

Agenda Item: ID 18-0759 (10:05 A.M.)

Date: 06/21/2018

FRESNO CITY COUNCIL



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FRESNO CITY CLERK

Supplemental Information Packet

Agenda Related Item(s) – File ID18-0759

**Contents of Supplement: Alternative Option for discussion:
TankoLighting, received and distributed to Councilmembers during
the meeting.**

Item(s)

Title: Actions pertaining to the Citywide replacement of high pressure sodium (HPS) streetlight fixtures with more energy efficient light-emitting diode (LED) fixtures.

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

10:05 @
8:59
4/21/18



Bringing passion to light.

Tanko Lighting

- Tanko Lighting is a C-10 licensed electrical contractor and single-measure Energy Services Company (ESCO) working exclusively on municipal streetlight projects nationwide since 2013.
- Project portfolio includes over 120 projects with more than 415,000 streetlight fixture conversions nationwide.
- Tanko Lighting has worked extensively in CA with 40 municipalities converting over 200,000 fixtures. See project list on page 2.

References

City of Rancho Cucamonga, CA (15,000 Fixtures)

Fred Lyn, Utilities Division Manager
 Fred.Lyn@CityofRC.us
 909-477-2740 ext. 4035

Description of Services: Tanko Lighting provided data reconciliation, acquisition support, design, procurement, installation coordination, rebate/rate change and reporting services for the City of Rancho Cucamonga's streetlight acquisition and LED conversion project. Tanko Lighting continues to provide ongoing maintenance services to assist the City with maintaining the newly-converted LED fixtures.

Modesto, CA (9,000 Fixtures)

Jeff Barnes, Engineer
 Jbarnes@modestogov.com
 209-577-5468

Description of Services: Tanko Lighting provided audit, data reconciliation, design, procurement, installation coordination, rebate/rate change and reporting services for the City of Modesto's streetlight LED conversion project.

Tanko Lighting's Turn-Key Project Process



Tanko Lighting's Relationship with the City of Fresno

- Primary contractor for LED streetlight conversion in 2016, including 350 GE LED roadway streetlights. Same contractor (Star Energy) included in current Tanko Lighting offer. Project was completed on time and on budget.
- Met with City staff on April 23rd to provide a proposal and discuss current LED streetlight conversion project options
 - Tanko Lighting's offer is **\$2,242,144 cheaper** than PG&E's offer, with **\$14,943,215 more in 20 year savings**. These savings include the cost for Tanko Lighting's proposed financing at a rate of 3.79%.
 - Includes 2,800 more fixtures that PG&E will not convert per example: City of Bakersfield.
 - Offer based on recent Santa Clarita Turnkey LED Conversion RFP (2018 Award) for 17,200 fixtures – awarded to Tanko Lighting.

Why Tanko Lighting?

- Most cost effective option using premium products
- Previous positive success on LED streetlight conversion project with the City
- Utilizes qualified installer local to the Central Valley
- Proven nationwide success
- Stellar reputation
- Premium customer service
- No conflict of interest

