SAINT PAUL
PORT AUTHORITY

MEMORANDUM

TO: BOARD OF COMMISSIONERS
(February 22, 2011 Regular Meeting)

DATE: Feb. 15, 2011

FROM: Laurie J. Hansen

SUBJECT: **ENERGY PARK UTILITY COMPANY (EPUC)**
PUBLIC HEARING – ISSUANCE OF APPROXIMATELY $8,500,000 OF TAX EXEMPT BONDS; AMENDMENT OF MANAGEMENT CONTRACT WITH EVER-GREEN ENERGY; AMENDMENT OF CUSTOMER CONTRACTS WITH USERS OF EPUC SYSTEM; AND AMENDMENT OF FRANCHISE ORDINANCE WITH CITY OF SAINT PAUL
RESOLUTION NO. 4376

Action Requested: Hold a public hearing and grant final approval of a) The issuance of approximately $8,500,000 of tax exempt bonds, b) Amendment of Management Contract with Ever-Green Energy, c) Amendment of the Customer Contracts with users of EPUC system, and d) Amendment of the Franchise Ordinance with the City of Saint Paul.

Background:

The Port Authority owns and operates the Energy Park Utility Company ("EPUC") and thereby provides heating and cooling to all tenants in Energy Park. This system was constructed in the early 1980s and has only two pipes. This technology means that only heat or only cooling can be provided to all tenants at any point in time. The conversion between heating and cooling requires several days. During the spring and fall when nights are cool and days are warm, with both business and residential users, it is difficult to satisfy all users' utility needs.

A conversion to a four-pipe system will address this issue. It allows us to provide both heating and cooling to each building at all times. Each building can then select heating or cooling based on their tenant's needs.

Current Status:

Representatives of Ever-Green Energy (EGE) and the Port Authority have met with the EPUC customers to discuss the conversion to a four-pipe system. During these meetings, each customer was provided a financial analysis of the projected cost of their building's utility cost if provided by the four-pipe system versus installing their own equipment and managing their own heating and cooling. Remaining on a two-pipe system is not a viable option since several large users have indicated they will terminate their relationship with EPUC when their contract expires in 2013 if it remains a two-pipe system. With the loss of these large users, the cost of operating the system would be cost prohibitive for the remaining customers.

Proposal:

Ever-Green Energy and Port Authority representatives have developed a cost-effective four-pipe conversion plan. To finance this conversion, we are planning to issue approximately $8.5 million of conduit revenue bonds which would be repaid with revenues from EPUC. To facilitate that financing, we need to amend the Management Contract with Ever-Green Energy, extend the customer contracts, and renew the Franchise Agreements.

The construction is scheduled to begin in early 2011 and be completed by fall, 2011. When heating season begins in the fall of 2011, the customers would have both heating and cooling available.

Conduit Financing:

The bonds will be conduit financing of the Authority and will not constitute or give rise to a liability of the Authority, the City of Saint Paul, or the State of Minnesota or a charge against their general credit or taxing powers.

The terms of the bonds are:

Type: Tax Exempt Public Facilities Pool Allocation Bonds

Term: 25 Years

Issuer: Saint Paul Port Authority

Borrower: Energy Park Utility Company Pledge of Contract Revenues

Trustee: US Bank

Underwriter: Piper Jaffray & Company

Bond Counsel: Leonard, Street & Deinard

Underwriter's Counsel: Kennedy & Graven

Estimated Sources and Uses of Funds:

Sources of Funds	
Bond Proceeds	$ 8,500,000
Funds on Hand	1,500,000
	$10,000,000
Use of Funds	
Construction Costs	$ 8,350,000
Capitalized Interest	500,000
Debt Service Reserve	850,000
Costs of Issuance	300,000
Total	$10,000,000

The Bonds will be issued in the approximate principal amount of $8,500,000. The bonds will bear interest at a fixed rate, currently expected to be approximately 6-8%.

The Port Authority will receive a fee of .25% of the principal amount of the outstanding bonds annually. The Port Authority will continue to receive a fixed annual payment which will be reduced to $170,000 annually beginning January 1, 2012.

Management Contract:

The Management Contract has been amended to reflect new (reduced) management fees beginning in 2012 when the four-pipe system is functioning. Following is a recap of the fees paid to Ever-Green Energy:

	2010	**2011**	**2012**
Operation, maintenance, and labor services	$40,659	$150,000	$ 35,000
Remote operations and monitoring fee	$15,696	$ 16,128	$ 15,000
Project management services – 4 pipe conversion	$21,000	$ 77,000	$ ---
Management Fee	$114,348	$117,480	$100,000
TOTAL	**$191,704**	**$360,608**	**$150,000**

Customer Contracts:

The current contracts with the customers of EPUC expire in 2013. The revenues from these contracts are pledged to the repayment of the bonds. Therefore, the contracts need to be extended to match the maturity of the bonds. The amendment changes the expiration date of the customer contracts to September, 2036.

The original demand charges were established when the system first began operations in 1985. The amendment also adjusts demand charges to current utilization (over time) subject to a floor.

Revised amendments have been distributed to the EPUC customers. All contracts must be fully executed before the bonds will be issued.

Franchise Ordinance:

EPUC currently has a Franchise Ordinance with the City that runs through July 1, 2012. This Ordinance also needs to be extended to continue the operations at EPUC and before the bonds can be sold. The longest term ordinance allowable under the City Charter is 20 years. The bonds will be sold with a 25-year maturity. In order to address this difference in timing, the Port Authority will covenant to the bondholders to request a five-year extension of the Franchise Ordinance at the end of the fifth year. If the extension is not granted, a sinking fund will be established to generate enough money to fully pay off the bonds at the termination of the Franchise Ordinance.

The Franchise Ordinance terms have been renegotiated with the City staff and approved by the City Council. The new franchise fee, if the four-pipe conversion is completed, will be 6.8% (down from 8%) but not less than $159,000 per year.

Potential Risk:

If the conversion to a four-pipe system does not occur, we would be obligated under the current customer contracts to operate EPUC until September, 2013. Depending on the number of customers who opted to install their own heating and cooling systems, it may no longer be cost effective to operate EPUC. If the energy system is not operational and the Franchise Agreement is, therefore, not extended, we would likely be obligated to remove the current two-pipe system and clear the right of way.

Recommendation:

We recommend approval of a) The issuance of approximately $8,500,000 of tax exempt bonds, b) Amendment of Management Contract with Ever-Green Energy, c) Amendment of the Customer Contracts with users of EPUC system, and d) Amendment of the Franchise Ordinance with the City of Saint Paul.

LJH:ca

Attach.