

RESOLUTION OF BRADLEY LAKE PROJECT MANAGEMENT COMMITTEE

RESOLUTION NO. 2017 – 02; Battle Creek Diversion Project

Introduction: The Bradley Lake Project Management Committee (“BPMC”) is considering the development of a project to divert the water flows of Battle Creek into Bradley Lake to increase the water for use by the Bradley Lake Hydroelectric Project (“Bradley Lake Project”). All Purchasers are supportive of the expansion of the capabilities of the Bradley Lake Project through the development of the Battle Creek Diversion Project (“BCD Project”). While all Purchasers wish for the BCD Project to move forward, all Purchasers may not want to participate in the BCD Project. The activities of the BPMC regarding the BCD Project are authorized as Optional Project Work under the Power Sales Agreement.

Purpose of Resolution No. 2017-02: Resolution No. 2017-02, and Attachment 1 to Resolution No. 2017-02 Battle Creek Diversion Project Framework, set forth the terms and conditions under which participation in the costs and benefits of the BCD Project as Optional Project Work under the Power Sales Agreement will be managed by the BPMC.

Definitions: In addition to the definitions contained in Power Sales Agreement, the following definitions are used as part of this Resolution 2017-02 and Attachment 1:

“Non-Participating Purchaser” means a Purchaser that is not participating in the BCD Project.

“Participating Purchaser” means a Purchaser participating in the development of the BCD Project.

RESOLUTION NO. 2017-02

WHEREAS, Chugach Electric Association, Inc. (“Chugach”), Golden Valley Electric Association, Inc. (“GVEA”), Homer Electric Association, Inc. (“HEA”), the Municipality of Anchorage d/b/a Municipal Light and Power (“ML&P”), Matanuska Electric Association, Inc. (“MEA”), and the City of Seward (“Seward”), are the purchasers of the power generated by Bradley Lake Project under the Power Sales Agreement (hereinafter referred to jointly as the “Purchasers” and individually as a “Purchaser”);

WHEREAS, the Purchasers along with the Alaska Energy Authority (“AEA”) constitute the BPMC;

WHEREAS, the BPMC has authorized preliminary work comprised of completing design, environmental, and bid-related documents on the BCD Project as Optional Project Work under the Power Sales Agreement;

WHEREAS, the BCD Project is designed to supplement the water available for the Bradley Lake Project and the BCD Project will be using the facilities of the Bradley Lake Project, the BPMC will oversee and manage all aspects of the use of facilities of the Bradley Lake Project under the BPMC’s authority provided by the Power Sales Agreement;

WHEREAS, all Purchasers support the development of the BCD Project;

WHEREAS, AEA is now moving forward with obtaining financing of the BCD Project;

WHEREAS, not all Purchasers may want to participate in the development and resulting benefits of the BCD Project at this time;

WHEREAS, Purchasers desire an arrangement under which a Purchaser not wishing to participate in the BCD Project now can preserve the ability to participate in the BCD Project at a later date;

WHEREAS, the Participating Purchasers wish to hold harmless the Non-Participating Purchasers from incurring any costs associated with the development of the BCD Project;

WHEREAS, the Participating Purchasers shall reimburse the Non-Participating Purchasers for any amounts previously advanced by a Non-Participating Purchasers;

WHEREAS, the Participating Purchasers wish to provide an opportunity for the Non-Participating Purchasers to participate in the BCD Project later so long as the Non-Participating Purchasers reimburse the Participating Purchasers for an equitable portion of the reasonable costs incurred to develop the BCD Project prior to the time their respective participation begins;

WHEREAS, the development and financing of the BCD Project will be required to have no effect on the Bradley Lake Project Power Revenue Bond Resolution ("Bond") and related bond covenants associated with the Bradley Lake Project;

WHEREAS, this Resolution No. 2017-02 along with the Power Sales Agreement and the BPMC Bylaws provide the authorization for the BPMC to manage the allocation of costs and benefits of the BCD Project including the determination of the equitable costs to be paid by a Non-Participating Purchaser to a Participating Purchaser should the Non-Participating Purchaser choose to participate in the BCD Project at a later date;

WHEREAS, approval of the BCD Project as Optional Project Work under the Power Sales Agreement will require the affirmative vote of at least four (4) representatives of the Purchasers, whose percentage shares of the output from the Bradley Lake Project are greater than fifty-one percent (51%), plus the affirmative vote of the AEA; and,

