

SAN JOSÉ/SANTA CLARA TREATMENT PLANT ADVISORY COMMITTEE

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PAT KOLSTAD, VICE CHAIR
PIERLUIGI OLIVERIO, MEMBER
DAVID SYKES, MEMBER
MANH NGUYEN, MEMBER

JOSE ESTEVES, MEMBER
TERESA O'NEILL, MEMBER
STEVEN LEONARDIS, MEMBER
JOHN GATTO, MEMBER

AGENDA/TPAC

4:00 p.m.

September 8, 2016

Room 1734

1. **ROLL CALL**

2. **APPROVAL OF MINUTES**

A. August 11, 2016

3. **UNFINISHED BUSINESS/REQUEST FOR DEFERRALS**

4. **DIRECTOR'S REPORT**

- A. Directors Report (verbal)
- Monthly Progress Report

5. **AGREEMENTS/ACTION ITEMS**

- A. Master Consultant Agreement with Kennedy/Jenks Consultants, Inc., for Engineering Services for the 7760 – Facility Wide Water Systems Improvements Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendation: Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering services for the 7760 – Facility Wide Water Systems Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$2,100,000, subject to the appropriation of funds.

This item is scheduled for consideration by the City Council on September 20, 2016.

- B. Report on Request for Proposal for Broker, Administrative, and Claims Services to Implement an Owner Controlled Insurance Program for the San Jose-Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendation: Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

- (1) Negotiate and execute an agreement with Alliant Risk Services, Inc. to provide broker, claims, and administrative services to establish and maintain a multiline, rolling Owner Controlled Insurance Program for capital improvements at the Regional Wastewater Facility for the term September 20, 2016 through September 19, 2021, with a maximum compensation amount of \$1,025,000 for initial five year term, not to exceed \$245,000 per year.
- (2) Exercise up to two five-year options to extend the term of the Agreement after the initial term through September 2031, subject to the appropriation of funds, with maximum compensation not to exceed \$245,000 per year.

This item is scheduled for consideration by the City Council on September 20, 2016.

C. Approval of Citywide Insurance Renewals

Staff Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Select and purchase certain City property and liability insurance policies for the period October 1, 2016 to October 1, 2017 at a total cost not to exceed \$1,750,000, with the following insurance carriers:
 - (1) American Home Assurance Company for Property & Casualty Insurance, including Boiler & Machinery.
 - (2) Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess) and Police Aircraft Hull & Liability including War Risks & Extended Perils.
 - (3) The Travelers Indemnity Company of CT for Automobile Liability, or other insurance carriers that the City are currently in negotiations with, (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).
 - (4) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.
 - (5) National Union Fire Insurance Company of Pittsburg, PA for Life/Accidental Death and Dismemberment Policy for the Police Air Support Unit.
- (b) Select and purchase Government Fidelity/Crime Coverage for the period December 18, 2016 to December 18, 2017, at a cost not to exceed \$26,000.

This item is scheduled for consideration by the City Council on September 20, 2016.

D. Burrowing Owl Habitat Improvements at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendation: Accept this progress report highlighting ongoing habitat management activities for the Western Burrowing Owl on San José- Santa Clara Regional Wastewater Facility bufferlands.

This item is scheduled for consideration by the Transportation and Environment Committee on September 12, 2016.

- E. Master Consultant Agreement with Williams, Adley & Company- CA, LLP for 8132 – Audit Services for the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendation: Approve a Master Consultant Agreement with Williams, Adley & Company – CA, LLP to provide audit services for the Capital Improvement Program at the San José- Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2021 in a total amount not to exceed \$1,000,000, subject to the appropriation of funds.

This item is scheduled for consideration by the City Council on September 20, 2016.

- F. Contract Change Order No. 12 for 7394 – Emergency Diesel Generator Package 2A Project

Staff Recommendation: Approve a Contract Change Order for a credit to the City in the amount of \$718,000 and extend the construction completion date from January 11, 2017 to February 22, 2017 for the 7394 – Emergency Diesel Generator Package 2A Project.

This item is scheduled for consideration by the City Council on September 20, 2016.

6. OTHER BUSINESS/CORRESPONDENCE

7. STATUS OF ITEMS PREVIOUSLY RECOMMENDED FOR APPROVAL BY TPAC

- A. Report on Bids and Award of Construction Contract for 7617 – Plant Instrument Air System Upgrade Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendations:

- (a) Adopt a resolution approve the San José- Santa Clara Regional Wastewater Facility Plant Instrument Air Upgrade Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program (File No. PP15-114).
- (b) Report on bids and award of construction contract for 7617- Plant Instrument Air System Upgrade Project to the low and only bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$2,848,000, and approve a 15 percent construction contingency in the amount of \$427,200.
- (c) Adopt a resolution authorizing the Department of Public Works to execute one or more change orders in excess of \$100,000 for the remaining duration of the Plant Instrument Air Upgrade Project, not to exceed the total contingency amount approved for the Project.

The proposed resolutions were adopted by the City Council on August 23, 2016.

8. REPORTS

9. MISCELLANEOUS

- A. The next monthly TPAC Meeting is October 13, 2016, at 4:00 p.m., City Hall, Room 1734.

10. OPEN FORUM

11. ADJOURNMENT

NOTE: If you have any changes or questions, please contact Melrose Cacal, Environmental Services (408) 975-2547.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please contact Melrose Cacal (408) 975-2547 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.

**MINUTES OF THE
SAN JOSÉ/SANTA CLARA
TREATMENT PLANT ADVISORY COMMITTEE**
City Hall, Council Chambers
Thursday, August 11, 2016 at 4:00 p.m.

