



## Agenda Report

19-1267

Agenda Date: 12/10/2019

### REPORT TO COUNCIL

#### **SUBJECT**

Action on Appendix G - Amendment No. 7 to the Grizzly Development and Mokelumne Settlement Agreement by and Between Pacific Gas and Electric Company and City of Santa Clara and Related Budget Amendment

#### **BACKGROUND**

Since 2013, Pacific Gas and Electric Company (PG&E) and the City of Santa Clara (City), doing business as Silicon Valley Power (SVP), as co-licensees of the Bucks Creek Hydroelectric Project (Project) and pursuant to the Grizzly Development and Mokelumne Settlement Agreement (Agreement), have been working together toward obtaining a relicensing of the Project by the Federal Energy Regulatory Commission (FERC). The Project includes, amongst other facilities, PG&E's Bucks Creek hydroelectric powerhouse and the City's Grizzly hydroelectric powerhouse. Midway through the relicensing effort, the co-licensees discovered that they disagreed as to the interpretation of Agreement's provisions regarding allocation of relicensing costs. After protracted negotiations, the co-licensees have agreed on the interpretation of the Agreement's cost allocation provisions, and have reduced to writing specific clarifications to the Agreement to set forth such understandings.

#### **DISCUSSION**

Amendment No. 7 to the Agreement adds two new definitions and five new paragraphs to existing Section 12.2.2 of the Agreement to clarify the cost allocation provisions related to costs incurred in the relicensing process.

The proposed revisions to the Agreement clarify that relicensing costs incurred by City staff, City consultants, and City legal counsel shall either be shared by the co-licensees in accordance with the 2013 "Letter Agreement Regarding Bucks Creek Hydroelectric Project Relicensing Cost Sharing Pursuant to Grizzly Development and Mokelumne Settlement Agreement (1990)" (Letter Agreement), or paid for by the City and booked by the City as "Costs of Plant" for accounting purposes. The City's relicensing costs that are to be shared between the co-licensees are limited to those costs attributable to the California Environmental Quality Act (CEQA) portion of the relicensing effort.

The proposed revisions to the Agreement also specify that future cost responsibility associated with fulfillment of license conditions of the new hydroelectric license, such as Protection, Mitigation and Enhancement (PM&E) measures and Management Plans, are not subject to the cost allocation provisions of the Agreement Section 12.2.3, but instead shall be determined in accordance with existing Sections 1.1.33, 1.1.34, 2.4.1 and 2.5.2 of the Agreement.

**ENVIRONMENTAL REVIEW**

This action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

**FISCAL IMPACT**

Amendment No. 7 removes existing contract ambiguities in regards to how City-incurred costs in pursuit of the new hydroelectric license are to be handled by the co-licensees. The revisions to the Agreement clarify that the City’s costs will either be shared with PG&E or booked for accounting purposes as Costs of Plant, and costs booked by the City as Costs of Plant will be recovered from PG&E at such future time as PG&E exercises its right of reverter and assumes ownership of the Grizzly powerhouse (and other related facilities) as set forth in the Agreement. The City’s expenditures in pursuit of the new hydroelectric license are forecasted to be approximately \$6.6 million at completion of the relicensing effort. The original estimated amount of \$5.6 million was budgeted in the Bucks Creek Relicensing capital project (No. 2407 in Electric Utility Capital Fund). To meet the new forecast, staff recommends an additional \$1 million of appropriation, funded by available unrestricted reserve from the capital fund.

**Budget Amendment  
FY 2019/20**

	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<b>Electric Utility Capital Fund</b>			
<u>Fund Balance</u>			
Unrestricted Reserve	\$2,243,696	(\$1,000,000)	\$1,243,696
<u>Expenditures</u>			
Bucks Creek Relicensing Project	\$ 160,603	\$1,000,000	\$1,160,603

**COORDINATION**

This report has been coordinated with the Finance Department and City Attorney’s office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**RECOMMENDATION**

Authorize the City Manager to execute Appendix G - Amendment No. 7 to the Grizzly Development and Mokelumne Settlement Agreement by and Between Pacific Gas and Electric Company and City of Santa Clara and Related Budget Amendment.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Appendix G - Amendment No. 7
2. Settlement Agreement
3. Letter Agreement Regarding Relicensing Cost Sharing