



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 8 - 0 4 2 0
NOV 0 4 2008

REPORT RE:

**TRANSMITTAL OF RESOLUTIONS REGARDING A PROPOSED BALLOT
MEASURE TO ESTABLISH THE GREEN ENERGY AND GOOD JOBS FOR LOS
ANGELES PROGRAM AND AN ORDINANCE CALLING A SPECIAL ELECTION AND
CONSOLIDATING IT WITH THE CITY'S PRIMARY NOMINATING ELECTION OR A
STATEWIDE SPECIAL ELECTION TO BE HELD ON MARCH 3, 2009**

The Honorable City Council
of the City of Los Angeles
City of Los Angeles
Room 395, City Hall
Los Angeles, CA 90012

Council File No. 08-2795

Honorable Members:

On October 28, 2008, the City Council requested this office to prepare the documents necessary to place the proposed Green Energy and Good Jobs for Los Angeles Program (the Program) on the March 3, 2009 ballot. This office now transmits, approved as to form and legality, ballot resolutions and an election ordinance for a ballot measure that would amend the Los Angeles City Charter and Administrative Code to establish the Program.

The Green Energy and Good Jobs for Los Angeles Program originated in a Council motion and was subsequently presented to this body in a report from its Rules and Government Committee. The original proposal included a draft ordinance. The Committee report combined substantive provisions of that draft with recommendations made in the CLA's report and recommended that the Council instruct this office to draft a ballot measure accordingly. On October 28, 2008 the Council adopted the Committee report, as amended on the Council floor, and thus issued its instructions to this office under City Election Code Section 601(a) to draft ballot resolutions in accordance with

those instructions. The Council's last day under City Election Code Section 601(b) for adopting the resolutions, as presented here or as amended, is November 7, 2008 (*viz.*, the last day that is "not less than 110 days prior" to the March 3, 2009 election).

In compliance with Council Rule 38, the proposed measure has been circulated to the City Clerk, the City Administrative Officer, and the Department of Water and Power for comment.

The original proposal contemplated adopting the Program purely by referendary ordinance. This office advised the Rules and Government Committee that the measure would require a Charter amendment component along with the ordinance provisions, and the Committee report so recommended the drafting of the measure.

The Charter amendment component is made necessary by limitations of the City Charter's current design. Charter § 460 provides that the Council may submit to the voters by referendum any ordinance that "the Council itself might adopt." Therein was the problem. The ordinance originally proposed contained certain features requiring additional Charter authority and thus constituted an ordinance that the Council could not now adopt. The Charter amendment component included in the proposed ballot measure supplies the necessary Charter authority to allow the accompanying ordinance provisions:

- While by Charter the Council can confer additional powers and impose additional duties on the Board of Water and Power Commissioners, such powers and duties cannot be imposed by ordinance in "conflict" with the Charter. Charter § 213. The authority proposed to be vested in the Council under the original draft ordinance would "conflict" with authority currently vested in the Board to manage the Department. See Charter §§ 600(b), 601, 602, 603(b), 605-607, 609, 674, 675. The proposed measure before you makes the necessary adjustments to the Charter to allow for the Program's intended role for the Council.
- Provisions imposing procedures and time constraints on Council action (see proposed Administrative Code §§ 23.158(a)-(c); 23.160(e)) and provisions for adoption of certain ordinances by supermajority vote (see proposed Administrative Code §§ 23.160(e), 23.166(b), 23.171) that deviate from current Charter requirements properly should be effected by Charter provisions imposing such requirements for the Council or authorizing their establishment by ordinance. The proposed measure before you makes the necessary adjustments to the Charter to allow for such requirements to be set by ordinance.
- To address concerns about potential liability expressed in the Council, and as articulated by the Chief Legislative Analyst, the proposed measure before you

includes a provision stating that the Program is administrative in nature and the measure creates no legal rights enforceable by third parties.

Further, consistent with Council's direction and/or upon the recommendation of the CLA and the Department, the attached draft ballot measure differs from the original proposed ordinance in the following major particulars:

