

SAN JOSE/SANTA CLARA TREATMENT PLANT ADVISORY COMMITTEE

CHUCK REED, CHAIR
BOB LIVENGOOD, VICE-CHAIR
KEVIN MOORE, MEMBER
PATRICIA MAHAN, MEMBER
MADISON NGUYEN, MEMBER

KEN YEAGER, MEMBER
JOHN GATTO, MEMBER
ED SHIKADA, MEMBER
NORA CAMPOS, MEMBER

AMENDED AGENDA

4:30 p.m.

June 10, 2010

Room T-1047

1. ROLL CALL

2. MINUTES

A. May 13, 2010

3. UNFINISHED BUSINESS

4. CORRESPONDENCE

5. REPORTS

A. Open Purchase Orders Greater Than \$100,000
The attached monthly Procurement and Contract Activity Report summarizes the purchase and contracting of goods with an estimated value between \$100,000 and \$1 million and of services between \$100,000 and \$250,000.

6. AGREEMENTS

A. Technical Committee Recommendation (Handout)

B. Action Item – TPAC Recommendation for Approval: Switchgear M1, M2 & M3

The following action item is scheduled to be considered by the San Jose City Council on June 15, 2010:

1. Report on bids and award of contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project to the low bidder, Rosendin Electric, in the amount of \$8,386,978; and approval of a contingency of 15% of the contract amount, in the amount of \$1,258,047.

C. Action Item – TPAC Recommendation for Approval: Motor Control Center

The following action item is scheduled to be considered by the San Jose City Council on June 15, 2010:

1. Report on bids and award of contract for the Motor Control Center Phase II Replacement Project to the lowest responsive and responsible bidder, Blocka Construction, in the amount of \$1,020,000; and approval of a budget contingency of 15% contract amount (\$153,000).

D. Action Item – TPAC Recommendation for Approval: U.S. Bureau of Reclamation

The following action item is scheduled to be considered by the San Jose City Council on June 15, 2010:

1. Adopt a resolution authorizing the City Manager to negotiate and execute a Grant Agreement with the U.S. Bureau of Reclamation (Reclamation) to receive up to \$260,000 upon execution of the agreement, and up to an additional \$20.44 million subject to appropriation of federal funds, in reimbursement for up to twenty-five percent (25%) of eligible costs incurred in the Phase 1B expansion of the South Bay Water Recycling facilities.

E. Action Item – TPAC Recommendation for Approval: Recycled Water Use

The following action item is scheduled to be considered by the San Jose City Council on June 15, 2010:

1. Adopt a resolution setting the wholesale discount for recycled water used for industrial and agricultural purposes at \$325 per acre foot compared to Santa Clara Valley Water District rate for untreated water, effectively increasing the rate for industrial and agricultural recycled water effective July 1, 2010 from \$175 per acre-foot to \$195 per acre foot.

F. Action Item – TPAC Recommendation for Approval: Clarifier Tanks

The following action item is scheduled to be considered by the San Jose City Council on June 15, 2010:

Report on bids and award the painting and rehabilitation of five secondary clarifier tanks at the Water Pollution Control Plant (WPCP) to low bidder Jeffco Painting and Coating, Inc, (Vallejo, CA) for a total amount not to exceed \$642,000, and authorize the Director of Finance to:

1. Execute the service order for \$642,000.
2. Approve a contingency in the amount of \$50,000 for any unforeseen changes or requirements that may arise prior to the completion of services.

G. Action Item – TPAC Recommendation for Approval: Carollo Engineers, CH2M Hill and Black & Veatch

The following action was deferred by the San Jose City Council on May 18, 2010 to be heard by the San Jose City Council on June 15, 2010:
This Item was deferred from May 13, 2010 TPAC.

Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:

- (a) Carollo Engineers for various capital improvements projects at the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000 for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent;
- (b) CH2M Hill for various capital improvement projects as the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent; and
- (c) Black & Veatch for various capital improvement projects at the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.

H. Action Item – TPAC Recommendation for Approval: First Amendment to Agreement with San Jose Water Company for Recycled Water

The following action item is scheduled to be considered by the San Jose City Council on June 22, 2010:

- 1. Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Wholesaler-Retailer Agreement for Supply of Recycled Water between the City of San Jose and San Jose Water Company (SJWC): to permit SJWC to connect approximately 16 miles of pipeline recycled water pipeline, to be built, owned, operated and maintained by SJWC in north and central San Jose, to the South Bay Water Recycling (SBWR) system; to permit SJWC to own, operate maintain and connect such other recycled water pipeline within SJWC's service area as may be approved by the City and SJWC in the future; and to allocate additional responsibility and liability to SJWC related to recycled water operations within SJWC's service area.

I. Action Item – TPAC Recommendation for Approval: Fifth Amendment to Agreement with enfo Tech & Consulting, Inc. for Data Management System Services

The following action item is scheduled to be considered by the San Jose City Council on June 22, 2010:

Memo to be handed out at TPAC meeting June 10, 2010.

Adopt a resolution authorizing the Director of Finance to:

1. Negotiate and execute the Fifth Amendment (Amendment) to the Environmental Enforcement Data Management System (EEDMS) Agreement with enfoTech & Consulting, Inc. to extend the term of the agreement by eighteen months from July 31, 2010 to January 31, 2012 and increase the compensation by \$318,199 for a revised not to exceed amount of \$1,381,598 in order to upgrade the existing EEDMS to a web based system and to add additional features and functionality.
2. Exercise five additional one-year options to extend the Agreement for ongoing software maintenance and support at a fixed cost of \$49,500 per year subject to the appropriation of funds.
3. Execute change orders not-to-exceed a contingency amount of \$72,750 to cover any unanticipated changes to the system upgrade and maintenance and support.

7. **STATUS OF ITEMS PREVIOUSLY APPROVED BY TPAC**

A. The following item was approved by the San Jose City Council on May 18, 2010.

SJ-19 Recycled Water

- (a) Reject all bids for the SJ-19 Recycled Water Airport Main Extension project.
- (b) Accept the report on re-bid of the project and award of contract for SJ-19 Recycled Water Airport Main Extension project to the low bidder, Bay Pacific Pipelines, Inc., for the term of May 2010 to August 2010, in an amount not to exceed \$473,000, and approve a project contingency in the amount of \$75,000.

B. The following item was approved by the San Jose City Council on May 18, 2010

Biomethane Fuel Production

Adopt a resolution authorizing the City Manager to submit two grant proposals to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$1,000,000 each to conduct pre-development planning for:

- (a) A Biomethane transportation fuel production facility on Water Pollution Control Plant lands, subject to the concurrence of the Treatment Plant Advisory Committee; and
- (b) An Alternative fuel vehicle manufacturing facility in San Jose.

8. MISCELLANEOUS

- A. The next TPAC meeting will be Thursday, July 8, 2010, at 4:30 p.m. City Hall, Environmental Services, 10th Floor, Room 1047.

9. OPEN FORUM

10. ADJOURNMENT

NOTE: If you have any changes or questions, please contact Monica Perras, Environmental Services, 408-975-2515.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call Monica Perras at (408) 975-2515 or (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting/event.

Availability of Public Records. All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at San Jose City Hall, 200 East Santa Clara Street, 10th Floor, Environmental Services at the same time that the public records are distributed or made available to the legislative body.

DRAFT
MINUTES OF THE
SAN JOSÉ/SANTA CLARA
TREATMENT PLANT ADVISORY COMMITTEE
City Hall, Environmental Services, 10th Floor, Room 1047
Thursday, May 13, 2010 at 4:30 p.m.

1. ROLL CALL

Minutes of the Treatment Plant Advisory Committee convened this date at 4:30 p.m. Roll call was then taken, with the following members in attendance:

Committee members: Kevin Moore, Patricia Mahan, Madison Nguyen, John Gatto, Ken Yeager, Nora Campos, Paul Krutko.
Patricia Mahan was the chair for this meeting.

Staff present: Monica Perras, Dale Ihrke, John Stufflebean, Bhavani Yerrapotu, Mansour Nasser, Eric Rosenblum, Laura Burke, Cheryl Wessling, Jo Zientek.

Others present: Kathleen Phalen (City of Milpitas), Steve Machida (Cupertino Sanitary District), Robert Reid (West Valley Sanitation District), Alan Kurotori, Bob Wilson, (City of Santa Clara), David Wall (San José City Resident).

2. APPROVAL OF MINUTES

A. Minutes of April 8, 2010.

Item 2.A was approved unanimously.

