

COUNCIL ACTION FORM

SUBJECT: WATER AND POLLUTION CONTROL FIRST STAGE TRICKLING FILTER VERTICAL TURBINE SOLIDS HANDLING PUMPS

BACKGROUND:

On September 8, 2009, Council awarded a contract to Flowserve Pump Division, Taneytown, MD to provide four new vertical turbine pumps to replace the failing first stage trickling filter pumps. A purchase order was issued September 18, 2009 for a total contract amount of \$219,492 and a contractual delivery date of April 30, 2011. The original delivery date was missed and the City agreed to extend the delivery date to June 30, 2011. The pumps were delivered by the revised date; however, to date only one Flowserve pump is installed. That pump is only capable of achieving 90% of the specified design flow. A second Flowserve pump has been installed and pulled for modification or repair four times; two were for bearing failures and two were attempts to modify the pump to achieve the specified flow.

To date, the City has made no payment to Flowserve pending resolution of issues with their pumps. The manufacturer has twice modified the pumps in an attempt to achieve the required flow, without success. Staff gave them one last chance to perform by sending a pump back to the factory for a third rework to try to meet the required flow. Flowserve has made changes to one pump and it is ready for shipment to the plant for installation and testing. However, in a letter dated July 2, 2013, Flowserve proposed new terms to the contract that are not favorable to the City regarding payment and performance. The manufacturer was told to hold the pump until further notice. Staff met with the City Attorney to see what remedies were available and to develop a response to the manufacturer.

The City Attorney issued a letter to Flowserve on October 4, 2013, stating the City's dissatisfaction with the situation and proposing an amicable resolution to the contract. To summarize, the City's offer was to purchase the one pump that is in place and operating at 90% flow for 90% of its bid price. The City would also purchase the second modified pump currently at the factory because it is needed until replacement pumps are delivered from a different vendor. (Council awarded the contract for the replacement pumps in January 2014.) The remaining two pumps would be deleted from the contract.

Since that time there have been several counter-offers exchanged between the City and Flowserve. Terms have finally been reached that both parties are willing to accept. **Staff is seeking approval from Council for a change order to the contract with**

Flowserve. The negotiated resolution would eliminate two of the four pumps from the contract. The price for the third pump performing at 90% would be reduced to 90% of the bid price. The price for the fourth pump would be at 100% of the bid price, with a portion payable prior to shipment and the balance payable within 30 days of delivery. Funds for the purchase of the pumps were originally included in the FY 08/09 Capital Improvements Plan, and have continued to roll over each year while the performance issues have been addressed by Flowserve. The FY 13/14 amended CIP includes funds designated specifically for these pumps.

ALTERNATIVES:

1. Approve a change order to the Flowserve contract deleting two pumps from the contract and accepting modifications to the contract terms and conditions as negotiated by the City Attorney.
2. Do not approve the change order and direct staff to take other actions as determined by Council.

MANAGER'S RECOMMENDED ACTION:

Having functional pumps in the first stage trickling filter process is paramount to the treatment plant's ability to pass its full rated flow and treat to a level that avoids violation of the facility NPDES permit. This action would also resolve a long-standing issue with this company.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving a change order to the Flowserve contract deleting two pumps from the contract and including modifications to the contract terms and conditions as negotiated by the City Attorney.