

## **2.9 Actions Related to Funding and Reimbursement Agreements Between the City of San José and LS Power Grid California, LLC, for Permitting Costs.**

### **Recommendation:**

(a) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power Santa Clara Valley Project.

(b) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power South Bay Project.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Loesch

**SUBJECT:** See Below

**DATE:** September 9, 2024

Approved

Date:

9/18/24

**COUNCIL DISTRICT:** Citywide

**SUBJECT: Actions Related to Funding and Reimbursement Agreements  
Between the City of San José and LS Power Grid California, LLC for  
Permitting Costs**

**RECOMMENDATION**

1. Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power Santa Clara Valley Project.
  
2. Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power South Bay Project.

**SUMMARY AND OUTCOME**

Approval of the recommendation will allow the City to enter into agreements with LS Power Grid California, LLC (LS Power) to create a pre-paid funding account for permitting fees associated with the encroachment permits for the two high-voltage transmission line projects. This will improve the City's cost recovery from LS Power as well as create speed and predictability for LS power to avoid late fees.

**BACKGROUND**

Electric transmission line upgrades are essential for ensuring a reliable and sufficient electricity supply for San José and the greater Bay Area. As San José transitions

towards renewable energy sources of power, these upgrades are critical for efficiently integrating this variable power into the grid.

These agreements will provide straight forward funding and reimbursement mechanisms for encroachment permits with LS Power related to two high-voltage direct current transmission line projects known as the Power Santa Clara Valley Project and the Power South Bay Project. The Power Santa Clara Valley Project, also known as the Metcalf – San Jose B High-Voltage Direct Current Project, will come from the south along Monterey Road to Downtown San José. The Power South Bay Project will come down through the northern part of the City. Both projects combined will be approximately fifteen miles in total length through San José. Each project will strengthen the electrical grid by providing robust new connections within the City and surrounding areas, helping support policies like Climate Smart San José and future economic development.<sup>1</sup>

The California Independent System Operator selected LS Power to develop, construct, and own these transmission lines to meet electric reliability needs in the South Bay area. The California Independent System Operator is a non-profit Independent System Operator serving California. It oversees the operation of California's bulk electric power system, transmission lines, and electricity market generated and transmitted by its member utilities.

## **ANALYSIS**

Maintaining and expanding LS Power's infrastructure requires ongoing permitting work within the public right-of-way.

Creating a permitting fee draw down account can be a streamlined system that can prevent the triggering of late fees. Consistent with recent telecommunications agreements that include fiber optic wireline permitting, a funding and reimbursement agreement provides transparency, simplifies accounting misalignments, and streamlines billing. By monitoring the dedicated permitting account and receiving notice of the status of funds in the account, LS Power can replenish the account in \$50,000 increments, maintain its permitting needs, and avoid any unnecessary late fees.

The option to open a pre-paid permitting account through a funding and reimbursement agreement is available to other telecommunications and utility companies and does not alter the encroachment permit fees collected on a time and materials basis. The City will also use the agreements to charge for coordination services with the Environmental

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<sup>1</sup> See April 15, 2024, Information Memorandum: Support Position for Power Santa Clara Valley and Power South Bay Projects

<https://www.sanjoseca.gov/home/showpublisheddocument/110590/638489407972900000>

Services Department Regional Wastewater Facility operations team and the Office of Economic Development and Cultural Affairs – Real Estate Services.

The proposed funding and reimbursement agreements provides no further commitments on behalf of the City for permitting service levels beyond the standard major utility permit application process used by all companies and utilities. Likewise, the funding and reimbursement agreements do not require LS Power to commit to a scope of work in its maintenance or deployment beyond keeping the accounts in good standing to meet their business needs.

*Proposed Agreement Business Terms per Agreement*

- LS Power will make an initial \$100,000 up-front permit fee payment, with replenishment payments in \$50,000 increments.
- LS Power will continue its maintenance and infrastructure investments.
- City will provide the existing Major Utility Permit process.

**EVALUATION AND FOLLOW-UP**

Chapter 15.32 of the San José Municipal Code sets forth the City's exclusive procedures applicable to the granting of gas and electrical franchises by the City including the procedure by which the City may grant a franchise to construct or use poles, wires, conduits, and appurtenances for transmitting and distributing electricity.

A franchise agreement in the form of an ordinance will be negotiated between LS Power and the City of San José. At a future date, staff will return to City Council for consideration of a franchise agreement with LS Power.

**COORDINATION**

This memorandum was coordinated with the City Attorney's Office, City Manager's Budget Office, Office of Economic Development and Cultural Affairs, Energy Department, Environmental Services Department, and the Planning, Building and Code Enforcement Department.

**PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the October 1, 2024 City Council meeting.

HONORABLE MAYOR AND CITY COUNCIL

September 9, 2024

**Subject: Actions Related to Funding and Reimbursement Agreements Between the City of San José and LS Power Grid for Permitting Costs**

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### **COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

### **CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

*/s/*  
MATT LOESCH  
Director of Public Works

For questions, please contact J. Guevara, Deputy Director of Public Works, at [j.guevara@sanjoseca.gov](mailto:j.guevara@sanjoseca.gov) or (408) 535-8300.