Projects List

Tanko Lighting in California		
Municipality	Number of Fixtures	Scope of Work
Santa Clarita, CA	16,200	Pole Inspection, Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Rancho Cucamonga, CA	15,000	Streetlight Pilot Acquisition Support, Material Procurement (Fixtures & Controls), Installation, Rebate/Rate Change & Ongoing Maintenance
Chino Hills, CA	4,450	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, Commissioning, and Maintenance Services
Santa Ana, CA	11,500	Audit, Design, Data Reconciliation, Acquisition Support
Simi Valley, CA	8,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Acquisition Support, Procurement, Install, Commissioning and Maintenance
Fullerton, CA	6,600	Audit, Data Reconciliation, Photometric Design, and Feasibility Analysis Material Procurement, Installation, Rebate/Rate Change & Ongoing Maintenance
Orange, CA	4,400	Feasibility Analysis
Tustin, CA	3,500	Audit, Data Reconciliation, Feasibility Analysis, Acquisition Support, Procurement, Installation Management, Commissioning, Rebate/Rate Change
West Hollywood, CA	2,500	Audit, Data Reconciliation, Feasibility Analysis, Pilot Installations Distribution Pole Acquisition Assistance
La Verne, CA	2,500	Audit, Data Reconciliation, Design, Feasibility Analysis and Acquisition Support
La Puente, CA	2,100	Audit, Data Reconciliation, Photometric Design, and Feasibility Analysis Acquisition Support, Material Procurement, Installation, Rebate/Rate Change & Ongoing Maintenance
Bell, CA	1,600	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, Commissioning, and Maintenance
Signal Hill, CA	1,300	Audit, Data Reconciliation, Design, Feasibility Analysis and Acquisition Support
Stanton, CA	1,300	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Acquisition Support, Procurement, Install, and Commissioning
Claremont, CA	1,300	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Acquisition Support, Procurement, Install, and Commissioning
Corona, CA	8,700	Material Procurement, Installation (Fixtures & Controls), and Rebate/Rate Change
Hayward, CA	7,700	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Vista, CA	2,300	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Napa, CA	4,500	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Rancho Cordova, CA	6,500	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Lodi, CA	7,200	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Berkeley, CA	8,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Morgan Hill, CA	2,500	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Modesto, CA	9,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Vallejo, CA	9,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install Management, and Commissioning
Santa Clara, CA	3,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Alameda, CA	3,200	Turnkey Conversion Services including Data Reconciliation, Procurement, Install, and Commissioning
Oakland, CA	37,000	Audit, Commissioning, Data Reconciliation
San Bruno, CA	2,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install Management, and Commissioning
Sonoma, CA	1,200	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install Management, and Commissioning
Oakland, CA	526	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement, Install, and Commissioning
Sunnyvale, CA	7,000	Turnkey Conversion Services including Audit, Design, Data Reconciliation, Procurement (Fixtures and Controls), Install, and Commissioning
Fresno, CA	360	LED Streetlight Material and Install
Berkeley, CA	3,200	Pole Inspection/Condition Assessment
Lawrence Berkeley National Laboratory	1,400	Audit, Data Reconciliation, Specifications Development, Controls Installation (30 fixtures)
Total Project Fixtures:	205,136	Contract Total: 40

Fresno, CA (Tanko Complete Project) Street Lighting Conversion

GE Fixtures

Project Summary Sheet
Thursday, June 21, 2018

	Existing	New	Savings	Final Project Costs
Annual kWh	14,576,986	4,016,967	10,560,019	Total Retrofit Cost \$7,994,913
Annual Energy	\$2,505,894	\$758,447	\$1,747,447	Total Rebate Incentive \$403,602
Annual Maintenance	\$1,401,476	\$162,229	\$1,239,247	Net Project Cost \$7,591,311
Annual CO2 Emissions (lbs)	7,638,341	2,104,891	5,533,450	Sales Tax % Applied 7.98%

	Existing	New	Savings	Energy Savings Only	Simple Payback (Years)
20-Year Energy	\$55,177,295	\$16,700,255	\$38,477,040		Total Project Cost 4.58
20-Year Maintenance	\$41,733,267	\$5,821,882	\$35,911,385		Net Project Cost 4.34

	Existing	New	Savings	Energy & Maintenance Savings Only	Simple Payback (Years)
20-Year Energy + Maintenance	\$96,910,562	\$22,522,136	\$74,388,425		Total Project Cost 2.54
Loan Payments	\$0	\$8,788,923	-\$8,788,923		Net Project Cost 2.41
Rebate Incentive	\$0	-\$403,602	\$403,602		
Grand Total	\$96,910,562	\$30,907,457	\$66,003,105		

Assumptions

Includes conversion of 2,800 post top decorative and 32,990 cobrahead streetlights. Based on city provided inventory.

Includes complete audit of 43,261 streetlights to correct billing issues.

Current PG&E tariff and rebates.

Offer based on Santa Clarita 2018 RFP award.