- Places the ordinance provisions in the Administrative Code, instead of the Municipal Code due to their administrative, rather than regulatory, nature.
- Amends language to clarify that the Program provides for installation of solar power installations on properties within the City. (See proposed LAAC § 23.151).
- Amends language regarding the Department's ownership and operation of solar power installations to provide the Department with the opportunity to take advantage of tax subsidies by permitting financial institutions to own the solar power installations, subject to purchase power agreements with purchase options for the Department, provided that any power purchase agreement with a financial institution shall require the Department to install, operate and maintain the solar power installations. (See proposed LAAC §§ 23.151, 23.162).
- Amends language so that the Program encompasses certain other types of solar power systems in addition to photovoltaic solar panels. (See proposed LAAC § 23.153(l)).
- Amends the Program to be a 5-year program extending to 2014, rather than a 4-year program ending in 2013. (See proposed LAAC §§ 23.157(b)(1) & 23.160(d)).
- Rewords financing provision to provide the Department with flexibility regarding financing mechanisms. (See proposed LAAC §§ 23.157(b)(3) & 23.159).
- Amends provision regarding Council review of the Plan by changing the time frames of the review process and deleting redundant and unnecessary language regarding publication of Council's order. (See proposed LAAC § 23.158).
- Amends language regarding recruitment and training to comport with the California Constitution's prohibition on imposing a residency requirement on public employees. (See proposed LAAC § 23.160(b)(1)).
- Amends bid preference language to establish a discrete preference of up to 10 percent pursuant to Administrative Code procedures and to clarify bid

preference is for firms located within the County pursuant to Charter Section 371(a). (See proposed LAAC §§ 23.160(b)(2), 23.168).

- Amends process for expansion of the Program after reaching the 400 MW goal. (See proposed LAAC § 23.160(e)).
- Amends incentives provision to clarify that the Program does not preclude the Department from continuing to implement existing and future programs for the development of solar power resources by the private sector. (See proposed LAAC § 23.165(b)).
- Amends process for suspension, postponement or modification of the Program. (See proposed LAAC § 23.166(b) & (c)).
- Rewords employment provision consistent with Council direction. (See proposed LAAC § 23.167).
- Adds oversight committees. (See proposed LAAC § 23.169(c) & (d)).
- Rewords amendment/repeal provision for clarity. Pursuant to Charter Section 250, Ordinances requiring two-thirds vote of the Council must be approved by the Mayor or adopted with a three-fourths vote of Council over Mayoral veto. (See proposed LAAC § 23.171).

With regard to the motions adopted at the Council's October 28, 2008 meeting requesting that the Department examine the ability to use solar power energy for City street lights and park lights and consult with Neighborhood Councils as part of the Program implementation, it is anticipated that the Department will include detail regarding street lights and park lights and the involvement of Neighborhood Councils in the Plan presented to Council for its approval pursuant to the Program. If you prefer to include language regarding street lights and park lights and Neighborhood Council involvement in the ballot measure text, we will be prepared to do so.

Finally, we have submitted a ballot title and question for the proposed measure. We also have submitted an alternative ballot title and question to be used only if the measure is consolidated with a Statewide Special Election held on the same date as the City's Primary Nominating Election. State officials have indicated that a March 3, 2009 Statewide Special Election is a possibility. If such an election is called, and if the City consolidates its elections with the state's election, then the shorter state law word limits for ballot titles would apply to the ballot measure. We therefore have drafted the alternative title and question to meet those shorter word limits and provide that it applies only if the measure is consolidated with a state election.

If you have any questions, please contact Deputy City Attorney Harit Trivedi at (213) 978-7100. He or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:HT:ac

cc: The Honorable Antonio Villaraigosa, Mayor
The Honorable Laura Chick, Controller
The Board of Water and Power Commissioners
H. David Nahai, Chief Executive Officer and General Manager, Department of
Water and Power
Gerry Miller, Chief Legislative Analyst
Raymond P. Ciranna, Interim City Administrative Officer
Karen E. Kalfayan, City Clerk

RESOLUTION

Resolution providing that a ballot measure be submitted to the qualified voters of the City of Los Angeles.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section A. The following amendments to the Charter and Administrative Code of the City of Los Angeles are hereby proposed to be submitted to the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the City's Primary Nominating Election or a Statewide Special Election to be held on March 3, 2009:

CHARTER AMENDMENT AND ORDINANCE PROPOSITION ____

Section 1. A new Section 683 is added to the Los Angeles City Charter to read:

Section 683. Green Energy and Good Jobs for Los Angeles Program.

(a) There shall be a program known as the Green Energy and Good Jobs for Los Angeles Program as further defined in this section and by ordinance. The purpose of the Program is to reduce the City's reliance on non-renewable carbon-based resources by increasing the availability of solar power. Under the Program, the department shall install, operate, maintain and repair and/or oversee the installation, operation, maintenance and repair of solar power installations within the City to meet specified goals regarding the production of electric generation as further described in this section and by ordinance.

