



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: July 27, 2020

Approved

Date

7/31/20

COUNCIL DISTRICT: 2

SUBJECT: GRANT OF FRANCHISE TO HUMMINGBIRD ENERGY STORAGE, LLC

RECOMMENDATION

Adoption of a resolution:

- (a) Declaring the intention of the City Council to grant a franchise to Hummingbird Energy Storage, LLC, for the purpose of transmission of electricity to PG&E's Metcalf Substation;
- (b) Set a Public Hearing on August 25, 2020, at 1:30p.m., to hear any objections to the granting of the franchise; and
- (c) Direct the City Clerk to publish notice of the public hearing.

OUTCOME

Adoption of this resolution will enable Council to conduct a public hearing to consider objections to the City's intent to grant a franchise to Hummingbird Energy Storage, LLC. (Hummingbird Energy), for the installation and construction of electric interconnection and transmission facilities and appurtenances within the City's public rights-of-way on Monterey Road from the Hummingbird Energy site, located at 6321 San Ignacio Avenue, to the existing Pacific Gas & Electric Metcalf Substation.

BACKGROUND

The Hummingbird Energy development is a utility-scale energy storage project, which provides essential services for electric utilities. The proposed battery storage offers an innovative technology that promotes greenhouse gas reduction and renewable energy integration that is consistent with the City's Climate Smart goals.

The Hummingbird Energy project includes the installation and construction of electric interconnection and transmission facilities and appurtenances related to Hummingbird Energy's operation of a utility facility for energy storage, installation of a substation, and an underground transmission line along Monterey Road connecting the substation to the Pacific Gas & Electric (PG&E) Metcalf Substation. The interior tenant improvements consist of the installation and operation of a 75 MW/ 300 MWh energy storage facility within an existing building that is approximately 102,462 square feet. The building will physically contain house lithium ion batteries, racking/cabinets, and collection boxes. The batteries will be assembled within the racks and cabinets, similar to how a computer data center is configured. No power will be generated on site. When the energy storage system is being charged (absorbing energy from the electric grid), it is considered an electric load, similar to an electric car. When the energy storage system is discharging (releasing energy back to the grid), it is returning energy that has been stored in this facility. The movement of energy is dependent on market and utility demand determined by PG&E.

The proposed pipeline within Monterey Road will be approximately 2.5 miles of 115 kV cable enclosed in 24-inch diameter Schedule 40 PVC conduit. Additionally, concrete splice vaults will be placed at a maximum of 2,000 feet intervals. The conduits and vaults are proposed to be at a depth of approximately 6 to 8 feet.

Hummingbird Energy has executed a long-term agreement with PG&E to provide electric energy resource adequacy. The City granted Hummingbird Energy a Conditional Use Permit (CP19-020) on May 13, 2020.

The purpose of the franchise is to enable Hummingbird Energy to use the City's public right-of-way as described in Attachment A.

ANALYSIS

Under Article XIII of the San Jose City Charter, the Council is empowered to grant a franchise by ordinance to any person for the purpose of furnishing the City or its inhabitants with water, light, heat, gas, etc., or any other public utility or service using or proposing to use any public street, way, alley or place in the City. Subject to the provisions of Article XIII of the San Jose City Charter, the Council may grant a franchise pursuant to procedures prescribed by ordinance or by State law.

Chapter 15.32 of the San Jose Municipal Code sets forth the City's exclusive procedures applicable to the granting of gas and electrical franchises by the City including the procedure by which the City may grant a franchise to construct or use, poles, wires, conduits, and appurtenances for transmitting and distributing electricity.

The proposed franchise is in the form of an ordinance and the Council will consider any objections to the granting of the franchise at the public hearing on August 25, 2020. Notice of the hearing will be provided in accordance with Section 15.32.040 of the San Jose Municipal Code as described further below.

If the City Council adopts the resolution on August 11, 2020, declaring its intention to grant the proposed franchise ordinance, the ordinance will be scheduled for the City Council's consideration on August 25, 2020.

The proposed franchise is for a term of twenty-five years (25) years. It sets forth various requirements for the construction, operation and maintenance of Hummingbird Energy's project including insurance, bonds and indemnification requirements.

Additionally, the proposed franchise provides that the City will receive an annual franchise fee of \$11,182.00, subject to an annual escalator based on the Consumer Price Index beginning with the second January after the effective date of the franchise. This fee is consistent with the Wickland Pipeline franchise approved in August of 2010, with rate adjustment to 2020 dollars. The same fee structure is used to calculate the annual franchise fee for Hummingbird Energy because the two projects have similar pipe size, length, material and they are both used for the transmission and delivery of utility services within the public right-of-way.

The franchise also provides that Hummingbird Energy will compensate the City for all of the actual and administrative costs incurred by the City in relation to the approval, administration, and implementation of the franchise.

An encroachment permit will be issued to Hummingbird Energy for the installation and construction work that it performs within the public right-of-way.

Hummingbird Energy plans to start construction in the third quarter of 2020 with the project operational by the fourth quarter of 2021.

CONCLUSION

Staff supports the action to consider granting a franchise to Hummingbird Energy Storage, LLC for electricity transmission purpose. The Hummingbird project is designed to provide an affordable and reliable capacity resource for PG&E. The proposed energy storage system supports California's transition to a cleaner and more resilient electric system. It will also provide an array of energy and ancillary services to California's electric grid, enhancing reliability and facilitating greater ability to integrate renewable energy resources.

EVALUATION AND FOLLOW-UP

The City Council will conduct a public hearing at the August 25, 2020 Council meeting to hear any objections to the City's intent to grant the franchise. Any interested person may make a written protest stating objections against the granting of the franchise. All protests shall be signed by the protestant and be mailed or delivered to the City Clerk at 200 E. Santa Clara Street, 14th floor, San Jose, CA 95113, no later than 12pm on 8/25/20. At the time set for hearing, Council shall hear all objections and pass upon all protests made and its decision shall be final and conclusive.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

The project received City's Planning Commission approval on May 13, 2020. Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project.

This memorandum will also be posted on the City's website for the August 11, 2020 Council agenda. The City Clerk will also be directed to publish notice of the public hearing.

COORDINATION

This memorandum has been coordinated with the City Manager's Office of Economic Development, Department of Transportation, Planning, Building and Code Enforcement, City Attorney's Office and the City Manager's Budget Office. The required resolution to set the public hearing has been prepared by the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

On May 13, 2020, the Planning Commission voted to approve the Conditional Use Permit (CP19-020). The motion passed 4-0-2 by vote.

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COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees during fiscal year 2019-2020, of \$7,321 to process the subject franchise. These fees were received to support the Public Works Development Fee Program.

Additionally, the City will receive an annual franchise fee of \$11,182.00, subject to an annual escalator based on the Consumer Price Index beginning with the second January after the effective date of the franchise.

CEQA

Initial Study/Mitigated Negative Declaration for the Hummingbird Energy Storage Project, File No. CP19-020

/s/

MATT CANO

Director of Public Works

For questions please contact Matt Loesch, Assistant Director of Public Works, at (408) 535-8300.

Attachment

