

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA
CONSIDERING THE INFORMATION IN THE FINAL
ENVIRONMENTAL IMPACT STATEMENT PREPARED BY THE
FEDERAL ENERGY REGULATORY COMMISSION AND
CERTIFYING AND ADOPTING THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT SUPPLEMENT FOR THE
BUCKS CREEK HYDROELECTRIC RELICENSING PROJECT**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara (City), along with Pacific Gas and Electric (PG&E), owns and operates the Bucks Creek Hydroelectric Project (BCP) under a license issued by the Federal Energy Regulatory Commission (FERC or Commission);

WHEREAS, on December 12, 2016, utilizing the Integrated Licensing Process (ILP), the City and PG&E submitted an application seeking a new FERC License for continued operation of the 84.8 Megawatt Bucks Creek Hydroelectric Project;

WHEREAS, demonstration of compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) is required prior to issuance of a new license for the BCP;

WHEREAS, FERC is the lead agency for the NEPA process, and the City is the lead agency for the CEQA process;

WHEREAS, when a project action requires compliance with both CEQA and NEPA, and when NEPA will be completed first, state and local agencies are encouraged to use the NEPA document to comply with CEQA rather than preparing an independent CEQA document (CEQA Guidelines § 15221(a));

WHEREAS, where the federal agency circulated the Environmental Impact Statement (EIS) as broadly as state or local law requires and gave notice that meets California requirements, the CEQA lead agency may use the EIS in place of an Environmental Impact Report (EIR) (CEQA Guidelines § 15225(a));

WHEREAS, if the NEPA document does not fully meet all the requirements of CEQA, in order to

rely on the EIS the CEQA lead agency must undertake a supplemental analysis to fulfill these requirements (CEQA Guidelines § 15221(b));

WHEREAS, FERC prepared and circulated a Draft EIS (DEIS) for the City's BCP for a 60-day review period commencing June 14, 2019 and concluding August 13, 2019 in compliance with NEPA;

WHEREAS, FERC staff conducted two public meetings to receive comments on the DEIS in Oroville, California on August 1, 2019 and in Santa Clara, California on August 7, 2019, and City staff were present to respond to questions related to the CEQA process;

WHEREAS, FERC staff prepared a Final EIS (FEIS) consisting of: a list of the commenters; comments received during the review period; written, good faith responses to those comments; and the revised EIS;

WHEREAS, prior to using the EIS in this situation, the lead agency shall give notice that it will use the EIS in place of an EIR (CEQA Guidelines § 15225(a));

WHEREAS, the City announced its CEQA Lead Agency role via letter to resource and land management agencies and other potential stakeholders on June 23, 2017, with a follow-up announcement to additional stakeholders on February 13, 2019, which indicated its intention to utilize the FERC EIS;

WHEREAS, acting as CEQA lead agency, City staff provided notice of the availability of the EIS for the BCP and made the EIS available on the City's website consistent with the CEQA Guidelines, and made copies available for public review;

WHEREAS, the City has prepared a CEQA Supplement pursuant to the CEQA Guidelines to augment the analysis in FERC's EIS;

WHEREAS, on June 1, 2020, the City released a notice of availability of the Draft CEQA Supplement, and the Draft CEQA Supplement has been made available to the public and sent to responsible and trustee agencies, including the State Clearinghouse (SCH# 2019069104) for a 45 day review period commencing on June 3, 2020 and concluding on July 20, 2020;

WHEREAS, the City received no substantive comments on the Draft CEQA Supplement, and as such, there was no need for revision or responses to comments, and the Draft is therefore proposed to be adopted as the Final CEQA Supplement;

WHEREAS, other agencies in the decision-making process will rely on the CEQA supplement to inform their decisions, including the State Water Resources Control Board and their decision to issue a Water Quality Certification for the project; and

WHEREAS, the City Council considered the proposed CEQA Supplement at a duly noticed public meeting held September 29, 2020, at which time all interested persons were given an opportunity to present evidence and provide testimony, both in support of and in opposition to the proposed CEQA Supplement.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. The City Council hereby finds and determines that the foregoing recitals are true and correct.

2. The City Council has independently reviewed and considered the contents of FERC's Final EIS, and the Draft and Final CEQA Supplements, the presentation to the City Council made by City staff pertaining thereto, and the comments received during the required public review period prior to approving the project and certifies that:

A. FERC's Final EIS and the Final CEQA Supplement have been completed in compliance with the California Environmental Quality Act; and

B. FERC's Final EIS and the Final CEQA Supplement reflect the independent judgment and analysis of the City of Santa Clara.

3. Consistent with the CEQA requirement to consider alternatives in an environmental document, the Final CEQA Supplement analyzes three alternatives to the project as originally proposed, and the Council selects the "FERC Staff Alternative with Mandatory Conditions" as the Project;

4. Based upon the aforescribed evidence, the City Council hereby finds that there is no substantial evidence that the proposed Bucks Creek Project will have a significant effect on the environment; and, in accordance with such findings, the Council certifies and approves the Final CEQA Supplement submitted to it for the Bucks Creek Hydroelectric Project.

5. The City Council hereby directs the City staff to prepare and file the Notice of Determination for the CEQA Supplement, and to transmit the CEQA supplement to the State Water Quality Control Board for use in their decision-making process.

6. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA