

**GOVERNANCE COMMITTEE
FOR THE
MONTEREY PENINSULA WATER SUPPLY PROJECT**

California American Water • Monterey County Board of Supervisors
Monterey Peninsula Regional Water Authority • Monterey Peninsula Water Management District

EXHIBIT 23-E

**FINAL MINUTES
Special Meeting
Governance Committee
for the
Monterey Peninsula Water Supply Project
May 23, 2013**

Call to Order: The meeting was called to order at 1:05 pm in the conference room of the Monterey Peninsula Water Management District offices.

Members Present: Jason Burnett, Chair, representing Monterey Peninsula Regional Water Authority (JPA)
Robert S. Brower, Sr., Vice Chair, representing Monterey Peninsula Water Management District (Water District)
Robert MacLean, representing California American Water (Cal Am)

Members Absent: David Potter, representing Monterey County Board of Supervisors

Pledge of Allegiance: The assembly recited the Pledge of Allegiance.

Public Comments: No comments directed to the Committee.

Agenda Items

The Chair received public comment on each agenda item.

- 1. Adopt Minutes of April 22 and May 17, 2013 Committee Meetings**
On a motion by Brower and second of Burnett, minutes of the April 22, 2013 committee were adopted on a vote of 2 – 0.
- 2. Review and Comment on Draft Design Build Request for Proposals Prepared by California-American Water**
A summary of the discussion on this item follows.

Representatives from Cal Am asked for clarification from the JPA on the following issues.

- a) Need comments on the evaluation criteria for both project sizes. Should bids be weighted identically for both the small and large projects?

- b) Cal-Am does not seek the lowest bid. The intent is to select the lowest price for the desired build that includes engineering, permitting, construction, power costs, and replacement and maintenance over a 20-year period. Cal-Am prefers an extended warranty period for project components such as membranes, and has offered to meet with vendors on that issue. The cost may be higher up front, but maintenance costs could be lower over time. Cal-Am has estimated a 5% interest rate and 3% CPI for inflation. Does the committee agree with that approach?
- c) Bidders will be evaluated on the basis of 40% technical and 60% cost. Comments?
- d) Security is important; there must be a balance between the risk taken on by the bidders and the ratepayers. Security components in the RFP include bid bonding, performance and payment bonds, \$1 million letter of credit, insurance requirements, and parental guarantee that are all common in bids to ensure the contractor will deliver the project.

In response to these comments, Burnett stated that at the May 28, 2013 Governance Committee meeting, he would present written comments from the JPA on the draft RFP. Brower noted that the Water District had no issues with the RFP, but would not meet again until June 17, 2013. No comments were directed to the committee from members of the public.

Following the comments listed above, additional discussion occurred regarding the RFP. This includes questions raised by members of the public.

- e) Comment: The RFP could be modified to include a bonus for early completion. Cal-Am response: The RFP includes a penalty for late completion of the project. Cal-Am will need to consider if a bonus for early completion would be appropriate. See additional discussion below under item k.
- f) Comment: How will valued engineering be applied to this project? Cal-Am response: The process Cal-Am plans is different from value engineering. Cal-Am provides the basic requirements for the project – a base bid that will be used to evaluate the bids that are submitted. The bidders will show the price difference between the base and what is submitted. Cal-Am will select the preferred bid; a team of experts will then evaluate the design and make suggestions for improvements. The bidder will be required to provide cost estimates for the proposed improvements. Cal-Am will then evaluate the response and decide what changes should be implemented. This is a negotiated process between Cal-Am and the bidder that can provide incentives to the bidder. For example, a proposed change could result in \$1 million savings and 20% of that savings could be returned to the contractor. MacLean stated that if the Committee wants to see value engineering savings shared, Cal-Am would need to review and decide if it would be appropriate.