WHEREAS, approval for the financing of the BCD Project as Optional Project Work under the Power Sales Agreement will require the affirmative vote of members whose percentage shares of the output from the Bradley Lake Project are equal to or exceed eighty percent (80%) of project capacity and annual project costs.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BPMC, that the costs and benefits of the BCD Project shall be managed and allocated in accordance with this Resolution No. 2017-02 and Attachment 1 to this Resolution No. 2017-02, Battle Creek Diversion Project Framework, as part of the BPMC process for determining Annual Project Costs for the Bradley Lake Project; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the BCD Project is approved as Optional Project Work under the Power Sales Agreement and this Resolution No. 2017-02 and the terms and conditions set forth in Attachment 1 to this Resolution No. 2017-02; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the above Recitals be incorporated and made part of to this Resolution No. 2017-02; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the right to the capacity of the BCD Project shall initially be allocated to all Purchasers in accordance with their respective shares of Bradley Lake Project capacity (hereinafter referred to as their "BCD Share").

BE IT FURTHER RESOLVED BY THE BPMC, that Purchasers will have until financing terms and bid results are known (tentatively November 8, 2017) before deciding whether to participate and obtain their respective right to the capacity in the BCD Project; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the costs and benefits of the BCD Project should not affect the rights, duties, and obligations of the Purchasers as set forth in the Power Sales Agreement and Bond; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the costs and benefits associated with the BCD Project shall be allocated by the BPMC to only those Purchasers choosing to participate in the BCD Project (i.e., Participating Purchasers); and,

BE IT FURTHER RESOLVED BY THE BPMC, that Purchasers wishing to participate in the BCD Project shall expressly notify the BPMC of their election to participate in the BCD Project, and the percentage level of their BCD Share at which it would like to participate in the BCD Project; and,

BE IT FURTHER RESOLVED BY THE BPMC, that a Participating Purchaser shall have the unfettered right to arrange for the sale or transfer of its respective BCD Share to another Participating Purchaser and the BPMC shall honor such arrangement in the allocation process for BCD Shares; and,

BE IT FURTHER RESOLVED BY THE BPMC, that any Purchaser failing to expressly notify the BPMC (or notifying the BPMC that it does not wish to participate in the BCD Project) by November 30, 2017 shall be deemed to be choosing to not participate in the BCD Project and that Purchaser's share of the BCD Project (i.e., its respective BCD Share) shall be reallocated by the BPMC between the Participating Purchasers; and,

BE IT FURTHER RESOLVED BY THE BPMC, that a Non-Participating Purchaser having its BCD Share reallocated shall continue to have its ability to participate in the BCD Project without restriction subject to the notice requirements in this Resolution 2017-02; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the Non-Participating Purchasers will not bear any costs or suffer any adverse effect due to the BCD Project; and,

BE IT FURTHER RESOLVED BY THE BPMC, the BCD Project will be charged four percent (4%) of the Bradley Lake annual O&M or an amount to be determined by a study of the impacts of the BCD Project to the Bradley Lake Project. The results of the study will be approved by the affirmative vote of members whose percentage shares of the output from the Bradley Lake Project are equal to or exceed eighty percent (80%) of Bradley Lake Project capacity and Annual Project Costs; and,

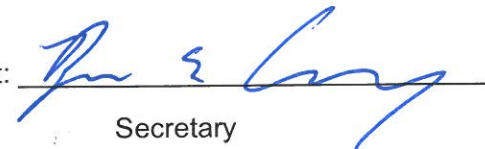
BE IT FURTHER RESOLVED BY THE BPMC, that the Non-Participating Purchasers have no restriction to participate at a later date but must provide notice of their intent to become a Participating Purchaser one year in advance of the start of the Project Water Year, June 1st; and,

BE IT FURTHER RESOLVED BY THE BPMC, that the Non-Participating Purchasers choosing to participate in the BCD Project at a later date shall contribute an equitable portion of the reasonable costs incurred to develop the BCD Project which amount shall be determined by the BPMC at the time the Non-Participating Purchaser chooses to participate in the BCD Project with such reasonable development costs including the Non-Participating Purchaser's pro-rata share of AEA cash calls and Interest During Construction (IDC) paid up front by the Participating Purchasers and adjusted for the time value of money using a discount rate equal to the long-term financing cost for the BCD Project net the credit from the Clean Renewable Energy Bonds (CREBS); and,

BE IT FURTHER RESOLVED BY THE BPMC, that any changes to the terms and conditions of this Resolution 2017-02 and Attachment 1 that directly affect the rights and obligations of the Participating Parties to receive their respective benefits from the BCD Project shall require the unanimous consent of the Participating Parties.

