



Legislation Details (With Text)

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**Title:** Actions related to the City of Fresno’s Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project:  
1. Reject all Design-Build proposals received for the City of Fresno’s Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project - Bid File No. 3531 (Council District 6)  
2. Rescind staff’s finding that Mountain Cascade Inc., is non-responsible

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. List of Proposers - Bid File 3531 Attachment 1.pdf, 2. Findings and Recommendation Ltr - Independent Admin Hearing Officer.pdf, 3. Supplement - NSWTF.pdf

Date	Ver.	Action By	Action	Result
3/22/2018	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**March 22, 2018**

**FROM:** THOMAS C. ESQUEDA, Director  
Department of Public Utilities

**THROUGH:** MICHAEL CARBAJAL, Planning Manager  
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**SUBJECT**

Actions related to the City of Fresno’s Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project:

1. Reject all Design-Build proposals received for the City of Fresno’s Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project - Bid File No. 3531 (Council District 6)
2. Rescind staff’s finding that Mountain Cascade Inc., is non-responsible

## RECOMMENDATIONS

Staff recommends that City Council reject all Design-Build proposals received for the City of Fresno's Northeast Surface Water Treatment Facility (NESWTF) Six-Million Gallon Finished Water Reservoir Project (Project); and rescind staff's finding that Mountain Cascade Inc., is non-responsible for the NESWTF Project.

## EXECUTIVE SUMMARY

The Department of Public Utilities, Water Division, is seeking to reject all Design-Build proposals received for the City of Fresno's NESWTF Six-Million Gallon Finished Water Reservoir Project. There were two Design-Build proposals received for the Project. Following a posting of staff's determination, an appeal was received and a protest hearing was held. The Independent Administrative Hearing Officer recommended that City Council reject all proposals and reinstate the procurement process for the Project.

## BACKGROUND

The City's NESWTF can produce up to 30-million gallons of potable drinking water per day. During periods of high demand, the current 1.5-million gallon finished water reservoir restricts operational flexibilities related to maintaining adequate storage to meet fire flow requirements, emergent or unanticipated shutdowns, operator timelines for addressing and remediation of any undesirable water quality changes, and potential future site expansion to its ultimate build-out capacity of 60 million gallons per day (MGD).

The first steps in removing these restrictions included preparation of a project Supplemental Mitigated Negative Declaration (SMND) to address the potential environmental effects of the proposed tank location as shown on the 30% bid documents. Addendum No. 1 to the SMND was necessary to address alternative on-site tank locations outside the originally assessed area. These documents were prepared in accordance with the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000 et seq., the California CEQA guidelines, California Code of Regulations, Title 14, Section 15000 et seq.; and the rules, regulations, and procedures for implementing CEQA as adopted by the City of Fresno. Both SMND and Addendum No. 1 to SMND were adopted by City Council on August 3, 2017.

The Federal Safe Drinking Water Act Amendments of 1996 authorized the creation of a Drinking Water State Revolving Fund (DWSRF) program. On January 1, 2015, fund policy changes by California State Water Resources Control Board (SWRCB) were implemented and now provide for funding of additional water infrastructure projects, which include water storage tanks and transmission/supply pipelines. Additional changes in annual application processes include opportunities to submit water infrastructure construction funding applications on an ongoing (rolling) basis throughout the year.

The estimated total amount for completion of this project is \$14,000,000. Compared to an average standard bond interest rate of 5.5%, a typical State Revolving Fund (SRF) interest rate of 1.7% would result in a rate payer savings of approximately \$12,000,000 over a 30-year term. On July 18, 2017, the SWRCB issued a financing evaluation letter, outlining the DWSRF conditions for the Project.

The Reimbursement Resolution and the Pledge Revenue Resolution for this Project have been adopted by City Council on August 3, 2017. Council adoption of these Resolutions enables SWRCB to proceed in issuance of an executed funding agreement. The contract award for the Project will be funded through acceptance and execution of a SWRCB SRF low-interest loan. The construction NTP shall not be issued until an eligibility date has been established by SWRCB.