(b) Notwithstanding any provision of the Charter to the contrary and as further provided by ordinance, as part of the Program the board shall develop and present to the City Council within the time period specified by ordinance a Green Energy and Good Jobs for Los Angeles Program Plan containing certain minimum elements. The Plan's minimum elements shall include, but are not limited to, the following:

(1) proposed timelines and benchmarks for phased implementation of the Program to meet specified goals of solar power electric generation capacity;

(2) proposed incentives, lease payments, rebates, loans, credits, or other assistance to Program participants;

(3) proposed financing of initial Program start-up and continuing costs;

(4) proposed timelines for development and implementation of an academy to provide training regarding the installation, operation, maintenance and repair of solar power installations and related equipment and services;

(5) proposed citywide outreach programs to recruit, hire and train persons to install, operate, maintain and repair solar power installations and related equipment and services; and

(6) proposed outreach programs to identify, communicate with, and educate potential Program participants.

(c) Notwithstanding any provision of the Charter to the contrary and as further provided by ordinance, the City Council shall approve or reject the Plan after its transmittal by the board in the manner and within the time periods provided by ordinance. If the Council fails to adopt or reject a Plan presented to it by the board within the time periods provided by ordinance, the Plan shall be deemed adopted.

(d) Notwithstanding any provision of the Charter to the contrary and as further provided by ordinance, the Program may provide for, but is not limited to, the following: the promulgation of regulations by the board to implement the Program; financing mechanisms including the issuance of revenue bonds; bid preferences pursuant to Charter Section 371; the department's ownership and operation of all department-installed solar power installations and related equipment and electrical power generated pursuant to the Program pursuant to Charter Section 672; eligibility requirements for Program participants; expansion, suspension, postponement, modification or termination of Program implementation based on specified criteria and approval by ordinance, including by supermajority vote of Council, of any such action; and Controller audits of the Program.

(e) Notwithstanding Charter Section 464 or any other provision of the Charter to the contrary, the referendary ordinance establishing the Program may be amended and/or repealed only as provided in that ordinance.

(f) The provisions of this section, of any ordinance adopted in furtherance hereof, and of the Plan, are administrative in nature and shall not be enforceable by, or be deemed to create any legal rights in, any third party.

Sec. 2. An ordinance amending the Los Angeles Administrative Code to establish the Green Energy and Good Jobs for Los Angeles Program for the purpose of reducing the City's reliance on non-renewable carbon-based resources by increasing the availability of solar power is adopted, if approved by a majority of voters voting on this measure, as follows:

**THE PEOPLE OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Sec. 1. A new Article 4 is added to Chapter 7 of Division 23 of the Los Angeles Administrative Code to read:

Article 4 -- The Green Energy and Good Jobs for Los Angeles Program

Sec. 23.150. Scope and Title.

This article shall be known as "The Green Energy and Good Jobs for Los Angeles Act."

Sec. 23.151. Declaration of Purpose.

The purpose of this Act is to reduce the City's reliance on nonrenewable carbon-based resources by increasing the availability of solar power. Through this Act, the Department of Water and Power shall oversee the installation of solar power installations within the City to produce at least 400 megawatts (MW) of electric generation by 2014. These solar power installations shall be installed, owned, operated, and maintained by the Los Angeles Department of Water and Power (Department) except as required to secure tax subsidies by permitting financial institutions to own the solar power installations, subject to a power purchase agreement with purchase options for the Department. Any power purchase agreement with a financial institution shall require the Department to install, operate and maintain the solar power installations.

Municipally-owned solar power facilities will result in significant environmental, economic, and workforce benefits for the City. Currently, the majority of the City's energy comes from non-renewable coal. As a renewable, unlimited energy source, solar power can provide immediate benefits for the City. Through this Act, local pollution in our neighborhoods caused by traditional gas-fired generators and greenhouse gas emissions caused by fossil fuel-fired power plants will be reduced, creating a cleaner environment and reducing global climate change.

Municipally-owned solar power facilities will protect the welfare of the City's residents by reducing the strain on the Department of Water and Power's overloaded power distribution system. Under this Act, the Department will better

be able to provide protection against blackouts, insulate the City from rising energy prices, reduce the need to build costly gas and coal powered energy plants, and extend the life of its existing aging power assets.

This Act further establishes jobs programs and manufacturing incentives which will provide an economic stimulus for the City. The Act benefits the local economy by providing incentives to local manufacturers of solar power installations. A jobs training and outreach academy will create thousands of jobs in underserved neighborhoods throughout the City. This expansion of employment opportunities and support for a new manufacturing industry will sustain a workforce that forms the cornerstones of communities in the City of Los Angeles.

Sec. 23.152. Declaration of Policy.

It is hereby declared that because of the conditions prevailing in the City of Los Angeles, protecting and preserving the general welfare requires that solar energy resources be developed and put to the maximum beneficial use to the extent to which they are capable. The development of clean, sustainable, renewable energy and conservation of traditional non-renewable energy resources, as provided by this Act, is to be exercised with a view to the reasonable and beneficial use thereof in the interests of and for the general welfare of the people of the City.