3. UNFINISHED BUSINESS

A. McCarthy Property: Discussion of Committee questions concerning history of purchase of McCarthy Property interest, potential liability related discontinuance of solar drying operation, prioritization of discontinuance of solar drying operation, and potential for shifting costs associated with that project to the developer or either to the developer or the homeowners over time, for a portion of the costs, including use of an assessment district formed on the McCarthy property to provide a funding source for the costs.

B. McCarthy deferral memo.

Item 3.A & 3.B were deferred indefinitely.

4. CORRESPONDENCE

5. **REPORTS**

- A. Open Purchase Orders Greater Than \$100,000
The attached monthly Procurement and Contract Activity Report summarizes the purchase and contracting of goods with an estimated value between \$100,000 and \$1 million and of services between \$100,000 and \$250,000.
- B. TPAC – Proposed Capital Improvement Program – 2011-2015
- C. TPAC – Proposed Operating and Maintenance Budget – 2010-2011

Item 5.A-C was approved unanimously.

6. **AGREEMENTS**

- A. Technical Committee Recommendation (Handout)

Item 6.A was approved unanimously.

- B. Action Item – TPAC Recommendation for Approval: SJ-19 Recycled Water

The following action items were approved by the San Jose City Council on May 18, 2010:

- (a) Reject all bids for the SJ-19 Recycled Water Airport Main Extension project.
- (b) Accept the report on re-bid of the project and award of contract for SJ-19 Recycled Water Airport Main Extension project to the low bidder, Bay Pacific Pipelines, Inc., for the term of May 2010 to August 2010, in an amount not to exceed \$473,000, and approve a project contingency in the amount of \$75,000.

Items 6.B(a & b) were approved unanimously.

- C. Action Item – TPAC Recommendation for Approval: Carollo Engineers, CH2M Hill and Black & Veatch

The following action items were deferred by the San Jose City Council to June 15, 2010.

Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:

- (a) Carollo Engineers for various capital improvements projects at the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000 for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent;

- (b) CH2M Hill for various capital improvement projects as the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent; and
- (c) Black & Veatch for various capital improvement projects at the San Jose/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.

D. Action Item – TPAC Recommendation for Approval: Biomethane Fuel Production

The following action items were approved by the San Jose City Council on May 18, 2010:

Adopt a resolution authorizing the City Manager to submit two grant proposals to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$1,000,000 each to conduct pre-development planning for:

- (a) A Biomethane transportation fuel production facility on Water Pollution Control Plant lands, subject to the concurrence of the Treatment Plant Advisory Committee; and
- (b) An Alternative fuel vehicle manufacturing facility in San Jose.

Items 6.D.(a & b) were approved unanimously.

7. STATUS OF ITEMS PREVIOUSLY APPROVED BY TPAC

The following items were approved by the San Jose City Council on April 20, 2010.

Plant Master Plan Progress Report

1. Accept this progress report highlighting activities since December 2009 on the master plan for the San José/Santa Clara Water Pollution Control Plant (Plant) and recommend that this progress report be placed on the April 20, 2010 Council Agenda for discussion.

San Jose State EIR

1. Adopt a resolution making findings from the San José State EIR for on campus recycled water project improvements (PP10-006) in conformance with CEQA Guidelines, Sections 15091 and 15093.

San Jose State Recycled Water Facility

2. Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with San Jose State University for services related to construction of recycled water facilities at a total cost to the City not to exceed Four Hundred Twenty-Two Thousand Dollars (\$422,000).

US Bureau of Reclamation

1. Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with U.S. Bureau of Reclamation to accept \$6.460 million in grant funds, of which \$6.310 million will be for design and construction of South Bay Water Recycling Phase 1C facilities, and \$150,000 will be retained by the Bureau of Reclamation for administrative and other costs.
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José-Santa Clara Treatment Plant Capital Fund:
 - a. Establish an estimate for Recovery Act – Federal Revenue in the amount of \$1,875,000;
 - b. Establish an appropriation to the Environmental Services Department for Recovery Act – South Bay Water Recycling Phase IC in the amount of \$6,310,000.
 - c. Decrease the appropriation to the Environmental Services Department for Revised South Bay Action Plan - SBWR Extension by \$4,435,000.

Seventh Amendment with City of Santa Clara for South Bay Water Recycling

1. Adopt a resolution authorizing the City Manager to negotiate and execute the Seventh Amendment to the construction service agreement with City of Santa Clara for the South Bay Water Recycling Program, revising the approved project list, increasing the maximum amount payable by the City of San José by Three Million Fifty Thousand Dollars (\$3,050,000) to a total maximum amount not to exceed Thirty-three Million Four Hundred and Fifty Thousand Dollars (\$33,450,000).

Electric Storage Bin Award

1. Report on bids and award of construction contract for the project ELECTRIC CART STORAGE to the lowest responsive bidder, R.A.N. Electric, Inc., in the amount of \$138,000, and approval of a contingency in the amount of \$13,800.

Valve Replacement Project

1. Report on bids and award of construction contract for the RAS & SS VALVE REPLACEMENT PROJECT SECONDARY – TUNNEL BATTERY B (B-1 THRU B-6) to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$587,000, and approval of a contingency in the amount of \$58,700.

Items 7.A-F were approved unanimously.

7. MISCELLANEOUS

- A. The next TPAC was announced for June 10, 2010 at 4:30 p.m. City Hall, Environmental Services, 10th Floor, Room 1047.

8. PUBLIC COMMENT

- A. David Wall submitted a speaker card supporting an audit of Fund 513.
- B. Cheryl Wessling presented a booklet with information about the Plant Master Plan.

10. ADJOURNMENT

- A. The Treatment Plant Advisory Committee adjourned at 4:40 p.m.

Chuck Reed, Chair
Treatment Plant Advisory Committee

City Manager's Contract Approval Summary
For Procurement and Contract Activity between \$100,000 and \$1 Million for Goods and \$100,000 and \$250,000 for Services

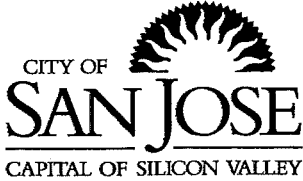
April 23, 2010 - May 26 2010

Description of Contract Activity ¹	Fiscal Year	Req#/ RFP#	PO#	Vendor/Consultant	Original \$ Amount	Start Date	End Date	Additional \$ Amount
APPROX 400 TONS ALUM INUM SULFATE	FY09-10	11600	44363	General Chemical Corp	\$180,000	6/1/10	5/31/11	
Badger Meters & Replacement Parts	FY10-11	11915	00000	Badger Meter	\$260,000	7/1/10		
Bulk Sulfur Dioxide/ 1500 Tons	FY10-11	11910	00000	Teck American	\$220,000	7/1/10		
Liquid Sodium Hypochlorite 12.5%	FY10-11	11998	00000	Olin Corporation	\$500,000	7/1/10		
Bulk Liquid Chlorine	FY10-11	11891	00000	Olin Corporation	\$450,000	7/1/10		
Aqueous Ammonia industrial Grade 19%	FY10-11	11909	00000	Hills Bros Chemical	\$150,000	7/1/10		
33,000 gallons of 25% sodium Bisulfite	FY10-11	11999	00000	Basic Chemical Solution	\$100,000	7/1/10		
Fuel and Petroleum Products	FY10-11	12054	00000	Valley Oil Company	\$150,000	7/1/10		
Fuel and Petroleum Products	FY10-11	12057	00000	Western States Oil	\$275,000	7/1/10		
Repair Leaking and Missing Expansion Joints	FY10-11	11967	44494	Tucker Construction	\$150,000	7/1/10	6/30/11	
Electrical Parts and Supplies	FY10-11	11968	00000	Graybar Electric Co	\$180,000	7/1/10		
Building Maintenance Supplies	FY10-11	11908	44493	Grainger, W W Inc	\$250,000	7/1/10	6/30/11	
Fuel and Petroleum Products	FY10-11	11904	00000	Coast Oil Co	\$140,000	7/1/10		
New and Repaired Replacment Hardware	FY10-11	11897	44519	ABB Inc	\$250,000	7/1/10	6/30/011	
Misc Emergency	FY09-10	11747	44326	Monterey Mechanical	\$100,000	5/1/10	4/30/11	
Overhaul of TPS & Floway Pumps	FY09-10	11751	44484	Alfred Conhagen	\$130,000	4/15/10	4/14/11	
Misc Emergency	FY09-10	11749	44495	DW Nicholson	\$100,000	5/1/10	4/30/11	
OEA 11237, FOR THE CLEANING OF DIGESTERS	FY09-10	11612	CANC	North American Digester	\$250,000	CANC		

¹ This report captures in process contract activity (Requisition Number or RFP Number) and completed contract activity (Purchase Order Number, Contract Term, and Contract Amount)

City Manager's Contract Approval Summary
For Procurement and Contract Activity between \$100,000 and \$1 Million for Goods and \$100,000 and \$250,000 for Services

Total \$ Amount



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
Katy Allen

SUBJECT: SEE BELOW

DATE: 05-24-10

Approved

Date

6-1-10

COUNCIL DISTRICT: City-Wide

SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT TO THE LOW BIDDER, ROSENDIN ELECTRIC FOR THE SAN JOSÉ/SANTA CLARA WATER POLLUTION CONTROL PLANT, FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM, SWITCHGEARS M1, M2 & M3 REPLACEMENT DESIGN-BUILD PROJECT

RECOMMENDATION

Report on bids and award of contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project to the low bidder, Rosendin Electric, in the amount of \$8,386,978; and approval of a contingency of 15% of the contract amount, in the amount of \$1,258,047.

