

**CITY OF LAREDO
SPECIAL CITY COUNCIL MEETING
M2002-SC-001
CITY COUNCIL CHAMBERS
1110 HOUSTON STREET
LAREDO, TEXAS 78040
APRIL 22, 2002
5:30 P.M.**

I. STAFF REPORTS

1. Status report by staff and City consultants regarding the possible privatization of the City's water and wastewater operations, with possible action.

Cm. Galo, Chairperson of the Utilities Privatization Oversight Committee, provided an overview of how City staff addressed this issue at their meeting. He stated that a presentation was made by the City's consultants. He mentioned that City Manager, Larry Dovalina, asked for a motion from the committee to proceed with the privatization and said motion passed. The City Manager then went ahead and submitted its recommendation to the committee and they selected OMI for proposals #1 or #3 and United Water for proposal #2.

Cm. J. Valdez, Jr. stated that he is concerned about the quality of service to be provided to the taxpayer. He mentioned that he has spoken to Beto Ramirez, Interim Utilities Director, in the past regarding the number of employees needed to run the system and their ideal numbers do not jive given the number of employees currently working for the Utilities Department. The difference is roughly 91 employees which translates to \$2.2 million in savings if those employees were to retire early. He is also concerned about the quality of water service that the community as a whole would be receiving. In his opinion, this change would not be providing any real savings. If the City would want to move employees around that would be \$2.2 million savings for the City. If you take that from the \$4 million savings that the firm is promoting, then the savings would be \$3.5. Right now, the anticipated savings is only \$2 million if the proposal from OMI were to go through. There are still many other issues to be addressed. He feels there are two many gray areas to allow for any one of the companies to modify the contract at a later date.

Cm. Galo stated that he disagrees with Cm. Valdez on the savings calculations. What has happened now is that the savings being proposed here is \$2.9 million and there is also an \$800,000 transition cost which the City always knew would be included. He mentioned that the City has now gone back and deliberated on the base line which he thinks has been a good effort from Mr. Ramirez and city staff to identify where the costs lie within the City. The City went ahead and established a base line, the companies have used that base line and have gone in and given the City a price. As a result, what has happened is that the City has taken out some of the profit factors that they had figured in. As the City made adjustments to save money on its own, we started whittling away at theirs. We still managed to come out with a \$2.9 million savings less the transition costs. That still quantifies out to a total savings of \$61,392,000

and \$50,871,000, respectively. He commented that the City Manager was fair and equitable in all the discussions held and he has acknowledged that the cost savings are there. The City is being guaranteed, as much as one can secure a guarantee, that the level of service will be equal to or better than the existing service. He also mentioned that aside from creating numerous hypothetical situations, the City has a termination for convenience. The advantage here is that a private company can guarantee the City a price for the next five or ten years, and the City cannot do that.

Cm. Bruni stated that the employees have nothing to worry about. He assured the City employees that their jobs and benefits will remain the same or better; including their retirement benefits. No City employee's job is going to be placed in jeopardy. He stated that he would not vote for privatization if any employee were to be hurt. He also mentioned that as far as he is concerned United Water offers better compensation, better stock purchase programs, annual bonuses, life insurance, long-term disability insurance, etc. All City employees would remain employees of United Water, plus over a ten-year period, United Water would provide a substantial savings of \$61,392,000. That money will go straight into the City's secondary source of water which is one of the most important projects undertaken by the City of Laredo. He mentioned that the savings to be generated through this privatization effort would guarantee economic development for the City of Laredo.

Cm. Agredano stated that the only way he would vote for privatization would be if none of the employees would be hurt in any way. Looking over these contracts and listening to what these two companies have said, they have told the City that this will not occur.

Beto Ramirez, Interim Utilities Director, reported that the latest information available reflects that the City of Laredo does have the lowest water and wastewater rates. In terms of the cost savings discussed, City staff has gone through an evaluation of the financial information and they submitted new information to City Council this afternoon. He mentioned that the City has to take into consideration what the first year savings is because that will be the base for the next five or ten years. He cautioned City Council on the \$2.9 million savings stressing that he feels it is very unfair and risky to say that those monies could be used for other projects because the companies will not guarantee those savings. City Council needs to know that these are proposed savings assuming everything in the contract goes smoothly and no unforeseen circumstances arise that fall within the gray areas of the contract. If City Council commits \$2.9 million for another project, after seeing the savings from one year to the next, those savings might not be there.