Sec. 23.153. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section unless a different meaning is specifically defined within individual sections of this article:

- (a) "Board" means the Board of Water and Power Commissioners.
- (b) "City" means the City of Los Angeles.
- (c) "Council" means the Council of the City of Los Angeles.
- (d) "Department" means the Los Angeles Department of Water and Power.
- (e) "Mayor" means the Mayor of the City of Los Angeles.
- (f) "Section" means a section of this article unless some other law is specifically mentioned.

(g) "Customer" means a commercial, industrial, or institutional building or property owner located within the City of Los Angeles entitled to be supplied with electric power service by the Department.

(h) "Article" means the ordinances establishing "the Green Energy and Good Jobs for Los Angeles Program."

(i) "Program" means the Green Energy and Good Jobs for Los Angeles Program as described in this article.

(j) "Program participant" means a Department customer who satisfies the minimum Program eligibility requirements and who participates in the Green Energy and Good Jobs for Los Angeles Program.

(k) "Plan" means the Green Energy and Good Jobs for Los Angeles Program Plan developed by the Board and approved by the Council as described in this article.

(l) "Solar power assets" shall mean all power assets, as defined in Charter Section 672(b), used to develop solar power installations including all conventional (i.e., photovoltaic and thin film solar generating systems) and emerging solar technologies used to convert sunlight into energy with the exception of Solar Thermal systems, and used for the generation, delivery, retention, and measurement of all solar energy produced from solar power installations.

(m) "Solar power installations" shall mean solar power assets and related equipment installed for the purpose of gathering solar power energy, converting the energy into electricity, delivering that electricity to the Department's electric system and metering the electricity delivered.

Sec. 23.154. Authorization.

The various officers, boards, departments, bureaus and agencies of the City are hereby authorized and directed to immediately implement the applicable provisions of this article upon the effective date hereof.

Sec. 23.155. Authority.

The Board shall, pursuant to Section 672 of the Charter, control all solar power assets, except as provided for in this article, and otherwise provided by law.

Sec. 23.156. Promulgation of Regulations.

The Board shall, pursuant to Section 675(a) of the Charter, promulgate and adopt regulations, as are necessary to fully implement the requirements of this article.

Sec. 23.157. The Green Energy and Good Jobs for Los Angeles Program Plan.

(a) The Board shall develop a Plan to implement the requirements of this article. The Board shall present the Plan to the Council for approval within 90 days of the effective date of this ordinance.

(b) The Plan shall, at a minimum, contain the following:

(1) Proposed timelines and benchmarks for the phased implementation of a Green Energy and Good Jobs for Los Angeles Program that produces at least 400 MW of electric generation capacity by 2014 from solar power installations installed pursuant to this article.

(2) Proposed incentives, lease payments, rebates, loans, credits, or other assistance available to program participants.

(3) Proposed financing of initial Program start-up and continuing costs that gives the Department the necessary flexibility to submit a thorough and diversified financial plan to the Board and Council, which factors in existing resources, cash capital, state and federal grants, tax subsidies and revenue bonds.

(4) Proposed timeline for development and implementation of an academy to train Department employees and other persons hired or contracted to install solar power installations. The Plan shall include provisions, consistent with hiring and contracting provisions described in Section 23.167, to begin installation, operations, maintenance, and repair of the solar power installations while the training academy is implemented.

(5) Proposed citywide outreach program to recruit, hire, and train Department employees and other persons hired or contracted to install solar power installations sufficient to satisfy the requirements of this article. The Plan shall expressly provide for making such outreach, recruitment, training, and hiring programs available through the City consistent with Section 23.160(b)(3), and include proposals for monitoring the effectiveness of such efforts.

(6) Proposed outreach programs to identify, communicate with, and educate potential program participants about the availability and benefits of participation in the Program.

(7) Any such other information as is necessary to adequately inform the Council of the financial, human, and capital resources necessary for timely and efficient implementation of the Program.

SEC. 23.158. Solar Power Plan Phase Implementation.

(a) The Council shall adopt and approve the Plan submitted by the Board pursuant to Section 23.157 within 90 days from its transmittal to the Council.

(b) Notwithstanding subdivision (a) of this section, the Council may reject the Plan if it finds that it fails to sufficiently address the requirements set forth in Section 23.157. If the Council rejects the Plan, the Board shall have 45 days to amend the Plan and resubmit it to the Council for reconsideration. The Council shall adopt or reject the Plan within 60 days after its resubmission to the Council. This process shall repeat until a Plan is adopted pursuant to this subdivision or subdivision (c) of this section.

(c) If the Council fails to adopt or reject a Plan within the time period specified in subdivisions (a) or (b) of this section, it shall be deemed adopted.

SEC. 23.159. Financing.

