



Agenda Report

21-244

Agenda Date: 3/9/2021

REPORT TO COUNCIL

SUBJECT

Action on Amendment No. 1 to the Steam Sales Agreement with The Newark Group, Inc. to Purchase Steam from the City's Cogeneration Facility to Renew and Extend the Agreement Until October 31, 2021 to Allow Staff to Continue Negotiations for a New Steam Sales Agreement

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

The Newark Group is Silicon Valley Power's only customer for the purchase of steam. Since 1994, the City has provided the steam from the City's cogeneration facility (Cogen) to the Newark Group, Inc. (The Newark Group) for purchase for its use in the manufacturing of recycled paper products at the California Paperboard Mill under the Steam Sales Agreement. On November 17, 2015 Council approved a five (5) year Steam Sale Agreement with The Newark Group, Inc. with an expiration date of October 31, 2020.

Although the agreement expired on October 31, 2021, both SVP and Newark have continued to perform as required by the agreement in good faith without issue, and the proposed amendment reflects the extension even though the agreement term expired.

Staff has been negotiating a new Agreement with The Newark Group but has taken longer than expected due to the Pandemic changing priorities from both parties. As discussed, SVP has continued to provide the steam and there are no other potential customers who will be interested in this service.

DISCUSSION

The long term Steam Sales Agreement provides a better incentive for The Newark Group to maximize their steam purchases from Santa Clara's Cogen power plant instead of using a separate boiler. The Newark Group is SVP's only steam customer, and there are no other steam agreements available for comparison. In addition, Cogen was designed to provide steam to the California Paperboard Mill, and revenue from the steam sales essentially offsets operating costs at Cogen power plant. The Parties haven't been able to complete negotiation on the Steam Sale Agreement renewal, and therefore wish to renew and extend the Original Agreement to extend the Term of the Steam Sales Agreement one (1) additional year until October 31, 2021, to continue further negotiations and developing the steam rate methodology which would enable City to recover future capital expenditure on the Cogen plant and streamline the billing process.

By extending this Agreement, SVP will be assured of stable, predictable power sales to this existing customer, for an extended time, by keeping them in the SVP territory. If the extension is not entered into, SVP may lose the opportunity to make future sales of steam to the Newark Group and retain

them as a large electric customer in the SVP territory.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

FISCAL IMPACT

The steam sales to The Newark Group was approximately \$1.5M in FY 2019/20 and the average monthly steam sales is expected to be around \$125,000 in FY 2020/21.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> .

RECOMMENDATION

Authorize the City Manager to execute Amendment No. 1 to the Steam Sales Agreement with The Newark Group, Inc. to renew and extend the Agreement until October 31, 2021 to allow staff to continue negotiations for a new Steam Sales Agreement.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer

Approved by: DeAnna J. Santana, City Manager

ATTACHMENTS

1. Original Steam Sales Agreement
2. Proposed Amendment No. 1 to the Steam Sales Agreement

**AMENDMENT NO. 1 TO RENEW AND EXTEND
THE STEAM SALE AGREEMENT
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
THE NEWARK GROUP, INC.**

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City or Seller) and the Newark Group, Inc. a New Jersey corporation, (Buyer). Seller and Buyer may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The Parties previously entered into an agreement entitled "Steam Sales Agreement by and Between the City of Santa Clara and The Newark Group, Inc.," dated November 17, 2015 (Agreement); and
- B. The Parties entered into the Agreement for the purpose of having the City provide the steam from the City's Cogen facility to the Customer for purchase for its use in the manufacture of recycled paper products at the Paper Mill.
- C. The Parties now wish to renew and extend the Original Agreement to extend the Term of the Steam Sales Agreement one (1) additional year while further negotiating for future periods.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

- 1. Reinstatement of Agreement. The Termination of the Agreement is hereby revoked and, except as expressly modified by this Amendment, the Agreement is reinstated in its entirety and shall be in full force and effect as if the same had never been terminated.
- 2. Exhibit B, Section 1 of the Agreement, is amended to read as follows:

Term of Agreement: November 1, 2015 through October 31, 2021.

3. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

C. A. M.

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Arellano
Date: 2021.03.11 15:35:24
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BRIAN DOYLE
City Attorney

Dated: 3/12/2021

Deanna J. Santana

DEANNA J. SANTANA
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"CITY"

THE NEWARK GROUP, INC.
a New Jersey Corporation

Dated: 2/3/21

By (Signature): *D.T. Scott*

Name: David Scott, P.E.

Title: Vice President

Principal Place of Business Address: 525 Mathew Street
Santa Clara, CA 95050

Email Address: David.Scott@greif.com

Telephone: (770) 375-5176

"CUSTOMER"