

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: October 22, 2008

TO: Honorable Members of the Rules and Government Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Assignment No: 08-10-1953

Council File: 08-2795

SUBJECT: Solar Power Initiative

SUMMARY:

Motion (Garcetti, et al. - Rosendahl, et al.) introduced on October 15, 2008 seeks consideration of an in basin solar power, green energy and jobs development initiative (solar initiative) for the City. A proposed solar initiative would seek to direct the Department of Water and Power (DWP) to implement a 400 megawatt solar photovoltaic program for commercial/industrial and institutional buildings in the City by 2013.

The Motion also requests that DWP report on the steps necessary to place the measure before the voters on the March, 2009. The Mayor's Office has indicated support for placing a solar initiative on the March ballot.

A solar initiative can be implemented through the adoption of an ordinance by the Council. However, if the Council wishes to place this measure before the voters, the last day for the Council to request the City Attorney to prepare resolutions and ordinances placing measures on the March, 2009 ballot is October 29, 2008, and the last day for the Council to adopt the election resolution is November 7, 2008.

If the Council wishes to pursue implementation of a solar initiative, we recommend that specific language be included in the proposed ordinance, as follows:

- (1) a Council adoption time frame which allows sufficient review time to any DWP proposed solar implementation plan;
- (2) a financial section that allows the DWP the ability to develop flexible and sound financial plans to support a solar program and protect the interests of the DWP and the ratepayers;
- (3) a program continuation and expansion component that permits the Council to determine how to proceed with the solar program when implementation milestones are

met;

(4) a suspension and modification section which sets the appropriate Council vote threshold and contains amendment provisions; and

(5) employment requirements that ensure that the work associated with the implementation of a solar plan is done by DWP employees consistent with the appropriate labor bargaining unit Memoranda of Understanding.

RECOMMENDATION:

If the Council wishes to pursue implementation of a solar initiative by placement on the March, 2009 ballot, the Council should request the City Attorney with the assistance of the Department of Water and Power, the City Administrative Officer, and the Chief Legislative Analyst to draft the necessary ordinance and resolution by October 29, 2008 to place before the voters at the March, 2009 election a solar initiative measure which, at a minimum, includes the following elements:

- **Council Adoption Schedule** - Provide the Council with a 90 day review time line to consider the DWP's solar implementation plan upon its submittal from the Board of DWP Commissioners;
- **Financing Provisions** - Provide the DWP with the necessary flexibility to submit a thorough and diversified financial plan to the Board of DWP Commissioners and Council, which factors in existing resources, cash capital, state and federal grants, subsidies and revenue bonds; and grant the DWP up to 90 days to develop this plan.
- **Program Continuation and Expansion** - Provide the Council with the authority to assess in 2013 whether to continue, modify or terminate the program by ordinance based on demonstrated evidence of program success and on-going cost factors. Additional assessment/review factors should include: (1) availability of materials; (2) availability of roof-tops on which to install solar panels; (3) natural disasters; (4) economic emergencies; (5) litigation or state or federal legislation that would inhibit the departments ability to collect revenues or otherwise materially impact the department's financial condition; and (6) changes in technology that render the program's use of photovoltaic solar panels/or other solar technologies obsolete or fiscally imprudent.
- **Program Suspension and Modification** - Provide the Council the authority to suspend, postpone or modify the solar program by ordinance. The proponents of a draft initiative have stated that they are amenable to a two-thirds vote requirement in these cases rather than a typical simple majority. Additionally, provide the Council and Mayor the authority to declare an emergency to initiate these suspension/modification provisions, and the definition of an emergency to include: (1) availability of materials; (2) availability of roof-tops on which to

install solar panels; (3) natural disasters; (4) economic emergencies; (5) litigation or state or federal legislation that would inhibit the DWP's ability to collect revenues or otherwise materially impact the department's financial condition; (6) other solar power technologies, located within the City, which exceed photovoltaic solar technology and can be implemented at a substantially lower cost.

- **Employment Requirements** - Provide that the language specifies that the equipment installed under the solar program shall be the property of the DWP and, therefore, that the work shall be completed by DWP employees, at the rates specified in the applicable bargaining unit Memoranda of Understanding; if there is a need to utilize contractors to support DWP employees, then they should be paid consistent with contracting provisions contained in any applicable MOUs; also, in such an event, employees of the contractors shall be paid prevailing wage.

BACKGROUND:

As a result of a proposal submitted by representatives of labor the subject Motion (Garcetti, et al. - Rosendahl, et al.) was introduced on October 15, 2008 which directs the DWP, Chief Legislative Analyst, City Administrative Officer and City Attorney to report on the elements of a proposed solar initiative. It also directs the DWP to begin work on a solar initiative's implementation plan, in anticipation of voter approval. The Motion advises that the DWP's implementation plan should include a cost analysis, financing strategy, a rooftop-availability survey, a job training and job creation component, and incentives for in-basin solar manufacturers and private property owners.

