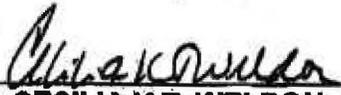
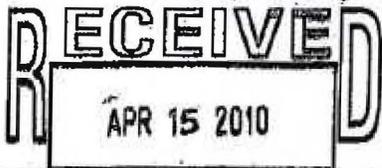


LADWP APPROVAL BOARD LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: April 14, 2010
 <b>CECILIA K.T. WELDON</b> Chief Administrative Officer		SUBJECT:  Memorandum of Understanding Between the Community Redevelopment Agency of the City of Los Angeles and the Los Angeles Department of Water and Power for the LADWP Innovation Campus
 <b>RAMAN RAJ</b> Chief Operating Officer and Acting General Manager		
		FOR COMMISSION OFFICE USE:  <b>RES. NO. 010 298</b> APR 20 2010
Board of Water & Power Com'rs. CITY OF LOS ANGELES		
CITY COUNCIL APPROVAL REQUIRED: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		COPY-RESO TO: i- Chief Adm. Officer } 5-12-10
IF YES, BY WHICH CITY CHARTER SECTION:		

**PURPOSE**

Transmitted for approval by your Honorable Board is a Resolution, approved as to form and legality by the City Attorney, that will authorize the execution of this Memorandum of Understanding (MOU) between the Community Redevelopment Agency for the City of Los Angeles (CRA/LA) and the City of Los Angeles Department of Water and Power (LADWP) to develop plans and design for the LADWP Innovation Campus (Campus). CRA/LA shall pay up to \$3 million for public improvements of the site. In return, future net revenues from incubator activities will be shared evenly in excess of \$1.5 million. LADWP will evenly share the costs up to \$300,000 to create a master plan for the Campus and to hire an incubator consultant.

As of April 1, 2010, the CRA/LA Board of Commissioners has approved authorization of this agreement.

**BACKGROUND**

LADWP is taking a leadership role in meeting Los Angeles' and California's water, power, and greenhouse gas related challenges. As LADWP transitions its generation mix to more renewable sources, there is an opportunity to leverage this change to create new companies, technologies, and jobs. As part of the City's initiative, the idea of a clean technology corridor has emerged that will transform parts of industrial downtown

Los Angeles into clean technology economic centers. One of the proposed anchors of the corridor is the Campus.

LADWP is in the process of negotiating the purchase of property at 501 and 537 South Hewitt Street and 516, 524, and 542 Colyton Street, Los Angeles, CA (Property) for the potential development of the LADWP Innovation Campus. The Campus includes space for the La Kretz Clean Technology Center (Center) and CRA/LA Clean Technology Business Incubator (Incubator).

The Center will streamline and expedite the process by which new and innovative energy and water technologies are matured and commercialized. The Center will work closely with UCLA, USC, JPL, the venture capital community, and innovative entrepreneurs to facilitate large scale demonstration and deployments of new technologies. The technologies from the Center will benefit LADWP by creating new energy and water technologies that can be used in LADWP operations.

The general concept for the Campus will consist of lab space and offices for the Center, office space for the Incubator, and shared facilities such as administrative offices, drop-in office space for venture capital firms, a conference center, meeting rooms, storage space, parking, and a prototype manufacturing facility.

The Incubator will be a space designed to accelerate the successful development of entrepreneurial companies through an array of business support resources and services, developed and orchestrated by Incubator management. CRA/LA is proposing to create a new business incubator that will support and grow emerging clean technology companies in the City of Los Angeles by providing a venue for the commercialization of technologies and the creation of viable local businesses and green collar jobs for local residents. The Incubator is estimated to create approximately 250 new jobs. These jobs will be related to clean technology and the associated support industries.

LADWP has several existing partnerships to facilitate the development of the clean technology sector in Los Angeles. On July 20, 2009, the LADWP and the City of Los Angeles signed a first of its kind MOU with the Jet Propulsion Laboratory (JPL) and its managing institution, the California Institute of Technology (Caltech) to work together to establish Los Angeles as a leader in demonstrating, manufacturing, and deploying new and innovative water and energy related products and systems. This LADWP / JPL partnership is envisioned to combine LADWP's experience in utility operations with JPL's technical project management and engineering expertise for the Center.

#### Summary Deal Points

1. Under the MOU, CRA/LA will issue a Request for Proposals for an architecture firm on the CRA/LA's list of pre-approved consultants to develop a master plan for the Property as a unified campus environment to house the Center, Incubator, and

shared facilities. The selected architecture firm shall also develop a list of improvements, plans to rehabilitate the core and shell of existing buildings at the Property, cost estimates, a feasibility cost analysis of achieving Leadership in Energy and Environmental Design (LEED) Core and Shell Silver certification at a minimum, and construction drawings. CRA/LA shall allow LADWP to participate in the selection of the consultants. CRA/LA and LADWP will each be responsible for contributing one half of the total cost up to \$200,000 to hire the architectural firm. The architects will develop two development plans for the project and CRA/LA and LADWP will select and approve the final plan.