OUTCOME

Approval of this construction contract will provide for the replacement of three aging medium voltage switchgears at the San José/Santa Clara Water Pollution Control Plant (Plant) and improve the Plant's electrical reliability. Approval of a 15% contingency will provide funding for any unanticipated work due to unforeseen conditions that is required for a satisfactory completion of the project as contemplated by the construction contract.

BACKGROUND

In 2004 a comprehensive study of the Plant's medium voltage electrical distribution system was completed. In order to improve the reliability and operating flexibility of the Plant's electrical distribution system, the study recommended adding a new M5 main distribution switchgear and provide sufficient equipment for the conversion to a ring-bus electrical distribution system. A ring-bus is a substation switching arrangement that is connected in a closed loop.

The M1 through M5 switchgears distribute electrical power throughout the Plant's 18 load centers. The M1, M2 and M3 switchgears have been in service for over 40 years and are

electrically underrated to connect into the ring-bus design. The M4 switchgear was installed in 1983 and upgraded in 1997. The M5 Switchgear will be newly installed in conformance with the 2004 study.

The Switchgear project will provide needed redundancy to the Plant's electrical distribution system which will allow for two independent systems. This will allow a single system to be taken offline for maintenance without jeopardizing safety and operations at this critical facility.

ANALYSIS

The project was advertised for bid and a total of six bids were received and opened on May 13, 2010 with the following results:

<u>Contractor</u>	<u>City</u>	<u>Bid Amount</u>	<u>Amount Under Engineer's Estimate</u>	<u>Percent Under Engineer's Estimate</u>
Engineers Estimate *		\$13,817,217		
Vellutini Corp. dba Royal Electric	Sacramento	\$11,898,000	\$1,919,217	(14%)
Shimmick Construction	Oakland	\$11,300,000	\$2,517,217	(18%)
Blocka Construction	Fremont	\$10,650,000	\$3,167,217	(23%)
Mass Electric Construction Inc.	La Verne	\$9,690,123	\$4,127,094	(30%)
Monterey Mechanical	Oakland	\$8,929,000	\$4,888,217	(35%)
Rosendin Electric	San José	\$8,386,978	\$5,430,239	(39%)

The median and average bid amounts are 26 percent and 27 percent lower than the Engineer's Estimate. The lowest bid submitted by Rosendin Electric is 39 percent below Engineer's Estimate. Considering the current steep competition in the construction industry in the Bay Area, and the spread of bid prices between the various bidders, Staff considers the bid proposal submitted by Rosendin Electric a reasonable price for the work involved. Additionally, Rosendin Electric has successfully completed the installation of the interim M5 switchgear at the Plant. Since this is a modification of an existing electrical system at the plant, the 15% contingency is consistent with Council Policy.

EVALUATION AND FOLLOW-UP

The project is currently within budget with a projected completion of December 2012. Should additional changes to the project be required due to change orders executed beyond the appropriated contingency, staff will bring forward those changes for approval by Council.

POLICY ALTERNATIVES

Alternative # 1: Reject all bids and drop the project.

Pros: Ability to fund alternative capital projects.

Cons: Continued use of existing degraded electrical distribution system poses a great risk to reliable operation of the plant.

Reason for not recommending: If this project is not implemented, the Plant's electrical distribution system is susceptible to failure which could lead to the Plant's inability to distribute power and treat wastewater, causing severe damage to electrical distribution system and equipment from flooding, and potentially discharging untreated wastewater into the bay.

Alternative # 2: Reject all bids and have staff complete this project.

Pros: The Plant's staff is familiar with the equipment and Plant conditions, and could provide a design and installation more efficiently.

Cons: The Plant's staff time will be substantially increased to design and install the switchgears.

Reason for not recommending: The existing Plant staffing cannot support the additional design and construction effort required to procure and install the switchgears.

PUBLIC OUTREACH / INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action meets criteria 1 above. A Notice-to-Contractors inviting qualified firms to submit bids was published by the City Clerk's Office in the San José Post Record, and by the City's Project Manager on the Environmental Services Department website and Public Works Department Bid Hotline. Bid documents were also sent to the Builder's Exchanges of the surrounding Bay area cities and counties. This memo will be posted on the City's website for the June 15 Council Agenda.

COORDINATION

This project and memorandum have been coordinated with Risk Management, Office of Equality Assurance, the City Manager's Budget Office, and the City Attorney's Office. This item is

scheduled to be heard at the June 10, 2010, Treatment Plant Advisory Committee (TPAC) meeting.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy to focus on rehabilitating aging Plant infrastructure, improve efficiency, and reduce operating costs. This project is also consistent with the budget strategy principle of focusing on protecting our vital core services.

COST SUMMARY/IMPLICATIONS

1.	AMOUNT OF RECOMMENDATION:	\$8,386,978
2.	COST OF PROJECT	
	Project Delivery*	\$ 757,000
	Construction	\$ 8,386,978
	Contingency	<u>\$1,258,047</u>
	TOTAL PROJECT COSTS	\$ 10,402,025
	Prior Year Expenditures	\$0
	REMAINING PROJECT COSTS	\$ 10,402,025

*Includes consultant design costs of \$344,000

3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.
4. OPERATING COST: Existing funds are available for this project. No additional appropriation action is required. The proposed operating and maintenance costs of this project have been reviewed and it has been determined that the project will have no impact to the Treatment Plant Operations and Maintenance budget.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

HONORABLE MAYOR AND CITY COUNCIL

05-24-2010

Subject: Award of Contract for Switchgears M1, M2 & M3 Replacement Design-Build Project

Page 5

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	Adopted CIP Budget Page	Last Budget Action (Date, Ord. No.)
				\$10,402,025	\$8,386,978		
512	4341	Plant Electrical Reliability	158345	\$20,900,000	\$8,386,978	V-147	6-23-2009, Ord. No. 28593
Total Current Funding Available				\$20,900,000	\$8,386,978		

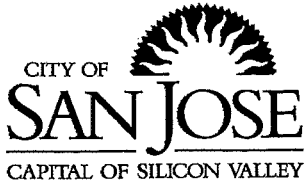
CEQA

Exempt, PP04-03-079

/s/
KATY ALLEN
Director, Public Works Department

/s/
JOHN STUFFLEBEAN
Director, Environmental Services

For questions, please contact Bhavani Yerrapotu, Division Manager, Environmental Services, at 945-5321.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: John Stufflebean
Katy Allen

SUBJECT: SEE BELOW

DATE: 05-24-10

Approved

Date

6-1-10

COUNCIL DISTRICT: City-Wide

SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, BLOCKA CONSTRUCTION FOR THE SAN JOSÉ/SANTA CLARA WATER POLLUTION CONTROL PLANT, 2009-2010 CAPITAL IMPROVEMENT PROGRAM, MOTOR CONTROL CENTER PHASE II REPLACEMENT PROJECT

RECOMMENDATION

Report on bids and award of contract for the Motor Control Center Phase II Replacement Project to the lowest responsive and responsible bidder, Blocka Construction, in the amount of \$1,020,000; and approval of a budget contingency of 15% contract amount (\$153,000).

OUTCOME

Approval of this construction contract will provide for the replacement of four aging motor control centers (MCC) at the Plant and improve the Plant's electrical reliability. Approval of a 15% contingency will provide funding for any unforeseen conditions and contingent work that is required for the satisfactory completion of the project as contemplated by the construction contract.

BACKGROUND

In 2004, a study of the Plant's electrical system was completed. The study recommends that several MCC's be replaced. An MCC is an assembly of electrical components to control and distribute power to motors and other electrical devices. The Plant currently has a total of 42 MCCs. 22 of these MCC are programmed to be replaced over the next five to ten years.