Mayor Flores stated that when the newspapers or City Council talk about savings, those proposed savings will be passed over to the consumer (ratepayers); it will be used to make improvements to the system, and it will be passed on to the employees. She emphasized that the City Council has to be clearer to the public on what the City intends to do and be made aware that there may not be cost savings. That at the end of the day, the City is going to try to use these funds for other important projects necessary to the City. However, people want to know what is going to happen to their water bill today.

Mayor Pro Tempore Valdez, Jr. inquired based on the City's projected growth, how much does the City need to invest in capital improvements and how do we fund those capital improvements.

Beto Ramirez, Interim Utilities Director, reported that the current CIP lists about \$45 million that the City would need to invest. To begin with, staff would need to look at the fund to see if they could use any part of the fund balance to offset part of the costs; look for efficiencies within the system to see if expenses could be reduced; find ways to look for additional revenues. Ultimately, the last vehicle for funding capital improvements would be for the City to issue a bond.

Rick Sapir, with Hawkins, Delafield, and Wood, reported on part of the recommendation of the Evaluation Committee:

The Evaluation Committee which consists of one member from each of the City Attorney's Office, the Utilities Department, the City Manager's Office, and the technical, financial, and legal advisory firms hired by the City, has undertaken a thorough review and analysis of the proposals submitted by OMI/Thames Water and United Water in response to the City's Request for Proposals, as such proposals have been clarified by the proposers' responses to the City's Request for Clarification and Resubmittals and various written and oral clarification questions. Each proposer submitted responses to three proposal scenarios:

Proposal Scenario One which required the proposers to offer employment to each City employee currently performing the services specified in the Request for Proposals (the "Management Services") at equal or better wages and benefits with a no-layoff policy;

Proposal Scenario Two which required the proposers to offer employment to each City employee currently performing the Management Services at equal or better wages and benefits with a no-layoff policy and to maintain the current staffing level (216 employees) throughout the term of the Service Contract; and

Proposal Scenario Three which is the same as Proposal Scenario One except that the proposers would not be required to offer employment to the City's 18-man construction crew. For each of the three Proposal Scenarios, the proposers proposed guaranteed pricing for both a five-year term with a five-year renewal upon the same (or better) terms and conditions which could be exercised by the City at its sole option, and a ten-year term. The objective of the evaluation was to identify which of the proposals is most advantageous to the City under each Proposal Scenario.

In accordance with the provisions of the Request for Proposals, the Evaluation Committee has evaluated the proposals based upon several factors. These factors included business, technical, and pricing considerations. In order to assist the Evaluation Committee with its review and analysis, evaluation reports were prepared by THC Utility Management Specialists (with respect to technical aspects of the proposals), Competitive Government Strategies (with respect to pricing aspects of

the proposals) and Hawkins, Delafield & Wood (with respect to contractual aspects of the proposals), copies of which are provided herewith.

The Evaluation Committee determined to accord 50% of the evaluation weight to pricing matters and 50% to non-pricing matters (technical and business). Several factors were considered within each of these broad categories. The technical evaluation included an analysis of each proposer's (i) qualifications and experience; (ii) technical approach to this project; (iii) acceptance of employee-related requirements; (iv) proposed site manager and key staff; and (v) performance record, and each of these areas included subcategories. The business evaluation considered (i) the risk assumption of each proposer as indicated in its mark-up to the draft Service Contract and Guaranty Agreement provided to the proposers, (ii) any proposed limitations on Guarantor liability, and (iii) the financial strength of the proposed Guarantors. The pricing evaluation consisted of a comprehensive review of the cost aspects of the proposals including, but not limited to, the proposed guaranteed fixed component of the Service Fee, proposed variable components of the Service Fee, the maximum electricity utilization guarantee and other cost factors. The pricing evaluation took into consideration the net present value of the proposers' pricing proposals over a five-year term and a five-year term followed by a five-year renewal term. In addition, sensitivity analyses were performed to determine the effect, if any, of variation from assumptions included in the net present value calculation and to take into effect the pricing proposed for a 10-year term.