1. ROLL CALL

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

Committee Members: Debi Davis (alternate), Jose Esteves, Pat Kolstad, Patrick Kwok (alternate), Sam Liccardo, Manh Nguyen, Pierluigi Oliverio, Dave Sykes

Absent: Committee Members John Gatto, Steven Leonardis, and Jerry Marsalli

2. APPROVAL OF MINUTES

A. June 9, 2016

Item 2.A. was approved to note and file.

Ayes – 8 (Davis, Esteves, Kolstad, Kwok, Liccardo, Nguyen, Oliverio, Sykes)

Nays – 0

Absent – 1 (Leonardis)

Assistant Director Ashwini Kantak noted that the “Ayes” for Item 5.A. was modified; an amended version of the minutes was distributed on August 9, 2016.

3. UNFINISHED BUSINESS/REQUEST FOR DEFERRALS

4. DIRECTORS REPORT

A. Directors Report (verbal)

- Monthly Progress Report
- Owner Controlled Insurance Program Update

Assistant Director Ashwini Kantak provided an update on several items:

1) Monthly Progress Report: Staff was able to encumber over \$200 million for Fiscal Year 2015-2016.

2) Incidental Discharge: The Regional Wastewater Facility (RWF) inadvertently released about 950,000 gallons of secondary treated wastewater that bypassed the filtration and disinfection process. This occurred on July 20, 2016 for about seven minutes at 8:19 A.M. The discharge did not exceed any National Pollutant Discharge Elimination Permit limits because it had already been treated in the primary and secondary processes by the time it entered into the San Francisco Bay. There were no public or environmental risks. Staff continued to take precautionary measures after the incident to prevent future harm. This included: patrolling the slough areas; checking on wildlife; tagging valves for use only in emergency situations; updating Operation and

Maintenance manuals; and notifying state and federal regulatory agencies.

- 3) **Digester Groundbreaking Ceremony:** This event is scheduled on August 24, 2016 from 1- 1:30 PM. at RWF; it will commemorate the first major capital investment in modernizing the facility.
- 4) **“Utility of the Future” Award:** The RWF was recognized for exceptional performance for showing success in innovative and sustainable practices. Sixty-one utilities were selected across the United States, Canada, and Denmark. A formal celebration will be held at the upcoming Weftec Conference.
- 5) **Mediation:** Mediation between the Owners and Tributary Agencies is scheduled for a 60-day period beginning September 14, 2016.
- 6) **Chris De Groot:** Ms. Kantak congratulated Chris on his retirement and thanked him for his work on the Technical Advisory Committee.

Risk and Insurance Manager Stephanie Williams presented a Power Point for the Owner Controlled Insurance Program (OCIP) Update. The presentation covered the structure of OCIP, compared it to traditional forms of insurance, described the various considerations and benefits of OCIP, and outlined next steps.

Finance and the Environmental Services Department will bring a recommendation forward to TPAC in one or two months. Ms. Kantak clarified for Committee Member Kwok that OCIP will only apply for projects at RWF, not City-wide. Committee Member Esteves asked (1) if member cities would be included in the distribution of payment for unforeseen losses, and (2) where OCIP is defined in the Master Agreements.

Ms. Williams and Ms. Kantak stated that the cost of delivering a project would entail paying for insurance either through OCIP or traditional insurance. Insurance is not specifically referenced in the Master Agreements, however all costs for capital projects would be allocated in accordance with the Master Agreements.

Chair Liccardo inquired why insurance was not sought for the digester project. Ms. Williams and Ms. Kantak indicated that timing was the primary factor; the digester project was already underway and could not be delayed until the feasibility study for OCIP had been completed.

5. AGREEMENTS/ACTION ITEMS

- A. Report on Bids and Award of Construction Contract for 7617 – Plant Instrument Air Upgrade Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendations:

- (a) Adopt a resolution approving the San José- Santa Clara Regional Wastewater Facility Plant Instrument Air System Upgrade Project Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program (File No. PP150114).
- (b) Report on bids and award of construction contract for 7617 – Plant Instrument Air System Upgrade to the low and only bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$2,848,000, and approve a 15 percent construction contingency in the amount of 427,200.
- (c) Adopt a resolution authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the remaining duration of the Plant Instrument Air System Upgrade Project, not to exceed the total contingency amount approved for the Project.

This item is scheduled for consideration by the City Council on August 23, 2016.

Program Manager Colin Page presented a Power Point.

Committee Member Kwok shared his support for this project; Anderson Pacific Engineering Construction is a well-known, local company, and money would get invested back into Santa Clara County.

Committee Member Esteves expressed that his opposition was due to the fact that amendments to the Master Agreements have not been negotiated.

On a motion made by Committee Member Kwok and a second by Committee Member Kolstad, TPAC recommended approval of staff's recommendations for Item 5.A.

Ayes – 7 (Davis, Kolstad, Kwok, Liccardo, Nguyen, Oliverio, Sykes)

Nays – 1 (Esteves)

Absent – 1 (Leonardis)

6. OTHER BUSINESS/CORRESPONDENCE

7. STATUS OF ITEMS PREVIOUSLY RECOMMENDED FOR APPROVAL BY TPAC

- A. Actions related to the March 24, 2016 Hearing on the Tributary Agencies' Claims of Breach of Agreement and Inequities

Staff Recommendations:

- (d) Adopt a Resolution setting forth the San José/Santa Clara Treatment Plant Advisory Committee's (TPAC) report, findings, and recommendations following the March 24, 2016, hearing before TPAC on the Claims of Breach of Agreement

and Inequities filed on January 22, 2016 by West Valley Sanitation District, Burbank Sanitary District No. 2-3, and the City of Milpitas (Tributary Agencies); and

- (e) Direct the Secretary of TPAC to distribute to the legislative bodies of the Tributary Agencies, the City of San Jose, and the City of Santa Clara a copy of TPAC's Resolution.