The MCC Phase II Replacement Project will replace 4 MCC's that control cooling tower pumps, sump pumps, exhaust fans, lighting panels, and air handlers. The old design and deterioration of the four MCCs have made it necessary to replace them in order to increase the reliability of the

Plant electrical system. This project is part of a series of projects aimed at upgrading the Plant's electrical reliability

ANALYSIS

The project was advertised for bid and a total of five bids were received and opened on May 6, 2010 with the following results:

<u>Contractor</u>	<u>City</u>	<u>Bid Amount</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Anderson Pacific	Santa Clara	\$1,369,000	\$77,085	6%
Engineers Estimate *		\$1,291,915		
Rosendin Electric	San José	\$1,115,000	\$176,915	(14%)
Blocka Construction	Fremont	\$1,020,000	\$271,915	(21%)
Contra Costa Electric	Martinez	\$987,000	\$304,915	(24%)
Monterey Mechanical	Oakland	\$974,000	\$317,915	(25%)

* The original Engineers Estimate was \$2,194,305. During the bidding process an arithmetic error was found in the calculation for Engineer's Estimate for the project and has been revised since.

The first and second low bids submitted by Monterey Mechanical and Contra Costa Electric did not include an executed copy of Addendum No. 1 to the Plans and Specifications for the project. As a result, staff determined that the bids were non-responsive. The third low bid submitted by Blocka Construction was determined to be in order and is 14% below the Engineer's Estimate. As such, staff determined that Blocka Construction staff is the lowest responsive and responsible bidder.

The median and average bid amounts are 21 percent and 15 percent lower then the Engineer's Estimate, respectively. Considering the current steep competition in the construction industry in the Bay Area, staff considers the bid proposal submitted by Blocka Construction a reasonable price for the work involved.

A 15% contingency is appropriate for this project and consistent with council policy since this is most similar to a remodel project. This 15% contingency is expected to cover for any unanticipated tasks necessary for proper completion of this work.

EVALUATION AND FOLLOW-UP

The project is currently within budget with a projected completion of October 2012. Should additional changes to the project be required due to change orders executed beyond the appropriated contingency, staff will bring forward those changes for approval by Council.

POLICY ALTERNATIVES

Alternative # 1: Reject all bids and drop the project.

Pros: Ability to fund alternative capital projects.

Cons: Continued use of existing degraded electrical distribution system poses a great risk to reliable operation of the plant.

Reason for not recommending: If this project is not implemented, the Plant's electrical distribution system is susceptible to failure which could lead to the Plant's inability to distribute power and treat wastewater, causing severe damage to electrical distribution system and equipment from flooding, and potential discharge of untreated wastewater into the bay.

Alternative # 2: Reject all bids and have staff complete this project.

Pros: Plant's staff is familiar with the equipment and Plant conditions, and could provide a design and installation more efficiently.

Cons: The Plant's staff time will be substantially increased to design and install the MCCs.

Reason for not recommending: Existing Plant staffing cannot support the additional design and construction effort required to procure and install the MCCs.

PUBLIC OUTREACH / INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action meets criteria 1 above. A Notice-to-Contractors inviting qualified firms to submit bids was published by the City Clerk's Office in the San José Post Record, and by the City's Project Manager on the Environmental Services Department website and Public Works Department Bid Hotline. Bid documents were also sent to the Builder's Exchanges of the surrounding Bay area cities and counties. This memo will be posted on the City's website for the June 15 Council Agenda

COORDINATION

This project and memorandum have been coordinated with the City Manager's Budget Office, and the City Attorney's Office. This item is scheduled to be heard at the June 10, Treatment Plant Advisory Committee (TPAC) meeting.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy to focus on rehabilitating aging Plant infrastructure, improve efficiency, and reduce operating costs. This project is also consistent with the budget strategy principle of focusing on protecting our vital core services.

COST SUMMARY/IMPLICATIONS

1.	AMOUNT OF RECOMMENDATION:	\$1,020,000
2.	COST OF PROJECT	
	Project Delivery*	\$ 260,000
	Construction	\$ 1,020,000
	Contingency	<u>\$153,000</u>
	TOTAL PROJECT COSTS	\$ 1,433,000
	Prior Year Expenditures	\$0
	REMAINING PROJECT COSTS	\$ 1,433,000

*Includes consultant services costs of \$62,969

3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.
4. OPERATING COST: Existing funds are available for this project. No additional appropriation action is required. The proposed operating and maintenance costs of this project have been reviewed and it has been determined that the project will have no impact to the Treatment Plant Operations and Maintenance budget.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

HONORABLE MAYOR AND CITY COUNCIL

05-24-2010

Subject: Award of Contract for MCC Phase II Replacement Project

Page 5

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	Adopted 2009-2010 Capital Budget Page	Last Budget Action (Date, Ord. No.)
				\$1,433,000	\$1,020,000		
512	4341	Plant Electrical Reliability	158365	\$20,900,000	\$1,020,000	V-147	6-23-2009, Ord. No. 28593
Total Current Funding Available				\$20,900,000	\$1,020,000		

CEQA

Exempt, PP04-03-079

/s/
 KATY ALLEN
 Director, Public Works Department

/s/
 JOHN STUFFLEBEAN
 Director, Environmental Services

For questions, please contact Bhavani Yerrapotu, Division Manager, Environmental Services, at 945-5321.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 05-24-10

Approved

Date

6-2-10

COUNCIL DISTRICTS: City-wide

SUBJECT: GRANT AGREEMENT WITH RECLAMATION FOR REIMBURSEMENT OF SOUTH BAY WATER RECYCLING PHASE 1B COSTS

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a Grant Agreement with the U.S. Bureau of Reclamation (Reclamation) to receive up to \$260,000 upon execution of the agreement, and up to an additional \$20.44 million subject to appropriation of federal funds, in reimbursement for up to twenty-five percent (25%) of eligible costs incurred in the Phase 1B expansion of the South Bay Water Recycling facilities.

OUTCOME

Approval of the proposed Grant Agreement with Reclamation will allow the City of San José as administering agency of the San José /Santa Clara Water Pollution Control Plant (Plant) to receive the maximum authorized federal share of in eligible local funds previously expended (\$82.8 million) on South Bay Water Recycling (SBWR) Phase 1B costs, or approximately \$20.7 million, if all federal funding for the Agreement is appropriated.

BACKGROUND

In September 1995, the City and Reclamation executed Cooperative Agreement 5-FG-20-12650 allowing Reclamation to reimburse the City up to \$35 million of the \$140 million cost of South Bay Water Recycling—Phase 1A, a project to divert up to 15 million gallons per day of Plant effluent for irrigation and industrial use. Federal reimbursement of up to 25% of eligible project costs was authorized by Section 1607, “San José Area Reclamation and Reuse Program of Title XVI of the federal “Reclamation Projects Authorization and Adjustment Act of 1992” (PL102-575). Originally funded by a \$1.75 million appropriation, the Agreement was modified annually through 2009 as Congress appropriated between \$0.4 and \$3.8 million for a total reimbursement

of \$31.65 million. In April 2010 Council approved a new Cooperative Agreement R10AC20R43, which included an additional \$3.35 million in federal reimbursement for new projects (over and above the 25% authorized limit) in lieu of reimbursement of remaining Phase 1A costs.

In June 2000, the Council approved an additional \$100 million for the "Revised South Bay Action Plan," with \$82.5 million included in the 2001-2005 Capital Budget for the Phase 1B project to expand the SBWR system and increase its reliability. Since these projects were also authorized under PL102-575, the City sought reimbursement for the 25% federal share of eligible Phase 1B costs through the Title XVI program. However, since Congress had not yet appropriated sufficient funds to reimburse the City for Phase 1A costs, Reclamation declined to modify Agreement 5-FG-20-12650 to include Phase 1B costs and refused to serve as lead agency to certify compliance of Phase 1B projects with the National Environmental Policy Act (NEPA), a prerequisite for receiving federal funds.