2. CRA/LA will be responsible for the hiring of an incubator consultant to develop a strategy, business plan, management structure, and sustainable funding model for the Incubator and its role with the Center. CRA/LA and LADWP will each be responsible for contributing one half of the total cost up to \$100,000 to hire the consultant.
3. California Environmental Quality Act (CEQA) will be completed prior to any changes being made to any property proposed to be used for the Campus and before any approval of the lease of property. Both LADWP and CRA/LA Board retain full discretion under CEQA to consider all options including a "no project" option. If either Board declines to approve the Campus project, the MOU will terminate.
4. Subject to approval of the Campus project, action to comply with CEQA, and the approval of a lease containing the material terms set forth in the MOU by their respective Boards, CRA/LA will enter into a lease with LADWP.
5. CRA/LA will be responsible for the preparation and submission to LADWP of the design drawings, project cost estimates, and any entitlements necessary for the construction and designs of the Campus, as set forth above.
6. CRA/LA will issue a Request for Proposals for a construction firm to implement the master plan and the construction of the tenant improvements and public improvements and installation of capital equipment for the Incubator on the Property. CRA/LA shall allow LADWP to participate in the selection of the consultants and contractors.
7. CRA/LA will pay up to Three Million Dollars (\$3,000,000) for tenant improvements, capital equipment, and related public improvements for the Incubator.
8. Future Incubator net rental revenues are to be shared equally between LADWP and CRA/LA during the term of the lease. Fifty percent (50%) of any revenue received by CRA/LA from subleasing activities in excess of a maximum aggregate total of One Million Five Hundred Thousand Dollars (\$1,500,000) shall be due and payable to LADWP.

**COST AND DURATION**

Costs are potentially up to \$150,000 for the cost of the incubator and architectural consultant. Duration of the MOU is anticipated to be twenty years, with an option for a ten-year renewal.

**FUNDING SOURCE**

For the Incubator Consultant:

Fiscal Years: 2009-2010  
Functional Item No.: 407-0100, Job Q0101  
Location in Budget: LADWP Other Direct – Budgeted in the Joint Book, Cost Element 37, page 93 Of 111.

For the Architectural Consultant:

Fiscal Years: 2009-2010  
Functional Item No.: 289-14, Job Q2030  
Location in Budget: LADWP Other Direct – Budgeted in the Joint Book, Cost Element 37, page 17 Of 111.

**FISCAL IMPACT STATEMENT**

The MOU will obligate LADWP to share the cost of the incubator and architectural consultant up to \$150,000. Upon approval of the proposed project and clearance under CEQA, CRA/LA will be obliged to provide up to \$3 million in tenant improvements to the site. LADWP will also receive a fifty percent (50%) share of net revenues from the incubator subleases. CRA/LA is responsible for all property taxes associated with the leased premises.

**TYPE OF INSURANCE COVERAGE(S)**

In each RFP and contract that is competitively bid and let, both CRA/LA and LADWP will mutually agree upon indemnification and insurance requirements.

**INTERNAL AUDIT**     Yes     No

**EXTERNAL AUDIT**     Yes     No

**CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF**

Not applicable.

**MEMORANDUM OF UNDERSTANDING PROPOSED CONTRACT REVIEW  
PROCESS**

All contracts based on this MOU will be required to be cleared with LADWP City Attorney, Risk Management, and Purchasing departments.

**ENVIRONMENTAL DETERMINATION**

This MOU is being entered to commence the planning and design of a clean technology Campus. However, at this time, LADWP has no specific plans for the proposed project. As such, no analysis under provisions of the California Environmental Quality Act (CEQA) is necessary. "At the current planning stage of this proposed project, preparation of an environmental impact report would have been premature. Any analysis of potential environmental impacts would have been wholly speculative and essentially meaningless." Concerned McCloud Citizens vs. Nestle Waters (2007) 147 Cal.App. 4<sup>th</sup>, 181, 197. If and when specific plans and design for the project are proposed, an appropriate document required under provisions of the CEQA will be prepared.

**CONFLICT OF INTEREST STATEMENT**

All conflict of interest procedures were followed. No conflict of interest issues were identified.

**RECOMMENDATION**

It is recommended that your Honorable Board adopt the attached resolution, approved as to form and legality by the City Attorney, authorizing the execution of this MOU between LADWP and CRA/LA.

