



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
David Sykes

SUBJECT: SEE BELOW

DATE: 03-30-11

Approved 

Date 3/30/11

COUNCIL DISTRICT: City-wide

SUBJECT: DELEGATION OF AUTHORITY TO AWARD A CONSTRUCTION CONTRACT FOR THE FUEL CELL FOUNDATION PLATFORM AND UTILITY INTERCONNECTIONS DESIGN-BUILD PROJECT

RECOMMENDATION

Adoption of a resolution:

1. Authorizing the Director of Environmental Services or his designee to award the contract for the Fuel Cell Foundation Platform and Utility Interconnections Design-Build Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,652,200 and approve a construction contingency with a maximum amount of \$248,000.
2. Authorizing the Director of Environmental Services or his designee to do either of the following: (a) decide any timely bid protest(s) and make the City's final determination as to lowest responsive and responsible bidder, or (b) reject all bids and re-bid the project.

OUTCOME

Approval of the delegation of authority for the Director of Environmental Services or his designee to award this construction contract will support the critical path schedule for installation of the foundation pad and other components for the future Fuel Cell installation.

BACKGROUND

On October 19, 2010, the City Council approved a Request for Proposal (RFP) for a Power Purchase Agreement (PPA) between the City and UTS Bio-Energy (UTS) to design and build a fuel cell system with the capacity of generating 1.4 megawatts (MW) of electrical power at the Water Pollution Control Plant. The fuel cell system will provide clean, renewable and reliable

power at a cost comparable to projected PG&E costs. The system will advance the Plant's energy self sufficiency goal and also advance the City's Green Vision renewable energy goal of receiving 100% of electrical power from clean renewable sources.

Under the provisions of the PPA, the Fuel Cell provider will fund the construction of the gas cleaning system, fuel cell, hot water transfer system, and electricity monitoring/distribution system as well as operate and maintain the Fuel Cell for a period of 20 years.

As part of the PPA, the City is obligated to construct the subject project providing utility interconnections and the foundation platform for the fuel cell system. A significant amount of work by the Design-Build contractor, including design of the foundation and utility layout as well as work sequence, needs to be closely coordinated with the PPA Vendor. Additionally, the completion date for the foundation pad is critical for the City and the PPA Vendor as the PPA Vendor plans to complete installation of the Fuel Cell before the end of this year and be in power production in January 2012. If the Fuel Cell is not in operation by January 20, 2012, the project will lose the Self Generation Incentive Program (SGIP) rebate of \$5.4 million from PG&E.

Staff is recommending that Council delegate authority to the Director of Environmental Services or his designee to decide any bid protests, to make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

Under this Design-Build project, the following utility systems will be designed and constructed to provide utility interconnections between the fuel cell and existing plant utilities:

- A concrete foundation platform to support the fuel cell
- A paving apron and fencing around the concrete foundation perimeter
- Underground natural gas fuel line
- Underground biogas fuel line
- Underground hot water supply and return lines
- Underground potable water supply line
- Underground drain line
- Underground power and control conduits
- Underground communications conduit

In preparing the design-build packages, additional engineering and a revised cost estimate have been prepared. The revised estimate for this project has increased from \$1.5 million to \$2.29 million. This increased cost is due to several factors including added capacity to allow for a future fuel cell doubling capacity to 2.8 MW, redundant gas conveyance facilities, increasing cost for stainless steel, and the current trend for increasing energy cost.

The PPA project qualifies for the PG&E SGIP rebate. The application for the SGIP rebate has been submitted. The City has received a conditional reservation letter dated July 20, 2010 from PG&E for a maximum rebate amount of \$7.4 million for a 2.8 MW fuel cell system, and \$5.4 million for a 1.4 MW system.

In authorizing the Director of Environmental Services or his designee to award the contract, the following actions will occur:

1. Bid results and Notification of Intent to Award contract to Apparent Low Bidder by the Director of Environmental Services or his designee will be posted on the Bid Hotline website.
2. All bidders will be emailed or faxed a copy of the Notification of Intent to Award contract and will have five days to file a formal written bid protest.
3. The Director of Environmental Services or his designee will then decide any timely bid protests and then award the contract or reject all bids and re-bid the project as appropriate.

EVALUATION AND FOLLOW UP

This project is currently on budget and on schedule. No additional follow up action with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative # 1: To allow for the project to be awarded through the normal City Council process

Pros: Not applicable

Cons: The project might be delayed and place the City at risk for not receiving the PG&E rebate and not meeting the schedule defined in the executed PPA.

Reason for not recommending: The increased time to award might result in the project being delayed and might put the City at risk of not meeting the PPA requirements and the terms of the PG&E rebate.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Web Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing, that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers).**

This action does not meet any of the criteria above. However as a common practice, "Notice to Contractors" inviting qualified contractors to submit bids will be published by the Department of Public Works in the *San Jose Post Record*, various Builders Exchanges in the Bay Area, and on the Public Works Department Bid Hotline.

COORDINATION

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, the City Manager's Budget Office, and the City Attorney's Office. This project and memorandum are scheduled to be considered by the Treatment Plant Advisory Committee on April 7, 2011.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy to focus on rehabilitating aging Plant infrastructure, improve efficiency, and reduce operating costs. The project is consistent with the budget strategy principle of focusing on protecting our vital core services and also advances the City's Green Vision renewable energy goal of receiving 100% of electrical power from clean renewable sources.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION (Engineer's Estimate): \$1,652,200

2. COST OF PROJECT:

Project Delivery	\$390,000
Engineer's Estimate	\$1,652,200
Contingency	<u>\$248,000</u>
TOTAL PROJECT COSTS	\$2,290,200

3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.

4. FISCAL IMPACT: Existing funds are available for this project. No additional appropriation action is required.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	Adopted CIP Budget Page	Last Budget Action (Date, Ord. No.)
Remaining Project Costs					TBD		
Current Funding Available							
512	7229	Fuel Cell	152653	\$1,326,000	TBD	V-162	06/29/2010, 28765
512	4341	Plant Electrical Reliability		\$3,400,000	TBD	V-167	06/29/2010, 28765
Total Current Funding Available				\$4,726,000	TBD		

CEQA

Exempt PP11-030

/s/
 DAVID SYKES
 Acting Director, Public Works

/s/
 JOHN STUFFLEBEAN
 Director, Environmental Services

For questions please contact Jon Newby, ESD Division Manager, at (408) 945-5160, or Michael O'Connell, Acting Deputy Director of Public Works, at (408) 535-8300.