Nevertheless, between 2000 and 2009 the City expended \$82,855,553 on Phase 1B facilities including more than 40 miles of recycled water pipeline, two reservoirs and various reliability improvements. The Phase 1B projects are listed below: projects:

<u>Project</u>	<u>Cost</u>
SBWR Phase 1B Implementation	\$9.4 million
Santa Clara Pipelines	\$7.4 million
Milpitas Pipelines	\$10.7 million
Silver Creek Pipeline	\$21.0 million
Zone 3 Reservoir and Pipelines	\$21.3 million
Remote Pump Stations Reliability Improvements	\$5.2 million
Transmission Pump Station Reliability Improvements	\$0.6 million
SJ10 Recycled Water Main	\$1.4 million
Coleman Avenue Connector	\$0.7 million
San José -Santa Clara Intertie	\$2.2 million
<u>Recycled Water Retrofits</u>	<u>\$3.0 million</u>
Total Phase 1B Project Costs	\$82.9 million

After further discussion with Reclamation Mid-Pacific Region Title XVI Program staff, on January 28, 2009, the City formally asked Reclamation to review the Phase 1B environmental documentation and to make a determination about its eligibility for federal funding. On March 19, 2009 Reclamation issued a Categorical Exclusion certifying that "providing Federal funding for these [projects] would not create any impacts" thereby allowing the City to seek federal reimbursement for Phase 1B costs. On February 11, 2010 the City Manager submitted Form 424 "Application for Federal Assistance" to the Reclamation and subsequently provided additional details validating the City's financial accounting system and verifying the eligibility of Phase 1B project costs.

ANALYSIS

In response to the City's request for federal assistance, Reclamation has agreed to obligate the Congressional FY10 appropriation of \$260,000 in a new Grant Agreement that will allow them to reimburse the City for the federal share of Phase 1B costs, up to \$20.7 million. In doing so, Reclamation confirms the importance of recycled water as both a sustainable water supply and a means of protecting the south Bay environment.

After executing the proposed Grant Agreement, the City will be able to invoice Reclamation for reimbursement of the obligated amount (\$260,000) and to seek further Congressional appropriation on an annual basis, up to a total of \$20.7 million. Under the Plant Master Agreements for Wastewater Treatment, all grant amounts received will be credited to the Treatment Plant Tributary Agencies for capital projects on the basis of the agencies' participation in the Phase 1B program for which the grant is being received. In lieu of appropriating additional Phase 1B reimbursement funds, Reclamation may offer to provide additional federal funding for new recycled water projects - up to 100% of authorized project costs -if the City agrees to accept the additional funds in lieu of reimbursement for past project costs.

EVALUATION AND FOLLOWUP

Having prepared and organized the Phase 1B invoices by project, staff will monitor the availability of reimbursement funds to ensure that invoices are submitted in a timely manner and the City receives the maximum amount to which it is entitled. In addition, staff will be meeting to determine which new SBWR extensions or system improvements should be proposed for construction in advance of the announcement of a new Reclamation Water Reuse Program.

POLICY ALTERNATIVES

Alternative #1: Do not execute a Grant Agreement for reimbursement of Phase 1B expenditures.

Pros: No effort will be made to seek additional Congressional appropriation.

Cons: The City will lose up to \$20.7 million in reimbursement funds that can be used to pay for future capital projects.

Reason for not recommending: Federal funds are needed to help pay for renovation of the San José /Santa Clara Water Pollution Control Plant and expand the South Bay Water Recycling system which can increase revenues by reaching additional customers.

PUBLIC OUTREACH



Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- ✓ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

During 1998 and 1999 a Citizens' Advisory Committee including representatives of the Sierra Club, the League of Women Voters, the Silicon Valley Chamber of Commerce and other stakeholders met regularly to evaluate extensions to the recycled water systems. Also, in 2000 the cities of San José, Santa Clara, and Milpitas held public meetings on the use of recycled water. In addition, staff members from the cities of San José (San José Municipal Water), Santa Clara and Milpitas, and San José Water Company have attended monthly meetings to review South Bay Water Recycling planning and operations.

COORDINATION

This memo was coordinated with Planning, the City Attorney's Office, and the City Manager's Budget Office. This item is scheduled to be heard by the Treatment Plant Advisory Committee (TPAC) on June 10, 2010.

COST IMPLICATIONS

Once the proposed Grant Agreement is executed and the City provides Reclamation with \$1.04 million in reimbursable Phase 1B invoices the Plant can receive up to \$260,000 in obligated funds. The remaining funds, up to \$20.7 million, can be obtained by submitting eligible invoices in future years as Congress earmarks additional funds to the Title XVI program. Alternatively, if Reclamation makes additional funds available through a process similar to its 2009 American Recovery and Reinvestment Act (ARRA) Water Reclamation and Reuse Program, the City may receive up to 100% federal funding to construct new recycled water facilities in lieu of receiving equivalent reimbursement for Phase 1B costs. Budget appropriation actions to recognize the \$20.7 million grant will be brought forward at a later date as funds are received.

BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

05-24-10

Subject: Grant Agreement with Reclamation For Reimbursement of SBWR Phase 1B Costs

Page 5

CEQA

Final EIR for the *San Jose Nonpotable Reclamation Project*, Resolution No. 64667 (File No. PP-91-090; SCH# 1992013071) and Addenda thereto and Negative Declaration for *South Bay Water Recycling Program-Phase 1B*, File No. PP00-072.

NEPA

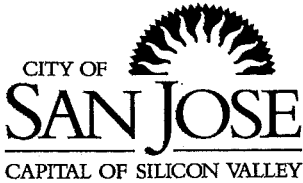
Final Environmental Assessment/Finding of No Significant Impact, for *Revised South Bay Water Recycling Program Phase 1B* (FONSI #97-03-MP) and Categorical Exclusion for South Bay Water Recycling Phase 1B (March 19, 2009).

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions please contact Mansour Nasser, Deputy Director, at (408) 277-4218.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

**SUBJECT: RECYCLED WATER INDUSTRIAL
USE DISCOUNT FOR 2010-2011**

DATE: 05-24-10

Approved

Date

6-1-10

COUNCIL DISTRICTS: City-wide

RECOMMENDATION

Adopt a resolution setting the wholesale discount for recycled water used for industrial and agricultural purposes at \$325 per acre foot compared to Santa Clara Valley Water District rate for untreated water, effectively increasing the rate for industrial and agricultural recycled water effective July 1, 2010 from \$175 per acre-foot to \$195 per acre foot.

OUTCOME

Approval of this rate resolution will allow South Bay Water Recycling (SBWR) to reduce the discount offered to industrial and agricultural customers of recycled water by \$20 per acre foot (AF) from \$345/AF to \$325/AF when compared to the wholesale rate charged by the Santa Clara Valley Water District for untreated water, raising the effective industrial rate from \$175/AF to \$195/AF. Based on current usage, this will increase revenues from the sale of recycled water by approximately \$50,000 per year in 2010-2011.

BACKGROUND

The City is the administering agency for the San José/Santa Clara Water Pollution Control Plant (Plant) and SBWR, which provides approximately 10,000 AF per year of recycled water to water retailers in San José, Santa Clara, and Milpitas. On March 4, 1997, San José City Council adopted resolution 67182 setting the rate for recycled water used for industrial and agricultural use at \$20/AF, representing a discount of \$220/AF as compared to the untreated water rate set by the Santa Clara Valley Water District (SCVWD) which at that time was \$240/AF. This discount was designed to encourage industrial and agricultural use of recycled water by making it significantly less costly than potable water.

Year	SCVWD* Untreated Water Rate	SBWR Irrigation Discount	SBWR Irrigation Rate	SBWR Industrial Discount	SBWR Industrial Rate
1997-1998	\$240	\$60	\$180	\$220	\$20
2003-2004	\$405	\$225	\$180	\$385	\$20
2004-2005	\$405	\$165	\$240	\$365	\$40
2007-2008	\$520	\$165	\$355	\$365	\$155
2008-2009	\$520	\$145	\$375	\$345	\$175
2009-2010	\$520	\$125	\$395	\$345	\$175
2010-2011**	\$520	\$105	\$415	\$325	\$195

*All discounts and rates in dollars per acre-foot (\$/AF)

**Proposed

As shown in the table above, over the next seven years the SCVWD untreated water charge rose to \$405/AF, increasing the resultant discount for industrial and agricultural use to \$385/AF. On June 15, 2004, San José City Council adopted resolution 72167 fixing the discount offered for industrial and agricultural use at \$365/AF compared to the SCVWD untreated water charge for a resultant rate at that time of \$40/AF. By 2008 SCVWD water rates increased to \$520/AF and on June 17, 2008 the Council adopted Resolution No. 74448 further reducing the industrial and agricultural discount to \$345/AF so that the resultant industrial and agricultural rate was \$175/AF. The same resolution implemented a three-year phased reduction of the discount offered for recycled water used for irrigation purposes, from \$165/AF during 2007-2008 to \$105/AF beginning on July 1, 2010, raising the rate for irrigation water for the 2010-2011 fiscal year to \$415/AF. This proposed action would again reduce the discount for recycled water used for industrial and agricultural purposes by \$20/AF beginning July 1, 2010 effectively raising the industrial/agricultural rate for 2010-2011 to \$195/AF.

