

MIKE FEUER
CITY ATTORNEY

REPORT NO. R 1 3 - 0 2 4 1
AUG 1 6 2013

REPORT RE:

**DRAFT ORDINANCE TO PROVIDE AUTHORITY TO THE BOARD OF WATER AND
POWER COMMISSIONERS AND THE GENERAL MANAGER OF THE
DEPARTMENT OF WATER AND POWER TO ENTER INTO CONTRACTS AND
FINANCIAL TRANSACTIONS FOR THE PURCHASE AND SALE OF
ENVIRONMENTAL CREDITS, INCLUDING EMISSIONS CREDITS AND
RENEWABLE ENERGY CREDITS**

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.

Background

The Los Angeles Department of Water and Power (Department) is subject to several environmental/emission credit and Renewable Energy Credit (REC) programs under federal, state and local regulatory programs. The Department does not participate in the environmental/emission credit and REC markets to engage in risk-taking activities (i.e., speculative trading), but does participate in markets in order to maintain compliance with environmental laws and regulations. Certain risks are incidental to the trading of environmental and emission credits. The ordinance and Policy approved by the Board of Water and Power Commissioners addresses the mechanisms by which the Department will control business-related risks. Contracts and financial transactions entered into pursuant to the proposed ordinance would be subject to cost limitations on a price per environmental/emission credit or REC basis. Contracts

and financial transactions would be for a period not to exceed five (5) years in duration from the date of execution, except that purchases for a longer term may be entered into in order to match or offset the likely duration of specific output from specific facilities owned or contracted for by the Department. Pursuant to Executive Directive (ED)-4, the CAO's office has reviewed the matter and has recommended the Council's adoption of the proposed ordinance. The CAO report has been transmitted separately.

Summary of Ordinance Provisions

The ordinance transmitted would add a new Section 23.143.1 to Chapter 7, Article 3, Division 23 of the Los Angeles Administrative Code to provide authority to the Board of Water and Power Commissioners and the General Manager of the Department of Water and Power to enter into contracts and financial transactions for the purchase and sale of environmental credits, including emission credits and renewable energy credits (RECs). This authority would apply only to the purchase, sale or exchange of Environmental Credits and RECs by the Department of Water and Power for compliance with environmental or energy laws, regulations and policies which support its production of electricity to serve its retail customers or for environmental purposes. The Department is not participating in the environmental markets to engage in speculative activities but rather to maintain compliance with environmental laws, regulations and policies. The ordinance requires that, prior to entering into any contract or financial transaction pursuant to the provisions of the ordinance, the Board of Water and Power Commissioners establish an environmental and emission credit policy relating to the purchase, sale and exchange of Environmental Credits and Renewable Energy Credits addressing control of business-related risks. The Board of Water and Power Commissioners, under the authority of Charter Section 604(c), is authorized to delegate to the General Manager of the Department the authority to enter into contracts and financial transactions, provided such transactions comply with the limitations set forth in the ordinance for contracts and financial transactions.


Council Rule 38 Referral

This draft ordinance has been approved by 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 Michelle M. Lyman at (213) 367-4530. 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 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:MML:pas
Transmittal