

0150-12317-0000

TRANSMITTAL

TO Martin L. Adams, General Manager Los Angeles Department of Water and Power	DATE 09/28/2023	COUNCIL FILE
FROM The Mayor	COUNCIL DISTRICT	

**LOS ANGELES DEPARTMENT OF WATER AND POWER PROPOSED RESOLUTION AND
LETTER AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY FOR THE PURCHASE
OF UNIMPROVED LAND LOCATED ADJACENT TO THE TINEMAHA RESERVOIR
OPERATION FACILITY**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



MAYOR

(Chris Thompson for)

MWS:PJH/JVW:cm:10240006t

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: July 17, 2023

CAO File No. 0150-12317-0000

Council File No.

Council District:

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Communication from the Department of Water and Power dated March 14, 2023; referred by the Mayor for report on April 3, 2023

Subject: **LOS ANGELES DEPARTMENT OF WATER AND POWER PROPOSED RESOLUTION AND LETTER AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY FOR THE PURCHASE OF UNIMPROVED LAND LOCATED ADJACENT TO THE TINEMAHA RESERVOIR OPERATION FACILITY**

RECOMMENDATION

That the Mayor:

1. Approve the Los Angeles Department of Water and Power (LADWP) proposed Resolution authorizing approval of a Letter Agreement, including long-term indemnification provisions, with the Union Pacific Railroad Company for the purchase of approximately 167.476 acres of unimproved land, Assessor's Parcel Numbers 018-110-12, 018-190-02, and 018-230-11, located adjacent to the Tinemaha Reservoir operation facility near Big Pine, Inyo County, California for a total cost of \$213,531.90;
2. Adopt the California Environmental Quality Act (CEQA) determinations of the Los Angeles Board of Water and Power Commissioners that the item is exempt from CEQA pursuant to Section 15060(c)(2) that states an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical change in the environment;
3. Authorize, empower and direct the Manager of the Los Angeles Aqueduct for LADWP to execute escrow and other related documents, necessary to carry out the transaction in accordance with the Agreement for and on behalf of LADWP;
4. Authorize and direct, upon proper certification, the Chief Accounting Employee to draw demands on the Water Revenue Fund, over the term of the agreement incurred by such agreement; and
5. Return the proposed Resolution to LADWP for further processing, including Council consideration.

SUMMARY

The Los Angeles Department of Water and Power (LADWP) requests approval to purchase approximately 167.476 acres of unimproved land (Property) located adjacent to the Tinemaha Reservoir operational facility located near Big Pine, Inyo County, California from Union Pacific Railroad Company (Union Pacific). The purchase is needed to prevent other parties from purchasing and developing the land near the reservoir and interfering with LADWP operations. The potential for pollution around the Owens River and nearby waterways, which empty into the reservoir, will also be minimized by the purchase. Finally, the purchase will also provide continuity of City of Los Angeles (City) land ownership around the reservoir. LADWP and Union Pacific negotiated a total sale price of \$213,531.90 for the Property. The Letter Agreement (Agreement) includes indemnification of Union Pacific from liability arising from the condition of the Property for an indefinite time period. LADWP was satisfied with the condition of the Property and determined additional investigative measures were not needed.

The proposed agreement has been reviewed and approved as to form by the City Attorney. The indemnifications provisions included in the Agreement exceed the authority established by Resolution No. 95-0207. Therefore, the City Attorney has opined that in accordance with Charter Section 373 and L.A.A.C. Section 10.5, City Council approval is needed. Our office has reviewed the request and recommends approval.

BACKGROUND

Property – The Property is approximately 200 to 300 feet wide and seven miles long and is surrounded by City-owned land. It is directly adjacent to the west side of the Tinemaha Reservoir and the dam. Parts of the Property also cross the Owens River and intersects three additional waterways that deliver water from the surrounding watershed into the reservoir: Tinemaha Creek, Birch Creek and Fish Springs Hatchery Ditch. LADWP has inspected the Property and is satisfied with the condition of it.

