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Project Title:	Fountain Wind Project
TN #:	251628
Document Title:	Shasta County CEC Cost Reimbursement Request
Description:	N/A
Filer:	Claudia Peach
Organization:	County of Shasta
Submitter Role:	Public Agency
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Docket Number:	23-OPT-01
Project Title:	Fountain Wind Project
TN #:	251628
Document Title:	Shasta County Opposition to AB 205 Jurisdiction and Objection to Notice of Completion Request
Description:	N/A
Filer:	Claudia Peach
Organization:	County of Shasta
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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:

Fountain Wind Project Opt-In
Application for Certification

Docket No. 23-OPT-01

**COUNTY OF SHASTA
REQUEST FOR REIMBURSEMENT AND ITEMIZED BUDGET**

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August 15, 2023

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:

Fountain Wind Project Opt-In
Application for Certification.

Docket No. 23-OPT-01

**COUNTY OF SHASTA
REQUEST FOR REIMBURSEMENT AND ITEMIZED BUDGET**

In accordance with Assembly Bill (“AB”) 205, California Public Resources Code Sections 25519 and 25545.8, Title 20 of the California Code of Regulations Section 1715, and California Energy Commission notice given by its staff on January 25, 2023,¹ the County of Shasta (“County”) submits this Request for Reimbursement and Itemized Budget (“Reimbursement Request”) for the costs associated with the actual and added costs of the County’s review of and comments on the opt-in application for certification of the Fountain Wind Project (“Application”), performed in response to the CEC’s request for review in the above-captioned proceeding.

In accordance with applicable requirements, the County attaches hereto an itemized proposed budget (“County Budget”) estimating the actual costs the County will incur during its review of and comments on the Application. In support of this Reimbursement Request, the County provides the below justification for each line item amount and an explanation of how

¹ Email from Leonidas Payne, Project Manager, CEC, to County of Shasta, *Notice of application receipt for Fountain Wind project (23-OPT-01) / request for comments and information* (Jan. 25, 2023).

each line item is reasonably related to the matters the County has been requested to, and will, review.

The County contends that the Commission lacks authority to review and certify the Application under AB 205 in that the County has previously denied the Fountain Wind Project (“Project”) in its current form under the County’s discretionary authority, and thus state law does not provide the Commission with jurisdiction to approve or certify the Project or otherwise allow the Applicant the ability to opt-in to the Commission’s opt-in authority under AB 205 given the Project denial. Assuming AB 205 applies to the Project, the Commission is required to notify the County of the Application and request the County’s review, and the County is required by law to review and submit comments on the Application and receive reimbursement for its participation in this proceeding. Therefore, the County is filing this reimbursement request pursuant to its obligations and rights under applicable law, to the extent it applies, and does not waive any rights or other arguments to challenge the Commission’s authority over the Project.

I. PROJECT AND LEGAL BACKGROUND

On January 11, 2023, Fountain Wind, LLC (“Applicant”) filed an Opt-in Application pursuant to AB 205 to construct and operate a wind energy generation facility on approximately 4,500 acres of private, leased land in unincorporated Shasta County.² As part of the Project, the Applicant proposes to construct up to 48 wind turbines, each with a generating capacity of up to 7.2 megawatts (“MW”) for a total capacity up to 205 MW, associated infrastructure and facilities—including a 34.5 kilovolt (“kV”) overhead (“OH”) and underground (“UG”) electrical collector system to connect the turbines together and to an on-site collector substation—OH and UG fiber optic communication lines; an on-site switching station to connect the Project to the

² See *Application receipt confirmation*, TN # 24811, Docket No. 23-OPT-01, Jan. 13, 2023. Per the memo attached thereto, Applicant uploaded its files from January 3, 2023, to January 11, 2023 and the effective receipt date was January 11, 2023.

regional electric grid; a temporary construction and equipment laydown yard; additional laydown areas; an operation and maintenance (“O&M”) building with parking; up to four permanent meteorological evaluation towers (“MET”); temporary, episodic deployment of mobile Sonic Detection and Ranging (“SoDAR”) or Light Detection and Ranging (“LiDAR”) systems; two storage sheds; and three temporary batch plants.³ Commission staff completed its initial review of the Project pursuant to Public Resources Code Section 25545.4(a) and determined that the Application was incomplete.⁴ On August 3, 2023, the Applicant submitted a letter to the Commission notifying it that it had submitted all of the requested information to the Commission and requested that the Executive Director deem the Application complete. The Commission’s determination is pending.