Finance Option	
Total Interest Paid	\$794,010
Financing Rate (APR):	3.79%
Financing Term (Years):	5

Fresno (Cobrahead Only PG&E Option) Street Lighting Conversion

Cree Fixtures

Project Summary Sheet
Thursday, June 21, 2018

	Existing	New	Savings	Final Project Costs
Annual kWh	13,406,026	4,321,576	9,084,450	Total Retrofit Cost \$10,237,062
Annual Energy	\$2,305,470	\$781,531	\$1,523,939	Total Rebate Incentive \$356,002
Annual Maintenance	\$1,068,739	\$123,713	\$945,026	Net Project Cost \$9,881,060
Annual CO2 Emissions (lbs)	7,024,758	2,264,506	4,760,252	Sales Tax % Applied 7.98%

	Existing	New	Savings	Energy Savings Only	Simple Payback (Years)
20-Year Energy	\$50,764,158	\$17,208,539	\$33,555,619		Total Project Cost 6.72
20-Year Maintenance	\$31,824,980	\$4,439,654	\$27,385,326		Net Project Cost 6.48

	Existing	New	Savings	Energy & Maintenance Savings Only	Simple Payback (Years)
20-Year Energy + Maintenance	\$82,589,138	\$21,648,193	\$60,940,945		Total Project Cost 3.95
Loan Payments	\$0	\$10,237,062	-\$10,237,062		Net Project Cost 3.81
Rebate Incentive	\$0	-\$356,002	\$356,002		
Grand Total	\$82,589,138	\$31,529,254	\$51,059,885		

Assumptions

Includes conversion of 32,990 cobrahead streetlights. Based on City provided Inventory.

Current PG&E tariff and rebate program.

Wattage selection based on recent Bakersfield project.

Finance Option

Total Interest Paid	\$0
Financing Rate (APR):	0.00%
Financing Term (Years):	10

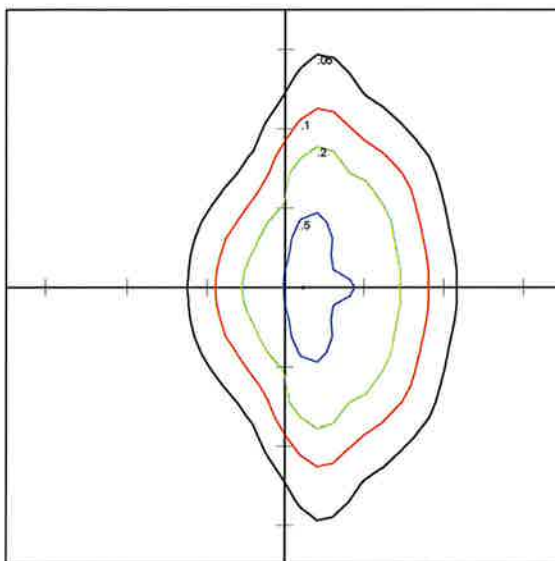


	CREE	GE
WATTAGE	28W	22W
EFFICACY	3300LM (118LM/WATT)	2900LM (132LM/WATT) (11% MORE EFFICIENT)
MATERIAL	BULK MOLDING COMPOUND (PLASTIC)	ANODIZED ALUMINUM
OPTICS	WAVEMAX OPTICS	REFLECTIVE OPTICS (REDUCES GLARE)

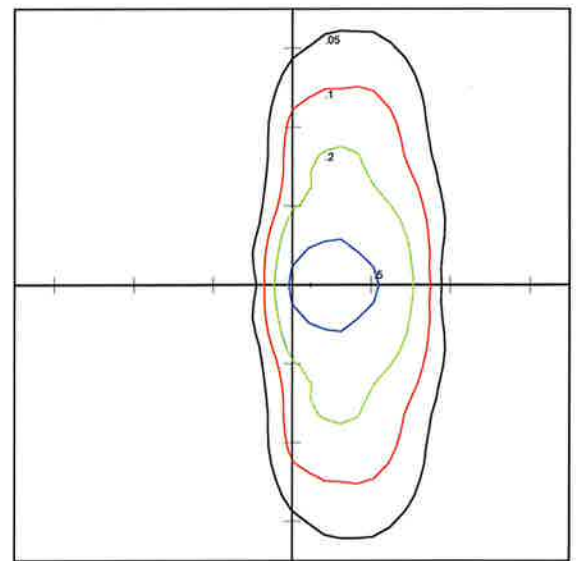
KEY GE TAKEAWAYS

- GE is currently already listed as an approved product by the City (see attached)
- GE has already successfully provided fixtures to the City via Tanko Lighting (in Feb 2016) approx. 360 fixtures with no known failures and or customer complaints
- GE Recessed LED's (Reflective optics/which are unique vs Cree) to minimizes Glare, GE has had No (known) requests for House side shield for installed GE product in Fresno
- Fresno Climate has extreme ambient temps in the summer. GE product designed and tested for use in 60c Ambient Temp conditions. GE product is UL listed and published for use in 50c Ambient temps - Cree literature only offers 25c data. No UL test data for higher ambient

