

Meeting Date: 10/22/2013

Report Type: Consent

Report ID: 2013-00742

Title: Amendment No. 1 to City Agreement No. 2013-0415 for the Purchase of Liquefied Natural Gas (LNG) Fuel

Location: Citywide

Issue: City Agreement No. 2013-0415 allows the City to reimburse the County of Sacramento (County) for the cost of LNG fuel the City obtains from the County's LNG fuel station, based on the pricing set forth in the County's cooperative purchase agreement (CPA) No. WA00023537 with Clean Energy. Amendment No. 1 updates City Agreement No. 2013-0415 to reflect the fact that the County has executed CPA No. WA00030627 with Clean Energy to replace CPA No. WA00023527.

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to execute Amendment No. 1 to City Agreement No. 2013-0415 with the County authorizing the City to reimburse the County for LNG fuel purchased from the County in accordance with the pricing structure of County CPA No. WA00030627 with Clean Energy, with all other terms and conditions of City Agreement No. 2013-0415 remaining in full force and effect.

Contact: Keith Leech, Fleet Manager, (916)-808-5869, Department of General Services

Presenter: None

Department: General Services

Division: Fleet Management Admin

Dept ID: 13001311

Attachments:

1-Description/Analysis

2-Contract

City Attorney Review

Approved as to Form
Kourtney Burdick
10/10/2013 3:53:03 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
10/4/2013 11:32:57 AM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 10/8/2013 10:58:48 AM

Description/Analysis

Issue Detail: On April 30, 2013, City Council passed Motion No. 2013-0106 authorizing the City Manager or the City Manager's designee to execute a Memorandum of Understanding (City Agreement No 2013-0415) with the County authorizing the City to reimburse the County for LNG fuel purchased from the County in accordance with County CPA No. WA00023537 with Clean Energy, and pay the County an administrative markup for use of the County's North Area Recovery Station LNG fuel station. Since then, the County has replaced CPA No. WA00023537 (Old CPA) with CPA No. WA00030627 with Clean Energy (New CPA). On September 17, 2013, City Council approved the City's reliance on the pricing of the New CPA by passing Motion No. 2013-0237 authorizing the purchase of LNG in an amount not to exceed \$3 million through July 31, 2016 or until the contract is no longer available for use through extension or termination. Amendment No. 1 updates City Agreement No. 2013-0415 to reflect the fact that the County has executed the New CPA.

Policy Considerations: The recommendations in this report are in accordance with City Code Chapter 3.56 regarding the purchase of supplies.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): No environmental review is necessary because the recommendation in this report involves the purchase of supplies and is not considered to be a project in accordance with Section 15378(b)(2) of the CEQA Guidelines.

Sustainability: The recommended purchases are consistent with the Fleet Sustainability Policy adopted by City Council on February 16, 2010 (Resolution No. 2010-083).

Commission/Committee Action: None

Rationale for Recommendation: The Department of General Services, Fleet Management Division, has a customer requirement to provide LNG fuel for City operations. The recommendation in this report is necessary to update City Agreement No. 2013-0415 to reflect the fact that the County has executed the New CPA to replace the Old CPA referenced in City Agreement No. 2013-0415. All other terms and conditions of City Agreement No. 2013-0415 remain in full force and effect.

Financial Considerations: Under the original terms of City Agreement No. 2013-0415, the City will purchase LNG fuel from the County based on the County's competitively bid Old CPA with Clean Energy. The City also agrees to pay the County an administrative markup that is not to exceed the per gallon cost the County charges each of its internal departments for fuel. The current administrative markup, as of March 1, 2013, is \$0.10

per gallon. The County must provide the City with 15 days notice prior to any change to the administrative markup.

The County has now replaced the Old CPA with Clean Energy with the New CPA with Clean Energy. Amendment No. 1 to City Agreement No. 2013-0415 with the County authorizes the City to reimburse the County for LNG fuel purchased from the County in accordance with the pricing structure of the New CPA with Clean Energy, with all other terms and conditions of City Agreement No. 2013-0415 remaining in full force and effect.

Emerging Small Business Development (ESBD): Clean Energy is not certified as an emerging/small business firm. Cooperative purchase agreements are created, evaluated, and awarded by other governmental agencies that may or may not have similar emerging and small business programs. However, the Department of General Services will consider other alternatives if it is determined that using cooperative purchase agreements may have a negative impact on small businesses.



