

ENERGY AND ENVIRONMENT COMMITTEE REPORT relative to proposed lease agreements with NBC Universal, Inc. (NBC Universal) for lease of the Los Angeles Department of Water and Power's (LADWP) optical fibers.

Recommendation for Council action:

CONCUR with the Board of Water and Power Commissioners' (Board) action of October 21, 2014, Resolution No. 15-068, authorizing the following agreements with NBC Universal for the lease of LADWP optical fibers:

- a. Optical Fiber Lease Agreement No. FO-741-02/2014 (Master) for a term of 15 years.
- b. Short Form IRU-01 Lease Agreement No. FO-742-02/2014 (IRU-01) for a term of five years and up to a maximum of 15 years.
- c. Short Form IRU-02 Lease Agreement No. FO-743-02/2014 (IRU-02) for a term of five years and up to a maximum of 15 years.
- d. Short Form IRU-03 Lease Agreement No. FO-744-02/2014 (IRU-03) for a term of five years and up to a maximum of 15 years.
- e. Short Form IRU-04 Lease Agreement No. FO-745-02/2014 (IRU-04) for a term of five years and up to a maximum of 15 years.
- f. Short Form IRU-05 Lease Agreement No. FO-746-02/2014 (IRU-05) for a term of five years and up to a maximum of 15 years.

Fiscal Impact Statement: The City Administrative Officer (CAO) reports that approval of the proposed agreements, as detailed in the above recommendation and the August 29, 2014 CAO report, attached to the Council file, could result in revenue of approximately \$253,008 annually or a total of \$3,795,120 if the 15 year term is realized for the Power Revenue Fund. There is no impact on the City's General Fund. Future price adjustments will be negotiated periodically, subject to the provisions in each IRU, but in no case will the period between adjustments exceed five years, in accordance with Charter Section 607(b). The proposed Agreement complies with the LADWP's adopted Financial Policies.

Community Impact Statement: None submitted.

TIME LIMIT FILE - NOVEMBER 23, 2014

(LAST DAY FOR COUNCIL ACTION - NOVEMBER 14, 2014)

Summary:

On November 5, 2014, your Committee considered October 22, 2014 Board and August 29, 2014 CAO reports relative to proposed lease agreements with NBC Universal for lease of the LADWP's optical fibers. According to the CAO, NBC Universal has leased segments of the optical fiber system since 2009 and plans to continue using the system for telecommunication purposes, including

telephone, data, and video services. The proposed Master Agreement and five IRU agreements will replace prior agreements which expired on May 5, 2014 and will commence promptly following approval by Council to ensure continued service. The Master Agreement sets the general terms and conditions for exclusive optical fiber system leases whereas the specific business terms are identified in several subordinate Indefeasible Right of Use (IRU) lease agreements.

Approval of the proposed resolution sets the term of the Master Agreement to 15 years expiring in 2029, and enables the continuation of all active subordinate IRUs. The Master Agreement can be terminated at the sole discretion of the LADWP with 180 days notice while the IRUs can be terminated at the sole discretion of NBC Universal with 180 days notice. In accordance with Charter Section 606, Council approval is necessary for entering into lease agreements that exceed five years. The City Attorney has approved the proposed agreements as to form and legality. The LADWP states that it expects to receive revenue of approximately \$253,008 annually or \$3,795,120 if the full term is realized for the Power Revenue Fund based on service rates included within several associated IRUs. The pricing schedule for each IRU is set at the market rate based on a price survey and includes applicable discounts for certain industries and terms. Future price adjustments will be negotiated periodically, subject to the provisions in each IRU, to reflect the market rates; although, in no case will the period between adjustments exceed five years, in accordance with Charter Section 607(b). Since the optic fiber circuits were already set up under the prior agreement, no additional connection cost will be incurred.

After further consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of the master lease and subordinate IRUs as contained in the Board and CAO reports and detailed in the above recommendation. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ENERGY AND ENVIRONMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
FUENTES:	YES
BLUMENFIELD:	YES
LABONGE:	ABSENT
HUIZAR:	YES
KORETZ:	YES

ARL

11/5/14

-NOT OFFICIAL UNTIL COUNCIL ACTS-