As a result of this instruction, the DWP plans to submit to your Committee a separate report on the various elements of a solar initiative, specifically, the installation/implementation of solar capacity, the development of a job training academy and staffing needs, among other areas. Their report should provide a thorough cost analysis of these components.

Solar Initiative

A proposed solar initiative would require the DWP to implement the following key elements:

- Installation of photovoltaic solar panels on commercial/industrial/institutional buildings and property in the City, owned and operated by the DWP to produce 400 megawatts, roughly 3%, of its energy demand by 2013;
- A program to recruit/train City residents to provide services related to the installation, operation, maintenance and repair of DWP's solar power systems, with particular focus on residents from under-served/economically disadvantaged areas;

- Contract bid preferences and other incentives to support local solar power equipment manufacturers, encouraging others to invest in facilities in the City, and incentives for private property owners to install solar power systems.

Issues to Consider

Based on an initial assessment of the submitted proposal, we believe that several issues should be addressed in order for the City to implement an effective solar program:

- Council adoption time frame for the implementation plan;
- Financing provisions;
- Continuation and Expansion component;
- Suspension and modification element;
- Employment requirements.

If the Council seeks to implement a solar proposal, either through direct Council adoption of an ordinance or by placing it on the March, 2009 ballot, we recommend modifications in the above listed areas, as follows:

Implementation Plan - Council's Adoption Schedule

The proponents of a solar initiative may seek to expedite the DWP's solar implementation plan and as a result, have the Council adopt the plan within a limited time frame. In such a case the time frame may be up to or less than 30 days. If the Council rejects the plan, the DWP Board may have a similar amount of time to amend the implementation plan and resubmit it to the Council for its consideration. The Council in turn, would continue to have a limited time frame to consider a solar implementation plan.

We believe that a limited Council review and adoption schedule would not allow the Council and its policy committees sufficient time to thoroughly assess the policy implications associated with a solar implementation plan. Given this, a solar initiative should ensure that language dealing with the Council's adoption schedule allow for an adequate review time line. The Council may wish to consider a 90 day review time line upon submittal of the implementation plan from the Board of Water and Power Commissioners.

Financing

A solar initiative may contain a financial component to support the infrastructure, staff and related costs of the program. A viable financial section should grant the DWP flexibility to develop an adequate financial plan that includes an array of funding mechanisms and approaches; and not rely solely on one type of financial tool such as revenue bonds.

With regard to financial flexibility, the DWP should be granted the option to utilize existing cash capital and potentially absorb costs within existing consumer rates and pass-throughs. Cash capital is generally present in any sound capital financing plan.

The DWP should also have the ability to utilize grant funds and tax subsidies to fund a solar implementation plan and assist in minimizing reliance on cash capital or the issuance of debt. Additionally, any constructed financial plan should consider the potential impact to consumer rates, bond coverage requirements and bond ratings. In this manner, the DWP can develop an adequate financial plan that factors in all available resources and impacts.

For these reasons, the finance section should provide the DWP with the necessary flexibility to submit for approval a thorough and diversified financial plan to the Board of Water and Power Commissioners and the Council. This plan should factor in existing resources, cash capital, state and federal grants, subsidies and revenue bonds. Additionally, the language should grant the DWP up to 90 days to develop a solar program financial plan and permit DWP to access funds as needed, thereby minimizing impact to the DWP and the ratepayers.

Program - Continuation and Expansion

A proposed solar initiative may seek to continue and expand the DWP's solar program beyond its final milestone date of 2013, when it meets its 400 megawatt objective. A continued 100 megawatt annual component may be sought for an indefinite time period. If this follows, it is unclear if this is the most efficient and effective way to implement a solar program which relies on one type of solar technology, photovoltaic solar panels, or others which may be deemed obsolete.

Given these concerns, if the Council wishes to approve a solar initiative and include a provision on the continuation of the program, it should consider adding language that grants the Council authority to assess in 2013 whether to continue, modify or terminate the program based on demonstrated evidence of its success, on-going cost factors, and other related elements.

Additional review factors under this language can include: (1) availability of materials; (2) availability of roof-tops on which to install solar panels; (3) natural disasters; (4) economic emergencies; (5) litigation or state or federal legislation that would inhibit the department's ability to collect revenues or otherwise materially impact the department's financial condition; and (6) changes in technology that render the program's use of photovoltaic solar panels or other solar technologies obsolete or fiscally imprudent. The language should specify that the ordinance determination shall be final and challenges to the determination may not result in fines, penalties or any impact on rates.

Program - Suspension and Modification

A proposed solar initiative should include suspension, postponement and modification/ amendment language which recognizes that conditions not within the control of the City may

hinder the ability of the DWP to comply with the measure's requirements. The ballot language should ensure that the Council and Mayor have the ability to declare an emergency.