TPAC adopted the proposed Resolution on June 9, 2016. Senior Deputy City Attorney Jennifer Pousho sent the revised claim report to TPAC Liaison Melrose Cacal for distribution.

B. Report on Bids and Award of Contract for 7987 – Construction Enabling Project

Staff Recommendations:

- (a) Adopt a resolution approving the Construction-Enabling Improvements Project Addendum to the San José/Santa Clara Water Pollution Control Plant Master Plan Environmental Impact Report (SCH# 2011052074) and related Mitigation Monitoring and Reporting Program (File No. PP15-120).
- (b) Report on bids and award of contract for the 7987- Construction- Enabling Improvements Project to the low bidder, Teichert Construction, Inc., for the base bid of \$3,124,885 and Add Alternate No. 2 in the amount of \$11,025 for a total amount of \$3,135,910 and approval of a 10 percent contingency in the amount of \$314,000.
- (c) Adopt a resolution authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the duration of the Construction Enabling project, not to exceed the total contingency amount approved for the project.
- (d) Adopt the following 2015-2016 Appropriations Ordinance amendments in the San Jose- Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease the Urgent and Unscheduled Treatment Plant Rehabilitation appropriation to the Environmental Services Department by \$455,000; and
 - (2) Increase the Construction-Enabling Improvements appropriation to the Environmental Services Department by \$455,000.

The proposed resolutions were adopted by the City Council on June 21, 2016.

C. Master Consultant Agreements with Brown & Caldwell for Engineering Services for the 8001 – Aeration Tanks Rehabilitation Project and 8073 – Blower Improvements Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendation: Approve a Master Consultant Agreements with Brown and Caldwell to provide engineering services for the 8073 – Blower Improvements Project and 8001- Aeration Tanks Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 21, 2024, in an initial amount not to exceed \$7,900,000, subject to the appropriation of funds.

The proposed recommendation was approved by the City Council on June 21, 2016.

- D. Amendments to the Master Consultant Agreements with CDM Smith and Kennedy/Jenks for Engineering Services for the Projects in the San Jose- Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendations:

- (a) Approve an amended and restated master consultant agreement with CDM Smith, Inc. for engineering and construction management services for the 7701-Headworks Project, with no extension to the term or increase to the maximum total compensation.
- (b) Approve an amended and restated master consultant agreement with Kennedy/Jenks Consultants, Inc. for engineering services for the 7448 – Filter Rehabilitation Project, with no extension to the term or increase to the total maximum total compensation.

The proposed recommendations were approved by the City Council on June 14, 2016.

- E. Master Agreements with Kennedy/Jenks Consultants, Inc. and MNS Engineers, Inc. For Construction Management and Inspection Services for the San Jose- Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendation: Approve master consultant agreements with Kennedy/Jenks Consultants, Inc., and MNS Engineers, Inc., for construction management and inspection services for various capital improvement projects at the San José- Santa Clara Regional Wastewater Facility, from the date of execution through June 30, 2024, in a total amount not to exceed \$8,000,000 for each agreement, subject to the appropriation of funds.

The proposed recommendation was approved by the City Council on June 21, 2016.

- F. Master Consultant Agreements with Hazen and Sawyer Value Management Strategies, Inc. for 8095- Value Engineering and Peer Review Services for the San Jose- Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendation: Approve the master consultant agreements with Hazen and Sawyer, and Value Management Strategies, Inc. to provide value engineering and peer review services for the Capital Improvement Program at the San José- Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2021, in a total amount not to exceed \$5,000,000 for each agreement subject to the appropriation of funds.

The proposed recommendation was approved by the City Council on June 21, 2016.

G. Execute a Purchase Order with Tucker Construction, Inc.

Staff Recommendations: Adopt a resolution authorizing the City Manager to:

- (1) Execute a Purchase Order Tucker Construction (San Jose, CA) to provide all labor, material, and equipment to perform expansion joint and concrete maintenance and repair services at the Regional Wastewater Facility for the term June 22, 2016 through June 21, 2017, in an amount not to exceed \$300,000;
- (2) Approve a contingency of \$50,000 in the event that additional repairs are required.
- (3) Exercise up to four, one-year options to extend the term through June 30, 2021, with any price increases subject to the approval by the City and subject to the annual appropriation of funds.

The proposed resolution was adopted by the City Council on June 21, 2016.

All items under Section 7 were approved to note and file.

Ayes – 8 (Davis, Esteves, Kolstad, Kwok, Liccardo, Nguyen, Oliverio, Sykes)

Nayes – 0

Absent – 1 (Leonardis)

8. **REPORTS**

A. Open Purchase Orders Greater Than \$100,000 (including Service Orders)

The attached monthly Procurement and Contract Activity Report summarizes the Purchase and contracting of goods with an estimated value between \$100,000 and \$1.08 million of services between \$100,000 and \$270,000.

Item 8.A. was approved to note and file.

Ayes – 8 (Davis, Esteves, Kolstad, Kwok, Liccardo, Nguyen, Oliverio, Sykes)

Nayes – 0

Absent – 1 (Leonardis)

9. **MISCELLANEOUS**

- A. The monthly TPAC Meeting is September 8, 2016, at 4:00 p.m., City Hall, Room 1734. **Please note new start time.**

10. **OPEN FORUM**

11. **ADJOURNMENT**

A. The Treatment Plant Advisory Committee adjourned at 4:27 p.m.

Sam Liccardo, Chair
TREATMENT PLANT ADVISORY COMMITTEE



San José-Santa Clara
Regional Wastewater Facility

Capital Improvement Program Monthly Status Report: July 2016

September 1, 2016

This report summarizes the progress and accomplishments of the Capital Improvement Program (CIP) for the San José-Santa Clara Regional Wastewater Facility (RWF) for July 2016.

