

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kip Harkness

SUBJECT: SEE BELOW

DATE: February 2, 2018

Approved

D. DSYL

Date

2/2/18

INFORMATION

SUBJECT: UPDATE ON NEGOTIATIONS PROCESS RELATED TO THE PROPOSED PILOT PROJECT WITH SIEMENS AND anyCOMM

On June 13, 2017, the City Council took actions related to the Innovative LED Streetlight Replacement Request for Proposals (RFP), declaring Siemens as the winning proposer and directing the City Manager to enter negotiations with Siemens and anyCOMM Holdings Corporation (anyCOMM) for a pilot for up to one-year duration. The City Council also approved the recommendation in the memorandum from Mayor Sam Liccardo dated June 12, 2017, that directed staff to impose certain minimally acceptable terms in the pilot program that would further the City's interests in fiscal sustainability, system reliability, interoperability, and technological benefit to the public. Negotiations were to conclude within 30 days.

Based on the City Council direction, and working closely with the City Attorney's office, staff reached out to Siemens and anyCOMM about next steps. Siemens informed the City Manager that, as the proposed one-year pilot was focused on testing the anyCOMM controller units, the company was declining to participate in the negotiations around the terms and conditions of the pilot.

Staff commenced negotiation discussions with anyCOMM on June 21, 2017 and, over the next several weeks, mutually agreed on the following:

- a) Memorandum of Understanding
- b) Minimally Acceptable Terms
- c) Pilot Use Cases
- d) Financial Payments for City Incurred Costs

The nonbinding MOU was executed by anyCOMM and the Office of City Manager on September 8, 2017.

Subsequently, the Office of City Manager negotiated with anyCOMM to arrive at a set of mutually agreeable contract terms and conditions.

The City shared the final agreement, incorporating agreed-to terms and requested revisions, with anyCOMM on November 30, 2017. Since then, after multiple reminders from the City Manager's Office, anyCOMM has not signed the contract. In mid-December anyCOMM indicated they would approve the contract at their next Board of Directors Meeting on January 16, 2018. At that time the City Manager's Office communicated with anyCOMM the importance of meeting a January 16, 2018 deadline to approve the contract. On January 17, 2018 anyCOMM indicated they would have additional delay. After learning of the potential termination of negotiations anyCOMM indicated on January 31, 2018 that they would be considering the matter at their Board of Directors meeting on February 6, 2018.

Seven months have passed since the City Council directed the City Manager to negotiate and put in place a one-year pilot project. In the Council direction, was an expectation that agreement to terms outlined in the Mayor's memo and approved by Council would occur within 30 days. Despite time spent negotiating in good faith, staff is no closer to starting a pilot to test the anyCOMM lighting controller technology and no closer to upgrading the City's streetlights from sodium and mercury vapor to more efficient, brighter, and whiter light-emitting diode (LED) lights.

Today, the City Manager, under authority designated in the June 12, 2017 City Council direction, informed both anyCOMM and Siemens that the negotiation process is terminated and the City has rejected all proposals submitted in response to the Innovative LED Streetlight Replacement RFP of 2015.

Staff in the Office of Civic Innovation and the Department of Transportation are evaluating next steps. The City Council will be updated via Informational Memorandum as this analysis is concluded.

/s/
Kip Harkness
Deputy City Manager

For questions, please contact Dolan Beckel, Acting Director, Civic Innovation & Digital Services at (408) 535-8260.