Within 90 days after the Council approves the Green Energy and Good Jobs for Los Angeles Program Plan, as set forth in Section 23.158, the Department shall submit a thorough and diversified financial plan to the Board and Council, which factors in existing resources, cash capital, state and federal grants, tax subsidies and revenue bonds. The Department shall also inform the Board and Council of any potential rate impact associated with the financial plan and if a rate adjustment is needed to support the Program.

SEC. 23.160. The Green Energy and Good Jobs for Los Angeles Program Phases.

(a) PHASE I -- Develop Green Energy and Good Jobs for Los Angeles Program Plan.

(1) Within 90 days from the effective date of this ordinance, the Board shall submit a Plan prepared pursuant to Section 23.157 for approval by the Council.

(b) PHASE II -- Outreach Program and Training Academy.

(1) Develop Outreach Program and Training Academy. Phase I of Section 23.160 shall continue to remain in effect. The Department shall develop programs to recruit and train personnel to provide services

necessary to implement this Plan, including primarily, the installation, operation, maintenance, and repair of solar power installations.

(2) The Department shall develop facilities necessary to recruit and train workers as provided in this section. The Department shall have trained sufficient numbers of workers to comply with the benchmarks established in Phase IV of this section. Pursuant to Section 371(a) of the Charter, which authorizes bid preferences based on the geographical location of a bidder, the Department shall grant a bid preference of up to 10 percent to solar power installation training facilities located within Los Angeles County. In such cases, the Department shall require bid preference applicants to demonstrate and document the use of a County or City workforce, County or City-manufactured components, or other County or City economic resources. The Board shall promulgate regulations or guidelines for the implementation of this section, as it finds necessary.

(3) The Department, in consultation with representatives from the recognized employee organization for Department representation units or other persons contracted to install, maintain, operate, and repair solar power installations, or to provide recruitment and training pursuant to subdivision (b)(2) of this section, shall jointly develop and administer outreach programs designed to recruit new workers from all parts of the City in numbers sufficient to comply with the benchmarks established in Phase IV of this section. The outreach program shall ensure that its programs and services are accessible in all parts of the City, fairly and equitably, with an emphasis on reaching the underserved and economically disadvantaged communities, including at-risk youth.

(c) PHASE III -- Outreach to Building and Property Owners.

(1) Identify Suitable Buildings and Property for Program Participation. Phases I and II of Section 23.160 shall continue to remain in effect. The Department shall identify buildings and property that may be suitable for participation in the Program.

(2) Outreach to Potential Program Participants. The Department shall outreach to commercial, industrial, and institutional building and property owners to educate them about the benefits of solar power for the City and encourage them to participate in the Program. The Department shall identify, contact, and enroll sufficient numbers of potential program participants to ensure compliance with the benchmarks established in Phase IV of this section.

(d) PHASE IV -- Installation and Implementation.

(1) Installation. Phases I, II, and III of Section 23.160 shall continue to remain in effect. The Department, pursuant to this article, shall install and/or oversee the installation of solar power installations on eligible buildings and property within the City of Los Angeles that generate at least 400 MW of solar power electric generation capacity by 2014, according to the following schedule:

- (i) At least 50 MW by December 31, 2010;
- (ii) At least 125 MW by December 31, 2011;
- (iii) At least 200 MW by December 31, 2012;
- (iv) At least 300 MW by December 31, 2013;
- (v) At least 400 MW by December 31, 2014.

(e) PHASE V -- Program Continuation and Expansion.

(1) When the Department meets or exceeds the 400 MW solar electric generation capacity requirement set forth in subdivision (d)(1)(v) of this section, within 90 days the Board shall recommend to the Council whether to establish additional increased solar electric generation capacity requirements. The Council must within 90 days approve or reject the Board's recommendation or decide whether to continue, modify, or terminate the Program, by ordinance adopted by a two-thirds vote of the Council, based on demonstrated evidence of Program success and on-going cost factors. Additional assessment and review factors should include, but not be limited to: (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 prevailing and emerging solar technology that render the Program's use of solar power installations or other solar technologies obsolete or fiscally imprudent.

Sec. 23.161. Development of Solar Power Assets.

Consistent with Section 675(c) of the Charter, after Council approval of the Plan set forth in Section 23.157, the Board shall have the power and duty to acquire, provide for, construct, extend, maintain and operate all solar power asset improvements, utilities, structures, facilities and services as it may deem necessary or convenient for Departmental Purpose and compliance with this article.

Sec. 23.162. Ownership of Solar Power Installations and Power Generated.

The Department shall own and operate all Department-installed solar power installations except as required to secure tax subsidies by permitting financial institutions to own the solar power installations, subject to a power purchase agreement with purchase options for the Department. Any power purchase agreement with a financial institution shall require the Department to install, operate and maintain the solar power installations. All electric power generated pursuant to this Program shall be owned by the Department and shall be delivered directly to the Department's electric system without first passing through the meter measuring the electric use by the host program participant.