JXC: tg

Attachments

e-c/att: General Manager's Office

Raman Raj

Richard M. Brown

Aram Benyamin

James B. McDaniel

Cecilia K.T. Weldon

Lorraine A. Paskett

Jeffery L. Peltola

Maria Sison-Roces

John X. Chen

Maria Rendon Sharma

RESOLUTION NO. 010 298

WHEREAS, the City of Los Angeles Department of Water and Power (LADWP) and the Community Redevelopment Agency of the City of Los Angeles (CRA/LA) desire to support Citywide efforts to revitalize communities within the CRA/LA's targeted redevelopment project areas, including the Central Industrial, Chinatown, Council District 9, and Adelante Eastside Redevelopment Project Areas; and

WHEREAS, the City of Los Angeles desires to stimulate the growth of the green economy and green jobs in Los Angeles and work more collaboratively with our regional research and development assets; and

WHEREAS, a need exists for development of new clean technology concepts, products, and systems that show promise for assisting LADWP meet its future water and energy goals; and

WHEREAS, the Parties desire to introduce and commercialize new clean technologies into utility operations and the marketplace and to enter into a Memorandum of Understanding (MOU) that would facilitate the planning and design of an Innovation Campus; and

WHEREAS, the proposed LADWP Innovation Campus shall be comprised of the La Kretz Clean Technology Center (Center), Incubator, and shared facilities and shall consist of lab space and offices for the Center, flex office space for the Incubator, and shared facilities such as administrative offices, drop-in office space for venture capital firms, office space for cleantech nonprofits, a conference center, meeting rooms, storage space, and a prototype manufacturing facility; and

WHEREAS, an incubator is defined as commercial or industrial office space designed to accelerate the successful development of entrepreneurial companies through an array of business support resources and services, developed and orchestrated by incubator management.

NOW, THEREFORE, BE IT RESOLVED in consideration of the promises, covenants, and agreements set forth in this MOU and other good and valuable consideration, receipt of which is hereby acknowledged, the CRA/LA and LADWP hereby agree to execute the terms of the MOU.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of the LADWP, upon proper certification by the General Manager or his designee, is authorized and directed to draw demands on the Power and Water Revenue Funds in payment of obligations arising under the LADWP Innovation Campus as outlined in the MOU.

BE IT FURTHER RESOLVED that the President or Vice President of the Board, or the General Manager or the Chief Operating Officer of the LADWP, and the Secretary, Assistant Secretary or the Acting Secretary of the Board be and they are hereby authorized and directed to execute said Resolution for and on behalf of the LADWP.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held on APR 20 2010

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRUTANICH, CITY ATTORNEY

Barbara E. Inosch  
Secretary

APR 02 2010

BY Mary K. Dennis  
MARY K. DENNIS  
Deputy City Clerk

DEPARTMENT OF WATER AND POWER  
CITY OF LOS ANGELES  
COMMISSION OFFICE

CECILIA K.T. WELDON

MAY - 5 2010

May 4, 2010

CECILIA K.T. WELDON  
Acting Chief Administrative Officer  
Room 1521, JFB  
Attn. Maria Rendon Sharma, x71935

Attached herewith is a ORIGINAL AND DUPLICATE ORIGINAL OF AGREEMENT

FOR SIGNATURE. RETURN THE FULLY EXECUTED ORIGINAL TO THE COMMISSION OFFICE,  
ROOM 1555. THE DUPLICATE ORIGINAL SHOULD BE RETAINED BY THE CONTRACTOR.

FILE NO.	DATE	NAME
	4-20-10	Community Redevelopment Agency for the City of Los Angeles - Memorandum of Understanding (MOU) - Authorizes Developing plans and design for the LADWP Innovation Campus. Authorized by Resolution No. 010-298, adopted April 20, 2010.  5/5/10 - Roseann for handling. yg

*Barbara E. Moschos*

BARBARA E. MOSCHOS

Title

Board Secretary

DEPARTMENT OF WATER AND POWER  
CITY OF LOS ANGELES

COMMISSION OFFICE

September 28, 2010

**BOARD FILE**

Attached herewith for FILE

The following **CONFORMED COPY OF AGREEMENT**

FILE NO.	DATE	NAME	
	4-20-10	<p>Community Redevelopment Agency for the City of Los Angeles - Memorandum of Understanding (MOU) - Authorizes Developing plans and design for the LADWP Innovation Campus. Authorized by Resolution No. 010-298, adopted April 20, 2010.</p> <p>Original - Accounts Payable Duplicate Original - Retained by Contractor Conformed Cople - Chief Adm. Officer/Maria Sharma - Supply Chain Services - Board File</p>	

