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CITY ATTORNEY

REPORT NO. R 15 - 0 3 2 1

DEC 1 6 2015

REPORT RE:

**DRAFT ORDINANCE APPROVING THE FIRST AMENDMENT
TO SMART GRID DEMONSTRATION PROJECT AGREEMENT AMONG NATIONAL
AERONAUTICS AND SPACE ADMINISTRATION FOR JET PROPULSION
LABORATORY, REGENTS OF THE UNIVERSITY OF CALIFORNIA, ACTING
THROUGH ITS LOS ANGELES CAMPUS, UNIVERSITY OF SOUTHERN
CALIFORNIA, AND THE CITY OF LOS ANGELES, ACTING BY AND THROUGH THE
DEPARTMENT OF WATER AND POWER**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 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 authorizes the approval of the First Amendment to the Smart Grid Demonstration Project Agreement (MOU), dated for convenience as of March 25, 2010, among the City of Los Angeles, acting by and through the Department of Water and Power (LADWP), the National Aeronautics and Space Administration (NASA) for Jet Propulsion Laboratory (JPL), Regents of the University of California, acting through its Los Angeles Campus (UCLA), and University of Southern California (USC). The MOU originally was to last for five years with the option to extend it by mutual agreement among the parties for up to an additional three years. The proposed amendment to the MOU is consistent with this option in that it would extend the MOU one year and delegates LADWP's future decisions about extending the MOU for up to two more years in one-year increments to the Senior Assistant General Manager of LADWP's Power System. The First

Amendment to the MOU is desired to allow LADWP, USC, UCLA and JPL to carry out the goals of the Smart Grid Regional Demonstration Project (Smart Grid Project).

Background

In early 2009, the U.S. Department of Energy (DOE), through the American Recovery and Reinvestment Act, released a Funding Opportunity Award for a Demonstration Project (Award No. DOE-FOA-036). LADWP submitted an application and was awarded a \$60 million matching grant. On March 18, 2010, the Board of Water and Power Commissioners authorized a resolution to accept and acknowledge the grant. Later in 2010, the four Smart Grid Project participants executed the MOU with City Council and Mayoral approval. The MOU originally was to last for five years with the option to extend it by mutual agreement among the parties for up to an additional three years.

Because of challenges in procurement, implementation and coordination with the other Smart Grid Project participants, LADWP accepted a one-year extension of the federal grant earlier this year in order to collect the two years of operational data mandated by the grant. Consistent with this extension, LADWP is requesting that the term of the MOU with its project partners be amended so that the Smart Grid Project can be completed. LADWP indicates that, since the DOE has allowed an accelerated federal reimbursement schedule, failure to complete the Smart Grid Project would force LADWP to pay back the \$54.63 million share already reimbursed by the federal government.

The First Amendment to the MOU would extend the MOU one year and delegates LADWP's future decisions about extending the MOU for up to two more years in one-year increments to the Senior Assistant General Manager of LADWP's Power System. The Office of Public Accountability recommended delegation to that person.

Summary of Ordinance Provisions

The MOU was approved by ordinance due to the requirement stated in Charter Section 262(a)(2) that advance payment be authorized by ordinance. Consequently, the First Amendment to the MOU is proposed to be approved by ordinance, as well.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), it has been determined that approval of the First Amendment to the MOU is exempt pursuant to the General Exemption described in CEQA Guidelines Section 15061(b)(3).

Council Rule 38 Referral

A copy of the draft ordinance has been presented to the Board of Water and Power Commissioners pursuant to Council Rule 38, and its comments have been incorporated or resolved with LADWP.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian E. Stewart at (213) 357-5115. He 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

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Transmittal