On April 7, 2017, 30% construction plans and specifications for a Design-Build contractor were advertised on PlanetBids. On April 18, 2017, the City conducted a Mandatory Pre-Bid Conference for interested Design-Build contractors with over a dozen contractors and subcontractors participating. On May 16, 2017, the City received two (2) proposals from contractors in response to the City's solicitation for the Project. Based on the City's evaluation of the submitted Design-Build proposals and the contractors' Design-Build experience, expertise, and track record, W. M. Lyles Co., was determined to be able to provide the best value to the City.

The other proposer, Mountain Cascade, Inc., (MCI) filed an appeal of staff's determination that "MCI was non-responsible due to the team's inadequate experience in Design-Build projects." On August 16, 2017, a protest hearing was held for MCI to present its appeal to the Independent Administrative Hearing Officer (Hearing Officer). The Hearing Officer recommended that City Council reject all bids and reinitiate the procurement process for the Project. The Hearing Officer's findings and recommendation letter is attached. In consideration of the Hearing Officer's findings and recommendation, staff now recommends that City Council reject all Design-Build proposals received for the City of Fresno's NESWTF Project and rescind staff's finding that Mountain Cascade Inc., is non-responsible for the NESWTF Project.

## **ENVIRONMENTAL FINDINGS**

The City of Fresno Metropolitan Water Resources Management Plan Update (Metro Plan Update) EIR (SCH No. 2013091021) was prepared and adopted by the Council on June 12, 2014. The Metro Plan Update EIR is a project level EIR pursuant to CEQA Guidelines §15168 and is tiered from the MEIR (SCH NO. 2012111015). An analysis was performed pursuant to CEQA Guidelines §15162 to determine whether subsequent environmental review was required for the Project and a supplemental environmental assessment Initial Study/SMND (SCH No. 2017041061) and subsequent SMND Addendum No. 1 was prepared for the Project.

It has been determined that all applicable mitigation measures of MEIR and Metro Plan Update have been applied to the Project, together with project specific mitigation measures necessary to assure that the Project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified, as provided by CEQA Section 15178(a). In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), staff has determined that no substantial changes have occurred with respect to the circumstances under which the MEIR and Metro Plan Update were certified, and that no new information, which was not known and could not have been known, has become available. Therefore, it has been determined based upon the evidence in the record that the Project will not have a significant impact on the environment and that the filing of the SMND and SMND Addendum No. 1 was appropriate in accordance with the provisions of CEQA Section 21157.5(a)(2) and CEQA Guidelines Section 15178 (b)(1) and (2).

Based upon the environmental assessment and the list of identified mitigation measures, staff has determined that there is no evidence in the record that the Project may have a significant effect on the environment and has prepared an SMND and SMND Addendum No. 1 for this Project. This

process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. The State Clearinghouse submitted the SMND and SMND Addendum No. 1 to selected State agencies for review, and no comments or appeals specifically related to the SMND were received by the comment period closing date of May 20, 2017, and no comments or appeals specifically related to the SMND Addendum No. 1 were received by the comment period closing date of July 22, 2017.

Both SMND and Addendum No. 1 to the SMND were adopted by City Council on August 3, 2017. Notices of Determination for SMND and Addendum No. 1 to the SMND were filed with State Clearinghouse on August 16, 2017.

Based upon these findings, it has been determined that no further environmental documentation is required for this project.

### **LOCAL PREFERENCE**

Local preference was not implemented because the Department of Public Utilities, Water Division, is seeking to reject all Design-Build proposals received for the Project.

### **FISCAL IMPACT**

The rejection of Design-Build proposals will not impact the General Fund. The Project will be funded by a DWSRF low-interest loan through the SWRCB. Appropriations are included in Water Division's Fiscal Year 2018 Capital Improvement Program adopted budget. On August 3, 2017, City Council adopted the 10th amendment to the Annual Appropriation Resolution (AAR) No. 2017-165 to appropriate additional funding for the Project based on the most recent project construction cost projections.

#### **Attachments:**

Listing of Proposers

Findings and Recommendation Letter of the Independent Administrative Hearing Officer