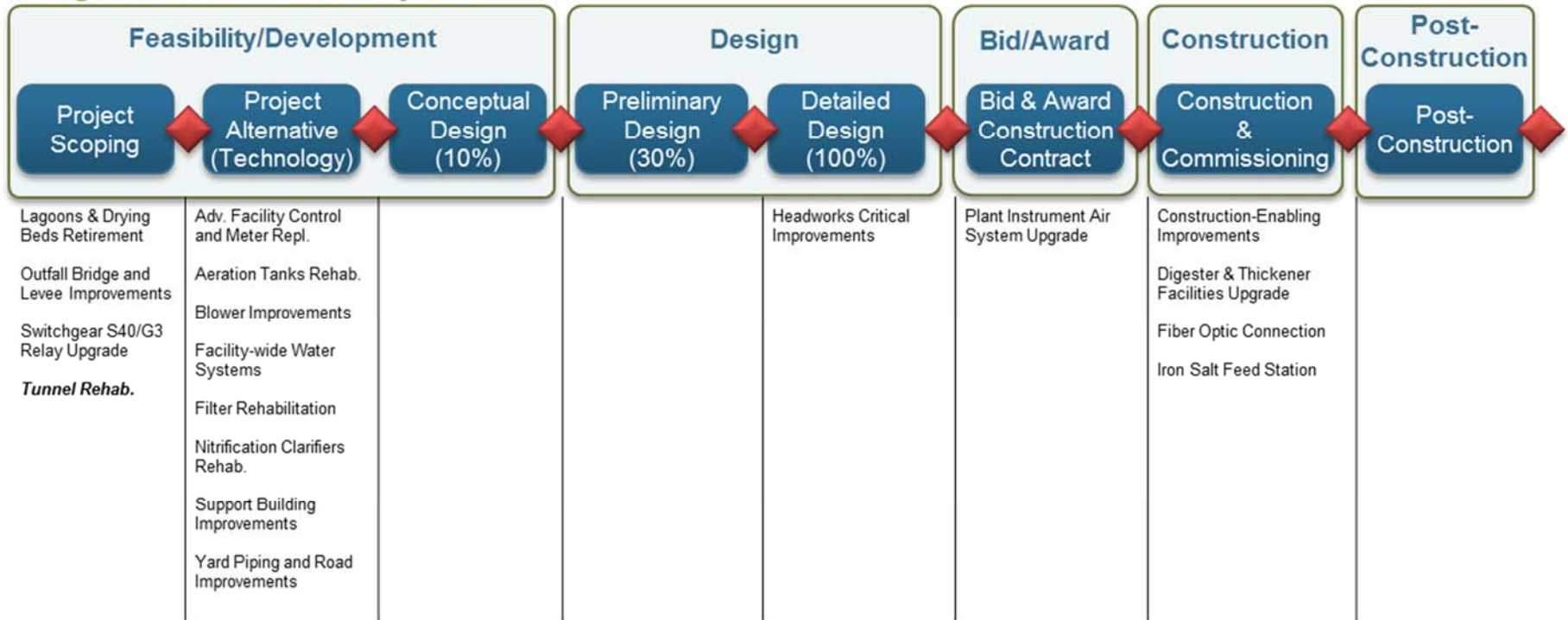
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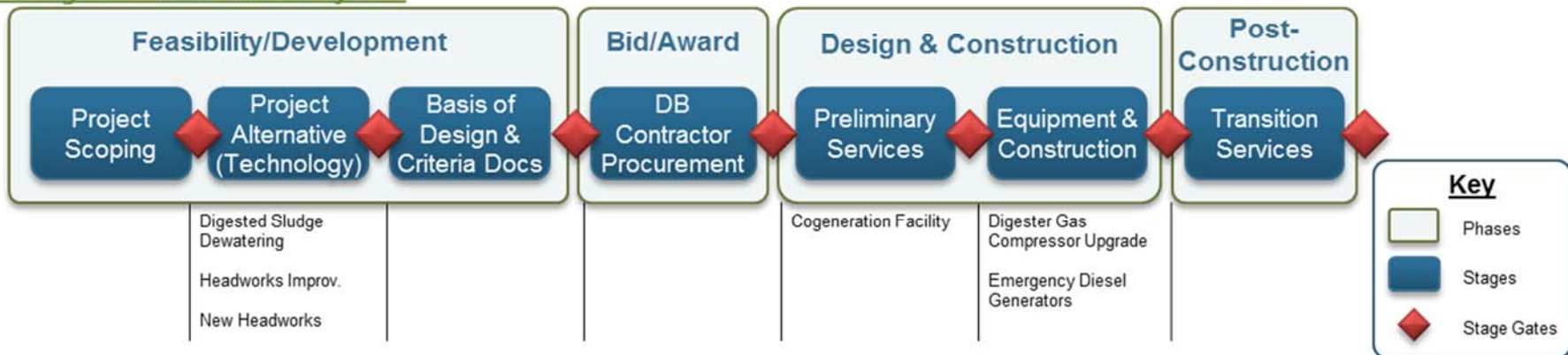


Project Delivery Model

Design-Bid-Build Active Projects



Design-Build Active Projects



*Projects shown in **bold and italics** have advanced this reporting period



Program Summary

July 2016

In July, the CIP progressed on multiple fronts, including the initiation of the Tunnel Rehabilitation Project. The RWF has an extensive tunnel system that houses piping, equipment, valves, pumps, and controls. Many of the tunnels date back to the 1960s and need structural repair, improved ventilation, and removal of obsolete pipelines to remain operational. This project will provide such improvements for approximately 130,000 square feet of tunnel footprint area.

In additional developments, CIP staff:

- Completed Statement of Qualifications (SOQ) evaluations for the Support Building Improvements Project; and
- Issued a Notice of Determination for the RWF System Integrator services pre-qualification.