AB 205 governs the County’s review and comments on the Application and its cost reimbursement as follows:

“The bill would require the Energy Commission to forward the application to a local government having land use and related jurisdiction in the areas of the proposed site and related facility and would require the local agencies to review the application and submit comments on the application, as provided, thereby imposing a state-mandated local program. The bill would authorize local agencies to request a fee from the Energy Commission to reimburse the local agency for the actual and added costs of the review by the local agency.”

In implementing the California Legislature’s mandate that the County review, submit comments on, and receive reimbursement for its review and comments on the Application, Public Resources Code Section 25545.8 expressly requires the Commission to follow certain other statutes governing local government review and reimbursement. Public Resources Code Section 25519 requires the Commission to forward the application to the local government agency having jurisdiction over the site and facility and requires the agency to “review the application

³ See *CED Determination of Incomplete Application and Request for Information for the Fountain Wind Project (23-OPT-01)*, Feb. 10, 2023 (“February 10th Deficiency Letter”).

⁴ February 10th Deficiency Letter.

and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.”⁵ Section 25519 also requires the Commission to transmit a copy of the application “to any governmental agency . . . which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each agency.”⁶ The Commission then is required to forward the Application to the County and the County is required to review and submit comments on it. AB 205, therefore, imposes a state-mandated program, and under applicable legal authority, the County is entitled to submit and receive reimbursement for the costs of its review and participation in the Project certification proceeding. In accordance with 20 C.C.R. section 1715, the Commission has established procedures for the filing of reimbursement requests.

II. LEGAL BASIS FOR COUNTY REIMBURSEMENT

The Project would be located within the unincorporated area of Shasta County. As such, the County is the local government agency that has land use and other related jurisdiction over the Project, including the proposed site and related facility. Moreover, the County has previously reviewed the Project under its land use and other related jurisdiction and denied the Project on October 19, 2021.⁷ The Applicant did not seek judicial relief of the County’s denial and the statute of limitations for such challenge has passed. Although not in conformance with 20 C.C.R. section 1715(c)(1), Commission staff through the Project Manager charged with managing the Application sent email notice and a request to review the Application on January

⁵ Pub. Res. Code § 25519(f).

⁶ Pub. Res. Code § 25519(k).

⁷ The project was initially denied by the Shasta County Planning Commission on June 21, 2021.

25, 2023. Pursuant to AB 205 and applicable law, the County is required to review the Application and submit comments on it and has information and a direct interest in the proposed site and related facilities, including, but limited to, project design; architectural and aesthetic features of the Project; access to highways and other roads and thoroughfares used by the public; access to the project area for public health and safety; environmental impacts; landscaping and grading; public use of lands in the area of the Project; safety and reliability information; economic and community benefits; site information; and the design, construction, and operation of the Project. The County's required participation under AB 205 has included and will further include, but not be limited to, reviewing the Application materials submitted prior to any determination of completion by the Commission and comments on all documents and determinations by Commission staff and participation in all public meetings provided by the Commission. The proposed budget and reimbursement includes all costs related to County staff, County Counsel's office, outside counsel, and environmental and technical consultants.

III. BUDGET EXPLANATION AND JUSTIFICATION

The County Budget for the Project is attached hereto as Attachments A (County Budget Summary) and B (Detailed County Budget). All line items in the County Budget represent a detailed estimate—at this time—of costs eligible for reimbursement under 20 C.C.R. Section 1715(a). Notwithstanding the foregoing, the County Budget is based on an estimate of time and resources necessary to perform tasks eligible for reimbursement, which includes proposals from outside counsel and environmental and technical consultants. In accordance with 20 C.C.R. Section 1715(c)(6), the County may file, and reserves the right to file, a request for an amended budget if the need for augmentation or other changes to the County Budget arises in the future. We further note that it is not possible to have prepared the County Budget and this Reimbursement Request within 21 days of receiving a request to review an application as is

contemplated by 20 C.C.R. Section 1715(c)(2). The size of the Project and the scope of the County's review and comments is considerable, and the County must also assess the magnitude of the Project, seek approval from its governing body for such review, and take the necessary time and resources to put together a detailed budget including actual scopes of work and cost proposals.

The County hereby provides the following explanation and justification of the activities included in the County Budget. The following is based solely on the County's preliminary review of the Application as well as the time and resources it took for the County to review the Project at the local level.

A. Initial Review of Project Application

Initial review of the Application is necessary for the County to make a preliminary determination regarding the scope of the County's interests and the issues raised by the Application. Initial review is also necessary to prepare this County Budget request. The County is seeking reimbursement for its review of the Application filed by the Applicant prior to any Commission determination regarding completeness as well as comments by the County, if any, and meetings with Commission staff. This review includes time and costs for County administrative staff, the County Counsel's office, and outside counsel.