*Barbara E. Moschos*

**BARBARA E. MOSCHOS**

Title Board Secretary

**After execution by the Board of the LADWP Memorandum of Understanding with the Community Redevelopment Agency of the City of Los Angeles, please return the original and duplicate original to this office for further processing. Upon receipt, a fully executed original will be returned to your office. The LADWP's Contract Administrator is Maria Rendon Sharma on Extension 71935.**

**Thank you.**

**Joint System  
Customer Service Division Executive Office  
JFB Room 755  
April 15, 2010**

**MEMORANDUM OF UNDERSTANDING**

**BY AND BETWEEN**

**THE COMMUNITY REDEVELOPMENT AGENCY OF THE  
CITY OF LOS ANGELES, CALIFORNIA**

**AND**

**THE LOS ANGELES DEPARTMENT OF WATER AND POWER**

**LADWP INNOVATION CAMPUS**

**Memorandum of Understanding Between the Community Redevelopment Agency of the  
City of Los Angeles, California (CRA/LA)  
And Los Angeles Department Water and Power (LADWP)**

The Los Angeles Department of Water and Power (LADWP), wishes to enter into a Memorandum of Understanding (MOU) with the Community Redevelopment Agency of the City of Los Angeles, California (CRA/LA) a public body, corporate and politic, (each a Party, and collectively, the Parties) to effectuate the planning and design of a Clean Technology Business Incubator (Incubator) to be located at the proposed LADWP Innovation Campus (Campus). The designation of the proposed project contemplated herein as the LADWP Innovation Campus and other designations herein are preliminary and subject to change.

### RECITALS

Whereas, the LADWP and CRA/LA desire to support Citywide efforts to revitalize communities within the CRA/LA's targeted redevelopment project areas, including the Central Industrial, Chinatown, Council District 9, and Adelante Eastside Redevelopment Project Areas.

Whereas, the Parties wish to promote and develop clean technology and to assist new businesses that will generate green jobs in Los Angeles.

Whereas, a need exists for development of new clean technology concepts, products, and systems that show promise for assisting LADWP to meet its future water and energy goals.

Whereas, the Parties desire to introduce and commercialize new clean technologies into utility operations and the marketplace.

Whereas, the proposed Campus shall be comprised of the La Kretz Clean Technology Center (Center), Incubator, and shared facilities and shall consist of lab space and offices for the Center, flex office space for the Incubator, and shared facilities such as administrative offices, drop-in office space for venture capital firms, office space for cleantech nonprofits, a conference center, meeting rooms, storage space, and a prototype manufacturing facility.

Whereas, an incubator is defined as commercial or industrial office space designed to accelerate the successful development of entrepreneurial companies through an array of business support resources and services, developed and orchestrated by incubator management.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants, and agreements set forth in this MOU and other good and valuable consideration, receipt of which is hereby acknowledged, the CRA/LA and LADWP hereby agrees as follows:

### TERM OF MOU

1. This MOU shall be for a term of twenty (20) years commencing when both Parties' governing bodies approve the agreement, unless terminated sooner by agreement of the Parties by writing.

### CEQA COMPLIANCE

Any development of the proposed Campus project will be conditioned upon compliance with the California Environmental Quality Act (CEQA) prior to the approval of the proposed Campus and/or

any lease or construction on property acquired. The LADWP Board and CRA/LA Board retain their discretion to approve or deny the Campus project under CEQA prior to any lease or changes to the property to be used for this proposed Campus project.

Should the LADWP Board decline to approve the proposed Campus project or the lease of property, the acquired property may be either put to use for other LADWP purposes or disposed of according to law.

Should the LADWP Board or the CRA/LA Board decline to approve the proposed Campus project or the lease of property for this Project, this MOU shall be terminated.

### **RESPONSIBILITIES OF PARTIES**

#### **2. LADWP Responsibilities:**

- A. LADWP will negotiate to purchase a property, potentially proposed to be located at 501, 537 South Hewitt Street and 516, 524, and 542 Colyton Street Los Angeles, California, or an alternate property (the Property) within the CRA/LA Central Industrial Redevelopment Project Area for the development of the Campus. The Property to be acquired for the Campus is anticipated to include approximately 20,000 square feet for the Center, approximately 20,000 square feet for the proposed Incubator, and approximately 5,000 square feet for shared facilities.
- B. LADWP will lease sufficient space and parking on the Property to CRA/LA for the development of the Incubator as part of the Campus as further described below under "Lease Terms".
- C. LADWP will participate and cooperate with CRA/LA to refine the master plan and programming issues for the Campus.
- D. LADWP will pay for and/or construct the tenant improvements and capital equipment for the Center on the Campus.
- E. LADWP will be responsible for administering and marketing the Campus excluding the Incubator.
- F. LADWP will pay for the shared costs for the planning and implementation of the Project listed in Section 7 below.
- G. LADWP shall participate and cooperate with CRA/LA in its efforts to secure grant funding for capital and public improvements for the Incubator and/or Campus, including the sharing of environmental studies for the Property and reporting of jobs created by the Campus.