Requires Council Approval: No YES Meeting: 10/22/2013
 Real Estate Other Party Signature Needed Recording Requested

General Information

Form with fields: Type: Memorandum of Understanding, PO Type, Attachment: No.: 1, Not to Exceed: \$400,000, Original Doc Number, Other Party: County of Sacramento, Certified Copies of Document, Project Name: Amendment Agreement: Purchase of Liquid Natural Gas (LNG) Fuel, Deed: None/Included/Separate, Project Number: NA, Bid Transaction #: N/A, E/SBE-%

Department Information

Department: General Services Division: Fleet Management
Project Mgr: Keith Leech
Contract Services: Debbie Reeder Director: Reina J. Schwartz
Phone Number: 808-4078 Org Number: 13001311
Comment: Original Contract Amount: \$400,000

Review and Signature Routing

Department Signature or Initial Date
Project Mgr: [Signature] 9/27/2013
Contract Services: Debbie Reeder 9/26/2013
City Attorney Signature or Initial Date
City Attorney: [Signature] 10/1/13

- Send Interoffice Mail to Reina J. Schwartz (12500)
 Notify for Pick Up (Debbie Reeder-808-4078)

Authorization Signature or Initial Date
Reina Schwartz
Director, General Services:
City Mgr: Yes No

For City Clerk Processing
Finalized:
Initial:
Date:
Imaged:
Initial:
Date:
Received: (City Clerk Stamp Here)

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the contract. (01-01-13)

Resolution No. / Date

Empty box for Resolution No. / Date

**First Amendment to City Agreement 2013-0415
(MOU between the City and County re. Reimbursement for LNG Fuel)**

This amendment to City Agreement 2013-0415 (“Agreement”), between the City of Sacramento (the “City”) and the County of Sacramento (the “County”) (referred to together as the “Parties”) is effective on the date both parties have signed it, as indicated in the signature blocks below.

Recitals

- A. The Agreement allows the City to reimburse the County for the cost of LNG fuel the City obtains from the County’s LNG fueling station, based on the pricing set forth in the County’s Cooperative Purchase Agreement with Clean Energy (County Agreement No. WA00023537) (“Old CPA”).
- B. Since the execution of the Agreement, the County has executed a new Cooperative Purchase Agreement with Clean Energy (County Agreement No. WA00030627) (“New CPA”), which is intended to replace the Old CPA. The City Council, on September 17, 2013, approved the City’s reliance on the pricing in the New CPA.
- C. The City would like to continue to procure LNG fuel from the County in the same method outlined in the Agreement, but based on the prices outlined in the New CPA.

Based on the facts set forth in the foregoing recitals, the City and County agree as follows:

- 1. All references in the Agreement to County Agreement No. WA00023537 shall be read to refer to County Agreement No. WA00030627, which attached as Exhibit A.
- 2. All other terms and conditions of the Agreement remain in full force and effect.

(Signature Page Follows)

City of Sacramento

By: _____
Reina Schwartz, Director of General
Services, for John F. Shirey, City Manager
Date: _____, 2013

County of Sacramento

By: Michael Morse
Michael Morse, Director of General
Services
Date: October 1, 2013

Attest
Sacramento City Clerk

By: _____

Approved as to Legal Form
Sacramento City Attorney

By: Kourtney Burdick
Kourtney Burdick
Deputy City Attorney

The LNG fuel trailer transport vehicle shall be weighed at an adjacent certified scale prior to unloading for gross weight and re-weighed at the same scale for tare and residual fuel weight after unloading fuel. The differential will be the billing weight and no charge will be assessed to the vendor for use of the scales.

FUEL SPECIFICATIONS

The fuel requirements shall satisfy Cummings West minimum methane number of 75.

Contract Term: The Contract(s) term will be for one year. In order to promote efficiency and economy, the County reserves the right to extend awarded contract(s) two additional twelve-month periods. Such extension(s) will be at the county's option, subject to the terms and conditions of this RFB and agreement between the vendor and the county.

Prices bid shall apply to the first contract year. Pricing shall be SoCalGas Company Index/12.1+\$0.774. Margin may be increased by the percentage increase in the Producer Price Index All Urban Consumers, US Cities average (series ID CUUR000SA0) for years 2 and 3. Base month shall be June 2013 (233.504).

Estimated Quantities: The quantity listed is an estimated requirement. The County does not guarantee to purchase a minimum quantity or does not guarantee to purchase vendor's remaining stock.

Termination: Contract may be terminated in part or in whole by the County upon thirty days advance notice in writing.

Unrestricted Quantities: The County is not limited to purchase all of its requirements from any contract resulting from this RFP/award.

Non-assignment: Contractor shall neither assign nor subcontract any of the services required under an awarded contract without prior written consent of the County.

Integration Clause: This contract constitutes the entire contract between the County and the contractor regarding the subject matter of the contract. Any prior agreements, whether oral or written, between the County and the contractor regarding the subject matter of this contract are hereby terminated effective immediately upon full execution of this contract. No modification or amendment to this contract shall be valid unless it is set forth in writing and is signed by the parties hereto.

HAZARDOUS SUBSTANCES

CAL-OSHA Requirements

All flammable, corrosive, toxic, or reactive materials must have a complete CAL-OSHA Material Safety Data Sheet accompanying the submitted bid.

Indemnification: Contractor shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder.

