

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve an increase in funding for an Intergovernmental Agreement (IGA) with the Oregon Department of Environmental Quality (DEQ) for the regulatory oversight of the Manufactured Gas Plant (MGP) Investigation and Remediation.

Board Meeting Date: 11/5/2019

Project Name/Contract #: DEQ Oversight for MGP Investigation and Remediation (IGA No. WMCVC-WR-98-13)

Primary Contact: Lisa McLaughlin Ext. 7450

Contract Amount:

Original Contract Amount: \$43,000 (contract initiated in 1998)

Additional \$ Previously Approved: \$138,000

Invoices over last approval: \$55,000

Percentage over last approval: 30%

Amount this Request: \$100,000 (\$55,000 for past work and \$45,000 for anticipated future work)

Resulting Cumulative Total: \$281,000

Contracting Method:

Method of Solicitation: Intergovernmental Agreement

If applicable, basis for exemption: EWEB Rule 6-0110(1)(A) for contracts between EWEB and other government contracting agencies

Term of Agreement: Until Work is Complete

Option to Renew? N/A

Approval for purchases "as needed" for the life of the Contract Yes No

Proposals/Bids Received (Range): N/A

Selection Basis: Direct Negotiation

Narrative:

Operational Requirement and Alignment with Strategic Plan

Since 1997, EWEB has been working cooperatively with the Cascade Natural Gas Corporation and PacifiCorp, the entities responsible for the legacy contamination at the Former Manufactured Gas Plant (MGP), to investigate and remediate the site under the direction and oversight of the Oregon Department of Environmental Quality (DEQ). When the clean-up work concludes in 2019, EWEB's environmental liability will be addressed and EWEB will be able to put the property to productive re-use. The costs associated with the DEQ's regulatory oversight will be borne by the three parties, consistent with our long-standing cost sharing agreement.

Contracted Goods or Services

The DEQ is the regulatory agency that is tasked with the oversight of the remedial activities at the MGP site. EWEB entered a Consent Judgment with DEQ in August 2019 that requires EWEB and the other responsible parties (Cascade Natural Gas and PacifiCorp) to conduct remedial actions at the MGP site. The Consent Judgment contains a provision that the responsible parties will pay costs associated with DEQ's oversight of the remedial action and long-term operation and maintenance at the MGP site. Oversight conducted by DEQ includes site inspections and guidance as to the adequacy of the remedial work in the uplands and along the riverbank. The DEQ also will review the closure reports that will be submitted after the completion of construction and at the appropriate time, when our obligations and commitments under the Consent Judgment have been met, they will issue the No Further Action (NFA) determination. After the culmination of clean-up activities in 2019, the DEQ will review EWEB's closure reports and the required annual and 5-yr reports.

Prior Contract Activities

To date, EWEB's Project team has worked extensively with the DEQ on the development and review of submittals

related to the Remedial Investigation, the Feasibility Study, the selection of the approved remedy for the site and most recently, the Remedial Design for both the excavation of contaminated material (and the capping) of the uplands, and the stabilization of the riverbank. The DEQ is currently providing regulatory oversight over EWEB's construction activities designed to implement the DEQ-approved remedy for the MGP clean-up. Since the inception of the project, DEQ oversight fees have totaled \$236,000 with \$16,600 invoiced in 2019. EWEB's net cost to date is under \$40,000 due to the cost sharing arrangement with the Cascade Natural Gas Corporation and PacifiCorp.

Purchasing Process

The original contract was negotiated in 1998, it was presented to the Board for increases in April 2005 (approved amount \$63,000), July 2007 (approved amount \$106,000), and December 2011 (approved amount \$181,000). In June 2016, Purchasing staff created a change order increasing the purchase order \$50,000 for ongoing services. This amount was not presented to the Board as staff applied an exemption for Board Approval for contracts where the purchase is a required sole-source/single seller for governmentally required taxes, fees, permits and payments (EWEB Public Contracting rule 2-0150 (5)(b)). Where this rule has not been consistently applied, and for transparency for a project of community interest, management presents this contract now for Board Approval.

Under the terms of the Consent Judgment, EWEB is obligated to contract with the DEQ for these services, no other service provider is eligible to provide these services.

ACTION REQUESTED:

Management requests the Board approve an increase in the funding for the existing IGA with the DEQ for the oversight of the MGP Investigation and Remediation. Approximately \$60,000 was planned for these goods or services in the Environmental Management (Section 146) budget for 2019. The total 2019 budget for the Energy Division is \$18.3 million. Variances will be managed within the budget process consistent with Board policy.