

**MEMORANDUM  
DEPARTMENT OF FACILITY SERVICES  
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **MAY 26, 2009**

From:  **JAMES DURFEE / ALBERT RICHIE** 

Subject: **BEAR RIVER CAMPGROUND – SECOND LEASE AMENDMENT**

**ACTION REQUESTED / RECOMMENDATION:** Approve the Second Lease Amendment to Lease Agreement No. 10152, between Pacific Gas and Electric Company (PG&E) and Placer County, to extend the term for land used in conjunction with the Bear River Campground in Colfax, CA; and authorize the Chairman of the Board to sign this Lease Amendment on behalf of your Board.

**BACKGROUND:** Since 1973, Placer County has maintained a lease agreement with PG&E for use of the subject 15-acre property near the Bear River in Colfax, CA. This property is adjacent to 200 acres of land that the County leases from the State of California, which the County Parks Division maintains and operates as a group campground and fishing access. Over the last 36-years, the County utilized Park Bond monies and Park Dedication Fees to develop these properties with the campground, restrooms, hiking trails, and day use facilities.

In 1994, the County and PG&E entered into Lease Agreement No. 10152, which provided for these popular amenities with a four-year initial term. In 1998, the Lease was amended to extend the term by another three years, and in 2001, the Lease was extended until May 31, 2004. Since that time, the County has continued its tenancy on a month-to-month holdover basis with PG&E's consent. To ensure the ongoing availability of park amenities on the subject property, the County and PG&E negotiated the Second Lease Amendment, which extends the term through December 31, 2013. In order to allow the County continued use of this property, your Board's approval of this Lease Amendment is required.

**ENVIRONMENTAL CLEARANCE:** Amendment of this Lease Agreement is Categorically Exempt from review pursuant to Section 15301 of the California Environmental Quality Act. This Section provides for activities, including leasing of existing facilities, when there is no expansion of use beyond that previously existing.

**FISCAL IMPACT:** The rent for this property will remain at \$1,800 annually, throughout the term of this amended lease agreement. The Facility Services Parks and Grounds Division has included this cost in its proposed FY 2009/2010 budget.

ATTACHMENT: SECOND LEASE AMENDMENT

JD.AR.MR.MM:DB

cc: COUNTY EXECUTIVE OFFICE  
PARKS DIVISION

T:\FAC\BSMEMO2009\BEAR RIVER PG&E LSE AMEND 2 DOC

**SECOND AMENDMENT TO  
LEASE AGREEMENT**

**THIS SECOND AMENDMENT TO LEASE AGREEMENT** (this "Second Amendment"), effective June 1, 2009 (the "Effective Date"), is made by and between **PACIFIC GAS AND ELECTRIC COMPANY**, a California corporation ("Landlord" or "PG&E"), and the **COUNTY OF PLACER**, a political subdivision of the State of California ("Tenant" or "County of Placer"). Landlord and Tenant are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

**RECITALS**

A. PG&E and County of Placer entered into a Lease Agreement executed March 8, 1994 (the "Original Lease") granting County of Placer a lease for the purpose of a caretaker's mobile home and public hiking trails, water treatment facilities and for no other purpose, on certain real property owned by PG&E in the County of Placer, State of California, being a portion of Placer County Assessors Parcel Number 101-120-001-000 and State Board of Equalization number 135-31-025 parcel 1 (the "Premises").

B. The Original Lease was extended by that certain Lease Amendment dated May 5, 1998 (the "First Lease Amendment").

C. The term of the Original Lease, as amended by the First Lease Amendment, was further extended through and including May 31, 2004, by that certain Lease Extension dated March 28, 2001 (the "First Lease Extension"). The Original Lease, First Lease Amendment and First Lease Extension are hereinafter referred to as the "Existing Lease". The Existing Lease as amended by this Second Amendment is hereinafter referred to as the "Lease".

D. The term of the Existing Lease expired on May 31, 2004, and since June 1, 2004, County of Placer has been further holding over under the terms of the Existing Lease, with PG&E's consent, on a month to month basis.

E. County of Placer now desires to extend the term of the Existing Lease through December 31, 2013, and PG&E is willing to grant such extension, on the terms and conditions set forth in this Second Amendment.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Effective Date. Unless a different date is expressly specified herein, each of the provisions of this Second Amendment shall be effective and binding upon the Parties as of the Effective Date stated above.

2. Amendments to the Lease. The Existing Lease is hereby amended as follows:

2.1 The term of the Lease is extended for a period of four (4) years and seven (7) months commencing on June 1, 2009 through and including December 31, 2013 (the "Second Extension Term"), unless earlier terminated pursuant to the provisions of the Existing Lease or this Second Amendment.