B. Review of Application and Submission of Comments to the Commission

The County is seeking reimbursement for its review of the Application and Commission documents issued pursuant to the opt-in public outreach process contemplated by AB 205 and in response to the Commission soliciting input on the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report and any staff assessments. This includes review and comment on the notice of preparation, public informational meeting, public workshops, public scoping meeting, notice of availability, draft

and final environmental impact reports, consideration of final Commission certification, and other meetings, and the County's participation in the meetings thereof. This further includes reviewing all comments and other documents filed in the docket for this proceeding and comments filed by the County on such comments or other documents that is within the scope of its review under AB 205. The County is not seeking reimbursement for the presentation of defenses not reasonably related to the matters the County is requested to review or other items contemplated under 20 C.C.R. Section 1715(b).

C. Permit Fees

The County is authorized to seek reimbursement of "permit fees, including traffic impact fees, drainage fees, park-in-lieu fees, sewer fees, public facilities fees and the like, but not processing fees, that the local agency would normally receive for a powerplant or transmission line application in the absence of Commission jurisdiction.⁸ The proposed 5,460-square-foot operation and maintenance (O&M) building is subject to Shasta County public facility impact fees applicable to industrial development pursuant to Ordinance No. 665.

D. Other Added Costs of Services

To the extent the County's costs to review and comment on the Application are not included in the above categories of cost reimbursement, the County will review and comment on the following items and provide relevant information to the Commission.

1. *Location*

The County must review and analyze whether the Project is consistent with the purposes of the land use district in which Applicant proposes constructing its project. The County will prepare and present relevant information to Applicant and the Commission if County's initial analysis results in the identification of additional issues that require actions by the County. This

⁸ 20 CCR § 1715(a)(1)(A).

review and comments include Shasta County Ordinance SCC No. 2023-01 prohibiting large wind energy systems in the unincorporated area, alternatives to the project site and facility, the Project's noncompliance with the County's ordinance, the public convenience and necessity of the Project, prohibited sites within the project area, and comments on any proposed override by the Commission of the County's land use and other related jurisdiction.

2. *Health, Safety, & General Welfare*

The County must determine whether the Project impacts the health, safety, and general welfare of the County. The determination will include an analysis of any heightened wildfire risk associated with a potential increased likelihood of wildfire ignition due to the presence of the Project's electrical equipment, the hindrance of aerial firefighting activity, and the costs associated with wildfires caused by electrical equipment and other energy infrastructure. The County will prepare and present relevant information to the Commission on this issue.

3. *Economic Impacts & Net Positive Economic Benefits*

AB 205 requires the Commission as a condition of certification to make a determination that there is a net positive economic benefit. The County will review the Application, and with the assistance of County experts on property tax issues, public funding, and wildfire and other environmental costs comment on whether the Project demonstrates a net positive economic benefit or will adversely affect the orderly development of property within the County, preservation of property values, the tax base, and other County revenue sources, including funding for public health and safety services and associated wildfire risks and costs. The County must also determine whether the Project is consistent with the objectives, policies, land use designations, and programs specified in the County's general plan. Moreover, the County must determine whether the Project would pose a nuisance to surrounding property owners. The County must also determine whether and to what extent the Project will create a demand for

public services and analyze whether such public services are consistent with the County's tax and spending constraints. The County will prepare and present relevant information to the Commission on these issues.

4. *Community Benefits*

AB 205 requires the Project to enter into community benefits agreement with certain specified community-based entities. The County will review and comment whether the Applicant has demonstrated compliance with this AB 205 requirement.

5. *Energy & Environmental Review*

To the extent not otherwise discussed herein, the County will review and submit comment on, among other things, the design of the facility, architectural and aesthetic features of the Project, access to highways and other county roads, landscaping and grading, public use of the lands in the area of the Project, and other appropriate aspects of the design, construction, or operation of the Project and the related facilities. This includes review and comments on all related energy and environmental issues.

E. CONTACTS

Please address all communications regarding this Budget Request to the following:

Paul Hellman, Director
Department of Resource Management
County of Shasta
1855 Placer St., Suite 102
Redding, CA 96001
(530) 225-5114
phellman@co.shasta.ca.us

With a courtesy copy to:

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Redding, CA 96001
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CONCLUSION

For the reasons set forth herein, the County requests that the Commission approve in its entirety this Reimbursement Request set forth in Attachments A (County Budget Summary) and B (Detailed County Budget) hereto. The County appreciates the Commission's attention to this request.

