

MEMORANDUM OF UNDERSTANDING
AES ALAMITOS, LLC AND CITY OF LONG BEACH

34083

This Memorandum of Understanding ("MOU") is entered into this 16th day of November, 2015, by and between the City of Long Beach, a municipal corporation ("City") and AES Alamitos, LLC, a California limited liability company ("AES") pursuant to a minute order of the Long Beach City Council dated October 20, 2015, with reference to the following facts:

RECITALS

Whereas, the existing AES Alamitos Generating Station Units 1-6, located on Studebaker Road, Long Beach have been in operation for nearly sixty years; and

Whereas, the existing generating units are nearing the end of their useful life and are expected to permanently cease operations within a few years; and

Whereas, the permits and licenses under which the existing facilities were constructed do not require AES to demolish these units when they permanently cease operating, and the construction of new replacement generation does not necessitate the removal of the existing facilities; and

Whereas, AES voluntarily desires to contribute to the general improvement of the site in furtherance of the City's policies and goals; and

Whereas, by working cooperatively towards the eventual demolition of the AES Generating Station Units, AES and City are both committed to removing aging infrastructure, transform the project site, and enhance the quality of life and the quality of the environment of Long Beach;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Purpose and Implementation

The purpose of this MOU is to memorialize a) the voluntary commitment of AES to demolish the existing Alamitos Generating Station Units 1-6 ("AGS Units") when these facilities permanently cease operations and AES has received the applicable permits from City and approval from any other necessary authorities (the "Project"); and b) the City's procedures and time considerations for receiving application, processing, and issuing a demolition permit. AES and the City (collectively, the "Parties") will implement the terms and conditions described below.

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2. AES's Performance

- A. Application for Permits. On or before the AGS Units cease operating permanently, AES will apply for demolition permits from the City for the purpose of demolishing the AGS Units.
- B. Demolition Upon Complete Set of Permits and Approvals. AES will demolish the AGS Units once all necessary permits from the City are received, and if required, the final and unappealable approval of the California Independent System Operator, the California Public Utilities Commissions, the California Water Resources Control Board and/or any other government agency with jurisdiction over the AGS Units and related demolition activities. AES may exercise discretion in deciding which ancillary facilities to demolish.
- C. Health Risk Assessment. AES will be required to conduct a Health Risk Assessment (HRA) of the demolition of the AES Units prior to City issuing a demolition permit. Such HRA will be conducted using a third party HRA professional and a HRA methodology mutually agreed upon by City and AES.

3. The City's Performance

- A. Expedited Processing of Permit Applications. The City will accept, process and review, in good faith, all complete applications for permits or entitlements for the Project. Subject to the reservation of its discretion with regard to approval, City agrees to cooperate with AES in securing all permits and approvals which may be required by City. City shall also assist AES in its endeavors to obtain any permits or approvals required from other governmental or quasi-governmental agencies having jurisdiction affecting the development of or provision of services to the Project. Expedited review and processing of AES's demolition permit applications shall be governed by the Long Beach Municipal Code and City Charter.
- B. Provision of Other Services at Customary Rates and Terms. The City will provide all appropriate governmental services and actions for the demolition of AGS Units, and will perform those services and actions at the standard rates and terms customarily charged by the City, according to its current schedule of fees and charges.

4. Timeline

AES will apply for demolition permits from the City on or before the AGS Units cease operating permanently. The determination of when the AGS Units have ceased operating permanently is within the sole discretion of AES. However, should all of the units be out of operation for one year, AES will meet and confer with the City to determine the date on which the units will be deemed to have permanently ceased operating. The Parties will

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use their best efforts to ensure that the demolition permits and any other required City permits, approvals or licenses necessary for demolition of the AGS Units are issued within three months of the date the City deems the application complete.

5. Term and Renegotiation

- A. Term and Expiration. The term of this MOU shall be for five years commencing upon execution of the MOU by the Parties. All provisions of this MOU shall expire on the termination date unless extended by mutual agreement in writing.
- B. Renegotiation. In the event either party desires to negotiate the provision of a successor MOU, that party shall serve upon the other its written request to commence negotiations. Negotiations shall begin no later than thirty (30) days from date of receipt of notice unless extended by mutual agreement between the Parties.
- C. No Assignment. Neither AES nor its subsidiaries or affiliates shall assign or transfer any interest in this MOU or the performance of any obligation hereunder without the prior written consent of the City, and any attempt to so assign this MOU or any rights, duties or obligations arising hereunder shall be void and of no effect. This section shall not apply to assignments between AES and any of its subsidiaries and affiliates under common control or a successor-in-interest by merger, consolidation or reorganization.

6. Indemnification.

- A. No Liability to Third Parties. Nothing in this MOU shall be deemed to create rights or obligations in third parties not signatories to this MOU except as specifically stated herein.
- B. AES shall defend, indemnify and hold harmless City, its boards, commissions, officials, agents and employees from or against any and all liability, loss expense (including reasonable attorneys' fees) or claims for injury or damage arising out of the performance of this MOU or arising from or connected to the approval process or relating to the Project, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or the result of the negligent or intentional acts or omissions of City, its boards, commissions, officials agents or employees.

7. Private Undertaking.

It is specifically understood and agreed by and between the Parties that the Project is exclusively undertaken as private development. No partnership, joint venture or other association of any kind between AES and City is formed by this MOU.

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8. Governing Law.

This MOU shall be governed by the laws of the state of California.

9. Modifications. Any modification of or amendment to this MOU will be effective only if in writing signed by the Parties.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

November 2, 2015

AES ALAMITOS, LLC, a California limited liability company

By J G Didlo
Name Jennifer Didlo
Title Director

"AES"

Nov. 16, 2015

CITY OF LONG BEACH, a municipal corporation

By T BULL
City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

Assistant City Manager

"City"

This Memorandum of Understanding is approved as to form on Nov. 9, 2015.

CHARLES PARKIN, City Attorney

By Charles Parkin
Deputy