CREE



GE





GE Public Finance

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USA

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6/13/2018

City of Fresno
2600 Fresno Street
Fresno, CA 93721

RE: Energy Saving Street Light Conversion Project

GE Government Finance, Inc. ("GEGF") is pleased to confirm its interest in providing financing in the approximate amount of \$7,994,913, with reference to the above transaction. A general outline of the terms and conditions and economics of our proposal is enclosed (the "Term Sheet").

As with any proposal, this letter and Term Sheet (the "Proposal") do not constitute a commitment to provide financing. This Proposal is not intended to create a binding legal obligation by either party; rather, it confirms our interest in working with you. If the Proposal is satisfactory, please acknowledge your acceptance by signing the Term Sheet in the space provided and returning the executed copy to GEGF. Upon receipt of the information as detailed in the Term Sheet, we will proceed with our review.

GEGF is a unit of General Electric Company. We have provided over \$1 Billion of tax-exempt transactions for energy related projects (including lighting / LED). GEGF has been an industry leader in providing tax-exempt financing to state and local governments, universities, ports and school districts across the country since 1985. GEGF is headquartered in Minnesota and provides focused customer service and regional expertise.

We look forward to your response. Please call me at 714-335-6042 with any questions you may have. We appreciate having the opportunity to present this Proposal to you and look forward to working with you.

Sincerely,

Samuel Clineff

Samuel Clineff
Senior Vice President



GE Public Finance, a division of GE Government Finance, Inc. is pleased to submit the following Tax-Exempt Proposal for your consideration:

Structure: Tax-exempt equipment lease-purchase financing.

Lessee: City of Fresno

Lessor: GE Government Finance, Inc. (“GEGF”) and/or one or more of its affiliates and/or assigns.

Documentation: Documentation shall include a Master Lease Agreement (“MLA”), one or more Equipment Schedules thereto (each such Equipment Schedule, together with the terms and conditions of the MLA incorporated by reference therein, a “Lease”), an opinion of Lessee’s counsel and certificates as are reasonably necessary to evidence and carry out the transaction and, at Lessee’s option, an Escrow Agreement. Lessor will prepare the documentation.

Equipment: Energy Saving Street Light Conversion Project.

GE Content: Street Light Hardware Must Include at Least 50% GE Content.

Funding Amount: \$7,994,913.00

Estimated Closing Date: TBD – With full cooperation we can close in two weeks.

Lease Term: 5 Years

Fixed Interest Rate: The Fixed Interest Rate as of the date of this proposal is 3.79%.

The Fixed Interest Rate set forth above reflects the current 5-year Swap Rate¹ of 2.94% (the “Initial Rate”) as of June 11, 2018 (the “Initial Quote Date”) and Lessor will adjust the Fixed Interest Rate Three (3) days prior to the funding date. Also, Lessor has the right to make an additional adjustment prior to the funding date to preserve the net economic return assumed by Lessor.

¹ “Swap Rate” means the interest rate for swaps that most closely approximates the average term of the financing term as published by the Intercontinental Exchange (NYSE: ICE) in its Ice Benchmark Administration Report entitled “ICE Swap Rate Historical Rates” currently available online at <https://www.theice.com/marketdata/reports/180> (Series /Run USD Rates 1100) or such other nationally recognized reporting source or publication as Lender may specify.