Cm. Guerra asked for clarification as to what the companies' policy would be concerning the employees.

Beto Ramirez stated that both companies have agreed under Proposal Number One to hire all the employees that would like to be hired. If an employee chooses not to be hired by the company, then this proposal would give both companies a situation which they can evaluate and they can do without those employees although they may not reach the personnel numbers.

Cm. Guerra inquired whether the Employee Committee members have considered the various employee severance packages being offered.

Cm. Galo explained that for those employees who opt not to work for the private company have an option. Both companies have offered a training package where they will provide re-training to those individuals who do not want to transfer in order to qualify for another job within the City. Both companies mentioned that for those individuals who have 25 years of service, they can sign on with the company and then negotiate a buy-out package with the company, but it is not going to be pre-determined. These individuals would have to be hired first and then be offered a severance package.

Motion to privatize the City's water and wastewater operations.

Moved: Cm. Guerra

Second: Mayor Pro Tem E. Valdez, Jr.

For: 6

Against: 2

Abstain: 0

Cm. J. Valdez, Jr.
Cm. Amaya

2. Status report by staff and City consultants regarding the recommendation for selection of a company for continued negotiations, with possible action.

Rick Sapire, with Hawkins, Delafield, and Wood continued with the recommendation report from the Evaluation Committee.

Recommendation

Based upon the evaluation undertaken, the Evaluation Committee has determined that for Proposal Scenarios One and Three, OMI/Thames Water has provided the most advantageous proposal; and for proposal Scenario Two, United Water has provided the most advantageous proposal. Therefore, the Evaluation Committee recommends that if the City desires to pursue a contract pursuant to Proposal Scenario One or Proposal Scenario Three, OMI/Thames Water be designated for final negotiations, and that if the City desires to pursue a contract pursuant to Proposal Scenario Two, United Water be designated for final negotiations. It is further recommended that if the City designates OMI/Thames Water for negotiations pursuant to Proposal Scenario One or Three, but is unable to negotiate a successful final Service Contract, that the City enter into negotiations with United Water.

Discussion

In general, with respect to Proposal Scenarios One and Three, the Evaluation Committee determined that the relative strength of OMI/Thames Water's technical and business proposal aspects outweighed the somewhat more advantageous pricing proposal submitted by United Water. The projected savings (averaged over the terms considered) associated with United Water's pricing proposals for Proposal Scenarios One and Three, respectively, were approximately 10% and 6% higher than those proposed by OMI/Thames Water. The relative strengths of the non-cost aspects of the OMI/Thames Water proposal that ultimately outweighed United Water's cost advantage, include, but are not limited to, the following:

Technical

stronger experience in Texas interacting with the TNRCC (more projects, longer period of time, wastewater and water project experience)

more advantageous training and long-term utilization of existing experience staff

less risk with respect to residuals management

less risk of failure to achieve anticipated electricity consumption efficiencies

project manager with significantly more water/wastewater operations experience
stronger references and site visit experiences

Business

proposal of joint and several liability of Guarantors CH2MHill Companies, Ltd and Thames Water Holdings, Inc., two financially strong entities, provides a strong hedge against a financial downturn of the Guarantor

significantly higher limitation on Guarantor liability

more limited pay-outs by Guarantor counted against limitation on liability

proposes to guarantee additional revenue generation to the City (in the amount of \$1,567,000 over ten years) beyond that revenue which will be generated from decreasing the Unaccounted for Water Guarantee from 25% to 18%

provides a relatively low "convenience" termination fee, \$1,982,775, which is less than half the fee proposed by United Water

greater assumption of the "as-is" risk of the System

The Evaluation Committee further concluded that under various sensitivity analyses, including consideration of all term lengths, the OMI/Thames Water proposal is more advantageous under Proposal Scenarios One and Three.

