



Los Angeles
Department of
Water & Power

RESOLUTION NO. _____

BOARD LETTER APPROVAL

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DAVID H. WRIGHT
Chief Operating Officer

A handwritten signature in blue ink, appearing to read 'Marcie L. Edwards', is written over a horizontal line.

MARCIE L. EDWARDS
General Manager

DATE: February 2, 2016

SUBJECT: Amended and Restated Optical Fiber Lease Agreement
No. FO-625-05/2010 (Master) and Short Form IRU-01 Lease
Agreement No. FO-626-05/2010 (IRU-01) with Level 3
Communications, LLC (Level 3) for Lease of Los Angeles
Department of Water and Power (LADWP) Optical Fibers

SUMMARY

Fiber Optics Enterprise (FOE) provides fiber optic circuits for internal LADWP use for control systems and the corporate network. FOE leases the excess fiber optic cable capacity to commercial businesses. A Master Agreement called the "Optical Fiber Lease Agreement" establishes contractual terms and conditions with each commercial fiber customer. A subordinate agreement to the Master Agreement, the "Indefeasible Right of Use" (IRU) agreement, is established for each individual fiber optic cable lease. IRUs have their own contract period and terms, and may be added at any time during the life of the Master Agreement by our commercial fiber customers.

The proposed Amended and Restated Master Agreement will extend the term of the Level 3 Master Agreement for an additional 15 years or up to August 2, 2030. This will enable the IRU-01 Agreement to continue and provide the means to execute new IRUs for future business opportunities that may arise with Level 3.

Level 3 and LADWP have also agreed to execute the Amended and Restated IRU-01 Agreement to extend the term of the IRU-01 Agreement with yearly automatic renewals and for a total of five additional years, up to January 6, 2021. During this extended term, the IRU-01 Agreement will be subject to market rate adjustment and Level 3 can terminate this IRU-01 Agreement, without cause, upon 30 calendar days' advanced written notification.

The proposed Amended and Restated Master and IRU-01 Agreements require City Council approval according to Charter Section 606. A copy of the City Administrative Officer (CAO) report dated January 15, 2016, is attached.

RECOMMENDATION

It is requested that the Board of Water and Power Commissioners adopt the attached Resolution authorizing execution of proposed Amended and Restated Master and IRU-01 Agreements.

FINANCIAL INFORMATION

The Amended and Restated IRU-01 Agreement will enable LADWP to continue to receive annual revenue of \$124,099. LADWP has received total net revenue of \$570,655 as of the Master Agreement term end date of August 2, 2015, and is anticipated to receive \$53,380 if the original IRU-01 Agreement term of January 6, 2016, is reached. The Amended and Restated IRU-01 Agreement will further generate \$620,495 for the Power Revenue Fund, if the full extended term is realized.

There is no additional cost associated with the execution of the Amended and Restated IRU-01 Agreement to continue Level 3's use of the fiber optic elements under this expiring IRU-01 Agreement.

This agreement is priced using the current FOE Dark Fiber tiered pricing structure. No Consumer Price Index (CPI) adjustment was applied because the Communications CPI for Urban Consumers has not increased since this pricing structure was established. This agreement has the following annual market rate adjustment built in:

Market Rate Adjustment Type:	<input checked="" type="checkbox"/> Market Pricing	<input type="checkbox"/> CPI	<input type="checkbox"/> Fixed Pricing
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BACKGROUND

FOE provides fiber optic circuits for internal LADWP use for both control systems and the corporate network. FOE also generates revenue from leasing excess fiber optic cable capacity to Los Angeles (LA) businesses. The customers are primarily LA area businesses, entertainment industries, health and educational institutions, and City of LA entities.

Level 3 is a communications and information services company headquartered in Broomfield, Colorado, and operating throughout the United States (US) and Europe. They are one of the largest telecommunications providers of fiber optic Internet access in the US.

Level 3 has been an existing FOE customer since 2006 and is current with all payments required by previously executed agreements.

The original Master Agreement for Level 3 expired on August 2, 2015. The IRU-01 subordinate agreement was set to expire on January 6, 2016, but was terminated by the expiration of the Master Agreement. While negotiations were underway for a new Master Agreement, to maintain continuous service for a long term customer until the new Master Agreement was completed, it was mutually agreed that Level 3 will pay, in advance, all lease fees under the terms and conditions of the IRU-01 Agreement.

AGREEMENT NO.	DESCRIPTION	TERM	EXPIRATION DATE	ANNUAL REVENUE
FO-436-10/2006	Master Agreement	5 years	January 21, 2012	Not Applicable
FO-437-10/2006	IRU-01	1 year with option to renew up to 5 years	Terminated August 31, 2008	\$154,291*
FO-625-05/2010	Master Agreement	5 years	August 2, 2015	Not Applicable
FO-626-05/2010	IRU-01	5 years	January 6, 2016	\$124,099
Total Active Annual Revenue (*not including revenue received from expired or cancelled agreements)				\$124,099

CITY ATTORNEY

The Office of the City Attorney reviewed and approved the Amended and Restated Master and IRU-01 Agreements and Resolution as to form and legality.

ATTACHMENTS

- Resolution
- Agreements
- CAO Report