Santa Clarita 2018 Turnkey LED Conversion RFP Cost Proposal Sheets

COST PROPOSAL SHEET A-1 (Section III. A. 1-3)

LED PER UNIT COST STREETLIGHT AUDIT, ASSESSMENT & ACQUISITION			
Description	Quantity	Per Unit Turnkey Cost*	Total
All items associated with Section III. A.1-3 of Scope of Work	16,125	\$10.00	\$161,250.00

ADDITIONAL SERVICES (OUTSIDE OF PROVIDED SCOPE OF WORK) OPTIONAL	
Team Member	Hourly Rate
Responsibilities	

ADDITIONAL SERVICES (OUTSIDE OF PROVIDED SCOPE OF WORK) OPTIONAL	
Task	Lump Sum Cost
Audit of Highway Lights (1,000)	\$10,000.00
Audit of Bridge and Decorative Lights (302)	\$3,020.00
Audit of Non-Sellable SCE streetlights (1,062)	\$10,620.00
Material Only Sales Tax at 9.5% for Section III. A.4-5 (Cobra head fixtures, photocells and streetlight tags)	\$204,572.71

COST PROPOSAL SHEET A - 2 (Sections III. A. 4 -5)

LED PER UNIT COST STREETLIGHT CONVERSION TO LED					
Existing Fixture Wattage	Installed Quantity	**	Potential - New LED Part Number	New LED Wattage	Per Unit Cost*
100W	10,806	OPTION #1	GE Evolve LED Roadway Lighting - ERLI-0-04-C3-30-A-GRAY 32 WATT / 3,900 LUMENS	32W	\$192.06
		OPTION #2	Autobahn LED Roadway - ATBS-E-MVOLT-R3-3K-MP-NL-P7 40 WATT / 4,700 LUMENS	40W	\$196.06
		OPTION #3	Leotek Green Cobra LED Street Lights - GCI2-20H-MV-WW-2R-GY-580-PCR7 39 WATT / 4,500 LUMENS	39W	\$206.06
150W	2,521	CONTRACTOR PROPOSED EQUIVALENT	Philips Road Focus LED - RFS-35W16LED4K-G2-R3M-UNV-DMG-API-RCD7-GY3 39 WATT / 4,600 lumens	35W	\$192.06
		OPTION #1	GE Evolve LED Roadway Lighting - ERLI-0-07-C3-30-A-GRAY 58 WATT / 6,800 LUMENS	58W	\$213.06
		OPTION #2	Autobahn LED Roadway - ATBS-H-MVOLT-R3-3K-MP-NL-P7 60 WATT / 7,100 LUMENS	60W	\$222.06
200W	1,705	OPTION #3	Leotek Green Cobra LED Street Lights - GCI2-20H-MV-WW-2R-3-GY-1A-PCR7 68 WATT / 7,000 LUMENS	68W	\$206.06
		CONTRACTOR PROPOSED EQUIVALENT	Philips Road Focus LED - RFM-55W32LED4K-G2-R3M-UNV-DMG-API-RCD7-GY3 55 WATT / 6,700 lumens	55W	\$217.06
		OPTION #1	GE Evolve LED Roadway Lighting - ERLH-0-10-C3-30-A-GRAY 82 WATT / 9,600 LUMENS	82W	\$246.06
250W	1,083	OPTION #2	Autobahn LED Roadway - ATBM-D-MVOLT-R3-4B-3K-MP-NL-P7 95 WATT / 11,690 LUMENS	95W	\$269.06
		OPTION #3	Leotek Green Cobra LED Street Lights - GCM2-40H-MV-WW-3-GY-700-PCR7 88 WATT / 10,230 LUMENS	88W	\$307.06
		CONTRACTOR PROPOSED EQUIVALENT	Philips Road Focus LED - REM-80W48LED4K-G2-R3M-UNV-DMG-API-RCD7-GY3 80 WATT / 10,000 lumens	80W	\$239.06
400W	10	OPTION #1	GE Evolve LED Roadway Lighting - ERLH-0-14-C3-30-A-GRAY 122 WATT / 13,400 LUMENS	122W	\$279.06
		OPTION #2	Autobahn LED Roadway - ATBM-E-MVOLT-R3-4B-3K-MP-NL-P7 115 WATT / 13,400 LUMENS	115W	\$274.06
		OPTION #3	Leotek Green Cobra LED Street Lights - GCM2-40H-MV-WW-3-GY-850-PCR7 107 WATT / 12,000 LUMENS	107W	\$307.06
400W	10	CONTRACTOR PROPOSED EQUIVALENT	Philips Road Focus LED - REM-108W48LED4K-G2-R3M-UNV-DMG-API-RCD7-GY3 108 WATT / 12,700 lumen	108W	\$250.06
		OPTION #1	GE Evolve LED Roadway Lighting - ERL2-0-19-C3-30-A-GRAY 149 WATT / 18,200 LUMENS	149W	\$366.06
		OPTION #2	Autobahn LED Roadway - ATBM-H-MVOLT-R3-4B-3K-MP-NL-P7 164 WATT / 17,900 LUMENS	164W	\$313.06
400W	10	OPTION #3	Leotek Green Cobra LED Street Lights - GCI2-60G-MV-WW-3-GY-800-PCR7 163 WATT / 20,000 LUMENS	163W	\$395.06
		CONTRACTOR PROPOSED EQUIVALENT	Philips Road Focus LED - RFM-160W48LED4K-G2-R3M-UNV-DMG-API-RCD7-GY3 160 WATT / 17,700	160W	\$256.06