2.2 Landlord acknowledges that Tenant has paid the rent for the period June 1, 2008 through May 31, 2009. The rent during the period commencing June 1, 2009 to and including the expiration date of the Second Extension Term shall be due and payable as follows:

6/1/2009 through 5/31/2010, \$1,800.00 due annually on June 1, 2009  
6/1/2010 through 5/31/2011, \$1,800.00 due annually on June 1, 2010  
6/1/2011 through 5/31/2012, \$1,800.00 due annually on June 1, 2011  
6/1/2012 through 5/31/2013, \$1,800.00 due annually on June 1, 2012  
6/1/2013 through 12/31/2013, \$1,050.00 due on June 1, 2013

2.3 Section 24 of the Original Lease shall be deleted in its entirety and replaced with the following:

"24. Any notices or communications hereunder shall be in writing and shall be personally delivered, or sent by first class mail, certified or registered, postage prepaid, or by national overnight courier, with charges prepaid for next business day delivery, addressed to the addressee party at the address or addresses listed below, or to such other address or addresses as such party may from time to time designate in writing. Notices shall be deemed received upon actual receipt of the notice by the party being sent the notice.

If to Landlord:

Carol Ackerson  
Land Services  
Pacific Gas and Electric Company  
5555 Florin Perkins, #100  
Sacramento, CA 95826  
Telephone: (916) 386-5091  
Facsimile: (916) 386-5388

3.4 The Existing Lease and this Second Amendment contain the entire agreement of Landlord and Tenant with respect to the subject matter hereof. It is understood that there are no oral agreements between Landlord and Tenant affecting the Existing Lease as hereby amended, and this Second Amendment supersedes and cancels any and all previous negotiations, representations, agreements and understandings, if any, between Landlord and Tenant and their respective agents with respect to the subject matter thereof, and none shall be used to interpret or construe the Existing Lease as amended hereby.

3.5 Should either Party herein bring an action against the other Party, by reason of or alleging the failure of the other Party with respect to any or all of its obligations under the Existing Lease or this Second Amendment, whether for declaratory or other relief, then the Party which prevails in such action shall be entitled to its reasonable attorneys' fees (of both in-house and outside counsel) and expenses related to such action, in addition to all other recovery or relief. A Party shall be deemed to have prevailed in any such action (without limiting the generality of the foregoing) if such action is dismissed upon the payment by the other Party of the sums allegedly due or the performance of obligations allegedly not complied with, or if such Party obtains substantially the relief sought by it in the action, irrespective of whether such action is prosecuted to judgment. Attorneys' fees shall include, without limitation, fees incurred in discovery, contempt proceedings, and bankruptcy litigation. The non-prevailing Party shall also pay the attorney's fees and costs incurred by the prevailing Party in any post-judgment proceedings to collect and enforce the judgment. The covenant in the preceding sentence is separate and several and shall survive the merger of this provision into any judgment on this Second Amendment. For purposes hereof, the reasonable fees of PG&E's in-house attorneys who perform services in connection with any such action shall be recoverable, and shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the relevant subject matter area of the law, in law firms in the City of San Francisco with approximately the same number of attorneys as are employed by PG&E's Law Department

3.6 The Existing Lease has been approved by, and continues to be under the jurisdiction of, the California Public Utilities Commission ("CPUC"), and this Second Amendment is made subject to all the provisions of such approval (CPUC Decision D 04-07-021, Application No. A-03-05-012), as more particularly set forth in like manner as though said provisions were set forth in full herein.

(no further text on this page)

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be duly executed as of the date(s) set forth below.

LANDLORD:

TENANT:

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

COUNTY OF PLACER,  
a political subdivision of the State of California

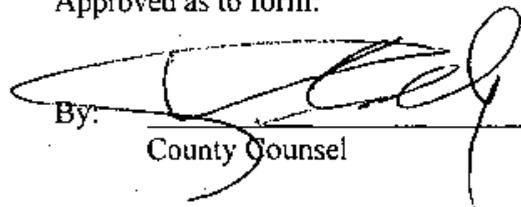
By: \_\_\_\_\_  
Loren Loo  
Manager, Land Asset Management  
Technical & Land Services

By: \_\_\_\_\_  
Chairman,  
Placer County Board of Supervisors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

By:  \_\_\_\_\_  
County Counsel

Area 6  
Sacramento Land Service Office  
Operating Department: Hydro  
T. 14 N., R. 9 E., MDB&M  
Sec. 9, NW ¼ of the NW ¼  
FERC License Number: 2310  
PG&E Drawing Number: N/A  
LD of any affected documents: 2114-09-0179  
LD of any Cross-referenced documents: 2114-09-0963, 1527, 1796, 1834 and 1859  
Type of Interest: 1, 11L, 24  
SBE Parcel Number: 135-31-025, Parcel 1  
Order# 10212053  
JCN: N/A  
County: Placer  
Utility Notice Numbers: N/A  
851 Approval Application No. 03-05-012 Decision 04-07-02  
Prepared By: CXAK  
Checked By: RLS  
Revision Number: N/A

