DATE: 9/10/2010

TO: Chair and Agency Members

FROM: Marc S. Grisham, Executive Director

SUBJECT: Adoption of a Bay Area Power Link Resolution Authorizing Acceptance of Pittsburg Power Company’s Rights Associated with PDA, PSA and PAA for the Trans Bay Cable Project

MEETING DATE: 9/20/2010

EXECUTIVE SUMMARY

On August 2, 2004, Pittsburg Power Company (“PPC”) entered into a Project Development Agreement (“PDA”) with Trans Bay Cable LLC (“TBC”) providing for the development of the Trans Bay Cable Project (“Project”). On November 6, 2006 PPC entered into two Agreements with TBC: a Purchase and Sale Agreement (“PSA”) providing for the purchase by PPC of the Trans Bay Cable Assets (“TBC Assets”); and a Project Administration Agreement (“PAA”) governing the business terms between PPC and TBC for operations of the Project after the transfer of TBC Assets to PPC. Staff recommends that BAPL accept PPC’s rights and responsibilities under the PDA, PSA and PAA, such assignment effective on a date mutually agreeable to PPC and BAPL, on such date as determined by the Executive Director. Finally, staff recommends that BAPL should agree to be bound by the terms of the Confidentiality Agreement entered into among the City, the City of Pittsburg Redevelopment Agency, PPC and TBC.

FISCAL IMPACT

There is no fiscal impact associated with the assignment of rights and responsibilities to from PPC to BAPL. Consistent with PPC’s funding from TBC, PPC will reimburse BAPL for its costs associated with operation of the Project.

RECOMMENDATION

Adopt the proposed Bay Area Power Link Resolution authorizing the Executive Director to accept from PPC, PPC’s rights and responsibilities under the PDA, PSA and PAA, including any applicable assets, on a date mutually agreeable to PPC and BAPL, as determined by the Executive Director, and additionally, agreeing that BAPL shall be bound by the terms of the Confidentiality Agreement.
City, PPC and the Redevelopment Agency of the City of Pittsburg entered into a Confidentiality Agreement with TBC on January 15, 2004. On that same day, the City entered into a Reimbursement Agreement with TBC, whereby TBC agreed to reimburse the City for expenses, as set forth in the Agreement.

On August 2, 2004, the City and PPC also entered into the PDA with TBC providing for the development of the Project. Under the PDA, the City and PPC have participated in the development and construction of the Project, designed to transmit up to 400 megawatts of electricity from the PG&E substation in Pittsburg to the PG&E substation in San Francisco.

On November 6, 2006 PPC entered into the PSA providing for the purchase by PPC of the TBC Assets; and the PAA governing the business terms between PPC and TBC for operations of the Project after the transfer of TBC Assets to PPC. Pursuant to the PSA, upon completion of the construction and testing, and the commencement of commercial operation, PPC is to take ownership of the TBC Assets and begin operating the Project. Following the transfer of ownership to PPC, TBC shall reimburse PPC costs and expenses associated with overseeing and operating the project, pursuant to the various agreements.

Once the Project is commercially operational, it falls within the regulatory control of the California Independent System Operator (“CAISO”) and will be further regulated by the Federal Energy Regulatory Commission (“FERC”), North American Electric Reliability Corporation (“NERC”), and the Western Electricity Coordinating Council (“WECC”).

On November 2, 2009, BAPL, a Joint Powers Agency, was created by the City of Pittsburg (Council Resolution 09-11325) and PPC (PPC Resolution 09-215). At the time of its creation, the parties contemplated that BAPL would accept assignment of the rights and liabilities associated with the Project. BAPL’s validation judgment was entered on February 25, 2010, and is now final.

### SUBCOMMITTEE FINDINGS

Not applicable.

### STAFF ANALYSIS

BAPL has the authority to accept the rights and responsibilities of PPC under the PDA, PSA and PAA. Additionally, in order to ensure the continued protection of confidential information about the Project, Staff recommends that BAPL accept to be bound by the terms of the Confidentiality Agreement executed on January 15, 2004. In order to ensure that the rights and responsibilities are accepted by BAPL at the time mutually agreed to by the parties, the proposed resolution authorizes BAPL’s Executive Director to accept the transfer at a later date.

Staff recommends the adoption of the proposed resolution.

### ATTACHMENTS:

- Resolution
- Project Development Agreement
- Purchase and Sale Agreement
- Project Administration Agreement
Validation Judgment

Report Prepared By: Randy L. Starbuck, BAPL Asset Manager