



## Legislation Details (With Text)

**File #:** 16-1198

**On agenda:** 9/27/2016

**Final action:** 9/27/2016

**Enactment date:**

**Enactment #:** Agreement No. 16-583

**Title:** Make a finding that it is in the best interest of the County to waive the competitive bidding process consistent with Administrative Policy No. 34 under the "agreement with a federal, state, or local governmental agency" exception for the State of California Department of General Services Natural Gas Services Program to provide natural gas for County non-core natural gas accounts; and approve and authorize Chairman to execute a retroactive agreement with the State of California Department of General Services Natural Gas Services Program for the period of July 1, 2016 to June 30, 2017 to provide natural gas for County non-core natural gas accounts

**Attachments:** 1. Agenda Item, 2. Suspension of Competition Acquisition Request, 3. Agreement A-16-583 for Natural Gas with DGS

Date	Ver.	Action By	Action	Result
9/27/2016	1	Board of Supervisors	Consent Agenda be approved	Pass

**DATE:** September 27, 2016

**TO:** Board of Supervisors

**SUBMITTED BY:** Robert W. Bash, Director of Internal Services/Chief Information Officer

**SUBJECT:** Agreement with the State Department of General Services to Provide Natural Gas to the County

### RECOMMENDED ACTION(S):

- 1. Make a finding that it is in the best interest of the County to waive the competitive bidding process consistent with Administrative Policy No. 34 under the "agreement with a federal, state, or local governmental agency" exception for the State of California Department of General Services Natural Gas Services Program to provide natural gas for County non-core natural gas accounts.**
- 2. Approve and authorize Chairman to execute a retroactive agreement with the State of California Department of General Services Natural Gas Services Program for the period of July 1, 2016 to June 30, 2017 to provide natural gas for County non-core natural gas accounts.**

The California Public Utility Commission allows non-core users of natural gas (more than 250,000 therms per year) the ability to obtain natural gas from independent gas suppliers and use the gas utility companies solely for transportation purposes. The downtown jail central plant and University Medical Campus (UMC) central plant, both non-core accounts, each exceed 250,000 therms per year and are eligible to procure natural gas from independent gas suppliers instead of the local utility company. The County has been purchasing natural gas from the Department of General Services (DGS) since January 1, 2006 for the downtown jail central plant. The UMC campus was added to the DGS agreement on September 1, 2010 when the County resumed responsibility for the UMC. Approval of the recommended actions will allow the County to continue purchasing natural gas from DGS retroactively from July 1, 2016 through June 30, 2017.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended actions, the County will need to find another means for procuring natural gas for non-core accounts.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

Recommended Action No. 1 is to waive the customary competitive bidding process consistent with the "agreement with a federal, state, or local governmental agency" exception contained in Administrative Policy No. 34. Purchasing agrees with the department's request to suspend the competitive bidding process for this item. Natural gas is one of the most volatile commodities traded on the futures market. Price fluctuations of natural gas can pose a significant budget risk for public organizations with fixed annual utility budgets that use natural gas to deliver vital services to the public. Supply and demand factors of the natural gas market are monitored and evaluated by DGS to determine when, how much, and for what price a range of gas market forward purchase structures (futures) should be procured.

RETROACTIVE AGREEMENT:

The agreement with DGS expired on June 30, 2016 due to an oversight and shortage of staff. DGS agreed to continue to provide services until a new agreement is in place. The recommended actions before your Board today establishes a one-year solution with the option to continue for an additional 12-month Fiscal Year, and provides staff with additional time to complete a thorough analysis regarding available long-term solutions to purchase natural gas at the best price.

FISCAL IMPACT:

The annual cost of natural gas for this agreement varies based on consumption. Costs are incurred by the Facility Services Division and billed back to users occupying the facilities. It is projected that the cost of natural gas will increase due to increased costs and increased consumption based on growth of County departments. This agreement provides a fixed unit cost of the commodity for non-core County facilities.

DISCUSSION:

The California Department of General Services' Natural Gas Services (NGS) Program is the primary supplier of natural gas in California to state and local governments. NGS serves many large public sector organizations that need reliable gas supply and follows the public procurement competitive bidding process to select and contract with natural gas suppliers for the exclusive benefit of its customers. As a result of deregulation, non-core users (more than 250,000 therms per year) are allowed to purchase natural gas from independent gas suppliers and use the gas utility companies solely for transportation purposes.

The County has been purchasing natural gas from DGS since January 1, 2006 for the downtown central plant. The UMC campus was added to the DGS Agreement on September 1, 2010 when the County resumed responsibility for the UMC. Staff is reviewing the addition of the Juvenile Justice Campus (JJC) plant as a non-core account. Should staff recommend the addition of the JJC plant as a non-core account, it will be brought back to your Board for consideration.

The agreement with DGS expired on June 30, 2016. DGS agreed to continue providing services until a new agreement can be executed. The recommended action before your Board today establishes a one-year solution with the option to continue for an additional 12-month fiscal year unless terminated by either party. This will allow the County to continue receiving natural gas at a fixed rate while conducting a thorough cost analysis regarding available long-term solutions to purchase natural gas at the best price. The agreement does not include an insurance clause, audit requirement clause, self-dealing transaction clause, or independent contractor and indemnification provisions, which are deviations from the County's standard modal

contract. Additionally, the State will sign the agreement after Board approval.

REFERENCE MATERIAL:

BAI #21, January 31, 2012

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request  
On file with Clerk - Agreement

CAO ANALYST:

John Hays