Insurance Requirements For Contractors

Without limiting Contractor's indemnification, Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, his agents, representatives or employees. County shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the County's Risk Management Office the insurance provisions in these requirements do not provide adequate protection for County and for members of the public, County may require Contractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection. County's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

Verification of Coverage

Contractor shall furnish the County with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. The County Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected. All certificates or evidences of self-insurance are to be received and approved by the County before performance commences. The County reserves the right to require that Contractor provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, the Contractor's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required by these specifications.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. GENERAL LIABILITY: Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, and Personal & Advertising Injury, without exclusions or limitations unless approved by County Risk Management Office. .

2.AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 0001, auto coverage symbol "1" (any auto). If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.

3.WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.

4.PROFESSIONAL LIABILITY or Errors and Omissions Liability insurance appropriate to the Contractor's profession.

5.UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Automobile Liability, Employers' Liability, and any other liability coverage designated under the Minimum Scope of Insurance.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1.General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate: \$5,000,000
Products Comp/Op Aggregate: \$5,000,000
Personal & Adv. Injury: \$5,000,000
Each Occurrence: \$5,000,000
Fire Damage: \$ 100,000

Building Trades Contractors and Contractors engaged in other projects of construction shall have their general liability Aggregate Limit of Insurance endorsed to apply separately to each job site or project, as provided for by Insurance Services Office form CG-2503 Amendment-Aggregate Limits of Insurance (Per Project).

2.Automobile Liability: \$5,000,000 Combined Single Limit per accident for bodily injury and property damage.

3.Workers' Compensation: Statutory.

4.Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

5.Professional Liability or Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductibles and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the County, its officers, officials, employees

and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Claims Made Professional Liability Insurance

If professional liability coverage is written on a Claims Made form:

1. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by Contractor.
2. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

Other Insurance Provisions

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

1. ADDITIONAL INSURED STATUS: The County, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no endorsed limitations on the scope of protection afforded to the County, its officers, directors, officials, employees, or volunteers. Applicable to General Liability, use ISO form

CG 2010 11-85 only, and Auto Liability Policies.

2. PRIMARY INSURANCE: For any claims related to this agreement, the Contractor's insurance coverage shall be endorsed to be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, directors, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. Applicable to General Liability and Auto Liability policies.

3. FAILURE TO COMPLY: Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the County, its officers, directors, officials, employees, agents or volunteers. Applies to policies in which the County is named as an additional insured.

4. SEVERABILITY OF INTEREST: The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Applicable to General Liability and Auto Liability policies.

5.MAINTENANCE OF INSURANCE COVERAGE: The Contractor shall maintain all insurance coverages in place at all times and provide the County with evidence of each policy's renewal ten (10) days in advance of its anniversary date. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, reduced in coverage, or reduced in limits, except after thirty (30) days' written notice for cancellation or sixty (60) days' written notice for non-renewal has been given to the County. For non-payment of premium 10 days' prior written notice of cancellation, certified mail, return receipt requested is required. Applicable to all policies.

6.WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the Contractor.

7.PROPERTY WAIVER OF SUBROGATION: Course of construction policies shall contain the following provisions:

1. The County shall be named as loss payee.
- 2.The insurer shall waive all rights of subrogation against the County.

8.CIVIL CODE PROVISION: Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

9.ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII. The County Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected.

10. SUBCONTRACTORS: Contractor shall require all subcontractors to maintain adequate insurance. Subcontractors shall name CONTRACTOR as additional insured on their General Liability policies. CONTRACTOR shall maintain copies of certificates of insurance and additional insured endorsements as provided by CONTRACTOR's subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

Item	Tgt. qty.	Unit	Price	Unit of	Extended
Mat Num		Description	/ Unit	Measure	Value
00010	2,000,000	Dollar LNG Fuel	1.00 / 1 \$		2,000,000.00

Department of General Services

Michael M. Morse, Director



Divisions

Administrative and Business Services
Construction Management and Inspection
Contract and Purchasing Services
Facility and Property Services
Fleet Services

County of Sacramento

September 3, 2013

Keith Leech
City of Sacramento
Department of General Services
5730 24th Street, Building 1
Sacramento, CA 95822

Subject: NEW COOPERATIVE PURCHASE AGREEMENT FOR LIQUID NATURAL GAS FUEL

Dear Mr. Leech:

The County of Sacramento's Cooperative Purchase Agreement for liquid natural gas (LNG) fuel has recently been updated. Pursuant to the Memorandum of Understanding (MOU) between the County of Sacramento (County) and the City of Sacramento (City) concerning the City's reimbursement to the County for LNG obtained from the County, I am writing to notify you of the update to the Cooperative Purchase Agreement and to provide a copy of the new Cooperative Purchase Agreement WA00030627 (see attached). In accordance with Paragraph Eight (Amendment) of the MOU, this correspondence shall serve as the County's notification to the City of the aforementioned update to the Cooperative Purchase Agreement.

If you have any questions, please feel free to contact me at (916) 875-5501.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Collins".

James Collins
Chief of Fleet Services
County of Sacramento

Attachment – Cooperative Purchase Agreement WA00030627 with Clean Energy

cc: Michael Morse, Director of General Services, County of Sacramento
Reina Schwartz, Director of General Services, City of Sacramento