Furthermore, the definition of an emergency should include: (1) availability of materials; (2) availability of roof-tops on which to install solar panels; (3) natural disasters; (4) economic emergencies; (5) litigation or state or federal legislation that would inhibit the DWP's ability to collect revenues or otherwise materially impact the department's financial condition; and (6) other solar power technologies, located within the City, which exceed photovoltaic solar technology and can be implemented at a substantially lower cost.

It should be noted that the proponents of a solar measure are calling for a super-majority of 10 votes of the Council for approval of an ordinance suspending, amending or terminating the measure, with a three-fourths vote requirement to override a Mayoral veto. Generally, super-majority votes are required in a few instances in the Charter. Discussion should be had as to the rationale for requiring a super-majority vote in this instance.

Employment Requirements

Employment requirements under the proposed solar initiative should be clear as to the classifications of employees who will install the solar equipment as well as pay-rates that contractors will follow for their employees if they are utilized to complete projects. To that end, the Council may wish to include language in a solar initiative that specifies that the solar equipment installed, under the program, shall be the property of the DWP and, therefore, that the work shall be done by DWP employees, at the rates specified in the applicable MOU.

If contract employees are utilized, then they should be paid consistent with contracting provisions contained in any applicable MOU; also, in such an event, employees of the contractors shall be paid prevailing wage.

GFM:RP:ak

Attachment: Motion

The City of Los Angeles faces many challenges, one of which is its effort to deliver reliable, clean power to our residents and businesses. Burning coal for electricity has contributed to air pollution and smog that is responsible for thousands of cases of lung disease, asthma, and deaths in the City and region each year. The City's coal-dependency also contributes significantly to global warming and to increases in greenhouse gas emissions. Additionally, an aging infrastructure and increased demand for power has strained the system in recent years, causing blackouts during some of the hottest days of the year.

Potential solutions to these issues can also provide benefits to residents of Los Angeles because any effort to reduce the City's dependence on coal-based electricity and improve the reliability of the power systems will create thousands of new, quality jobs in the Los Angeles area. The creation and retention of these jobs is critically important now, as unemployment in the State of California has reached 8.2%, and many Angelenos are employed in low wage jobs that do not provide adequate health benefits or job security. This is harming local communities inside Los Angeles and putting a strain on City services.

A 21st Century solar power program in the City of Los Angeles (also known as in-basin solar) would provide a significant opportunity to accomplish all of these goals. As solar technology continues to evolve, it is becoming increasingly efficient and cost-effective for ratepayers. With the City's abundance of both the basic resource required, sunlight, and a highly trained and productive workforce, investment in the development of solar manufacturing and production and installation of photovoltaic cells in the region is a natural fit.

The Mayor, City Council, environmental organizations, solar providers and labor organizations have looked at this issue for many years. Recently, in-basin solar has become an even more attractive option, due to lower-cost solar technologies, federal investment tax credits for renewable energy recently extended by Congress, increased price of fossil fuels due to greater worldwide energy demand and expected increases in the cost of such power sources with the implementation of AB32, and other policy changes. These updates would make a robust solar program a feasible option for the City. Such a program should include the following:

- Installation of sufficient photovoltaic solar panels on commercial, industrial, and institutional buildings and property in the City, owned and operated by the Department of Water and Power (DWP) to produce 400 megawatts, roughly 3%, of its energy demand by 2013.
- A program to recruit and train City residents to provide services related to the installation, operation, maintenance and repair of DWP's solar power systems, with particular focus on residents from under-served and economically disadvantaged areas.
- Contract bid preferences and other incentives to support existing solar power equipment manufacturers located in the City, encouraging others to invest in facilities here, and incentives for private property owners to install solar power systems.

I THEREFORE MOVE that the Department of Water and Power (DWP), with the assistance of the Chief Legislative Analyst, City Administrative Officer and City Attorney be directed to report to the Rules and Government Committee on the elements of a Los Angeles Basin Solar Power, Green Energy and Jobs Development Mandate for Los Angeles Initiative, as further described above, and take any steps necessary to place the measure before the voters on the March 2009 Ballot.

I FURTHER MOVE that DWP, in conjunction with the City Administrative Officer, Chief Legislative Analyst, City Attorney, and various stakeholders be directed to begin work immediately on implementation of a Los Angeles Basin Solar Power, Green Energy and Jobs Development Plan, in anticipation of a voter-approved initiative, for the City of Los Angeles to produce 400 megawatts, roughly 3%, of the City's power demand from in-basin solar energy by 2013. Such a program should include a cost analysis, financing strategy, a rooftop-availability survey, a job training and job creation program, incentives for in-basin solar manufacturers as well as private property owners, and regular updates to the DWP Board and City Council on the progress on the various elements of such a program.

PRESENTED BY: EG ERIC GARCETTI Councilman, 13th District
W Greuel WENDY GREUEL Councilwoman, 2nd District
J Perry JAN C. PERRY Councilwoman, 9th District

OCT 15 2008
 SECONDED BY: Barbara
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