



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT:** SEE BELOW

**DATE:** May 1, 2024

Approved

Date

5/14/24

**SUBJECT: MASTER CONSULTANT AGREEMENT WITH ARUP US, INC. FOR CONSULTANT SERVICES TO PROCURE, NEGOTIATE, AND MONITOR A PUBLIC-PRIVATE PARTNERSHIP BIOSOLIDS FACILITY AGREEMENT**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a master consultant agreement with Arup US, Inc. for consultant services to procure, negotiate, and monitor a public-private partnership for the development of a biosolids processing facility at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2026, with options to extend through June 30, 2033, in a total amount not to exceed \$1,000,000, subject to the appropriation of funds.

## SUMMARY AND OUTCOME

Approval of the recommendation will provide the City authority to negotiate and execute an agreement with Arup US, Inc. for services to support the procurement, negotiation, and monitoring of a public-private partnership (P3) agreement to develop a facility that further processes biosolids at San José-Santa Clara Regional Wastewater Facility (RWF) into a commercial product (e.g., fertilizer and similar products).

## BACKGROUND

On June 8, 2021, City Council approved the Dewatered Biosolid Management Strategy<sup>1</sup> for the RWF. The Dewatered Biosolids Management Strategy consists of the procurement of transportation and beneficial use service agreements to manage the RWF's mechanically dewatered biosolids in the short-term, development of a P3 facility that further processes the

<sup>1</sup> The memorandum that recommended approval of the Dewatered Biosolids Management Strategy can be accessed at <https://sanjose.legistar.com/View.ashx?M=F&ID=9441134&GUID=94F73A21-B7D9-4880-B26E-51DF098D7360>.

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RWF's mechanically dewatered biosolids in the long-term, and supporting efforts that facilitate the permitting or increase the use of biosolids on local natural and working lands on an on-going basis. Procurement of the transportation and beneficial use service agreements was completed on December 13, 2022, when City Council awarded agreements to Denali Water Solutions, LLC, Synagro West, LLC, and Lystek International Limited.<sup>2</sup> Hauling of biosolids using these agreements will initiate in early 2025 during the dewatering facility's commissioning period.

In 2023, a Request for Information was issued to technology providers, infrastructure developers, and infrastructure investors to assess the private sector's interest in implementing a biosolids processing facility at the RWF in partnership with the City. The Request for Information described the P3 facility as being capable of processing 50% to 100% of the RWF's mechanically dewatered Class B biosolids, and possibly some sludge and/or biosolids from other nearby wastewater agencies, into a Class A biosolids-based fertilizer. The private partner would be fully responsible for marketing, selling, and distributing the fertilizer product; would be required to comply with applicable regulatory requirements, the RWF's odor goal and odor fence line; and would be required to have robust contingency plans should issues arise during the P3 facility's operation. The P3 facility would be in operation for at least 20 years during which the City would pay a tipping fee for each ton processed that offsets the P3 facility's capital, operations, and maintenance expenses. Based on positive feedback from the private sector and the results of a subsequent financial analysis to compare the P3 facility's potential tipping fee to the rates of the existing transportation and beneficial use service agreements, as described in the update provided in October 2023<sup>3</sup>, staff decided to proceed to with the P3 facility's implementation efforts and planned to onboard consultants to assist with these efforts.

This memorandum provides an update on the procurement of a consultant, Arup US, Inc., who will act as a P3 advisor, performing services similar to those of an owner's advisor on a design-build project, and will support City staff through the evaluation of options to implement the biosolids P3 facility.

## **ANALYSIS**

The City issued a Request for Proposals on January 12, 2024, seeking proposals from firms interested in assisting the City with the implementation of the biosolids P3 facility. The solicitation number was ESD122023. The City received two proposals by the deadline on February 16, 2024. A three-person panel evaluated the proposals. The evaluation panel consisted of staff from the RWF's Capital Improvement Program and Wastewater Management divisions. Each panel member evaluated the proposals using a matrix to score the proposals after the proposals had been reviewed for responsiveness. The evaluation criteria, scores, and ranking of

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<sup>2</sup> The memorandum that recommended award of the dewatered biosolids transportation and beneficial use service agreements can be accessed at <https://sanjose.legistar.com/View.ashx?M=F&ID=11489699&GUID=481F7F6A-9420-4A63-B9E0-27E2A87305B1>.