- g) Comment: The SPI report assumed that source water for the desalination project would not require pretreatment. Should bidders provide the project cost under that assumption? Cal-Am response: Determining the correct pretreatment is critical to success of the project. Open ocean intake will require more treatment than well water. The project team must determine the source water and the quality of that source water in 20 to 30 years. It is assumed that the source water quality will deteriorate in 5 to 10 years. Will the plant be constructed to operate under the worst case scenario, or will it be built for a lower cost and then expanded in 10 years when additional pretreatment is needed? Cal- Am needs to know if the bid should be based on test well data; the Committee should provide feedback on the preferred source water criteria.
- h) Comment: Your RFP is very specific as to the baseline requirements for a project. Will alternate proposals have enough detail that Cal-Am can select an alternative project? Cal-Am response: We will make clear to bidders that we are looking for creativity. Water quality and performance standards must be met, even if the bidder proposes a process different from what was suggested in the RFP. Cal-Am is open to suggestions from the Committee on how the baseline could be made more robust.
- i) Comment: Appendix 2, Design and Construction Requirements is very detailed. The bidder could be discouraged from being more creative in order to reduce costs. Cal-Am response: We will bring this back to the team for review.
- j) Comment: Is there a risk that by providing such detailed requirements, the design/build firm could place the responsibility with Cal-Am if the project does not operate successfully? Cal-Am response: That should not be an issue because the bid is clear as to where the responsibility lies to achieve results; however, the team will review this again.
- k) Comments: (1) Suggest adding a clause in section 5.2.2 that would offer an incentive for early delivery. Caltrans has standard language in its contracts that Cal-Am could include. (2) Be aware that the Division of Ratepayer Advocates may disagree with the inclusion of cost caps and paying out incentives. Cal-Am response: Bidders are required to develop the project construction schedule. However, we don't want them to pad their schedule in order to receive a bonus for early completion. The team will consider if a completion date should be established.
- l) Comment: The warranty clauses state that the first step in dispute resolution is mediation. If mediation is not successful, the binding arbitration process is used and the parties will agree on the arbitrator. Is this correct? Is there agreement on that? Response from Cal-Am: We will review the arbitration process outlined in the RFP. The Committee will provide input on this issue at the next meeting.

- m) Comment: What are the licensing requirements? Will foreign firms be required to be licensed in California? Response from Cal-Am: Contractors must meet all of California's licensing requirements, and will be required to provide proof of licensing at appropriate stages in the process. Cal-Am will review the licensing language in the RFP and may modify it for clarity.
- n) Comment: The cost of electricity is set at 10 cents per kilowatt hour. Is that accurate? Response from Cal-Am: The model could be changed to .09 which is one of three current PG&E tariff rates. Cal-Am will review to determine the appropriate rate to specify.
- o) Comment: Should the requirement to hold the bid for 365 days be changed, and should an escalator be included? Response from Cal-Am: It could be changed; a 120 day hold is not uncommon. Let us know if you have a preference.
- p) Comment: Page 2-8, section 2.6, should provide maps that show roads, property lines, and test well and production facility sites. Page 2-12, add a statement that the design/build contractor will coordinate with separate contractors such as those laying pipelines. Page 2-19, if Federal funds will be spent on this project a section on compliance with the Davis-Bacon Act should be included. Response from Cal-Am: Expressed no objection.
- q) Comment: Page 3-3, paragraph 13 refers to Cal-Am conducting public hearings. Suggest that Governance Committee be specified as forum for those public hearings. Response from Cal-Am: That may be in conflict with the Governance Committee Formation Agreement that specifies the role and responsibilities of the Governance Committee.
- r) Comment: Page 3-4, sections 3.5 and 3.6 should clearly state that any response to a bidder's inquiry will be provided to all proposers in the form of an addendum or other communication.

3. Status Report on Development of Term Sheet for Power Sales Agreement with Monterey Regional Waste Management District for Use of Landfill Gas Generated Electricity for the Proposed Desalination Plant

Bill Reichmuth reported that a committee has been formed to develop the term sheet whose members are William Merry with the Monterey Regional Waste Management District (MRWMD), Keith Israel of the Monterey Regional Water Pollution Control Agency, Richard Svindland with Cal-Am, David Stoldt of the Water District, and Reichmuth. Svindland has provided the committee with the power needs for both sizes of the desalination plant. Merry will redraft the term sheet for discussion by the committee. The next step is to develop a

power sharing agreement. It is expected that MRWMD could provide the 6.2 megawatts of electricity needed to operate the desalination plant. The cost would be approximately 8.5 cents per kilowatt, which is less than the PG&E rate, and Cal-Am could earn renewable energy credits. The Committee will need to discuss how the renewable energy credits should be handled, should they be retained or sold? Comment from Cal-Am: A search has begun to identify a firm that can develop an analysis of the power costs and the best way to monetize renewable energy credits. There is a question about the ability of MRWMD to provide enough energy to power up the plant's 1,500-horsepower motors.

4. Discussion of Items to be Placed on Future Agendas

No new items suggested.

5. Adjournment

The meeting adjourned at 2:45 pm.