ANALYSIS

Recycled water has been widely used in the SBWR service area for over ten years, with more than 600 customers using in excess of 10,000 AF per year annually (over 9 million gallons per day). In view of the growing acceptance of recycled water, the current discount rate appears to be greater than that needed to encourage recycled water use. The reduction in the discount is necessary to bring the revenue from the sale of recycled water closer to the service delivery cost. It is anticipated that this rate structure will continue to provide sufficient incentive for customers to use recycled water as well as allowing the SBWR program to reach cost recovery. For example, in the service area of the San José Municipal Water System (Muni), the proposed industrial rate for recycled water, including retailer markup, will still represent a savings of over 50% when compared with the cost of potable water.

POLICY ALTERNATIVES

Alternative #1: Do not change the discount for industrial and agricultural use of recycled water.

Pros: Industrial and agricultural customer recycled water bills will not increase.

Cons: The tributary agencies of the San José/Santa Clara Water Pollution Control Plant will

continue to subsidize the use of recycled water by industrial and agricultural customers.

Reason for not recommending: The City and Plant tributary agencies have directed staff to recover an increasingly greater share of the cost of operating South Bay Water Recycling so that additional funds can be made available for other Plant improvements.

PUBLIC OUTREACH/INTREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ✓ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This issue was discussed with the South Bay Water Recycling retailers at their May meeting.

COORDINATION

This memo was coordinated with the City Attorney's Office, and the City Manager's Budget Office. This item is scheduled to be heard by the Treatment Plant Advisory Committee (TPAC) on June 10, 2010.

COST SUMMARY/IMPLICATIONS

A \$20/AF decrease in the discount provided to industrial and agricultural customers with an effective date of July 1, 2010, is estimated to generate \$50,000 in additional revenue to the Treatment Plant Operating Fund in 2010-2011. The resultant rate increases for 2010-2011 is consistent with Council Policy that programs be self-supporting whenever possible. The recommended rate increase is reflected in the 2010-2011 Proposed Operating Budget.

BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

05-24-10

Subject: Recycled Water Industrial Use Discount For 2010-2011

Page 4

CEQA

Not a Project, File No. PP10-067 (a), Increases or Adjustments to Fees, Rates & Fares.

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions please contact Mansour Nasser, Deputy Director, at (408) 277-4218.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: May 17, 2010

Approved

Date

5-20-10

COUNCIL DISTRICT:

SUBJECT: REPORT ON BIDS FOR THE PAINTING/REHABILITATION OF FIVE CLARIFIER TANKS AT THE WATER POLLUTION CONTROL PLANT.

RECOMMENDATION

Report on bids and award the painting and rehabilitation of five secondary clarifier tanks at the Water Pollution Control Plant (WPCP) to low bidder Jeffco Painting and Coating, Inc. (Vallejo, CA) for a total amount not to exceed \$642,000, and authorize the Director of Finance to:

1. Execute the service order for \$642,000.
2. Approve a contingency in the amount of \$50,000 for any unforeseen changes or requirements that may arise prior to the completion of services.

OUTCOME

Increase the life expectancy of the metal components within the clarifier tanks, therefore increasing the useful life of the tanks.

BACKGROUND

Secondary clarifiers are an essential part of the water treatment process using gravity, clarifiers separate the bacterial mass used to treat incoming water from the clean treated water before the final downstream filtration process and eventual discharge.

The WPCP has a total of 42 clarifier tanks, with an average age over 20 years. The life expectancy of a paint coating for the tanks is ten to twelve years. In the year 2000, all of the



May 17, 2010

Subject: Report on Bids for the Painting Rehabilitation of Five (5) Clarifier Tanks at WPCP

Page 2

tanks were inspected and it was determined that a ten year maintenance coating program was necessary to ensure their long term viability. Since the implementation of the maintenance program, four to five tanks are painted annually. The five clarifier tanks that will be painted under this service order are the final tanks to be painted in this ten year maintenance cycle.

ANALYSIS

On January 29, 2010, the Finance Department released a Request for Bid (RFB) through the City's e-procurement system. The bid document was viewed/downloaded by 43 companies, 13 companies attended the mandatory pre-bid conference, and seven bids were received by the bid deadline as follows:

Bidder	Bid Amount
Jeffco Painting and Coating, Inc. (Vallejo, CA)	\$642,000
Olympus and Associates, Inc. (Reno, NV)	\$775,000
F.D. Thomas (Central Point, OR)	\$793,500
Certified Coating Company (Fairfield, CA)	\$797,429
Techno Coatings, Inc.(Anaheim, CA)	\$858,000
Long Painting Company (Portland, OR)	\$937,000
Blastco Inc. (Torrance, CA)	\$1,074,437

No company requested or received the Local and Small Business Enterprise Preference; therefore the Preference was not a factor in the award.

Prevailing wage applies to all labor required for the completion of the work.

Staff recommends award to low bidder Jeffco Painting and Coating, Inc. (Vallejo, CA), , in accordance with the formal bidding procedures of the San José Municipal Code, Section 4.12.310.B.

EVALUATION AND FOLLOW-UP

This memorandum will not require any further follow-up from staff.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the criterions above. The Council Memorandum will be posted on the June 15, 2010 Council Agenda.

COORDINATION

This item is scheduled to be heard at the June 10, 2010 Treatment Plant Advisory Committee meeting.

This memorandum has been coordinated with the Treatment Plant Advisory Committee, Environmental Services Department, the City Manager's Budget Office, the Office of Equality Assurance, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This action is consistent with the following General Budget Principles "We must focus on protecting our vital core city services for both the short- and long-term".

COST SUMMARY/IMPLICATIONS

AMOUNT OF RECOMMENDATION/COST OF PROJECT:	\$692,000
COST OF PROJECT	
Clarifier Rehabilitation	\$642,000
Contingency	\$50,000
TOTAL/REMAINING PROJECT COSTS	\$692,000

SOURCE OF FUNDING: San José/ Santa Clara Treatment Plant Capital Fund



HONORABLE MAYOR AND CITY COUNCIL

May 17, 2010

Subject: Report on Bids for the Painting Rehabilitation of Five (5) Clarifier Tanks at WPCP

Page 4

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the agreement recommended as part of this memo.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Agreement	2009-2010 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
512	5690	Plant Infrastructure Improvements	\$6,763,000	\$642,000	V-152	06/23/09, Ord. 28593 No.

CEQA

Not a project, File No. PP10-066(a) Agreements and Contracts.

/s/

SCOTT P. JOHNSON
Director, Finance

For questions please contact Mark Giovannetti, Purchasing Officer at (408) 535-7052.





Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 04-26-10

Approved

Date

4/27/10

COUNCIL DISTRICT: City-Wide

SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE FIRST AMENDMENTS TO THE MASTER AGREEMENTS WITH CAROLLO ENGINEERS, CH2M HILL, AND BLACK & VEATCH FOR ENGINEERING SERVICES FOR SAN JOSÉ WATER POLLUTION CONTROL PLANT CAPITAL IMPROVEMENT PROGRAM

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:

- (a) Carollo Engineers for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent;
- (b) CH2M Hill for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent; and
- (c) Black & Veatch for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.

OUTCOME

Approval of this recommendation will provide the City with the ability to continue to obtain engineering services from Carollo Engineers, CH2M Hill, and Black & Veatch for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant (Plant) on an as-needed basis.

BACKGROUND

On March 25, 2008, following the competitive selection procedure outlined in the Qualification Based Consultant Selection policy, Council approved five master agreements with Black & Veatch, Brown and Caldwell, Carollo Engineers, CH2M Hill, and AECOM USA (successor through merger to Metcalf & Eddy) for engineering services for various capital improvement projects at the Plant. The not-to-exceed payable amount for each master agreement is as follows:

<u>Firm</u>	<u>Not to Exceed Amount</u>
1. Black & Veatch	\$1 million
2. Brown and Caldwell	\$5 million
3. Carollo Engineers	\$1 million
4. CH2M Hill	\$1 million
5. AECOM USA	\$1 million

All five consultant agreements were approved for terms continuing through June 30, 2013.

When Council originally approved the master agreements, staff had informed Council that in addition to the total \$9 million in the original agreements (sum of not-to-exceed amount listed in the table above), an additional \$9 million is anticipated to be added to the agreements, during the term of the agreements. This amount is consistent with recent assessments by Staff, on additional consultant services required over the next three years to meet the needs of the Plant.

