

**R-23**

# CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 6<sup>th</sup> Floor • Long Beach, CA 90802 • (562) 570-6845 • Fax (562) 570-5836

April 20, 2010

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Receive supporting documentation into the record regarding the Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing, and adopt the attached resolution approving the issuance of revenue bonds by the California Statewide Community Development Authority (CSCDA) to benefit SunEdison, LLC, in an amount not to exceed \$1,000,000. (District 2)

**DISCUSSION**

SunEdison, LLC, a California limited liability corporation, has requested the California Statewide Communities Development Authority (CSCDA) issue bonds on its behalf in an aggregate amount not to exceed \$1,000,000 to finance the construction of solar energy facilities at 95 S. Pine Avenue, Long Beach, CA.

The CSCDA will issue tax-exempt debt under the Recovery Zone Facility Bond program authorized by the American Recovery and Reinvestment Act (ARRA), which will be loaned to SunEdison, LLC, in an amount not to exceed \$1,000,000. The funds will be used to finance solar energy systems for The Pike at Rainbow Harbor.

CSCDA is a joint exercise of powers authority consisting of over 500 California cities, counties and special districts, including the City of Long Beach. SunEdison, LLC, provides solar electricity to customers under a 20-year power purchase agreement. The long-term agreements provide financial benefits to its customers by assuring them of stable, reasonably priced electricity.

The Internal Revenue Service (IRS) Code requires that CSCDA seek approval from the City Council of the bonds issued, a portion of which will benefit facilities within the City. A TEFRA public hearing notification was published in the Press-Telegram on March 9, 2010. The TEFRA hearing was held on March 23, 2010 at 9:15 a.m. The public hearing, required by Federal tax law regulations, was conducted by the City Treasurer in the sixth floor conference room at City Hall. No public comment was presented.

This matter was reviewed by Assistant City Attorney Heather A. Mahood on March 29, 2010, and Budget Management Officer Victoria Bell on March 30, 2010.

HONORABLE MAYOR AND CITY COUNCIL  
April 20, 2010  
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TIMING CONSIDERATIONS

City Council action is requested on April 20, 2010 to facilitate CSCDA's forthcoming debt issuance.

FISCAL IMPACT

There is no fiscal impact associated with this action. The City has no financial obligation or liability associated with this financing. No City interest or taxing authority was pledged in support of this financing.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



LORI ANN FARRELL  
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

LAF:DN:EF:mrn  
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ATTACHMENT – CSCDA SUNEDISON RESOLUTION

APPROVED:



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PATRICK H. WEST  
CITY MANAGER

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 RESOLUTION NO.

2  
3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH APPROVING THE ISSUANCE BY  
5 THE CALIFORNIA STATEWIDE COMMUNITIES  
6 DEVELOPMENT AUTHORITY OF RECOVERY ZONE  
7 FACILITY REVENUE BONDS FOR THE SUNEDISON  
8 CALIFORNIA PORTFOLIO  
9

10 WHEREAS, the California Statewide Communities Development Authority  
11 (the "Authority") is authorized pursuant to the provisions of California Government Code  
12 Section 6500 et seq. and the terms of an Amended and Restated Joint Exercise of Powers  
13 Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies  
14 throughout the State of California, including the City of Long Beach (the "City"), to issue  
15 revenue bonds for the purpose of promoting economic development in the State of  
16 California; and

17 WHEREAS, SunEdison, LLC or related entities, has requested that the  
18 Authority adopt a plan of financing providing for the issuance of recovery zone facility  
19 revenue bonds (the "Bonds") in one or more series issued from time to time, including  
20 bonds issued to refund such revenue bonds in one or more series from time to time, and at  
21 no time to exceed \$1,000,000 in outstanding aggregate principal amount, to finance the  
22 construction of solar energy facilities located at the following address in the City and  
23 generally known as SunEdison California Portfolio (the "Project"): 95 S. Pine Avenue,  
24 Long Beach, California; and

25 WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for  
26 purposes of the Internal Revenue Code of 1986 (the "Code"); and

27 WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance,  
28 private activity bonds are required to be approved by the "applicable elected representative"

1 of the governmental units on whose behalf such bonds are expected to be issued and by a  
2 governmental unit having jurisdiction over the entire area in which any facility financed by  
3 such bonds is to be located, after a public hearing held following reasonable public notice;  
4 and

5 WHEREAS, the members of this City Council (this "City Council") are the  
6 applicable elected representatives of the City; and

7 WHEREAS, there has been published, at least 14 days prior to the date  
8 hereof, in a newspaper of general circulation within the City, a notice that a public hearing  
9 regarding the Bonds would be held on a date specified in such notice; and

10 WHEREAS, such public hearing was conducted on such date, at which time  
11 an opportunity was provided to interested parties to present arguments both for and against  
12 the issuance of the Bonds; and

13 WHEREAS, the Authority is also requesting that the City Council approve  
14 the issuance of any refunding bonds hereafter issued by the Authority at no time to  
15 exceed \$1,000,000 for the purpose of refinancing the Bonds which financed the Project  
16 (the "Refunding Bonds"), but only in such cases where federal tax laws would not require  
17 additional public hearings, consideration or approval by the City Council; and

18 WHEREAS, it is intended that this Resolution shall constitute the approval of  
19 the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the  
20 Agreement;

21 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
22 follows:

- 23 Section 1. The above recitals are true and correct.
- 24 Section 2. The City Council hereby approves the issuance of the Bonds  
25 and the Refunding Bonds by the Authority. It is the purpose and intent of the City Council  
26 that this Resolution constitute approval of the Bonds for the purposes of (a) Section  
27 147(f) of the Code and (b) Section 9 of the Agreement.

28

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 Section 3. The officers of the City are hereby authorized and directed,  
2 jointly and severally, to do any and all things and to execute and deliver any and all  
3 documents that they deem necessary or advisable in order to carry out, give effect to and  
4 comply with the terms and intent of this Resolution and the financing approved hereby.

5 Section 4. The City Clerk shall forward a certified copy of this Resolution  
6 and a copy of the affidavit of publication of the hearing notice to:

7 Justin Cooper, Esq.  
8 Orrick, Herrington & Sutcliffe LLP  
9 405 Howard Street  
San Francisco, California 94105

10 Section 5. This Resolution shall take effect immediately upon its  
11 adoption by the City Council, and the City Clerk shall certify the vote adopting this  
12 Resolution.

13 I hereby certify that the foregoing Resolution was adopted by the City  
14 Council of the City of Long Beach at its meeting of April 20, 2010, by the following vote:

15  
16 Ayes: Councilmembers: \_\_\_\_\_

17 \_\_\_\_\_  
18 \_\_\_\_\_

19  
20 Noes: Councilmembers: \_\_\_\_\_

21 \_\_\_\_\_  
22 Absent: Councilmembers: \_\_\_\_\_

23 \_\_\_\_\_  
24 \_\_\_\_\_

25  
26 \_\_\_\_\_  
City Clerk  
27  
28