#### **3. CRA/LA Responsibilities:**

- A. CRA/LA will be responsible for hiring an incubator consultant to develop a strategy, business plan, management structure, and sustainable funding model for the Incubator and its role within the Campus. CRA/LA and LADWP will evenly split the cost of this consultant up to \$100,000.
- B. CRA/LA will issue a Request for Proposals (RFP) for an architecture firm on the CRA/LA's list of pre-approved consultants to develop a master plan for the Property as a unified campus environment to house the Center, Incubator, and shared facilities. The selected architecture firm

shall also develop a list of improvements, plans to rehabilitate the core and shell of existing buildings at the Property, cost estimates, a feasibility cost analysis of achieving Leadership in Energy and Environmental Design (LEED) Core and Shell Silver certification at a minimum, and construction drawings. CRA/LA shall allow LADWP to participate in the selection of the consultants. CRA/LA and LADWP will evenly share the costs up to \$200,000. The architects will develop two development plans for the project and CRA/LA and LADWP will select and approve the final plan.

- C. CRA/LA will be responsible for the preparation and submission to LADWP of the design drawings, project cost estimates, and any entitlements necessary for the construction and designs of the Campus, as set forth above.
- D. Subject to CRA/LA entering into a Lease with LADWP, CRA/LA will issue a Request for Proposals for a construction firm to implement the master plan and the construction of the tenant improvements and public improvements and installation of capital equipment for the Incubator on the Property. CRA/LA shall allow LADWP to participate in the selection of the consultants and contractors.
- E. Subject to CRA/LA entering into a Lease with LADWP, CRA/LA will be responsible for administering and marketing the Incubator.
- F. CRA/LA shall pay for the shared costs for the planning and implementation of the Project listed in Section 7 below.

#### LEASE TERMS

#### 4. Lease Terms:

A. The proposed Lease shall contain terms consistent with the following provisions:

- (i) Base Rent: None.
- (ii) Improvements and Capital Equipment: CRA/LA shall secure funding for and complete construction of tenant improvements and public improvements, and the installation of capital equipment for the Incubator space in an amount up to Three Million Dollars (\$3,000,000) within 30 months of the effective date of the Lease.
- (iii) Net Rental Revenue Participation: CRA/LA shall pay LADWP 50% of any Net Rental Revenue received from subleasing activities during the term of the Lease in excess of a maximum aggregate total of One Million Five Hundred Thousand Dollars (\$1,500,000). LADWP's share of Net Rental Revenue shall be remitted to LADWP on an annual basis. Net Rental Revenue for purposes of this MOU and the Lease shall be defined as the Incubator's rental income minus Incubator operating expenses. Rent not paid when due shall bear interest from due date until paid at the rate of 10/12th of 1% per month (10% per annum) from the date payment is due. Said sum shall be deemed supplemental rent.
- (iv) Term of Lease: The term of the lease shall be for an initial period of twenty (20) years with one option to renew for an additional ten (10) years.

- (v) **Subleases:** CRA/LA shall have the right to sublease the Incubator space to an Incubator operator or to individual businesses.
- (vi) **Subleaseses and Subtenants:** LADWP shall have the right to approve any new tenants who will occupy the Incubator before occupancy. CRA/LA shall report or require its sublessee Incubator operator to report the new tenants to LADWP representative thirty (30) days before the tenant will occupy the Incubator space. LADWP will have ten (10) days to respond to the request. Failure of LADWP to respond within such 10-day period shall be deemed approval of the tenant. In the event CRA/LA elects to establish or contract with a nonprofit entity to operate the Incubator, CRA/LA shall consult and cooperate with LADWP in the development or selection of a nonprofit for the Incubator and Master Sublease with tenant selection criteria enumerated.
- (vii) **Subleases:** The indemnification and insurance requirements, and other terms and conditions on the assignment, transfer, or sublease shall be mutually agreeable to both Parties. Further, the insurance limits for particular sublessees may be revised at the request of CRA/LA and are subject to the approval of LADWP.
- (viii) **The incubator operating budget shall be developed yearly, and LADWP and CRA/LA shall jointly review and approve such budget. LADWP shall have thirty (30) days from date of receipt to approve the budget; failure of LADWP to respond within such 30-day period shall be deemed approval of the budget.**

