



# City of Grand Island

Tuesday, September 22, 2009

Council Session

## Item G9

**#2009-234 - Approving Termination of Contract for Mercury  
Monitor Emissions with Sick Maihak**

Staff Contact: Gary R. Mader

# Council Agenda Memo

**From:** Gary R. Mader, Utilities Director  
Wesley Nesor, Asst. City Attorney/Purchasing

**Meeting:** September 22, 2009

**Subject:** Contract Termination – PGS Mercury Continuous Emissions Monitor

**Item #'s:** G-9

**Presenter(s):** Gary R. Mader, Utilities Director

## Background

As part of environmental regulatory requirements, the Platte Generating Station was mandated by the federal Clean Air Mercury Rule (CAMR) to have a mercury emissions monitor in service by January 1, 2009. In September 2006, Black & Veatch (B & V) of Kansas City was awarded a contract for the engineering for procurement and installation of the mercury monitor. B & V developed specifications and bids were solicited for the required monitor. The contract for the purchase of the mercury emissions monitoring equipment was awarded at the March 27, 2007 City Council meeting to Sick Maihak of Bloomington, MN for \$149,900.

## Discussion

Since the installation of the mercury emissions monitoring equipment, the mercury monitoring regulations have been suspended. Also, the installed mercury emissions monitoring equipment is not fully functional with the terms of the specifications, over two years after contract award. Therefore, Utilities Department staff and representatives from Sick Maihak, Inc., have met to discuss the project. The parties mutually agree that cancellation is an appropriate course of action at this time.

The original contract includes specific provisions for mutually agreed contract cancellation. There have been no payments to Sick Maihak. The Utilities Department recommends terminating the Platte Generating Station Mercury Continuous Emissions Monitor contract pursuant to Article GC.15 of the original contract. The proposed contract cancellation document was prepared by the engineering consultant for this

project, Black and Veatch, and is attached. The full contract is available in the office of the City Clerk or the Utilities Department.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council authorize termination of the Contract for the PGS Mercury Continuous Emissions Monitoring with Sick Maihak, Inc., with no further liability with respect to claims for reimbursement from Sick Maihak, Inc.

### **Sample Motion**

Move to approve termination of the contract with Sick Maihak, Inc., for the PGS Mercury Continuous Emissions Monitor.

RESOLUTION 2009-234

WHEREAS, in 2008, the federally issued Clean Air Mercury Rule (CAMR) required the installation of Mercury monitors to measure power plant mercury emissions; and

WHEREAS, the City of Grand Island, Utilities Department awarded the bid for the purchase of the required mercury monitor at the March 27, 2007 City Council meeting to Sick Maihak of Bloomington, Minnesota for \$149,000; and

WHEREAS, in March of 2008, the Federal District of Columbia Circuit Court of Appeals vacated the CAMR, voiding the previously promulgated regulatory action; and

WHEREAS, the installed mercury monitoring equipment is not fully functional within the terms of the specifications; and

WHEREAS, the City has not made any payments to Sick Maihak to date, and will not be receiving any further billing; and

WHEREAS, no replacement regulation has been developed; and

WHEREAS; Utilities Department staff, representatives from Black & Veatch and representatives from Sick Maihak, Inc., met to discuss methods to cancel the project, and mutually agreed that cancellation is an appropriate course of action pursuant to Article GC.15 of the original contract.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, to terminate the contract with Sick Maihak, Inc., for the purchase of mercury emissions monitoring equipment, with no further liability with respect to claims for reimbursement from Sick Maihak.

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Adopted by the City Council of the City of Grand Island, Nebraska, September 22, 2009.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk

Approved as to Form    ☐ \_\_\_\_\_  
September 16, 2009    ☐ City Attorney