*Cost includes material (Streetlight & Photocell), installation and services listed in the scope of work provided in Section III.A.4-5.
 **City will determine which option (LED part number and photocell) after all proposals are received.

Santa Clarita RFP Bid Sheet Comparison		
Company	GE Offer Amount	Tanko Award Margin
Tanko	\$ 3,782,280.70	
Siemens	\$ 4,443,146.00	\$ 660,865.30
Bear	\$ 4,720,942.92	\$ 938,662.22
Company	AEL Offer Amount	Tanko Award Margin
Tanko	\$ 3,881,463.70	
Siemens	\$ 4,293,157.00	\$ 411,693.30
Bear	\$ 4,894,056.43	\$ 1,012,592.73
Company	Leotek Offer Amount	Tanko Award Margin
Tanko	\$ 4,050,536.70	
Siemens	\$ 4,361,051.00	\$ 310,514.30
Bear	\$ 4,623,971.33	\$ 573,434.63

APPENDIX B

CALIFORNIA STATE LAW PERTAINING TO ENERGY CONSERVATION CONTRACTS

The following is from the Government Code, Chapter 3.2, Sections 4217.10 to 4217.18.

Chapter 2.3 ENERGY CONSERVATION CONTRACTS

Section

- 4217.10 Energy conservation, cogeneration and alternative energy supply sources at public agency facilities.
- 4217.11 Definitions.
- 4217.12 Energy service contracts and facility ground leases; authorization; findings.
- 4217.13 Terms of contracts and leases.
- 4217.14 Contracts for sale of electricity, electrical generating capacity, or thermal energy.
- 4217.15 Basis for findings required as to financing and sales contracts and facility leases.
- 4217.16 Agreement or lease proposals; requests; evaluations; basis contract awards.
- 4217.17 Public agencies' authority.
- 4217.18 Flexibility as to structuring of, characterizing components as realty or personalty, and granting security interests.

Chapter 3.2 was added by Stats. 1983, c. 868, §1.

Cross References

Hydroelectric alternate energy supply sources, see Water Code Appendix §84-4.13

§4217.10. Energy conservation, cogeneration and alternative energy supply sources at public agency facilities.

To help implement the policy set forth in Section 25008 of the Public Resources Code, and to extend that policy to facilities of local governments, public agencies may develop energy conservation, cogeneration, and alternate energy supply sources at the facilities of public agencies in accordance with this chapter.

§4217.11. Definitions.

The following terms, whenever used in this chapter, have the meanings given in this section, except where the context clearly indicates otherwise:

(a) “Alternate energy equipment” means equipment for the production or conversion of energy from alternate sources as its primary fuel source, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas of less than one billion cubic feet estimated reserves per mile from an existing gas gathering line, natural gas containing 850 or fewer British Thermal Units per standard cubic foot, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(b) “Cogeneration equipment” means equipment for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(c) “Conservation measures” means equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(d) “Conservation services” means the electrical, thermal, or other energy savings resulting from conservation measures, which shall be treated as a supply of such energy.

(e) “Energy conservation facility” means alternate energy equipment, cogeneration equipment, or conservation measures located in public buildings or on land owned by public agencies.

(f) “Energy service contract” means a contract entered into by a public agency with any person, pursuant to which the person will provide electrical or thermal energy or conservation services to a public agency from an energy conservation facility.