Design continued on the Headworks Critical Improvements Project, which will reach the 90 percent design milestone next month; and on the Cogeneration Facility Project (design-build), which will start engine selection procurement next month. Alternatives analysis also continued on the Blower Improvement, Filter Rehabilitation, Headworks Improvements, and New Headworks projects, with technical workshops held for each project this month.

Construction work continued on the Digester Gas Compressor Upgrades, Emergency Diesel Generators, Fiber Optic Connection, and Iron Salt Feed Station projects. The Construction-Enabling Improvements and the Digester and Thickener Facilities Upgrade projects commenced construction activities this month with pre-construction meetings.

Look Ahead

In August, CIP project teams and the selected design consultants will move forward with design, condition assessment, and alternatives analysis work for the Blower Improvements, Cogeneration Facility, Filter Rehabilitation, Headworks Improvements, and New Headworks projects. The Nitrification Clarifiers Rehabilitation project will also commence with kick-off meetings and condition assessment activities scheduled.

Staff will continue with efforts related to consultant procurements and service orders, including for the Advanced Facility Control and Meter Replacement, Aeration Tanks Rehabilitation, Digested Sludge Dewatering Facility, Facility Wide Water Systems Improvements, Support Building Improvements, and Switchgear S40 Upgrade, M4 Replacement, G3 & G3A Removal projects.

Procurements for a number of programmatic services will continue to advance, including Audit Services, Industrial Hygienist services, and Owner Controlled Insurance Program (OCIP).

Construction activities will continue on the Construction-Enabling Improvements, Digester and Thickener Facilities Upgrade, Digester Gas Compressor Upgrade, Emergency Diesel Generators, Fiber Optic Connection, and Iron Salt Feed Station projects. In August, a groundbreaking ceremony will be held for the Digester and Thickener Facilities Upgrade project — the largest of the 10-year CIP projects to begin construction so far.

Staff will make recommendations to the Treatment Plant Advisory Committee (TPAC) and City Council (Council) in August to proceed with the award of the construction contract for the Plant Instrument Air System Upgrade Project.

In addition, all CIP project managers and project engineers will continue formal staff training, with the next training session focused on alternatives analysis.



Program Highlight – Stage Gates

Stage gates are systematic reviews at key milestones in the life cycle of a project. A typical project progresses through as many as eight stage gates, such as “Approve Project Scope”, “Authorization to Bid”, and “Substantial Completion,” as shown on the Project Delivery Model (PDM) chart on page 2. At stage gate reviews, the project manager summarizes a project’s progress and makes a case to a five-member stage gate review panel for the project to proceed. The panel, comprised of senior leadership, reviews the information presented, discusses any points of concern, and then ultimately determines whether to pass the project on to the next stage. This process enables decisions to be made in a transparent and intentional manner.

The stage gate process ensures that CIP projects are developed in alignment with key objectives of scope, schedule, cost, and risk (see Figure 1). The objectives confirm that:

- The project has been robustly defined and executed to date;
- The project scope remains in alignment with CIP goals and objectives;
- Impacts of key project decisions are understood;
- Key variables and criteria have been examined and are understood;
- Project risks have been identified, allocated, and mitigated as appropriate;
- Project interfaces have been identified, with appropriate planning and coordination between project teams;
- Project expenses are within budget, or additional expenses are warranted; and
- Stakeholder coordination has been adequately planned or completed with operations and maintenance (O&M) staff, other City departments, permitting agencies, etc.

For a successful stage gate review, the project manager must concisely and effectively communicate the most important details of a project’s development so that program leadership can quickly grasp the project’s core issues. To facilitate this process, the program controls team has developed a set of templates and presentation materials for each stage gate. The stage gate manager supports the development of these materials in three preparatory meetings in which the project team hones important messages, highlights key issues that require leadership approval, and refines the presentation.

Accomplishments in Fiscal Year 2015-16

Twenty-two stage gates were approved in FY 2015-16. Many of these stage gates reflect significant CIP milestones over the last year, including completion of the first round of engineering studies that provide the basis of design for all projects; four Authorizations to Award for the Construction-Enabling Improvements, Digester and Thickener Facilities Upgrade, Iron Salt Feed Station, and the Plant Instrument Air System Upgrade projects; the first Authorization to Award a design-build contract for the Cogeneration Facility Project; and authorization of the first Substantial Completion of a project for the Digester Gas Storage Replacement Project. The processes developed and lessons learned as these projects passed key PDM milestones should expedite the delivery of the next round of projects in design.

Need & Scope <i>Verify project scope still addresses original business need.</i>	Yes
Operations and Maintenance <i>Reviewed & Approved design, committed to support construction integration.</i>	Yes*
Space and Accessibility Constraints <i>Sufficient space validated for construction activities. Design reviewed for accessibility.</i>	Yes
Schedule <i>Detailed schedule prepared and meets key milestone baseline dates.</i>	Yes*
Cost Estimate <i>AACE Class 1 estimate prepared and validated.</i>	Yes*
Delivery Strategy <i>Bid documents align with Final Delivery Strategy.</i>	Yes*
Design <i>Design completed to 90-100% level and approved.</i>	Yes
Regulatory & Environmental <i>Permits obtained. CEQA complete. Mitigation measures in design & pre-construction.</i>	Yes*
Stakeholders <i>Key Stakeholders participated in Detailed Design Stage.</i>	Yes
Resources <i>Resources validated and secured for Bid & Award phase.</i>	Yes*
Project Interfaces <i>Key project boundaries identified in design. Project schedule reflects interface timings.</i>	Yes

Figure 1: Sample list of key deliverables from a stage gate presentation. Green indicates complete; orange indicates need for leadership feedback.



Program Performance Summary

Eight key performance indicators (KPIs) have been established to measure the overall success of the CIP. Each KPI represents a metric that will be monitored on a regular frequency. Through the life of the CIP, KPIs will be selected and measured that best reflect the current program.