Dated: August 15, 2023

Respectfully submitted,

By: 
Paul Hellman, Director
Department of Resource Management
County of Shasta

ATTACHMENT A
COUNTY BUDGET SUMMARY

Review of Application Prior to Notice of Completion

Resource Management	\$ 12,160
County Counsel	\$ 15,260
Outside Legal Counsel	\$ 20,250
Subtotal:	\$ 47,670

Review and Comment on Application

Energy/Technical Consultant Review	
1. Review of technical aspects of project	\$ 62,000
2. Review of project alternatives	\$ 48,000
Economic Impact/Technical Consultant Review	
1. Literature review and data gathering	\$ 17,000
2. Data analysis, modeling and research	\$ 31,000
3. Report preparation	\$ 28,000
4. Report editing, design and client review	\$ 18,000
Resource Management	\$ 11,680
County Counsel	\$ 9,790
Outside Legal Counsel	\$ 70,000
Subtotal:	\$295,470

CEQA Review and Comment

Resource Management	\$ 29,200
County Counsel	\$ 19,580
Outside Legal Counsel	\$ 49,800
CEQA/Technical Consultant Review	
1. Review and comment on NOP	\$ 15,000
2. Review and comment on Draft EIR	\$100,000
3. Review and comment on Final EIR	\$ 15,000
Subtotal:	\$228,580

Public Facility Impact Fees

O&M Building - Public Protection	\$ 1,104
O&M Building - Sheriff	\$ 527
O&M Building - General Government	\$ 783
O&M Building - Fire Protection	\$ 2,823
O&M Building - Traffic	\$ 8,557
Subtotal:	\$ 13,794

TOTAL: \$585,514

ATTACHMENT B

DETAILED COUNTY BUDGET

Review of Application Prior to Notice of Completion

Department of Resource Management			
Director	80 hrs.	\$152/hr.	\$ 12,160
Office of the County Counsel			
County Counsel	9.25 hrs.	\$227/hr.	\$ 2,100
Assistant County Counsel	70 hrs.	\$188/hr.	\$ 13,160
Outside Legal Counsel			
Partner	44.4 hrs.	\$350/hr.	\$ 15,540
Of Counsel	15.7 hrs.	\$300/hr.	\$ 4,710
Subtotal:			\$ 47,670

Review and Comment on Application

Energy/Technical Consultant Review			
Review of technical aspects of project			\$ 62,000
Review of project alternatives			\$ 48,000
Economic Impact/Technical Consultant Review			
Literature review and data gathering			\$ 17,000
Data analysis, modeling and research			\$ 31,000
Report preparation			\$ 28,000
Report editing, design and client review			\$ 18,000
Department of Resource Management			
Director	40 hrs.	\$152/hr.	\$ 6,080
Planning Division Manager	40 hrs.	\$140/hr.	\$ 5,600
Office of the County Counsel			
County Counsel	10 hrs.	\$227/hr.	\$ 2,270
Assistant County Counsel	40 hrs.	\$188/hr.	\$ 7,520
Outside Legal Counsel			
Partner	200 hrs.	\$350/hr.	\$ 70,000
Subtotal:			\$295,470

CEQA Review and Comment

Department of Resource Management			
Director	100 hrs.	\$152/hr.	\$ 15,200
Planning Division Manager	100 hrs.	\$140/hr.	\$ 14,000
Office of the County Counsel			
County Counsel	20 hrs.	\$227/hr.	\$ 4,540
Assistant County Counsel	80 hrs.	\$188/hr.	\$ 15,040
Outside Legal Counsel			
Of Counsel	166 hrs.	\$300/hr.	\$ 49,800

CEQA/Technical Consultant Review	
Review and Comment on NOP	\$ 15,000
Review and Comment on Draft EIR	\$100,000
Review and Comment on Final EIR	\$ 15,000
Subtotal:	\$228,580

Public Facility Impact Fees

Public Protection			
O&M Building	5,460 sf	\$202.28/1,000 sf	\$ 1,104
Sheriff			
O&M Building	5,460 sf	\$96.45/1,000 sf	\$ 527
General Government			
O&M Building	5,460 sf	\$143.32/1,000 sf	\$ 783
Fire Protection			
O&M Building	5,460 sf	\$517.07/1,000 sf	\$ 2,823
Traffic			
O&M Building	5,460 sf	\$1,567.25/1,000 sf	\$ 8,557
Subtotal:			\$ 13,794

County Budget Subtotals and Total

Review of Application Prior to Notice of Completion	\$ 47,670
Review and Comment on Application	\$295,470
CEQA Review and Comment	\$228,580
Public Facility Impact Fees	\$ 13,794
Total:	\$585,514