Letter Agreement – On October 26, 2022, Union Pacific sent the Agreement detailing the description of the Property, the sale price, and the indemnification provisions, among other pertinent information regarding the proposed sale. The Agreement states that LADWP will indemnify Union Pacific of any liability of the condition of the Property. LADWP has inspected the Property and performed both a Phase I and II environmental site assessments, which noted the Property's previous use as a railroad and previous installations on the Property. The LADWP Environmental Affairs Site Investigation and Remediation Group was satisfied with the condition of the Property and determined additional investigative measures were not needed. LADWP Risk Management also reviewed the item and the risks of an indefinite term of indemnifications were considered acceptable and minimal due to the need to acquire the property.

Negotiated Sale Price: LADWP and Union Pacific negotiated a sale price of \$1.275 per acre for a total of \$213,531.90 for the 167.476 of unimproved land. This price was based on recent valuations for the sale of other Union Pacific land to the California Department of Transportation.

Alternatives Considered – LADWP considered not executing the Agreement and not purchasing the land. However, LADWP's non-purchase would allow the Property to be available for purchase and development by another party which could potentially interfere with LADWP operations at Tinemaha Reservoir and the dam. This could also result in potential pollution around the Owens River and nearby waterways that empty into the Reservoir. Furthermore, not purchasing the land would not provide for continuity of City land ownership around the Tinemaha Reservoir.

CITY COMPLIANCE

The City Attorney has reviewed and approved the proposed resolution and the Agreement as to form. The Agreement contains indemnifications provisions for an indefinite term that exceed authority established by Resolution No. 95-0207. Therefore, the City Attorney has opined that in accordance with Charter Section 373 and L.A.A.C. Section 10.5, City Council is needed.

California Environmental Quality Act (CEQA) – The Los Angeles Board of Water and Power Commissioners determined that the item is exempt from CEQA pursuant to Section 15060(c)(2) that states an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical change in the environment. Therefore, the execution of the Agreement is not subject to CEQA.

FISCAL IMPACT STATEMENT

There is no impact on the City General Fund. The purchase price and related expenses for the transaction, which include escrow fees, closing costs, and related expenses totaling \$213,531.90 are available from and will be paid by the Water Revenue Fund.

Attachment – LADWP Board Report, Resolution and Letter Agreement



BUILDING A STRONGER L.A.

Karen Bass, Mayor

Board of Commissioners
Cynthia McClain-Hill, President
Cynthia M. Ruiz, Vice President

Mia Lehrer

Nicole Neeman Brady

Nurit Katz

Chante L. Mitchell, Secretary

Martin L. Adams, General Manager and Chief Engineer

April 3, 2023

The Honorable Karen Bass
Mayor, City of Los Angeles
Room 303, City Hall
Mail Stop 370

Attention: Ms. Heleen Ramirez, Legislative Coordinator

Dear Mayor Bass:

Subject: Letter Agreement with Union Pacific Railroad Company for Purchase of Real Property Located Adjacent to Tinemaha Reservoir near Big Pine, Inyo County, California

In accordance with Executive Directive No. 4, enclosed is a copy of a Board letter and supporting documents recommending approval and transmittal to the Los Angeles City Council of the Letter of Understanding between the City of Los Angeles and Union Pacific Railroad Company.

It is respectfully requested that your office complete its review as soon as possible. Once the required City Administrative Officer report has been received, the matter will be scheduled for action by the Los Angeles Board of Water and Power Commissioners and forwarded to the Los Angeles City Council for final consideration.

Please contact Mr. Matthew A. Hale, Director of Legislative and Intergovernmental Affairs at (213) 367-0751 upon completion of the review, if the review will take longer than 30 days, or if there are any questions regarding this item.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. L. Adams', is written over a horizontal line.

Martin L. Adams
General Manager and Chief Engineer

TT:fm

Enclosure

c/enc: Mr. Doug Tripp, Office of the Mayor
Dr. Frederick H. Pickel, Office of Public Accountability
Board of Water and Power Commissioners
Mr. Matthew A. Hale