



---

Services of the San Francisco Public Utilities Commission

# **SFPUC Construction Contract No. DB-121R2, Moccasin Powerhouse Generator Rehabilitation**

**Katie L. Miller, Director  
Water Capital Programs, Infrastructure Division**

**San Francisco Board of Supervisors  
Budget & Finance Committee  
May 26, 2021**



# Hetch Hetchy Regional Water System



















# Solicitation Process

---

- SFPUC has been unsuccessful in past to procure services due to exceptions to terms and conditions, indemnification.
- Hydro-power industry highly specialized; limited number of contractors.
- No responsive bidders; Commission authorized negotiating with all qualified contractors.
- Two qualified contractors negotiated with SFPUC: Andritz Hydro and GE Renewables US LLC.
- SFPUC determined GE to provided more favorable terms.





# Proposed Indemnification Language Changes

City & County of San Francisco  
London N. Breed, Mayor



Office of the City Administrator  
Carmen Chu, City Administrator  
Matt Hansen, Director, Risk Management

May 3, 2021

To: SFPUC Commission and the Board of Supervisors

The SFPUC has negotiated an agreement with General Electric Renewable US LLCC ("GE") to rehabilitate the generators at the Moccasin Powerhouse. As explained in detail in the Agenda Item and Resolution before the Commission and the Resolution before the Board, the negotiated agreement contains a comparable fault indemnity provision, which requires the Risk Manager's recommendation and the approval of the Board of Supervisors under Admin. Code Section 6.22(c). For the reasons that follow, it is my recommendation to the Board of Supervisors to approve the proposed Resolution, which would permit the SFPUC to include the comparative fault indemnification clause in its agreement with GE.

The Moccasin generators are twenty years past their expected life expectancy. There is a serious risk that one or both may fail without rehabilitation. There is a very limited pool of firms qualified to perform the work. None of the qualified firms will agree to the City's standard construction contract indemnification provision. The comparative fault indemnification provision for which the SFPUC seeks approval is the best indemnification protection that the City is able to obtain for a contract to rehabilitate the Moccasin Powerhouse generators.

As explained in detail in the Agenda Item and Resolution before the Commission and the Resolution before the Board, the potential catastrophic failure of the two generators would make it impossible for the SFPUC to deliver water to the bay area from Hetch Hetchy. Further, the SFPUC estimates the City is likely to lose in excess of \$24 million per year in electricity sale revenues should these units fail during peak demand and an emergency repair would take three years. Work under this proposed agreement is scheduled to avoid peak time outages over its three year duration.

For the foregoing reasons, I recommend to the Board of Supervisors to approve the proposed Resolution to permit the SFPUC to include the negotiated comparative fault indemnity provision in its contract with GE for the rehabilitation of the Moccasin Powerhouse Generators.

Best regards,

Matt Hansen, Director  
Risk Management Division

- CAO negotiated strongest contractual indemnity protection available from the limited number of qualified firms.
- Under the negotiated comparative fault indemnity provision, GE will indemnify the City against third-party claims to the extent of GE's degree of fault.
- City Risk Manager recommends approval of the indemnity provisions negotiated with GE in light of the risk posed by not rebuilding the generators and the impossibility of negotiating more favorable terms with a qualified contractor.





# Award of Contract

---

- May 11, SFPUC Commission approved award of the contract to GE conditioned on the Board of Supervisors approval of the comparative fault indemnification language.
- Approval of the Resolution today followed by contract award will allow sufficient time to meet the shutdown window.
- Delay to decision will delay contract by one year due to shutdown restrictions.
- This significantly increases risk of failure and potential interruption to the City's water supply and hydro-electric power supply.



# SFPUC Request

---

Approve the inclusion of the comparative fault indemnification provision in Contract No. DB-121R2 between the SFPUC and GE Renewables US LLC for the Moccasin Powerhouse Generator Rehabilitation Project.

**QUESTIONS?**