

ENERGY AND ENVIRONMENT COMMITTEE REPORT relative to proposed Development Agreement with Constellation NewEnergy, Inc. (Constellation) to develop, construct, operate, and maintain the Hyperion Treatment Plant (HTP) Digester Gas Utilization Project (DGUP).

Recommendation for Council action:

AUTHORIZE the Board of Public Works, on behalf of the Bureau of Sanitation (BOS), to execute the Development Agreement with Constellation to develop, construct, operate, and maintain the HTP DGUP.

Fiscal Impact Statement: The City Administrative Officer (CAO) reports that there is no General Fund impact. The proposed Development Agreement will be fully funded from the Sewer Capital and Sewer Operation and Maintenance Funds. Sufficient funds have been provided in the 2013-14 Adopted Budget to support the first year costs of the Agreement and future year funding will be appropriated through the City's annual budget process and subject to Mayor and Council approval. In addition, the Agreement contains a Financial Liability Clause which limits the City's annual financial obligation to the amount that is approved in the corresponding year's budget. Therefore, the recommendation, as detailed above and in the January 13, 2014 CAO report, attached to the Council file, complies with the City's Financial Policies as ongoing revenues will support ongoing expenditures.

Community Impact Statement: None submitted.

TIME LIMIT FILE - MARCH 14, 2014

(LAST DAY FOR COUNCIL ACTION - MARCH 5, 2014)

Summary:

On January 15, 2014, your Committee considered a January 13, 2014 CAO report relative to proposed Development Agreement with Constellation to develop, construct, operate, and maintain the HTP DGUP. According to the CAO, since 1995, HTP has been piping digester gas, end products of the wastewater treatment process, to the Los Angeles Department of Water and Power's (LADWP) Scattergood Generating Station, which utilizes the gas in combination with natural gas to generate electricity for the LADWP grid. Under the current energy exchange agreement between LADWP and HTP, the LADWP in return, provides HTP with steam for its digesters and electricity to operate the plant at reduced rates. Due to regulatory requirements, Scattergood must shut down and repower Units No. 1 and 2, which currently utilize the digester gas. The proposed repowered equipment will not be able to utilize digester gas and LADWP explored alternatives and established conceptual designs for converting the HTP digester gas into steam and electricity, but terminated these efforts on November 17, 2009. The current agreement allows Scattergood to continue utilizing HTP's digester gas until December 31, 2015 and the BOS is working with LADWP to extend the agreement until December 31, 2016. The proposed DGUP will allow the BOS to continue to use the digester gas, a renewable energy source, to provide steam for its digesters and provide electrical energy for current and future plant operations while minimizing flaring and reducing costs from having to purchase electricity from other sources.

On January 18, 2011, the BOS issued a Request for Proposals (RFP) for a Development Project to

Make the Best Use of HTP Digester Gas. On May 4, 2011, the Bureau received ten proposals from eight proposers. On March 21, 2012, the Board found that one proposer did not meet the City's Good Faith Effort (GFE) Outreach requirements. The BOS conducted a preliminary evaluation, which included a technical and financial review, of the remaining nine proposals. The technical review evaluated the feasibility of the proposal, the proposed technology, the proposed plan to build and operate the project, and the proposer's past experience, financial strength, and safety record. The financial review evaluated the proposed costs to design, construct, and operate the project. All proposers passed the preliminary evaluation except for the Southern California Gas Company, which submitted two proposals with non-binding offers. In addition, one proposer withdrew its proposal prior to the preliminary evaluation due to a lack of resources for the project. The BOS conducted a final evaluation on the remaining six proposals using the same review criteria in the preliminary evaluations. However, in the final evaluation, the review team considered additional information which was not considered in the preliminary evaluations. This additional information included the responses to questions directly related to each proposal, site visits to each proposer's facility, and interviews with each proposer's project team. Three of the six proposals did not achieve a passing score in the final evaluations. Of the remaining three proposals, Constellation received the highest score and on November 28, 2012, the Board authorized the BOS to proceed with contract negotiations with Constellation.

During the contract negotiations, certain changes were made to the scope of the project to improve the value and address unforeseen issues that arose during the permitting process. Most of these changes would have been required for each of the three highest scoring proposals. Under the terms of the Development Agreement, Constellation will design and build the project utilizing advanced combustion turbine technology and best engineering practices to generate power and steam in a highly reliable, efficient, and environmentally friendly manner that will completely use the HTP digester gas. The project will be constructed within and around the HTP Energy Recovery Building and include portions of the existing yard area to the east of the structure.

After further consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of the proposed Development Agreement with Constellation. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ENERGY AND ENVIRONMENT COMMITTEE

MEMBER VOTE

FUENTES: YES

BLUMFIELD: YES

LABONGE: YES

HUIZAR: ABSENT

KORETZ: YES

-NOT OFFICIAL UNTIL COUNCIL ACTS-