Program Key Performance Indicators – Fiscal Year 2016-2017

KPI	Target	Fiscal Year to Date			Fiscal Year End		
		Actual	Status	Trend	Forecast	Status	Trend
Stage Gates ¹	80%	NA 0/0			100% 23/23		
Measurement: Percentage of initiated projects and studies that successfully pass each stage gate. Criteria: Red: < 70%; Amber: 70% to 80%; Green: >=80%							
Schedule ²	90%	NA 0/0			75% 3/4 ³		
Measurement: Percentage of CIP projects delivered within 2 months of approved baseline Beneficial Use Milestone. Criteria: Red: < 75%; Amber: 75% to 89%; Green: >=90%							
Budget ⁴	90%	NA 0/0			75% 3/4 ⁵		
Measurement: Percentage of CIP projects that are accepted by the City within the approved baseline budget. Criteria: Red: < 75%; Amber: 75% to 89%; Green: >=90%							
Expenditure ⁶	\$193M	NA			\$194M		
Measurement: CIP Fiscal Year 16/17 committed costs. Committed cost meets or exceeds 70% of planned Budget (70% of \$276M = \$193M) Criteria: Red: < \$152M; Amber: \$152M to \$193M; Green: >=\$193M							
Procurement ⁷	80%	NA 0/0			100% 5/5		
Measurement: Number of consultant and contractor procurements advertised compared to planned for the fiscal year. Criteria: Red: < 70%; Amber: 70% to 79%; Green: >=80%							
Safety	0	0			0		
Measurement: Number of OSHA reportable incidents associated with CIP delivery for the fiscal year. Criteria: Red: > 2; Amber: 1 to 2; Green: zero incidents							
Environmental	0	0			0		
Measurement: Number of permit violations caused by CIP delivery for the fiscal year. Criteria: Red: > 2; Amber: 1 to 2; Green: zero incidents							
Staffing ⁸	NA	NA	NA	NA	NA	NA	NA
Measurement: Number of planned positions filled for the fiscal year. Criteria: Red: < 70%; Amber: 70% to 79%; Green: >=80%							

Notes

- There were no stage gates held in July.
- No projects reached Beneficial Use in July.
- The Emergency Diesel Generators Project is expected to reach Beneficial Use this fiscal year, but is not expected to be within two months of the baseline schedule.
- No projects were accepted in July.
- The Digester Gas Compressor Upgrade Project will be accepted this year, but is currently over budget by 1.2 percent.
- Due to the reversal of 2015-2016 accruals, actual expenses in July are negative. These negative expenses will be offset when the 2015-2016 invoices are paid.
- There were no procurements planned for the month of July.
- The City staffing level KPI for planned recruitments for positions that are vacant at the start of the fiscal year is measured quarterly; all other KPIs are measured monthly. KPI measurement does not account for staff turnover throughout the fiscal year.

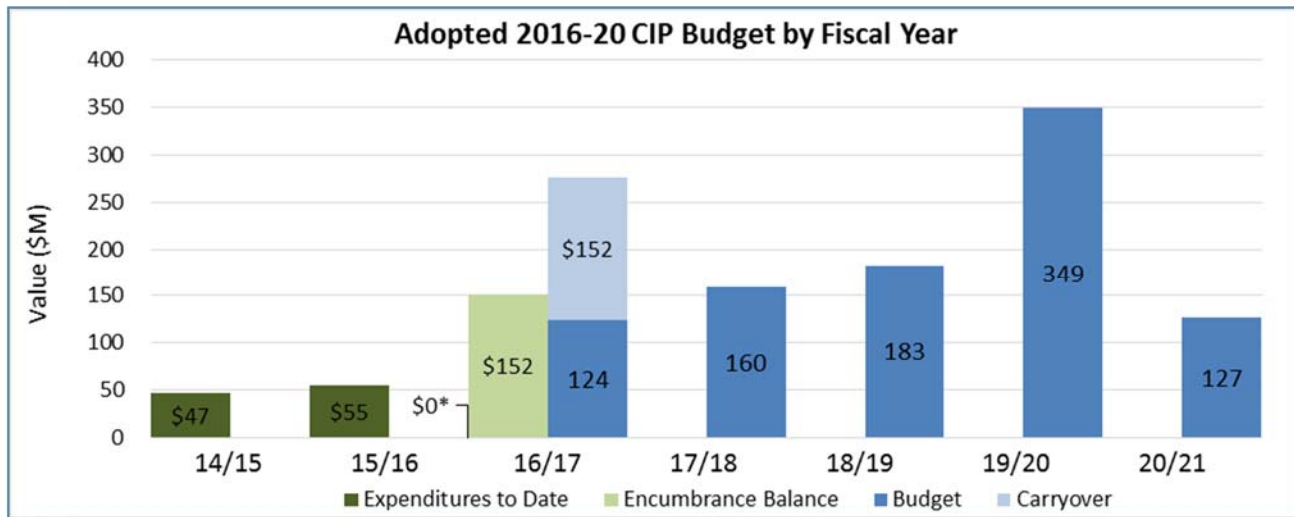


Program Cost Performance Summary

This section summarizes CIP cost performance for all construction projects and non-construction activities for FY 2016-17 and for the 2017-2021 CIP.

Adopted 2017-2021 CIP Expenditure and Encumbrances

FY 2014-15 and FY 2015-16 expenditures have been adjusted to reflect the CIP portion of the Treatment Plant Capital Fund (Fund 512), excluding South Bay Water and Urgent and Unscheduled Cost (\$2.6M and \$1.5M, respectively).



*Due to the reversal of 2015-2016 accruals, actual expenses in July are negative. These negative expenses will be offset when the 2015-2016 invoices are paid.