Sec. 23.163. Voluntary Participation. Eligibility.

(a) Participation in the Program by Department customers shall be voluntary.

(b) The Department shall establish minimum eligibility requirements for potential program participants seeking to participate in the Program, including, but not limited to:

(1) Minimum square footage requirements of available space needed for installation of solar power installations;

(2) Minimum available annual sunlight on affected property or building;

(3) Any other such criteria as the Department determines necessary to ensure sufficient electric generation.

Sec. 23.164. Solar Power Assets.

The Board shall promulgate regulations that address the transfer or sale of property, termination of a customer's participation in the Program, or other instances where, as a result of a program participant's actions, solar power installations are rendered inoperable.

Sec. 23.165. Existing Incentive Programs.

(a) All Department customers, including those not eligible to participate in this Program, may continue to participate in solar power subsidies or existing solar power incentive programs available through the Department. Electric generation installed pursuant to this Program shall count for purposes of determining subsidy levels under existing programs.

(b) Nothing in this article shall preclude the Department from continuing to implement any existing or future programs for the development of solar power resources in the City by the private sector, and the Department shall continue to encourage such partnerships and programs.

Sec. 23.166. Suspension, Postponement, or Modification of Program Implementation.

(a) Because the Green Energy and Good Jobs for Los Angeles Program mandates compliance with solar power energy output production requirements, and recognizing that conditions not within the control of the City may substantially hinder the ability of the Department to comply with the solar power electric generation benchmarks set forth in Phases IV and V of Section 23.160, the Department may postpone or suspend compliance in accordance with this section.

(b) Upon the recommendation of the Board, the Council may, by ordinance adopted by a two-thirds vote of Council, suspend, postpone, or modify compliance with the solar power electric generation benchmarks set forth in Phases IV and V of Section 23.160.

(c) Such action shall only be taken if, upon the recommendation of the Board, the Council or Mayor declare an emergency. An emergency may include, but not be limited to: (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) other solar power technologies, located within the City, which exceed existing solar technology and can be implemented at a substantially lower cost.

Sec. 23.167. Employment.

The solar power installations installed under the Program shall be the property of the Department except as otherwise expressly provided in this article and, therefore, the work shall be completed by Department employees, at the rates specified in the applicable bargaining unit Memoranda of Understanding (MOU). If there is a need to utilize contractors to support Department employees, then they shall be paid consistent with contracting provisions in any applicable MOUs and selected consistent with applicable contracting requirements of the Charter and this Code; also, in such an event, employees of the contractors shall be paid prevailing wage.

Sec. 23.168. Los Angeles Manufacturing Bid Preference

(a) Pursuant to Section 371(a) of the Charter, which authorizes bid preferences based on the geographical location of a bidder, the Department shall grant a bid preference to manufacturers of solar power installations and other equipment related to the installation of solar power installation units, to firms located in the County. Additionally, the Department shall grant a bid preference of up to 10 percent to manufacturers of solar power installations and other equipment related to the installation of solar power installation units that combine the manufacture, production, and distribution of such equipment from raw materials.

(b) The Department shall require bid preference applicants to demonstrate and document the use of a workforce, manufactured components, or other economic resources located in the County. The Board shall promulgate regulations or guidelines for the implementation of this section, as it finds necessary.

Sec. 23.169. Oversight. Audit Report.

(a) The City Controller shall conduct an annual audit to verify that the all funds utilized to implement the Program have been properly collected and expended in accordance with applicable law.

(b) The audit report shall, at a minimum:

(1) Determine the overall performance of the Program and whether the Program is meeting its defined objectives.

(2) Assess the viability and cost-effectiveness of projects implemented under the Program.

(3) Determine the amount of the Department's investment in renewable energy technologies under this article, and how the Department is meeting public demand for participation in the Program.

(4) Determine whether the Department has established adequate accounting systems and internal controls relating to Program contracts, administration and related disbursements.

(5) Determine whether Program expenditures are properly documented, appropriate and reasonable as to their nature and amount.

(6) Determine that incentives, rate adjustments, or rebates paid from the energy efficiency trust funds or Department funds are properly documented and controlled.

(7) Determine that financial and operational reporting for the Program is complete and accurate.

(8) Provide recommendations to maximize performance, oversight, and viability of the Program.

(9) Determine the effectiveness of outreach, recruitment, and training efforts and their impact on the ability of the Department to advance implementation of the Program.

(c) The Solar Power Infrastructure Committee composed of the Department, the Mayor, the Chief Administrative Office and the Chief Legislative Analyst or their designees is hereby created and shall monitor and report on infrastructure improvements, staffing and related expenditures associated with the Department's solar program on a quarterly basis.