With respect to Proposal Scenario Two, the pricing proposal of United Water was significantly more advantageous than the pricing proposal provided by OMI/Thames Water (approximately 80% more "savings" than OMI/Thames Water's price proposal for the terms considered under the scenario). As a result, the Evaluation Committee determined that the significant price advantage offered by United Water for Proposal Scenario 2 outweighed the non-price advantages offered by OMI/Thames Water's proposal. The conclusion was consistent under various sensitivity analyses.

Conclusion

Both proposers have provided high quality proposals and have made significant efforts in their participation in the City's procurement. They have both agreed to perform all of the Management Services, assume significant contractual risk, comply with all regulatory and enhanced treatment requirements, undertake significant asset maintenance responsibilities including those of a capital nature and offer employment to all employees currently performing the Management Services on terms and conditions which include equal or better wages and benefits and no layoffs, all for a guaranteed price. Based on the proposals submitted, however, the Evaluation Committee has determined that for Proposal Scenarios One and Three, OMI/Thames Water has provided the most advantageous proposal to the City, and

for Proposal Scenario Two, United Water has proposed the most advantageous Proposal. In the event negotiations pursuant to any Proposal Scenario are unsuccessful, it is likely that if directed by the City, a favorable contract can be achieved with the second proposer.

Larry Dovalina, City Manager, reported that the contractor is coming back for City Council approval by April 30th. He mentioned that they have instructed staff involved

in the contract negotiations to leave for New York tomorrow to begin intense negotiations until this contract is finished. We would ask that any concerns by City Council be made in writing so that they may be incorporated into the contract. They have also had discussions with Noe Hinojosa, Consultant, regarding his concerns and he will be submitting those concerns in writing. He stated that city staff is recommending Proposal Number One together with OMI/Thames as the company to be selected.

Cm. Galo mentioned that during the workshops, they talked about the baseline costs and the savings. What the company is guaranteeing the City is their fixed costs. What is not protected are the revenues and he has a concern should there be some unforeseen event that would bring a decline in revenues. He wants to have an assurance from the companies that they cannot charge the City a base fee if they are not producing the water. On the issue of savings to the secondary water source project, he stated that there will be some savings. The water would come into the system, there will be reduced pumping at the Jefferson water plant along with a reduction in power consumption, but they do not have a reduction in manpower because it has to be manned 24 hours a day.

Larry Dovalina, City Manager, commented that on the issues related to savings, he has directed Beto Ramirez to take those monies saved and place it on a Restricted Reserve Fund as they would do with the projected savings by going to the privatization.

Cm. Bruni stated that in the report he received from TNRCC, Amistad and Falcon Dams were at 31.92% of capacity. The report also stated that there was little, if any, inflow to either one of those reserves.

Cm. Amaya made a motion to select OMI/Thames Water with Proposal Scenario Number One which was seconded by Cm. J. Valdez, Jr.

Motion dies for lack of majority vote.

Motion to instruct the City Manager to begin negotiations with United Water under Proposal Scenario One for a 5-year contract followed by a 5-year renewal and to present the contract for approval and execution at the City Council meeting of May 1, 2002.

Moved: Cm. Guerra

Second: Cm. Bruni

For: 8

Against: 0

Abstain: 0

Mayor Flores also mentioned that Council had made a motion not to accept staff's recommendation as this Council had put more weight on the pricing.

II. MOTION

3. Consideration to reschedule regular City Council meeting of Monday, May 6, 2002 to Wednesday, May 8, 2002.

Motion to approve.

Moved: Cm. Bruni

Second: Cm. Agredano

For: 8

Against: 0

Abstain: 0

III. EXECUTIVE SESSION

The City Council hereby reserves the right to go into executive session at any time during this public meeting, if such is requested by the City Attorney or other legal counsel for the City, pursuant to his or her duty under Section 551.071(2) of the Government Code, to consult privately with his or her client on an item on the agenda, or on a matter arising out of such item.

IV. ADJOURNMENT

Motion to adjourn.

Time: 7:10 p.m.

Moved: Cm. Bruni

Second: Cm. Agredano

For: 8

Against: 0

Abstain: 0

I, Gustavo Guevara, Jr., City Secretary, do hereby certify that the above minutes contained in pages 01 to 08 are true, complete, and correct proceedings of the City Council held on April 22, 2002.

Gustavo Guevara, Jr.
City Secretary