ANALYSIS

The Need for Additional Services

Under these master agreements, the consultants perform services authorized by service (task) orders that detail the specific scope of work, schedule and compensation for individual projects or tasks. To date, City has authorized a total of \$3,234,356 for eighteen service orders associated with the five master agreements, as follows:

<u>Firm</u>	<u>Value of Service Orders Issued</u>
1. Black & Veatch	\$607,286
2. Brown and Caldwell	\$619,260
3. Carollo Engineers	\$999,700

4. CH2M Hill	\$765,666
5. AECOM USA	\$242,444

These service orders include assistance with performing condition assessments, environmental impact assessments, pre-design studies, detailed design, and providing engineering support during construction of capital improvement projects. The value of service orders issued under the Carollo, CH2M Hill, and Black & Veatch master agreements are close to the maximum payable amount allowed under the respective master agreements.

Since the approval of the original agreements, the value of construction projects scheduled in the Capital Program at the Plant has grown from \$184.9 million over the 2008-2012, to \$247.4 million for the 2010-2014 five-year period. Over the next three years starting in 2010-2011, about \$108.7 million worth of capital improvement projects has been identified and approved as part of the 2010-2014 CIP. This does not include the Electrical Reliability Improvements projects, for which the City has other specialized consultants to provide engineering support. The five-year CIP includes rehabilitation and replacement type projects to address the Plant's aging infrastructure as well as projects to improve energy efficiency, reliability, and operational flexibility. Some of these projects include digester rehabilitation, clarifier rehabilitation, chemical feed station addition, fine bubble membrane diffuser conversion and advanced automation and control. Consultant services required for development, design, and construction of these projects are estimated to be about \$9 million over the next 3 years.

City Staff Workload and In-sourcing

Due to the complexity and magnitude of work at the Plant, multi-engineering disciplines are needed to successfully implement Plant projects. Staff intends to utilize consultant expertise to support the more complex CIP projects at the Plant for which such expertise currently does not exist within City staff. Hiring and training for this expertise does not provide for a sustainable workload due to the intermittent nature of this need and the varied disciplines needed. Therefore, ESD and PW staff will continue to perform in-house design of recurring types of projects such as handrail replacement, pipeline rehabilitation and replacement, pumps and valves replacement. Staff will also continue to perform program management and construction management work. In addition, Staff will be spending more efforts towards pilot testing for the purpose of evaluating technology alternatives and provide specific design criteria input to ensure successful and optimized technology implementation.

The availability of multiple consultant master agreements has allowed the Plant greater flexibility to augment staff resources and better control of project delivery schedules. It has also proved effective in maximizing responsiveness and flexibility in meeting the Plant's variable needs. Staff is able to issue a service order to the firm most able to complement staff expertise in a specific technical discipline, ensuring the most cost-effective and efficient use of staff and consultant resources. Compared to the last 10 years of capital program implementation, the use of multiple consultant master agreements has allowed for a 50% reduction in project implementation timeline, due to the availability of multiple master agreements and in turn increased staff productivity with the delivery of the capital program at the Plant.

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Why these Three Firms?

Over the past two years, staff has worked successfully with these three firms on a number of CIP projects that are worth about \$34 million.

Black & Veatch performed pre-design studies, detailed design, and provided engineering support during construction of the Nitrification Gate and Channel Aeration Improvement project.

CH2M Hill is currently completing the pre-design study of the Secondary Air Plenum Filtration project, a project under the Plant Infrastructure Improvements category. CH2M Hill continues to assist the City with environmental engineering assessments on several South Bay Water Recycling projects funded by the American Recovery and Reinvestment Act (ARRA).

Carollo Engineers is providing engineering support for the soon to be completed Alternative Disinfection project. Carollo is also assisting staff with design of the Headworks Enhancement project.

Due to the satisfactory services provided and the respective expertise of these three firms as it relates to the adopted 2010-2014 Capital Improvement Program (CIP), staff anticipates engaging these consultants in additional work for the duration of the agreements. Since there is balance remaining in the Brown and Caldwell and AECOM master agreements, staff will maintain these two master agreements as-is.

Ensuring Quality and Value

Under these master agreements, the consultants perform services authorized by service orders. Funds are encumbered when service orders are issued. To ensure that the scope of work under each service order is adequate and comprehensive, assigned resources are appropriate, and costs are reasonable, each scope of work will be reviewed by staff in the various sections of ESD and PW as follows:

- Pre-design Studies – Operations and Maintenance sections (ESD), Process Engineering (ESD) and Laboratory (ESD) staff
- Condition Assessment – Operations and Maintenance sections, Process Engineering, Mechanical Engineering (ESD), CIP Engineering (ESD/PW) and Structural Engineering (PW)
- Detail Design – Operations and Maintenance sections, Process Engineering, Mechanical Engineering, CIP Engineering, Structural Engineering, Process Control (ESD) and Electrical Engineering (CIP)
- Construction Management Support – CIP Engineering

In addition, each service order is reviewed by ESD Fiscal section to ensure that sufficient budget is available in the appropriation. Each service order is also reviewed by the City Attorney's Office to ensure that the service order meets the terms and conditions of the master agreement and that the scope of work is clearly defined.

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The current agreements allow for an annual adjustment to the hourly rates of up to 4.5 percent. Since the agreements were approved in 2008, Black and Veatch's hourly rates have not increased and Carollo Engineers and CH2M Hill's hourly rates have increased one percent. To further control and reduce expenditures in light of current economic uncertainty, Carollo Engineers, CH2M Hill, and Black & Veatch have agreed to assist the City through reduction in their hourly rates. Under these amendments, Carollo Engineers and CH2M Hill's hourly rates will be reduced by 5 percent and Black and Veatch's hourly rates will be reduced by 4 percent, until December 31, 2010. After December 31, 2010, the consultants' hourly rates will be eligible for increases of up to 4.5 percent, at the discretion of the City.

Conclusion

Based on the above analysis, staff believes that the recommended approval to increase the amount payable for the Carollo, CH2M Hill, and Black & Veatch master agreements by \$3 million each provides the most efficient and effective tools for the City to deliver the significant CIP at the Plant. This will allow Staff to continue to obtain engineering services from these three firms, for various capital improvements project, on an as-needed basis.

EVALUATION AND FOLLOW-UP

Approval of this recommendation will provide staff with the ability to continue to engage the services of CH2M Hill, Carollo Engineers, and Black & Veatch on an as-needed basis, thereby enabling a more cost-effective and timely delivery of projects. No additional follow up actions with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative # 1: Deny approval of the amendments for the CH2M Hill, Carollo Engineers, and Black & Veatch master agreements and utilize either City staff or other consultant master agreements to perform the required tasks.

Pros: Some of the work would be done by City staff.

Cons: City staff does not possess the appropriate technical capability across the broad range of required expertise to perform the work. Reduced availability of consultant resources and expertise to perform tasks.

Reasons for not recommending: The City would need to hire staff to cover diverse areas of professional expertise. Because the demand for services varies, the workload generated is projected to be intermittent and would not be sustainable throughout the year. Project schedules subject to consultant availability. Additionally, having multiple firms available enables staff to issue a service orders to the firm most able to complement staff expertise in a specific technical discipline, thus ensuring the most cost-effective and efficient use of staff and consultant resources.

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Alternative # 2: Deny approval of the amendments for the CH2M Hill, Carollo Engineers, and Black & Veatch and direct staff to conduct another solicitation process to seek consultants services

Pros: Provides opportunity for more firms to compete and possibly provide better hourly rates

Cons: Staff time to develop the Request for Proposal and complete the selection process; possible selection of consultants not qualified or unable to deliver the complex projects at the Plant

Reasons for not recommending: Proceeding with an alternate source of consultants agreements may not result in any cost savings as professional services agreements are selected based on qualifications. The risk negotiating cheaper rates with an alternate consultants firm with lesser qualifications could result in compromised designs and failed projects

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memo meets Criterion 1 and will be posted on the City's website for the May 18, 2010 Council Agenda.

COORDINATION

This project and memorandum have been coordinated with the City Manager's Budget Office, and the City Attorney's Office. This item is scheduled to be heard at the May 13, 2010 Treatment Plant Advisory Committee meeting.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy to focus on rehabilitating aging Plant infrastructure, improve efficiency, and reduce operating costs. This project is also consistent with the budget strategy principle of focusing on protecting our vital core services.