(d) The Citizen's Advisory Solar Power Infrastructure Committee composed of three members appointed by the Mayor and four members appointed by the President of the City Council is hereby created and shall monitor and report on the infrastructure improvements, staffing and related expenditures associated with the Department's solar program on a quarterly basis.

Sec. 23.170. Public Notice. Audit Report.

The audit report produced pursuant to Section 23.169, shall be made publicly available on the Department's and City Controller's websites.

Sec. 23.171. Amendment or Repeal.

This article may be amended or repealed by an ordinance proposed either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the ordinance. In addition, this article may be amended by an ordinance adopted by a two-thirds vote of the Council.

Sec. 3. Severability. If any provision of this measure is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this measure shall remain in effect. The people of the City of Los Angeles hereby declare that they would have adopted each provision of this measure notwithstanding that one or more provisions of this measure is declared invalid or unenforceable and, to that end, the provisions of this measure are severable.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of March 3, 2009 as the date the measure is to be voted upon by the qualified voters of the City of Los Angeles. The notice shall be published once in a newspaper of general circulation in the City of Los Angeles, and in each edition thereof during that day of publication. The City Clerk is authorized and directed to prepare and keep in the City Clerk's office a sufficient supply of copies of the proposed ballot measure and to distribute the proposed ballot measure to any and all persons requesting a copy. Further, the City Clerk is authorized and directed to mail copies of the proposed ballot measure to each of the qualified voters of the City of Los Angeles.

Sec. C. The City Clerk is hereby authorized and directed to cause a notice to be published once in a newspaper of general circulation that copies of voter information pamphlets containing the proposed ballot measure may be obtained upon request in the City Clerk's office.

Sec. D. The City Clerk shall file a duly certified copy of this Resolution forthwith with the Board of Supervisors and with the Registrar-Recorder of the County of Los Angeles.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

KAREN E. KALFAYAN, City Clerk

By _____ Deputy

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By  _____
HARIT U. TRIVEDI
Deputy City Attorney

Date 11/4/08

C.F. No. 08-2795

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has adopted a resolution to place a measure before the qualified voters of the City of Los Angeles at the March 3, 2009 Special Election to be consolidated with the City's Primary Nominating Election or a Statewide Special Election to be held on the same date; and

WHEREAS, the City Election Code requires the City Attorney to prepare and present a ballot title and question consisting of an impartial statement of the measure not exceeding 175 words; and

WHEREAS, the State may hold a Statewide Special Election on March 3, 2009 and, in that event, the City may wish to consolidate this special ballot measure election along with the City's Primary Nominating Election with the Statewide Special Election; and

WHEREAS, the State Election Code provides that the ballot title and question printed on the ballot in an election governed by the State Elections Code not exceed 75 words; and

WHEREAS, to accommodate for the possibility that the City may consolidate its March 3, 2009 elections with a Statewide Special Election held on the same date, the City Attorney has presented: 1) a ballot title and question for the proposed measure; and 2) an alternative ballot title and question for the proposed measure to be used only if the City consolidates the election with a Statewide Special Election and therefore is subject to the State Elections Code's shorter 75-word limit;

NOW, THEREFORE, BE IT RESOLVED that the following ballot title and question for the measure, presented by the City Attorney, be adopted by the City Council:

SOLAR ENERGY AND JOB CREATION PROGRAM; CHARTER AMENDMENT AND ORDINANCE PROPOSITION ____.

Shall the Charter and Administrative Code be amended to authorize creation of a Los Angeles Department of Water and Power program to require production of at least 400 megawatts of solar power energy by 2014; provide for voluntary participation in the program by commercial, industrial, and institutional customers to allow installation of solar power systems on their property which would be operated and maintained by the Department in exchange for potential incentives; establish a jobs program and training academy to meet program participation demand; provide contract bid preferences for local solar power equipment manufacturers; require quarterly oversight committee reports and annual City Controller audit; and utilize a variety of funding mechanisms?

BE IT FURTHER RESOLVED that the following alternative ballot title and question for the measure, presented by the City Attorney, be adopted by the City Council to be used only if the City consolidates the election with a Statewide Special Election and therefore is subject to the State Elections Code's shorter 75-word limit:

SOLAR ENERGY AND JOB CREATION PROGRAM; CHARTER AMENDMENT AND ORDINANCE PROPOSITION ____.

Shall the Charter and Administrative Code be amended to require Los Angeles Department of Water and Power to install/operate solar power systems on commercial, industrial, institutional property generating 400 megawatts by 2014; allow voluntary participation and provide incentives; establish jobs/training programs to meet program demand; provide bid preferences for local manufacturers; require annual Controller audit; and utilize a variety of funding mechanisms?

