

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 30-July 1, 2010

Reference No.: 2.4c.(1) - **REVISED**
Action Item

From: NORMA ORTEGA
Chief Financial Officer

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Subject: **AIRSPACE LEASE - REQUEST TO DIRECTLY NEGOTIATE WITH SACRAMENTO MUNICIPAL UTILITIES DISTRICT (SMUD)**

CTC ACTION UPDATE: The California Transportation Commission approved the recommendation described below with the following conditions:

- **Liability and maintenance will be assumed by SMUD for the proposed site; and**
- **Exclusive negotiating rights between the Department and SMUD will be for one year.**

RECOMMENDATION:

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve direct negotiations with the Sacramento Municipal Utilities District (SMUD) for a long-term developmental lease that would permit SMUD, through a third party, to install, own, and maintain solar photovoltaic (PV) panels within operating right of way at two separate locations in Sacramento County.

BACKGROUND

SMUD is a publicly owned utility that was created by voters in 1923. It is the sixth largest public utility in the nation in terms of customers served, with over 550,000 customers. SMUD currently generates, transmits, and distributes electric power to a 900-square mile service area that encompasses Sacramento County and a small portion of Placer County. In 2009, SMUD maintained an A, A1 or A+ credit rating from Fitch, Moody's and Standard and Poor's respectively.

SMUD, in conjunction with one or more private partners, will develop, finance, construct, own, operate and maintain PV solar facilities at two separate locations in operating right of way adjacent to the Highway 50 corridor in the Sacramento area. This public/private partnership proposal will serve as a demonstration project to establish the feasibility and best method of placing utility-scale solar PV power installations on Department property using the public/private model. The Department will enter into a lease with SMUD (after Commission's approval of the terms and conditions) and SMUD will sublease to the private partners, after Departmental review and approval of the sublease terms and conditions.

This SMUD public/private partnership project is the first public/private solar PV panel installation proposal utilizing Department right of way in the North Region. The project consists of development of solar PV generation facilities and electrical interconnection in the cut-slope and

open space along the Highway 50 corridor in Sacramento County. The two separate locations studied for this demonstration project are the North cut-slope from 65th Street to Stockton Boulevard and the Mather Field Road/Hwy 50 interchange and westbound on-ramp. See aerial photos and maps attached as Exhibits A through F. Final site selection is pending full analysis of the information expected in the Phase 2 feasibility study and satisfactory conclusion of project discussions with affected local jurisdictions.

Existing freeway lease areas are generally located in areas of high demand. However, the great majority of operating right of way is typically unleaseable due to its location and operational restrictions. SMUD's proposed pilot project is one of the first to propose leasing Department property that historically has had no commercial demand. The proposed use will transform otherwise non-revenue generating property into an asset with both economic and environmental benefits to the Department and the State.

Negotiating directly with a private party to establish such a pilot project is the best option because:

- The primary long-term goal of this demonstration pilot project is having Department staff gain the required technical and business model knowledge so future proposals to lease operating right of way for solar PV panel energy generation may be successfully solicited via a public request for proposal (RFP) process.
- At this time, the Department is unaware of any other private or public entities interested in developing locations of North Region operating right of way for PV panel use.
- SMUD is committed to fostering development of renewable energy sources as evidenced by their surpassing a renewable energy supply target of 12 percent of its total energy output in 2006 and for having a renewable energy supply target goal of 23 percent for the year 2010. SMUD has funded the completed Phase I and Phase II feasibility studies as well as an appraisal that is currently being conducted with a target completion month of July 2010. SMUD is confident in the success of this pilot and is fully committed and able to compensate the Department over the term of the lease via whichever business model for payment is chosen during negotiations, i.e. lease payments, virtual net metering and/or solar shares exchange.

In order to explore the viability of similar future solar PV panel developments within the Department's rights of way, the Department requests permission to begin direct negotiations with SMUD with the goal of drafting a 25-year lease in order to develop solar PV power generation facilities within the Department's operating right of way. The Department will immediately benefit by receiving economic benefits from SMUD for traditionally non-revenue producing properties. The Department will also realize annual savings on maintenance costs as SMUD will become responsible for the liability and maintenance of the leased areas.

SMUD has already conducted a Phase I feasibility study that was provided to the Department for review during the last quarter of 2009. Based on review of this study information by affected District functions and Headquarters divisions, the Department has preliminarily approved the concept in matters related to safety, environmental considerations, and operations. Preliminary approval was given with a caveat that a detailed review will take place upon Commission's approval of this request to directly negotiate, and receipt of SMUD's Phase II study information, which will address issues such as glare/reflection, erosion and security in more detail. Staff is confident the parties will identify and mitigate all safety, maintenance, and operational concerns associated with

installing PV systems within the operating right of way. However, the Department will not advance this proposal if, after further review, its primary transportation mission is deemed to be compromised in any way.

SUMMARY

The Department requests Commission's permission to directly negotiate a long-term developmental lease with SMUD. It is in the best interest of the State, providing both economic and environmental benefits. Finally, it will enable Department staff to gain knowledge and experience that may be utilized in developing a standardized RFP process for developing/managing PV sites throughout the State. If permission is granted, the Department will proceed with detailed reviews of the proposal, negotiate the lease, and return to the Commission for final review and approval. The Department will receive either direct economic benefits from lease payments, or indirect economic benefits by way of virtual net metering and/or participation in a solar shares exchange program. Additionally, the Department will benefit from maintenance cost savings for land that would not otherwise be leasable outside of this proposed solar project, as well as the goodwill associated with the Department taking direct action to promote renewable energy in accordance with the Governor's Executive Orders and Energy Action Plan and the Legislature's California Global Warming Solutions Act of 2006.

Attachments

Exhibits A through F: Aerial maps