Notes:

Expenditure: Actual cost expended, either by check to a vendor or through the City's financial system, for expenses such as payroll or non-personal expenses that do not require a contract.

Encumbrance: Financial commitments, such as purchase orders or contracts that are committed to a vendor, consultant, or contractor. The encumbrance reserves the funding within the appropriation and project.

Encumbrance Balance: The amount of the remaining encumbrance committed after payments.

Budget: Adopted FY 2016-2020 Budget, which is new funding plus rebudgeted funds.

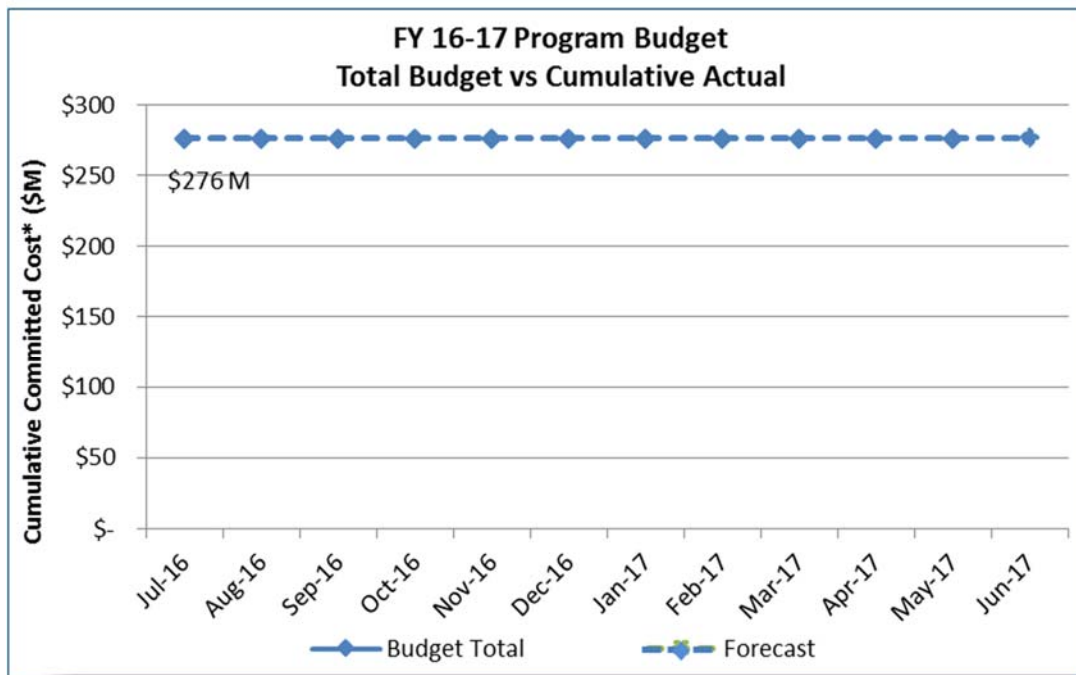
Carryover: Encumbrance balances at the end of a fiscal year become carryover funding. Carryover is different from rebudgeted funds, in that it automatically utilizes funding that was previously committed, but not yet paid.



Fiscal Year 2016-2017 Program Budget Performance

This budget comprises the 2016-2017 budget of \$124 million plus carryover of \$152 million. The budget excludes Reserves, Ending Fund Balance, South Bay Water Recycling, Public Art, and Urgent and Unscheduled Rehabilitation items.

The committed costs forecast for Fiscal Year 2016-17 are currently being finalized and will be included in next month's report.















*Committed costs are expenditures and encumbrance balances, including carryover (encumbrance balances from the previous fiscal year).






Project Performance Summary

There are currently six active projects in the construction or post-construction phases, with a further 18 projects in feasibility/development, design, bid and award, or design and construction (design-build projects) phases (see PDM, page 2). All active projects are listed in the tables below. Projects in the construction phase have established cost and schedule baselines and are monitored using the City's Capital Project Management System (CPMS). Green/red icons are included in the table below to indicate whether these projects are on budget and schedule, using CPMS data as a source.

Project Performance – Baselined Projects

Project Name	Phase	Estimated Beneficial Use Date ¹	Cost Performance ²	Schedule Performance ²
1. Digester Gas Compressor Upgrade	Construction	Oct 2016		
2. Emergency Diesel Generators	Construction	Mar 2017		
3. Fiber Optic Connection	Construction	Feb 2017		
4. Construction-Enabling Improvements	Construction	Mar 2017		
5. Iron Salt Feed Station	Construction	Sept 2017		
6. Digester and Thickener Facilities Upgrade	Construction	April 2020		

KEY:

Cost:		On Budget		>1% Over Budget
Schedule:		On Schedule		>2 months delay

Notes

- Beneficial Use is defined as work that is sufficiently complete, in accordance with contract documents, that it can be used or occupied by the City. Beneficial Use dates are reviewed as part of project schedule reviews.
- An explanation of cost and schedule variances on specific projects identified in this table is provided on page 11.