#### **PAYMENT OF PROJECT COSTS AND SERVICES**

5. **Project Budget:** LADWP and CRA/LA will jointly create a Project Budget to be used for the planning and development of the Campus. LADWP and CRA/LA shall only expend funds in conformity with this MOU, as defined by the Project Budget and applicable CRA, State, and Federal regulations and guidelines.
6. **Project Costs to Be Shared by CRA/LA and LADWP:** LADWP and CRA/LA shall share equally in the costs of the following consultants for the Campus:
  - a. Incubator Consultant(s) in an amount not to exceed \$100,000.
  - b. Architectural Consultant(s) in an amount not to exceed \$200,000.
7. **Contracting/Reimbursement/Payment Process:**
  - a. CRA/LA, in consultation with LADWP, shall retain and contract with the consultants listed in Section 5 above.
  - b. In the case that CRA/LA hires a consultant(s) to perform work related to the Campus, CRA/LA will pay the consultant in full. Within thirty (30) days, CRA/LA will submit an invoice to LADWP for reimbursement of one-half of the consultant costs. LADWP will pay the invoice amount to CRA/LA within sixty (60) days of submittal.
  - c. **Disputed Invoices.** If any portion of an invoice is disputed, the amount of the invoice not under dispute shall be paid by LADWP when due. LADWP shall investigate the facts and

circumstances surrounding the dispute in a timely manner, make a determination in writing (the "Invoice Determination"), and shall then pay any resulting amount due to the particular Party to whom the payment is due.

### **REPORTING**

8. CRA/LA, on a quarterly basis, shall provide to the LADWP Customer Service Division a report summarizing the status of the Incubator space; including but not limited to a full accounting of costs and revenues, job progress, tenant list, business/technology milestones, and any significant issues or changes related to the Campus.

### **ACCESS TO RECORDS AND AUDITS**

9. LADWP and CRA/LA shall have full and free access to all books, papers, documents, and records of the other party that are pertinent to their performance under this MOU, including the right to audit.

### **INDEMNIFICATION AND INSURANCE REQUIREMENTS**

10. Section 895.2 of the Government Code of State of California imposes joint civil liability upon public entities solely by reason of such entities being parties to an agreement, as defined by Government Code section 895.
  - i. Pursuant to Government Code Section 895.4 and 895.6, CRA/LA and the LADWP shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by any negligent or wrongful act or omission occurring in the performance of this MOU.
  - ii. CRA/LA and the LADWP indemnifies and holds harmless the other party for any loss, costs, or expenses that may be imposed upon such other Party by virtue of Government Code section 895.2.
  - iii. In the event of third-party loss caused by negligence, wrongful act or omission by both parties, each party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed or judicially determined. The provisions of Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated.
11. In all policies insuring a Party's actions under this MOU, the other Party shall be named as an additional insured.
12. In each RFP and contract that is competitively bid and let, CRA/LA shall ensure that LADWP is indemnified alongside CRA/LA, with an indemnification clause that is mutually acceptable to both Parties.
13. It is agreed between the Parties, that CRA/LA shall set insurance requirements in any of its contracts with its architectural consultants, with at least the following minimum limits and requirements:

**Workers' Compensation/Employers Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties.

**Commercial Automobile Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties.

**Commercial General Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties.

**Professional Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties.

14. It is agreed between the parties, that CRA/LA shall set insurance requirements in any of its contracts with its developers, with at least the following minimum limits and requirements:

**Workers' Compensation/Employers Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties, but in no event less than \$1,000,000.

**Commercial Automobile Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties, but in no event less than \$1,000,000.

**Commercial General Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties, but in no event less than \$5,000,000.

**Pollution Liability:** The limits will be determined and included in the competitive bid before such competitive bid is sent out. Such limits shall be mutually agreeable to both Parties, but in no event less than \$1,000,000.

15. Each policy of above-required insurance policies shall have the following coverages and protections included:

1. Additional Insured Status covering both Parties
2. Waiver of Subrogation in favor of both Parties
3. Notice of Cancellation rights in favor of both Parties
4. For Professional Liability Insurance, Contractual Liability coverage, and a three - (3) year discovery tail
5. For each policy and each policy period, the Parties shall be a Certificate Holder on Certificates of Insurance issued in their favor
6. Each policy except for Workers' Compensation/Employers Liability shall be primary to and non-contributory to any policies maintained by the Parties, and shall include a Severability of Interests and Cross Suits protection.

### **ASSIGNMENT AND ASSUMPTION**

16. The parties shall not assign any of its interests or obligations under this MOU to any other entity, without the prior written consent of the other. All provisions of this MOU shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the Parties; provided, however, that this section does not waive the foregoing prohibition on assignment of this MOU by either of the Parties.