<sup>3</sup> The memorandum that provided a status update on the biosolids P3 facility can be access at <https://sanjose.legistar.com/View.ashx?M=F&ID=12367407&GUID=C7666A67-143D-42FE-9A5D-43DBF97ED1D6>.

the proposers are listed in the following **table**. The maximum points possible for each criterion are indicated in parenthesis.

**Table –Final Scores for Request for Proposals ESD122023**

Rank	Proposer	General Requirements (5)	Experience & Qualifications (45)	Project Approach (35)	Cost Proposal (5)	Local Business Enterprise (5)	Small Business Enterprise (5)	Total (100)
1	Arup US, Inc.	5	41	32	5	0	0	83
2	Project Finance Advisory Limited	5	35	28	4	0	0	72

A notice of intended award was posted on March 16, 2024, and no protests were submitted during the subsequent 10-day period.

Staff recommends awarding a master consultant agreement in an amount not to exceed \$1,000,000 to the highest ranked proposer, Arup US, Inc. Arup US, Inc. is a global multi-disciplinary firm of economists, planners, engineers, and designers that was founded in the United Kingdom in 1946. Arup US, Inc.’s first office in the United States opened in 1985 in San Francisco and has been focused on delivering infrastructure projects in the water, transit and transportation, aviation, building, and energy sectors since then. Arup US, Inc. is a subsidiary of Arup Americas Inc., and Arup Americas Inc. is a subsidiary of Arup Group Limited.

Experience implementing projects using alternative delivery methods and experience analyzing commercial terms were key qualifications the City was seeking in a P3 advisor to help ensure the P3 facility’s implementation is successful. With its proposal, Arup US, Inc. demonstrated extensive experience conducting financial modeling and financing analyses and experience leading comparable infrastructure projects during their implementation. The team members proposed by Arup US, Inc. to work on the biosolids P3 facility have helped several government agencies within California deliver large and complex projects, including the Long Beach Civic Center and the Presidio Parkway project in San Francisco, both of which were implemented using design-build-finance-operate-maintain which is the alternative project delivery method the City is considering using for the biosolids P3 facility. Arup US, Inc.’s team members also have engineering experience working on other wastewater treatment plant projects, including projects using alternative delivery methods.

Arup US, Inc. also has experience working with the City on complex projects and it is currently working with the City’s Department of Transportation as a consultant on the Airport Connector project.

Scope of Services

As the City’s P3 advisor, Arup US, Inc. will principally assist the City throughout the procurement of the private partner, who will ultimately design, finance, construct, and operate

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the biosolids P3 facility. The scope of services provides the City flexibility when tasking the consultant. Among the services that may be required from Arup US, Inc. are providing project management support, conducting site surveys, supporting the environmental review effort required by the California Environmental Quality Act, and conducting a variety of financial analyses particularly during the evaluation of prospective private partners and subsequent negotiations leading to the execution of an agreement between the City and selected private partner. The extent of these services will be defined by City staff depending on resources available as service orders are executed.

The scope of services also includes possibly assisting the City monitor the P3 facility's design and construction after execution of the P3 agreement. However, the proposed initial term and maximum compensation of the master consultant agreement do not include compensation for the monitoring services and the agreement will need to be amended if the City requires Arup US, Inc. to provide those services. The proposed agreement includes several one-year options to extend the term through June 30, 2033, to accommodate potential delays in the implementation of the P3 facility and to allow the City schedule flexibility. An amendment to increase the agreement's maximum compensation will require staff to return to City Council for approval subject to the appropriation of funds.

### ***Policy Alternatives***

**Alternative #1:** Direct staff to provide the required services with in-house resources.

**Pros:** Would provide learning opportunities and foster skill development for City staff.

**Cons:** RWF staff does not currently possess the expertise needed to implement the biosolids P3 facility using an alternative delivery method such as design-build-finance-operate-maintain, which may result in significant delays and/or unsuccessful efforts. Staff intends to have the biosolids P3 facility operational before the expiration of existing transportation and beneficial use service agreements. Furthermore, the City's Biosolids Program Manager, who is currently the sole employee dedicated to the implementation of the Dewatered Biosolids Management Strategy, does not have the bandwidth to develop the procurement documents for the P3 facility's private partner in a timely manner nor does the Biosolids Program Manager possess the technical expertise to evaluate the various potential processing technologies and commercial terms that may be proposed by prospective private partners.