Dated at Anchorage Alaska, this 13th day of October 2017.


Chair

Attest: 
Secretary

**ATTACHMENT 1
TO
RESOLUTION NO. 2017-02
OF
BRADLEY LAKE PROJECT MANAGEMENT COMMITTEE**

Battle Creek Diversion Project Framework

The costs and benefits of the Battle Creek Diversion Project (“BCD Project”) shall be managed in accordance with Resolution No. 2017-02 and this Attachment 1 to Resolution No. 2017-02, Battle Creek Diversion Project Framework (“Attachment 1”), as follows:

A. General Applicability of Bradley Lake Project Provisions:

1. The provisions of the Power Sales Agreement and any of the documents, agreements, and understanding generally referred to as the Bradley Lake Agreements, where applicable, will be used to manage the energy generated and delivered from the BCD Project.
2. Subject to the rights held by the Alaska Energy Authority, the BPMC will be the final arbiter on any issue involving the BCD Project and the Bradley Lake Project and/or the Purchasers, and any such issues shall be resolved in accordance with the voting requirements set forth in Resolution No. 2017-02 and the Dispute Resolution provisions of the BPMC Bylaws.
3. For purposes of governance of any conflicts, the terms and conditions of Resolution No. 2017-02, will control over this Attachment 1, which will control over the BPMC Bylaws.

B. BCD Project Capacity:

1. The original shares of Bradley Lake Project capacity, i.e., Chugach (30.4%), GVEA (16.9%), HEA (12.0%), ML&P (25.9%), MEA (13.8%), and Seward (1.0%) will not change in any manner by Resolution 2017-02 and this Attachment 1.
2. Each Purchaser shall have the right to participate in the BCD Project at the same percentage that it holds capacity in the Bradley Lake Project subject to Resolution No. 2017-02 and this Attachment 1.
3. The right to the capacity of the BCD Project shall initially be allocated to all Purchasers in accordance with their respective shares of Bradley Lake Project capacity (hereinafter referred to as their “BCD Share”).
4. To participate in the BCD Project each Purchaser must expressly so notify the BPMC in writing by November 30, 2017, indicating it wants to maintain its allocated BCD Share (or a specific percentage of its total allocated BCD Share) of BCD Project capacity.

5. Any Purchaser that notifies the BPMC that it does not want to participate in the BCD Project, or a Purchaser that fails to provide any notice regarding participation, shall be deemed by the BPMC to have declined its initial opportunity to participate in the BCD Project and thereafter such Purchaser shall be a Non-Participating Purchaser. A Non-Participating Purchaser shall have the right to participate at its BCD Share without restriction subject to the notice requirements in Resolution 2017-02.
6. The BCD Share for any Non-Participating Purchaser shall be placed into a share pool ("BCD Pool") and reallocated by the BPMC in accordance with the respective percentage of original shares of Bradley Lake Project capacity held by the Participating Purchasers taking into account any arrangement made by any Participating Purchaser. The Participating Purchasers may allocate their BCD Share and/or the redistributed BCD Shares from the BCD Pool by agreement.
7. A Participating Purchaser shall have the unfettered right to arrange for the sale or transfer of its respective BCD Share to another Participating Purchaser and the BPMC shall honor such arrangement in the allocation process for BCD Shares.
8. Any Purchaser desiring to maintain its respective share (or a percentage of their respective shares) of BCD Project capacity but not immediately participate in the BCD Project (i.e., Non-Participating Purchasers) shall have the right to call back its respective BCD Share by providing written notice to the BPMC ("Call Back Notice").
9. A Call Back Notice must be provided to the BPMC by a Non-Participating Purchaser of its intent to become a Participating Purchaser one year in advance of the start of the Project Water Year, June 1st to be effective for participation in the BCD Project beginning at the start of the next Project Water Year. A Call Back Notice provided with less than one year in advance of the start of the Project Water Year, June 1st shall be effective for participation in the BCD Project to begin one year from the start of the next Project Water Year. A Call Back Notice can be made without restriction.
10. The Non-Participating Purchaser providing a Call Back Notice and complying with all other obligations and responsibilities set forth in Resolution 2017-02 and this Attachment 1 shall be able to participate at the level equal to the capacity percentage it holds in the Bradley Lake Project (i.e., its initial BCD Share). The BPMC shall make the necessary adjustments to the BCD Shares held by the other Participating Purchasers to accommodate the return of the Non-Participating Purchaser providing a valid Call Back Notice.
11. Any Non-Participating Purchaser providing a Call Back Notice must reimburse the Participating Purchasers then participating in the BCD Project for the equitable portion of the reasonable costs incurred to develop the BCD Project as determined by the BPMC at the time the Non-Participating Purchaser chooses to participate in the BCD Project with such reasonable development costs including the Non-Participating Purchaser's pro-rata share of AEA cash calls and Interest During Construction (IDC) paid up front by the Participating Purchasers and adjusted for the time value of money using a discount rate equal to the long-term financing cost for the BCD Project net the credit from the Clean Renewable Energy Bonds (CREBS). This reimbursement must be paid to the Participating

