



## Agenda Report

21-1206

Agenda Date: 10/19/2021

### REPORT TO COUNCIL

#### SUBJECT

Action on Amendment No. 2 to the Steam Sales Agreement with The Newark Group, Inc. to Extend the Agreement Until March 31, 2022

#### COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

#### BACKGROUND

Since 1994, the City's Electric Utility, Silicon Valley Power (SVP), has provided the steam from the City's cogeneration facility (Cogen) to The Newark Group, a Greif Company (Newark) for purchase for use in the manufacturing of recycled paper products at the California Paperboard Mill (California Paperboard). This type of manufacturing uses significant quantities of electricity, steam, water and sewer services, and therefore Newark is one of the City's largest electric, water and sewer customers. Cogen was designed to provide steam to the California Paperboard Mill, and Newark is SVP's only customer for the purchase of steam. 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.

#### DISCUSSION

On March 9, 2021, Council approved Amendment No. 1 to extend the term of the Steam Sale Agreement to October 31, 2021 due to longer than expected time needed for negotiation since the COVID-19 pandemic had changed priorities for both parties. Staff has been actively negotiating a new Agreement with The Newark Group, which is under new ownership and is currently evaluating its production at the California Paperboard Mill in Santa Clara. Although there have been delays due to Covid-19 and new ownership, staff has progressed over the last 6 month extension. Staff developed a more detailed capital improvement and refurbishment plan with current equipment pricing for Cogen that meets the power plant's original service level requirements and has updated the fuel, water and labor cost forecasts. The two parties still need approximately six (6) more months until March 31, 2022 for The Newark Group to finish its economic analysis of SVP's offer and for both parties to complete the negotiations and legal reviews. Ultimately, the new agreement will need to provide full cost recovery, or the City will need to explore options regarding Cogen.

By extending this Agreement, SVP will be assured of stable, predictable power sales to this existing customer for an extended time by keeping Newark in SVP's service area. Without an extension, SVP may lose the opportunity to make future sales of steam to Newark and, thereby retain California Paperboard as a large electric customer in SVP's service area.

The long-term Steam Sales Agreement provides an incentive for The Newark Group to maximize their steam purchases from Santa Clara's Cogen power plant instead of using a separate boiler and

provides adequate assurance for recovery of SVP's capital investment. The extension will enable both Parties to continue further negotiations and develop the steam rate methodology which would enable City to recover future capital expenditure on the Cogen plant and streamline the billing process.

### **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 \$2 million in Fiscal Year (FY) 2020/21, which is a 28% increase from FY 2019/20. The budget for steam sales for FY 2021/22 and for FY 2022/23 is \$1.5 million annually. Execution of this amendment will allow SVP to continue to make sales of steam to The Newark Group while staff is continuing to negotiate a long-term agreement with The Newark Group.

### **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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Authorize the City Manager to execute Amendment No. 2 to the Steam Sales Agreement with The Newark Group, Inc. to extend the Agreement until March 31, 2022; and
2. Authorize the City Manager to make minor changes to the attached Amendment subject to approval by City Attorney as to form.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

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