**Reason for not recommending:** Implementation of the biosolids P3 facility will require a level of expertise that RWF staff currently does not have. RWF staff does not have the appropriate financial analysis or alternative project delivery experience. The City can most efficiently bridge this gap by procuring a consultant with the appropriate knowledge and experience to supplement in-house staff. Solely relying on inexperienced RWF staff to implement the biosolids P3 will also likely result in delays. Delayed implementation of the biosolids P3 facility may result in higher capital costs and, consequently, higher tipping fees for the RWF. Additionally, if the biosolids P3 facility is not operational before the existing transportation and beneficial use service agreements expire, the City will need to procure new service agreements which could have significantly higher service rates and, consequently, result in higher operating costs for the RWF. Based on Arup US, Inc.'s proposal, staff anticipates issuing a Request for Qualifications in early 2025, issuing a Request for Proposals in mid-2025, and selecting a private partner by the end of calendar year 2025. That would allow the City a few months to negotiate, finalize, and

execute a P3 agreement before the end of fiscal year 2025-2026, and should provide sufficient time for the P3 facility's design, permitting, and construction to be completed before the term end of the existing transportation and beneficial use service agreements. The initial term of the existing agreements is set to end on June 30, 2029; the City has options to extend to June 30, 2033.

### **EVALUATION AND FOLLOW-UP**

Staff plans to return to the Treatment Plant Advisory Committee and City Council in 2025 with an update on the process to procure the biosolids P3 facility's private partner.

Environmental review will need to be completed prior to the City Council taking additional actions that would approve construction of the P3 facility.

### **COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: \$1,000,000
  
2. COST ELEMENTS OF MASTER AGREEMENT:  
Estimated Costs by Type of Service

Project Management	\$200,000
Site Surveys	\$150,000
CEQA Support	\$50,000
Emissions Analysis	\$50,000
Development of Performance Requirements	\$100,000
Private Partner Procurement	\$350,000
<u>Financial Analysis</u>	<u>\$100,000</u>
Total Estimated Cost	\$1,000,000
  
3. SOURCE OF FUNDING: San José/Santa Clara Treatment Plant Operations & Maintenance Funds (Fund 513)
  
4. FISCAL IMPACT: Funding for this and other consultant agreements was included as part of the 2023-2024 Adopted Operating Budget for the San José/Santa Clara Treatment Plant Operations & Maintenance Funds (Fund 513) in an amount not to exceed \$1,150,000. Funding for any additional costs associated with the implementation of the biosolids P3 facility is subject to the appropriation of funds and will be proposed to the City Council through future budget processes.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation that will be used to fund the recommended master consultant agreement.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Agreement	2023-2024 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
513	0762	ESD Non-Personal/Equipment	\$39,415,055	\$1,000,000	1054	10/17/2023, 30966

Although an appropriation is not required for the execution of the master consultant agreement, an appropriation will be required for the execution of each service order authorized under the agreement. The appropriation listed in the previous table is included in the 2023-2024 Adopted Operating Budget and may be used for service orders issued in fiscal year 2023-2024. Future funding is subject to the appropriation of funds and, if additional funding is needed, it will be included in the development of future year budgets during the annual budget process.

**COORDINATION**

This memorandum has been coordinated with the City Attorney’s Office, City Manager’s Budget Office, and the Planning, Building, and Code, Enforcement Department.

**PUBLIC OUTREACH**

The Request for Proposals was advertised on Biddingo on January 12, 2024. This memorandum will be posted on the City’s Council Agenda website for the June 4, 2024 City Council meeting.

**COMMISSION RECOMMENDATION AND INPUT**

This item is scheduled to be heard at the May 23, 2024 Treatment Plant Advisory Committee meeting. A supplemental memorandum with the committee’s recommendation will be included in the June 4, 2024 City Council amended agenda.

**CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

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**PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions, please contact Mariana Chavez-Vazquez, RWF General Manager, at [mariana.chavez-vazquez@sanjoseca.gov](mailto:mariana.chavez-vazquez@sanjoseca.gov) or (408) 535-8550.