Purchasers by the Non-Participating Purchaser providing a Call Back Notice on or before May 1st prior to the Project Water Year in which that Non-Participating Purchaser shall be eligible to participate in the BCD Project.

C. BCD Project Cost Responsibility:

1. The amounts contributed to date towards the development of the BCD Project by the Non-Participating Purchasers shall be reimbursed by the Participating Purchasers in amounts determined by the BPMC within forty-five (45) days following the financing for the BCD Project. The responsibility of payment of such costs associated with this reimbursement shall be allocated by the BPMC to the Participating Purchasers in accordance with their respective BCD Shares, adjusted by the amount of the BCD Share allocated from a Non-Participating Purchaser ("Adjusted BCD Share").
2. The Operator for the Bradley Lake Project will be required to develop and propose for BPMC approval, the methodology and procedures for tracking all costs involved or associated with the BCD Project; such approval by the BPMC shall be in accordance with the voting requirements set forth in Resolution No. 2017-02. The methodology and procedures for tracking all costs involved or associated with the BCD Project will be approved by the BPMC.
3. The BCD Project will be charged four percent (4%) of the Bradley Lake annual O&M or an amount to be determined by a study of the impacts of the BCD Project to the Bradley Lake Project. The results of the study will be approved by the affirmative vote of members whose percentage shares of the output from the Bradley Lake Project are equal to or exceed eighty percent (80%) of Bradley Lake Project capacity and Annual Project Costs.
4. Participating Purchasers will hold harmless the Non-Participating Purchasers from all of the costs (including cost of financing) associated with the BCD Project as follows:
 - a. The Participating Purchasers, in accordance with their Adjusted BCD Shares, will pay all of the costs (including cost of financing) associated with the BCD Project.
 - b. The BPMC shall determine and allocate the BCD project costs to the Participating Purchasers during the determination of the Annual Project Costs for the Bradley Lake Project.
 - c. The costs associated with the BCD Project will be invoiced to Participating Purchasers as a separate surcharge amount shown on a schedule similar in form to the Schedule C accompanying the Bradley Lake Project determinations of "Monthly Utility Contributions."
 - d. Any amounts received from Participating Purchasers for the costs associated with the BCD Project in excess of the actual costs associated with the BCD Project in a given fiscal year will be distributed to the Participating Purchasers in accordance with their respective Adjusted BCD Shares for that fiscal year.
 - e. Any additional amounts required for more than the budgeted costs associated with the BCD Project in each fiscal year shall be the responsibility of the Participating

Purchasers in accordance with their respective Adjusted BCD Shares for that fiscal year.

D. BCD Project Water Tracking & Allocation:

1. The Operator for the Bradley Lake Project will be required to develop for BPMC approval the methodology and procedures for the tracking and allocation of water; such approval by the BPMC shall be in accordance with the voting requirements set forth in Resolution No. 2017-02.
 2. A Participating Purchaser's water rights in each fiscal year from the BCD Project will be allocated based upon its Adjusted BCD Share.
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