relationship between CDWR's usage of the CPP as a water conveyance and LADWP's operation as a pump-storage facility. The Cooperative Agreement currently expires on January 1, 2040.

In February of 1972, the Federal Energy Regulatory Commission (FERC) licensed the California Aqueduct Project, which includes the CPP (renamed the South SWP Project No. 2426), to CDWR and LADWP as co-licensees. In 1994, FERC issued an order amending the license with an authorized rating of 1275 MW. This license expires on January 31, 2022. Continued operation of the CPP requires FERC approval. CDWR and LADWP will be applying for the maximum license term FERC allows -- a 50-year renewed license.

The FERC timeline for relicensing is very strict and preparation for relicensing should start about 10 years prior to the license expiration. The RPA is the result of many months of discussion, planning and negotiations between CDWR and LADWP. This effort brings many benefits, including potentially significant cost-savings through cost-sharing of many activities inherent in the relicensing process that would be duplicative and wasteful if CDWR and LADWP were relicensing on individual paths. The RPA is designed to meet the needs of the relicensing process in a cost-effective and collaborative manner.

A renewal of the license may extend the period of the license to January 1, 2072. Amendment No. 5 to the Cooperative Agreement will extend the termination date to January 1, 2072, or until the expiration of a new FERC license, whichever occurs first. Amendment No. 5 also allows LADWP and CDWR to adjust the benefits provided under the Cooperative Agreement upon issuance of the second FERC license.

### Charter Requirements

Charter Section 674(a)(1) provides that, subject to approval by ordinance, the Board of Water and Power Commissioners has the power to approve contracts with the United States, or any of its agencies, any state or any state agency, and any corporation, public or private, located inside or outside of the City or State of California for the construction, ownership, operation and maintenance of facilities for the generation, transformation and transmission of electric energy that provides for a sharing of benefits and of the capital charges and other obligations associated with those facilities.

### CEQA Findings

In accordance with the California Environmental Quality Act (CEQA) it has been determined that entering into the RPA is not a project requiring environmental review pursuant to CEQA Guidelines Section 15378(b)(4), in as much as creation of a governmental funding mechanism that does not commit an agency to any specific project with potentially significant impact on the physical environment is not a project, and is furthermore exempt from CEQA pursuant to the General Exemption described in CEQA Guidelines Sections 15061(b)(3), which applies in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the physical environment.

In accordance with CEQA, it is has been determined Amendment No. 5 to the Cooperative Agreement is exempt from environmental review under CEQA Guidelines Section 15301(b), which applies to the operation, repair and maintenance of existing publicly-owned utility facilities used to provide electric power, natural gas, sewerage or other public utility services, and is furthermore exempt from CEQA pursuant to the General Exemption described in CEQA Guidelines Section 15601(b)(3), which applies in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the physical environment.

### Council Rule 38 Referral

This draft ordinance has been presented to the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney Syndi Driscoll at (213) 367-4363. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON  
Chief Assistant City Attorney

DM/SD:me  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance approving Relicensing Process Agreement for the South SWP Hydropower Project No. 2426, DWP Contract No. BP13-062; and Amendment 5 to the Contract for Cooperative Development for the West Branch, California Aqueduct, DWP Contract No. 10099 between the California Department of Water Resources and the City of Los Angeles, acting by and through the Department of Water and Power and to provide the Board of Water and Power Commissioners and the General Manager of the Department of Water and Power the authority to enter into contracts related to the Relicensing Process Agreement.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. The Relicensing Process Agreement for the South SWP Hydropower Project No. 2426, DWP Contract No. 13-062, and the Amendment No. 5 to the Contract for Cooperative Development for the West Branch, California Aqueduct, DWP Contract No. 10099, approved by the Board of Water and Power Commissioners (Board), by the adoption of Resolution No. 014-227 that are on file with the City Clerk are hereby approved, and the Authorized Representative (as defined in the Relicensing Process Agreement No. BP13-062) is authorized to carry out the provisions of this Relicensing Process Agreement, and to provide liaison between LADWP and DWR, subject to a maximum expenditure limit of \$50 million without further City Council approval.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with City Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

HOLLY L. WOLCOTT, Interim City Clerk


By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  \_\_\_\_\_  
SYNDI DRISCOLL  
Deputy City Attorney

Date JUN 19 2014

File No. \_\_\_\_\_