(g) “Facility financing contract” means a contract entered into by a public agency with any person whereby the person provides financing for an energy conservation facility in exchange for repayment of the financing and all costs and expenses related thereto by the public agency. A facility financing contract may provide for the person with whom the public agency contracts to provide any combination of feasibility studies for, and design and construction of, all or part of the energy conservation facility in addition to the financing and other related services, and may provide for an installment sale purchase, another form of purchase, or amortized lease of the energy conservation facility by the public agency.

(h) “Facility ground lease” means a lease of all, or any portion of, land or a public building owned by, or under lease to, a public agency to a person in conjunction with an energy service contract or a facility financing contract. A facility ground lease may include, in addition to the land on which energy conservation facilities will be located, easements, rights-of-way, licenses, and rights of access, for the construction, use, or ownership by the person of the facility and all related utility lines not owned or controlled by the interconnecting utility, and offsite improvements related thereto. A facility ground lease may also include the addition or improvement of utility lines and equipment owned by the interconnecting utility which are necessary to permit interconnection between that utility and an energy conservation facility.

(i) "Person" means, but is not limited to, any individual, company, corporation, partnership, limited liability company, public agency, association, proprietorship, trust, joint venture, or other entity or group of entities.

(j) "Public agency" means the state, a county, city and county, city, district, community college district, school district, joint powers authority or other entity designated or created by a political subdivision relating to energy development projects, and any other political subdivision or public corporation in the state.

(k) "Public building" includes any structure, building, facility, or work which a public agency is authorized to construct or use, and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use.

§4217.12. Energy service contracts and facility ground leases; authorization; findings.

(a) Notwithstanding any other provision of law, a public agency may enter into an energy service contract and any necessarily related facility ground lease on terms that its governing body determines are in the best interests of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds:

(1) That the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases.

(2) That the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below-market energy purchases or other benefits provided under the energy service contract.

(b) State agency heads may make these findings without holding a public hearing.

§4217.13. Terms of contracts and leases.

Notwithstanding any other provision of law, a public agency may enter into a facility financing contract and a facility ground lease on terms that its governing body determines are in the best interest of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds that funds for the repayment of the financing or the cost of design, construction, and operation of the energy conservation facility, or both, as required by the contract, are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or

both as required by the contract, are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the public agency in the absence of the energy conservation facility, or both. State agency heads may make these findings without holding a public hearing.

§4217.14. Contracts for sale of electricity, electrical generating capacity, or thermal energy.

Notwithstanding any other provision of law, the public agency may enter into contracts for the sale of electricity, electrical generating capacity, or thermal energy produced by the energy conservation facility at such rates and on such terms as are approved by its governing body. Any such contract may provide for a commitment of firm electrical capacity.

§4217.15. Basis for findings required as to financing and sales contracts and facility leases.

The public agency may, but is not required to, base the findings required under Sections 4217.12 and 4217.13 on projections for electrical and thermal energy rates from the following sources:

- (a) The public utility which provides thermal or electrical energy to the public agency.
- (b) The Public Utilities Commission.
- (c) The State Energy Resources Conservation and Development Commission.
- (d) The projections used by the Department of General Services for evaluating the feasibility of energy conservation facilities at state facilities located within the same public utility service area as the public agency.

§4217.16. Agreement or lease proposals; requests; evaluations; basis contract awards.

Prior to awarding or entering into an agreement or lease, the public agency may request proposals from qualified persons. After evaluating the proposals, the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations. The public agency may utilize the pool of qualified energy service companies established pursuant to Section 388 of the Public Utilities Code and the procedures contained in that section in awarding the contract.

§4217.17. Public agencies' authority.

This chapter does not limit the authority of any public agency to construct energy conservation projects or to enter into other leases or contracts relating to the financing construction, operation, or use of alternate energy type facilities in any manner authorized under existing law. This chapter shall not be construed to abrogate Section 14671.6.

§4217.18. Flexibility as to structuring of, characterizing components as realty or personalty, and granting security interests.

The provisions of this chapter shall be construed to provide the greatest possible flexibility to public agencies in structuring agreements entered into hereunder so that economic benefits may be maximized and financing and other costs associated with the design and construction of alternate energy projects may be minimized. To this end, public agencies and the entities with whom they contract under this chapter should have great latitude in characterizing components of energy conservation facilities as personal or real property and in granting security interests in leasehold interests and components of the alternate energy facilities to project lenders.