### **EFFECT OF LEGAL JUDGMENT**

17. Should any covenant, condition, or provision herein contained be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition, or provision herein contained.

### **CONSENTS AND APPROVALS; WAIVERS**

18. Any consent or approval of CRA/LA or LADWP required under this MOU shall not be unreasonably withheld. Any approval required under this MOU shall be in writing and executed by an authorized representative of the Party granting the approval.
19. Any waiver by CRA/LA or LADWP of any obligation in this MOU must be in writing. No waiver will be implied from any delay or failure by CRA/LA or LADWP to take action on any breach or default of the other or to pursue any remedy allowed under this MOU or any or applicable law. Any extension of time granted to CRA/LA or LADWP to perform any obligation under this MOU shall not operate as a waiver or release from any of its obligations under this MOU. Consent by CRA/LA or LADWP to any act or omission by the other shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for CRA/LA or LADWP written consent to future waivers.

### **CONFLICTS OF INTEREST**

20. No member, official, or employee of CRA/LA, LADWP or the City shall have any personal interest, direct or indirect, in this MOU nor shall any such member, official or employee participate in any decision relating to the MOU which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly, or indirectly, interested.
21. Each Party and its members, officials, or employees shall comply with all relevant City, State, and Federal rules and regulations with respect to conflicts or interest.
22. Each Party warrants that it has not been paid or given and will not pay or give to any third person any money or other consideration for obtaining this MOU or benefit from this MOU.

### **ENFORCED DELAY; EXTENSION OF TIMES OF PERFORMANCE**

23. In addition to specific provision of this MOU, performance by the Parties hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, except between the parties respecting this MOU, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor, or supplier, acts of the other parties, acts or failure to act of any public or governmental agency (other than the Party in

default), or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause.

24. Times of performance under this MOU may be extended by written agreement between CRA/LA and the LADWP. No agreement purporting to amend the terms of each party's respective obligations under this MOU shall be valid unless executed in writing by all parties to this MOU.

#### DEFAULT

25. Failure to perform a material obligation under this MOU shall be a default or breach of the MOU. The non-defaulting party shall give written notice of the breach to the Party in default. The Party in default shall have forty-five (45) days to cure or commence to cure the breach (the "Cure Period"). Upon termination of the Cure Period, the non-defaulting Party shall have, to the fullest extent permitted by law or in equity, the right (in addition to any rights or remedies in this MOU specifically provided) to:

- a. Maintain any and all actions at law or in equity against any Party to enforce the correction of any such default or breach or to enjoin any such default or breach; or
- b. Suspend Project operation, or
- c. Terminate the MOU.

26. Failure of the non-defaulting Party to act upon a breach shall not be considered a waiver of rights under this MOU.

#### TERMINATION

27. The Parties hereto shall have the right to terminate this MOU:

- a. In the event that the other Party is in default of its material obligations under the MOU, after taking the following actions:
  - i. In the event of a default, the Party seeking to terminate the MOU shall give written notice to the other Party, specifying the cause of the default.
  - ii. The Party in default shall have the Cure Period from the date of receipt of such notice to cure the default.
  - iii. The termination of the MOU shall not be effective unless the Party in default fails to cure the default within the Cure Period or commence to cure the default and diligently pursue to cure the default.
- b. Upon mutual agreement of the Parties.
- c. Upon both Parties completion of all activities required to be undertaken in this MOU.

28. The Parties shall seek to resolve any disputes which may arise hereunder by meeting as frequently as may be necessary to reach accord with respect to any such disputes, including but not limited to prior to and during the Cure Period. It is the express intent of the Parties to this MOU that any such

disputes be resolved by means other than termination and/or litigation. Notwithstanding the foregoing, CRA/LA and the LADWP reserve the right, at their respective options, to terminate this MOU as provided herein.

#### **CITY OF LOS ANGELES ORDINANCES**

29. This MOU is subject to the applicable provisions of the City of Los Angeles' Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code as amended from time to time; Service Contract Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time; the Equal Benefits Ordinance (EBO), Section 10.8.2.1 (c) of Article 1, Chapter 1 of Division 10 of the Los Angeles Administrative Code, the Contractor Responsibility Ordinance (CRO), Section 10.40 *et seq.*, of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code as amended from time to time, and the Slavery Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time.
30. Child Support Assignment Orders. This Contract is subject to the applicable provisions of the Child Support Compliance Act of 1998 of the State of California as implemented by the Employment Development Department (EDD), as set forth in Section 7110 of the Public Contract Code and of the City of Los Angeles Administrative Code, Section 10.10, Article I, Chapter 1, Division 10.