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COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$12,000,000

2. COST AGREEMENT WITH EACH CONSULTANT:

Carollo Engineers

Agreement \$ 1,000,000

First Amendment \$ 3,000,000

CH2M Hill

Agreement \$ 1,000,000

First Amendment \$ 3,000,000

Black & Veatch

Agreement \$ 1,000,000

First Amendment \$ 3,000,000

TOTAL AGREEMENT AMOUNT \$ 12,000,000

3. SOURCE OF FUNDING: 512 – San José/Santa Clara Treatment Plant Capital Fund*.

4. FISCAL IMPACT: No additional funding is necessary to approve these master agreements. Funds have already or will be appropriated as needed for the various capital projects through the Plant Capital Improvement Program.

* Funding for these Master Agreements will come from the San José/Santa Clara Treatment Plant Capital Fund. In 2009-2010, appropriations for construction projects in this fund, not including the Electrical Reliability Improvements Project, total \$41.2 million. Costs for these contracts to be incurred in future fiscal years are subject to Council approval of the funding.

CEQA

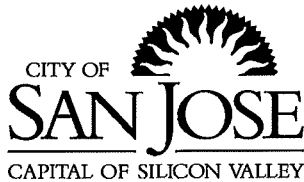
Not a project.

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions please call Bhavani Yerrapotu, Division Manager Technical Support Services, Environmental Services Dept., at (408) 945-5321.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 05-24-10

Approved

Date

6-4-10

COUNCIL DISTRICT: City-Wide

SUBJECT: FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND SAN JOSE WATER COMPANY FOR SUPPLY OF RECYCLED WATER

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Wholesaler-Retailer Agreement for Supply of Recycled Water between the City of San José and San Jose Water Company (SJWC): to permit SJWC to connect approximately 16 miles of recycled water pipeline, to be built, owned, operated and maintained by SJWC in north and central San José, to the South Bay Water Recycling system; to permit SJWC to own, operate maintain and connect certain other recycled water pipeline within SJWC's service area as may be approved by the City and SJWC in the future; and to allocate additional responsibility and liability to SJWC related to recycled water operations within SJWC's service area.

OUTCOME

Approval of a First Amendment to the Wholesaler-Retailer Agreement for Supply of Recycled Water between the City of San José and SJWC will allow SJWC to own, operate and maintain approximately 16 miles of new pipelines that will provide an average of 1100 acre-feet of recycled water to an additional 146 San José customers in the SJWC service area. SJWC's estimated investment in the new pipelines is approximately \$22 million. The estimated annual revenues to the Plant from the sale of recycled water to the new customers is between \$400,000 and \$500,000, depending on actual demand, while the estimated additional cost to serve these customers is approximately \$100,000 per year.

BACKGROUND

In September 1993, as administering agency of the San José/Santa Clara Water Pollution Control Plant (Plant) the San José City Council authorized design and construction of a project to divert up to 15 million gallons per day (mgd) of treated effluent from the south Bay during the summer by providing nonpotable recycled water to customers in Milpitas, Santa Clara and San José. Between 1993 and 2009 the City invested over \$220 million including four pump stations, two reservoirs, and over one hundred miles of pipeline constructing a recycled water system with the capacity to distribute a peak flow of up to 50 million gallons per day. In 2009 the South Bay Water Recycling (SBWR) system delivered over 10,000 acre-feet of water to 600 irrigation and industrial customers, with an average summer demand of nearly 15 million gallons per day.

As administering agency for the Plant, the City serves as the water wholesaler for recycled water produced and delivered by the SBWR system, the City has agreements with water retailers in Santa Clara, Milpitas and San José (including SJWC) to deliver recycled water to their customer meters. The retailers in turn supply recycled water to their retail water customers, charging a retail markup on the wholesale cost of recycled water comparable to what they receive for selling potable water. However, unlike the retailers' potable systems, the City owns all recycled water distribution pipelines and is responsible for maintaining them, and also pays for all pipeline extensions, except for those funded by developers. Furthermore, the recycled water system was initially built by the Plant to reduce effluent discharge to San Francisco Bay, and since this objective has been largely achieved by means of the existing infrastructure, further system expansion has recently been limited to extensions justified by projected water revenues, and developer-funded or grant-funded projects.

In 2008 SJWC proposed to begin funding recycled water pipeline extensions in their service area as a means of ensuring a more reliable local water supply. Their proposal was facilitated by a change in the policy of the California Public Utilities Commission (PUC) which regulates the rates charged by San Jose Water Company and other investor-owned utilities. Since the inception of the SBWR system in 1993, the PUC had prohibited investor-owned utilities from passing on the cost of recycled water pipelines to potable water customers, having defined the practice as a "cross-subsidy." However, recently the PUC decided to allow SJWC to pass the cost of recycled water pipelines on to all water customers by "rate-basing" this infrastructure.

In response, SJWC developed a Recycled Water Master Plan (RWMP) that evaluated seventeen different alignments ability to deliver recycled water to its customers, primarily for landscape irrigation purposes. Potential customers identified include schools, parks, and commercial, industrial, and multi-family common areas. Four of these alignments now have environmental clearance and SJWC is prepared to proceed with construction upon approval of the proposed First Amendment to the Wholesaler-Retailer Agreement between the City of San José and San Jose Water Company.

ANALYSIS

The proposed First Amendment will authorize connection of the four alignments shown on Attachment A, which have a combined capital cost of approximately \$22 million. The four projects located in north and central San José would result in the construction of approximately 16 miles of recycled water pipelines ranging in diameter from 4- to 24-inches. Under this agreement recycled water use is projected to increase, and operating costs currently borne by the ratepayers of the San José/Santa Clara Water Pollution Control Plant for the expansion of the South Bay Water Recycling distribution system are expected to decrease.

The proposed First Amendment also alters the existing relationship under which SJWC receives water from SBWR at its customer meters and, in effect, simply acts as the water retailer for billing purposes. Under the current agreement, the City, as the operator of SBWR, is responsible for constructing, operating and maintaining all recycled water facilities in SJWC's service area, except the customer meters which are owned by SJWC; and the City is also responsible for providing all customers services, except billing.

Under the proposed First Amendment:

- SJWC will be able to own the 4 pipeline segments identified in Exhibit A and to connect these pipelines to the SBWR system, and SJWC will be responsible for operating and maintaining these pipelines.
- SJWC will be required to obtain an encroachment permit for the facilities that it will be building in city streets.
- SJWC and the City will meet and confer on all future recycled water facilities to be built in SJWC's service area, including facilities to be built by developers.
- SJWC will be able own and connect recycled water facilities that are approved for construction by the City in the future, unless the City has provided funding for the construction or has notified SJWC that it wishes to own the facilities..
- SJWC will be responsible for all costs of operating and maintaining the facilities that it owns.
- SJWC will pay for all water supplied by SBWR at the City established wholesale rates, regardless of ownership of the facilities. If a master meter is located at the turnout between the Wholesaler and Retailer systems, Retailer will be billed for any recycled water lost through leakage or line breaks as measured by the master meter.
- SJWC and the City will each work with customers on sizing of service lines that are to be connected to the facilities that they own.
- SJWC will collect customer self monitoring reports for submission by the City to the San Francisco Bay Regional Water Quality Control Board and shall notify the City of any material misuse of recycled water by a customer, for possible enforcement of the recycled water use

rules by the City. However, SJWC will not be liable for any customer misuse or improper application of recycled water.

- Each party will defend, indemnify and hold harmless the other party from claims and losses caused by its negligence or will misconduct. However, neither party will be responsible to the other for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses or losses, nor for any and loss, damage or injury to its property arising out of or resulting from the activities conducted under Agreement, unless such loss, injury, or damage as may be caused by the sole active negligence or the willful misconduct of the other Party.

EVALUATION AND FOLLOW-UP

The City will continue to be responsible for billing SJWC for use of recycled water. SBWR staff will also collaborate with SJWC in planning, designing and constructing new facilities. As such, City staff will be able to evaluate SJWC's effectiveness in implementing the designated infrastructure and can readily assess the reliability of the proposed pipelines. Staff will also measure the increase in revenues due to the addition of customers on the proposed pipelines.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

San Jose Water Company and the City of San José have attended monthly meetings to review recycled water planning and operations since the inception of the SBWR program in 1994. This amendment to the existing Wholesaler-Retailer Agreement between the City and SJWC will allow the City to significantly increase recycled water use within existing budget limits as mandated by the City's Green Vision Plan adopted by the San José City Council in October 2008.

COORDINATION

This memo has been coordinated with Planning and the City Attorney's Office. This memorandum is scheduled to be heard at the June 10, 2010 Treatment Plant Advisory Committee (TPAC) meeting.

CEQA

Mitigated Negative Declaration PP-10-089

/s/
JOHN STUFFLEBEAN
Director, Environmental Services

For questions, please contact Mansour Nasser, Deputy Director, at (408) 277-2558.

Attachment A