

## RESPONSE TO COUNCIL QUESTIONS RE: 7/12/22 AGENDA

**Agenda Item 4.J: Action to Delegate Authority to the City Manager to Either A) Enter Into a Third Phase Agreement With Northern California Power Agency (NCPA), or B) Complete Negotiations and Execute a Renewable Energy Purchase and Sale Agreement With Calpine Corporation (Calpine) to Purchase Renewable Energy From a Portfolio of Geothermal Projects Owned by Calpine**

### Council Question:

1. I see that the annual payments for 876 GWh of electricity per year are capped to \$73.5M over a 10-15 year period. This works out to something like \$83/MWh. If I use a 3.5% rate of inflation over 15 years I get a 1.67x price difference. How does this agreement account for inflation? Seems like the value of the electricity could be as high as  $1.67 * \$73.5 = \$122.745M$  in year 15.

#### Staff Response:

The agreement is still under negotiation but currently there is no escalator or inflation rate. As part of negotiations the last indicative price provided was an effectively \$79/MWh fixed (no escalator) for the entire term (2025-2037).

2. I see that Calpine/PGE built the 23 mile wastewater pipeline. It seems that SVP/NCPAs project at the Geysers is struggling to get water. Does Calpine have a guaranteed supply of water?

#### Staff Response:

We are unsure of the 23-mile pipeline referenced in the question, but Calpine has a couple of wastewater pipeline projects:

- A joint Calpine/NCPA 29-mile pipeline from the Lake County Sanitation Station.
- A 41-mile pipeline from Santa Rosa to the Geysers delivering approximately 11 million gallons of reclaimed water per day.

As part of the proposed PPA, it would be Calpine's responsibility to provide power delivery.

**Agenda Item 4.L: Action on Contract No. 2420A with Hot Line Construction, Inc. for Electric Utility Overhead Services and Contract No. 2004D with Daleo, Inc. for Electric Utility Substructure and Aerial Fiber Optic Cable Authorizing the City Manager to Negotiate and Execute Amendments to the Contracts to Extend the Term One Year, Renegotiate Rates, and Increase Total Maximum Compensation.**

### Council Comment:

In addition to the extension of contract time, staff recommends increasing the maximum compensation for Contract 2420A with Hot Line from \$3,000,000 to \$5,000,000, subject to budget appropriations and the maximum compensation for the Contract 2004D with Daleo from \$6,000,000 to \$10,000,000. These increases in maximum compensation are associated with increases in unit pricing as well as large projects anticipated by SVP in the coming year (12KV Fairview Substation extension and Stormwater Compliance Fiber Projects) and current staffing vacancies as discussed above resulting in the need to use additional contracted services for maintenance and repair activities critical to SVP.

### Council Question:

1. Why jump of 67% for Hot Line and Daleo?

**Staff Response:**

These increases in maximum compensation are associated with:

- Increases in unit pricing due to supply chain issues, increased materials costs, and prevailing wage increases.
- New large projects anticipated by SVP in the coming year that were not part of the original contract (examples include the 12KV Fairview Substation fiber extension, other new substations, continued expansion of the Water SCADA project, large pole replacement project, commercial customers connections, etc.).
- Current staffing vacancies resulting in the need to use additional contracted services for maintenance and repair activities critical to SVP and other City departments.

2. Is this increase 100% covered by the customers?

**Staff Response:**

Yes, either by new customers or existing customers depending on the type of work. As examples, fiber extensions are paid by the fiber customer requesting the work. Pole replacements could be funded by electric customers or by a cable company depending on the need/reason for the replacement.

3. Is this additional 67% increase for same scope of work which was to be completed in the last three years of the contract or are we adding new scope/projects?

**Staff Response:**

New projects as described in Answer 1.

4. Why was the delay in implementing the projects in last three years?

**Staff Response:**

As discussed above the additional funding is not due to projects that were delayed.

5. If delays from the contractors - are we holding them responsible - for the delay clause in the contract: 3.2 Liquidated Damages. City and Contractor recognize that time is of the essence of this Agreement and that City will suffer financial loss in the form of lost revenues, contract administration expenses (including project management and consultants' expenses), delay and loss of public use, if all or any part of the Work is not completed within the time specified in paragraph 3.1 above plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with Article 15 of Document 00700, General Conditions, Contractor and City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by City because of a delay in completion of all or any part of the Work. Accordingly, City and Contractor agree that as liquidated damages for delay, Contractor shall pay City: 3.2.1 \$1,500.00 for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion, until the Work reaches Substantial Completion. 3.2.2 \$1,500.00 for each Day that expires after the time specified herein for Contractor to achieve Final Completion, until the Work reaches Final Completion. These measures of liquidated damages shall apply cumulatively and shall be presumed to be, except as provided herein, the damages suffered by City resulting from the delay in completion of the Work. 3.3 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by City as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from defective work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof."

**Staff Response:**

In all our contracts if delays are due to the contractor we hold them accountable. Delays have not been an issue with these types of contracts.

**Agenda Item 5.B: Action on Amendment No. 1 to the Agreement as Amended with The Pun Group, LLP for Auditing Services for the Santa Clara Stadium Authority**

**Council Question:**

1. I see this item on consent so it will probably pass anyway but I would like to be refreshed about the arguments/dispute. Also, why should this audit take all the way to March 2023?

**Staff Response:**

The audit of the 2019 College Football Playoff was included as a right of the Stadium Authority in the Assignment Agreement with the Bay Area Host Committee because the Agreement provided an opportunity for the SCSA to share in the net revenue. To this end, the Agreement allowed SCSA to obtain complete accounting with the right to utilize an independent third party auditor. Similar to the arrangements for the Super Bowl, this event operated under a separate agreement with the Bay Area Host Committee because it was projected to have a significant loss for SCSA. We received the financials and backup documents from the Stadium Manager, engaged the Pun Group in 2020 but the audit was paused due to COVID. We anticipate the audit to be completed earlier, but are proposing an end date that aligns with the Stadium fiscal year.

2. Why so much delay? (I am not convinced) Request: Do we have a preliminary audit report which we can look into?

**Staff Response:**

There is no preliminary report available. As a reminder, the audit of the 2019 College Football Playoff was included as a right of the Stadium Authority in the Assignment Agreement with the Bay Area Host Committee because the Agreement provided an opportunity for the SCSA to share in the net revenue. To this end, the Agreement allowed SCSA to obtain complete accounting with the right to utilize an independent third party auditor. Similar to the arrangements for the Super Bowl, this event operated under a separate agreement with the Bay Area Host Committee because it was projected to have a significant loss for SCSA. We received the financials and backup documents from the Stadium Manager engaged the Pun Group in 2020 but the audit was paused due to COVID.

**Agenda Item 5.F: Action on Request Submitted by the Stadium Manager to Award Purchase Order to MAMAVA, Inc. to Purchase Mamava XL Lactation Pods (Private Lactation Spaces CapEx Project)**

**Council Question:**

1. The Santa Clara Central Park Library installed the same pod in the library in May, 2019. It was purchased with funding from the Kaiser Permanente Health & Wellness Fund. Can we find out how much was paid for the pod installed at the Central Park Library to use as a cost comparison. I believe \$90k is being allocated to purchase 3 of these pods to be used at Levi's Stadium.

**Staff Response:**

The Mamava pod in the library was purchased in 2019 by the Library Foundation at a cost of \$16,953 plus an additional \$1,000 for assembly. The proposed pods were procured through utilizing other public agencies cooperative agreement. The price in the Stadium Manager report was provided through that process.