#### **COMPLIANCE WITH STATUTES AND REGULATIONS**

31. CRA/LA and the LADWP each warrants and certifies that in the performance of this MOU, it shall comply with all applicable statutes, rules, regulations and orders of the United States, the State of California, the City of Los Angeles, and CRA/LA policies including applicable laws and regulations pertaining to labor wages, hours, and other conditions of employment. CRA/LA and the LADWP shall each comply with its own anti-discrimination provisions and the Affirmative Action Plan. CRA/LA and the LADWP each further warrants and certifies that it shall comply with any new, amended or revised laws, regulations and/or procedures that apply to its performance of this MOU.

#### **CHOICE OF LAW GOVERNING THIS MOU**

32. This MOU was made and entered into in the City of Los Angeles and shall be governed, interpreted, and enforced by and construed in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles.

#### **CAPTIONS**

33. The section headings appearing herein shall not be deemed to govern, limit, modify, or in any way affect the scope, meaning, or intent of these conditions.

#### **PLAIN MEANING**

34. This MOU is the product of negotiations between CRA/LA and the LADWP and not to be construed against or in favor of one party or the other. Whenever possible the plain meaning of the terms of the MOU are to be used.

If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accordance with this section, within five (5) working days of said change.

**AMENDMENTS TO THE MOU**

39. Either party may request an amendment to this MOU. Amendments must be in writing and properly executed by both CRA/LA and the LADWP to be binding.

**ENTIRE MOU**

40. Complete MOU. This MOU contains the full and complete MOU between CRA/LA and the LADWP. No verbal agreement or conversation with any officer or employee of either Party shall affect or modify any of the terms and conditions of this MOU.

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be duly executed as of the day and year first written below.

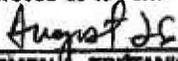
THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES, CALIFORNIA

Date: \_\_\_\_\_

By: 

Name: ~~Calvin E. Hollis~~ **CHRISTINE ESSEL**  
Title: ~~Interim~~ Chief Executive Officer

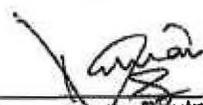
Approved as to Form

, 20 10  
CARMEN A. TRUTANICH, City Attorney

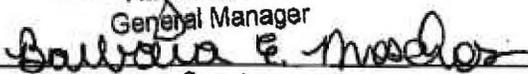
By: 

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES  
BY  
BOARD OF WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES

Date: 4/30/10

By: 

Austin Beutner  
General Manager

And   
Secretary

AUTHORIZED BY RES. 010 298  
APR 20 2010

Resolution Number:

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRUTANICH, CITY ATTORNEY

APR 05 2010  
BY   
MARY K. DENNIS  
DEPUTY CITY ATTORNEY

**EFFECT OF LEGAL JUDGMENT**

35. Should any covenant, condition, or provision herein contained be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition, or provision herein contained.

**NONDISCRIMINATION, EQUAL EMPLOYMENT PRACTICES, AND AFFIRMATIVE ACTION PROGRAM**

36. LADWP and CRA/LA shall comply with the nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, the City of Los Angeles and the CRA/LA. In performing this MOU, LADWP and CRA/LA shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, ancestry, color, national origin, sex, sexual orientation, age, or physical handicap. LADWP and CRA/LA shall comply with the provisions of Los Angeles Administrative Code Section 10.8 through 10.13, to the extent applicable hereto. LADWP and CRA/LA shall comply with the applicable provisions of the Affirmative Outreach Program set forth in Los Angeles Administrative Code Section 10.8.4, in which event said provisions are incorporated herein by this reference. LADWP and CRA/LA shall also comply with all rules, regulations, and policies of the Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by said Office.

**VENUE**

37. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The parties have irrevocably agreed to submit to the exclusive jurisdiction of the State of California and waive any defense of *forum non conveniens*.

**NOTICES, DEMANDS AND COMMUNICATIONS**

38. CRA/LA and the LADWP are hereby authorized to administer this MOU and are designated to receive all formal notices, demands, and communications as set below. Formal notices, demands, and communications to be given hereunder by any party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

**CRA/LA:**                   ATTN: Calvin E. Hollis, Interim Chief Executive Officer  
Community Redevelopment Agency of the  
City of Los Angeles, California  
354 S. Spring Street, Suite 800  
Los Angeles, CA 90013  
(213) 977-1936

**LADWP:**                   Mr. John X. Chen, Assistant General Manager  
Los Angeles Department of Water and Power  
111 North Hope Street, Room 755  
Los Angeles, CA 90012  
Telephone: (213) 367-1428