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

KAREN E. KALFAYAN, City Clerk

By _____
Deputy

C.F. No. 08-2795

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, March 3, 2009 for the purpose of submitting to the qualified voters of the City of Los Angeles a certain measure and consolidating this Special Election with the City's Primary Nominating Election or a Statewide Special Election to be held on the same date.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A Special Election is hereby called to be held in the City of Los Angeles on March 3, 2009, for the purpose of submitting to the qualified voters of the City a certain ballot measure submitted by the Council of the City of Los Angeles.

Sec. 2. The ballot title and question to be used at the Special Election for the measure to be submitted to the qualified voters of the City of Los Angeles shall be:

**SOLAR ENERGY AND JOB CREATION PROGRAM; CHARTER
AMENDMENT AND ORDINANCE PROPOSITION ____.**

Shall the Charter and Administrative Code be amended to authorize creation of a Los Angeles Department of Water and Power program to require production of at least 400 megawatts of solar power energy by 2014; provide for voluntary participation in the program by commercial, industrial, and institutional customers to allow installation of solar power systems on their property which would be operated and maintained by the Department in exchange for potential incentives; establish a jobs program and training academy to meet program participation demand; provide contract bid preferences for local solar power equipment manufacturers; require quarterly oversight committee reports and annual City Controller audit; and utilize a variety of funding mechanisms?

Sec. 3. Notwithstanding Section 2, if the City consolidates the election with a Statewide Special Election held on the same date, March 3, 2009, and therefore is subject to the State Elections Code's shorter 75-word limit, the ballot title and question to be used for the measure at the Special Election consolidated with the Statewide Special Election shall be:

**SOLAR ENERGY AND JOB CREATION PROGRAM; CHARTER
AMENDMENT AND ORDINANCE PROPOSITION ____.**

Shall the Charter and Administrative Code be amended to require Los Angeles Department of Water and Power to install/operate solar power systems on commercial, industrial, institutional property generating 400 megawatts by 2014; allow voluntary participation and provide incentives; establish jobs/training programs to meet program demand; provide bid

preferences for local manufacturers; require annual Controller audit; and utilize a variety of funding mechanisms?

Sec. 4. The measure shall be designated on the ballot or ballot pages by a letter or number determined by the City Council in accordance with applicable City and state laws. Upon the designation by the proper officials of the letter or number to be assigned to the measure, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 5. To vote on the measure, the voter shall mark the ballot next to the word "Yes" or the word "No." A "Yes" vote shall be counted in favor of adoption of the measure and a "No" vote shall be counted against adoption of the measure.

Sec. 6. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the City's Primary Nominating Election to be held in the City of Los Angeles on Tuesday, March 3, 2009. In the event that the City's Primary Nominating Election is consolidated with a Statewide Special Election, this City ballot measure Special Election shall be included in that consolidation as part of the City's Primary Nominating Election.

Sec. 7. The voting polls on election day shall open at 7:00 a.m., March 3, 2009, and shall remain open until 8:00 p.m. of the same day when the voting polls shall be closed, except as provided in City Election Code Section 857 (or California Elections Code Section 14401 if the election is consolidated with a Statewide Special Election).

Sec. 8. The election precincts, polling places, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the Primary Nominating Election, and the elections shall be held in all respects as if there were only one election. Furthermore, for the precincts, polling places, and officers of election, reference is hereby made to the list that will be prepared and approved by the City Clerk and filed in the City Clerk's Office not later than February 2, 2009, and that list is incorporated into and made part of this ordinance. In the event that this City ballot measure Special Election is consolidated with a Statewide Special Election, the election precincts, polling places, and officers of election shall be the same as those provided in the City of Los Angeles for the Statewide Special Election, and the elections shall be held in all respects as if there were only one election; furthermore, for the precincts, polling places, and officers of election, reference is hereby made to the Order of the Registrar-Recorder of the County of Los Angeles to be adopted for the Statewide Special Election and that Order is incorporated into and made part of this ordinance.

Sec. 9. In all other particulars, the Special Election shall be held and conducted as provided by law for the conduct of the Primary Nominating Election in the City of Los Angeles. In the event that this City ballot measure Special Election is consolidated with a Statewide Special Election, then in all other particulars the election shall be held and conducted as provided by law for the conduct of the Statewide Special Election in the City of Los Angeles, and the Board of Supervisors of the County of Los Angeles shall

have authority to canvass the returns of the election, and the City Council of the City of Los Angeles upon receipt of the certified results of the canvass of election returns shall declare the results thereof.

Sec. 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Harit U. Trivedi*
HARIT U. TRIVEDI
Deputy City Attorney

Date 11/4/08

C.F. No. 08-2795