

AGENDA



Thursday, June 18, 2009

**Contract and Land Management
RECOMMENDATION FOR COUNCIL ACTION**

Item No. 6

Subject: Authorize negotiation and execution of Amendment No. 1 to the existing Performance Contract agreement with: Chevron Energy Solutions, San Francisco, CA and Ameresco, Inc., Houston, TX, for an Energy Service Company (ESCO) Rotation List to identify, design and implement energy and water conservation measures in various City of Austin facilities, to increase the current contract amount by \$5,000,000 for a total revised amount not to exceed \$15,000,000, until financial authorization is expended and all services under this contract have been completed. The additional authorization will be distributed as follows: \$2,500,000 to Chevron Energy Solutions and \$2,500,000 to Ameresco, Inc.

Amount and Source of Funding: Funding in the amount of \$5,000,000 is available through low interest loans from the State of Texas LoanSTAR (Saving Taxes and Resources) Loan Program.

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

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MBE/WBE: The City determined that subcontracting opportunities for this type of contract are assignment specific. After the project specific scope of work is defined through a Detailed Energy Audit process and approved by AE, the Energy Services Companies (ESCOs) will review the Detailed Audit Report, and MBE/WBE participation goals are established, where applicable, based on the assignment specific scope of work. The Energy Services Company will be required to complete and submit a MBE/WBE Compliance Plan for review with their final proposal. Upon approval of the Energy Services Company's MBE/WBE Compliance Plan by the City, the Compliance Plan shall be incorporated into the project and shall be considered part of the Energy Services Company's performance requirements.

Boards and Commission Action: Recommended by the Resource Management Commission and the Electric Utility Commission.

Prior Council Action: June 23, 2005 – Approved use of alternative procurement process known as an Energy Savings Performance Contract utilizing a modified RFQ evaluation criteria; Approved low interest loan of \$5,000,000 through LoanSTAR; Nov. 17, 2005 – Approved Energy Savings Performance Contract for \$10,000,000 for conservation measures in COA facilities; Apr. 24, 2008 - Approved additional loan of \$5,000,000 through LoneSTAR; approved budget amendment to re-appropriate funds from a previous LoneSTAR loan to the Performance Contracting Fund.

On Nov. 17, 2005, three Energy Services Companies (ESCOs) were selected for the Comprehensive Energy Efficiency Services Rotation List with a total authorization of \$10,000,000. This rotation list was established to provide energy audits, preliminary engineering, design, construction, project management and other construction, maintenance, and engineering services as necessary, for projects that reduce energy and water use in City facilities. Since then, one of the three contractors withdrew.

Originally, Council authorized a \$5,000,000 LoanSTAR loan to fund the \$10,000,000 spending authorization with the balance to be identified from future sources. Later an additional \$5,000,000 in loan funds was authorized to complete projects identified for the original authorization. The City is also eligible

for approximately \$7,500,000 in Energy Efficiency Block Grant funding through the American Recovery and Reinvestment Act (ARRA), which will require future Council action.

In September 2007, the Texas Senate passed Senate Bill 12, requiring the City of Austin to set energy reduction goals, file annual energy use reports with the State Energy Conservation Office (SECO), and to implement cost-effective energy conservation measures. The City of Austin and Austin Energy have worked together to meet these requirements, however the implementation of these cost-effective energy conservation measures is still in progress. This contract is a major part of the City's effort to comply with the SB 12 requirement to implement all cost-effective energy conservation measures.

Increasing the spending authorization of this contract will allow the City to: 1) Implement some projects that are currently unfunded; 2) Quickly implement some shovel-ready projects already identified in accordance with the ARRA grant requirements; 3) Continue to work toward compliance with Senate Bill 12; and 4) Execute this agreement so that valuable time and grant monies are not lost.

The selection criteria for awarding these funds give preference to projects that can be started immediately and be completed in the next 24 months. Operating costs saved as a result of the energy and water efficiency measures implemented by the ESCOs are used to offset the cost of financing, installation, and operation of the measures, and the estimated savings are guaranteed over a predetermined time period.

In accordance with the MBE/WBE Procurement Program Ordinance, the recommended and alternate Energy Service Companies have signed a MBE/WBE Statement of Utilization in which they agree to abide by and follow the rules and regulations of the MBE/WBE Program.

Goals established for this contract are: MBE 12.90 %; WBE 12.60 %; African-American 1.70 %; Hispanic 9.70 %; Native/Asian American 1.50 %; WBE 12.60 %.

The assignments on this rotation list are turn-key projects that frequently include a large percentage of equipment costs. In fact, the equipment may be as much as 70-80 percent of the total assignment. Furthermore, some contractors, especially manufacturers, install their equipment in-house further limiting subcontracting opportunities. This may make it appear that MBE/WBE contractors are being under utilized. However, in this case, it is more a function of the actual opportunities available.

Some of the current and upcoming projects have more opportunities for subcontracting than previous assignments and the ESCOs are working to bring more balance to the percentages of MBE/WBE participation where ever possible. Staff will continue to assist them in this effort and implement an outreach effort by promoting MBE/WBE job fairs for specific projects where there are subcontracting opportunities.