Project Performance – Pre-Baselined Projects

Project Name	Phase	Estimated Beneficial Use Date ¹
1. Cogeneration Facility	Design & Construction	May 2019
2. Plant Instrument Air System Upgrade	Bid & Award	Jan 2018
3. Headworks Critical Improvements	Design	Sept 2017
4. Blower Improvements	Feasibility/Development	Feb 2019
5. Adv. Facility Control & Meter Replacement	Feasibility/Development	Dec 2020
6. Switchgear S40 Upgrade, M4 Replacement, G3 & G3A Removal	Feasibility/Development	Mar 2021
7. Headworks Improvements	Feasibility/Development	April 2021
8. Digested Sludge Dewatering Facility	Feasibility/Development	Dec 2021
9. Outfall Bridge and Levee Improvements	Feasibility/Development	Jan 2022
10. Filter Rehabilitation	Feasibility/Development	May 2022
11. Facility Wide Water Systems Improvements	Feasibility/Development	July 2022
12. New Headworks	Feasibility/Development	Aug 2022
13. Yard Piping and Road Improvements	Feasibility/Development	Oct 2022
14. Nitrification Clarifiers Rehabilitation	Feasibility/Development	Nov 2022
15. Aeration Tanks Rehabilitation	Feasibility/Development	Nov 2023
16. Tunnel Rehabilitation	Feasibility/Development	Nov 2025
17. Support Building Improvements	Feasibility/Development	Jan 2027
18. Lagoons & Drying Beds Retirement	Feasibility/Development	Mar 2027

Notes

- Beneficial Use is defined as work that is sufficiently complete, in accordance with contract documents, that it can be used or occupied by the City. Beneficial Use dates are reviewed as part of project schedule reviews.



Significant Accomplishments

Biosolids Package

Digester and Thickener Facilities Upgrade

- The Notice to Proceed for construction was issued on July 5. The contractor has mobilized and is setting up a field office. The contractor began submitting items for review and approval.

Facilities Package

Cogeneration Facility

- The project team held five project workshops on topics such as commissioning; instrumentation and controls; engine procurement; building layout; electrical design site layout; and security.

Construction-Enabling Improvements

- Staff issued the Notice to Proceed on July 28. The contractor is expected to begin construction in August.

Fiber Optic Connection

- The project team is reviewing contractor submittals, with construction expected to begin in August.

Support Building Improvements

- The Technical Evaluation Panel completed SOQ evaluations. Interviews are scheduled for August.

Tunnel Rehabilitation Project

- Staff initiated the project on July 15 and scoping activities commenced.

Liquids Package

Advanced Facility Control and Meter Replacement

- The project team is negotiating scope of work and fees with Black & Veatch Corporation. A Notice to Proceed is anticipated in October.

Blower Improvements

- The project team completed the Alternatives Analysis Report and began conceptual design. The project team is negotiating scope of work and fees with Brown and Caldwell for preliminary and detailed design along with bid and award support.

Filter Rehabilitation

- Staff held two workshops, one to discuss operational processes, and the other to develop an approach to complete the condition assessment and determine locations for monitoring equipment. The condition assessment is expected to be completed in October.

Headworks Critical Improvements

- The project team is reviewing the 60 percent design submittal and anticipates the 90 percent submittal in August.

Headworks Improvements and New Headworks

- The consultant set flow monitoring equipment in five locations to collect data to calibrate the influent system hydraulic model. This model will be used to select an alternative for the new headworks.

Iron Salt Feed Station

- The project team received and began reviewing submittals of the major equipment. The contractor began site excavation work and completed subgrade preparation at the ferric chloride site.

Nitrification Clarifiers Rehabilitation

- The project team finalized the scope of work and fees with the HDR Engineering, Inc. The Notice to Proceed is anticipated in August.



Explanation of Project Performance Issues

Emergency Diesel Generator

The project completion schedule has been delayed approximately nine months due to the following three factors:

- Caterpillar, the supplier of the emergency diesel generator system, encountered delays in developing the controls and network switches that interface with existing RWF controls. Caterpillar and Peterson Control are in the process of completing all outstanding items. A problem was found with the new network switches during the factory acceptance test. The City and the design-build team are working on a solution to the problem.
- Additional time is required for Pacific Gas & Electric (PG&E) to schedule the witness test of the emergency diesel generator equipment installation and commissioning to connect to the RWF grid. The City is in the process of completing a batteries load test. The third-party testing report will be submitted to PG&E for review and approval. After PG&E approves the emergency diesel generator plans and the third-party test report, they will require 60 days to schedule a PG&E technical team to witness the emergency diesel generator equipment commissioning.
- A no-cost time extension change order has been processed and fully executed to split the commissioning sequence into two periods and ensure RWF backup power during engine modification work.

Digester Gas Compressor Upgrade

This project is over budget by 1.2 percent. The two issues below have increased project delivery costs, pushing the total project cost slightly over budget:

- Construction inspection requirements were more involved than anticipated, and
- Necessary changes in the contract have extended the project by four months.



Project Profile – Digested Sludge Dewatering Facility Project

Biosolids (sludge) resulting from the RWF wastewater treatment process are first digested in anaerobic digesters, resulting in approximately 85 dry tons of digested sludge per day. The biosolids are then transferred to open-air lagoons, where they are stabilized for approximately three and half years before being moved to drying beds for an additional six months. The final result are Class A biosolids, which are transported to the adjacent Newby Island landfill for use as an alternative daily cover (ADC) material. The 2012 Plant Master Plan for the RWF recommended transitioning from the existing open-air lagoon and drying-bed dewatering process to a new mechanical dewatering facility. In 2014, a biosolids management strategy was further developed to address biosolids transition implementation. Council approved recommendations from this strategy, including a new Digested Sludge Dewatering Facility Project, in December 2014 and June 2015.

The project will construct a new mechanical dewatering facility and associated support facilities to replace the existing lagoons and drying beds. These support facilities may include a transfer sludge pump station, digested sludge storage facilities, sludge cake conveyance facilities, and truck load-out facilities. Other potential improvements could include conversion of two existing anaerobic digesters to digested sludge storage tanks; and rehabilitation of the digested sludge export pump station. The project team has identified a site for the new dewatering facility on the east side of Zanker Road. The total project budget is approximately \$97 million.

The project will offer the following benefits:

- Reduces the footprint of the biosolids process to allow for future alternative land use;
- Provides flexibility and diversification to respond to future treated biosolids disposal regulations;
- Provides better monitoring and control of the dewatering process through specialized equipment and instrumentation;
- Significantly reduces the time required to dewater biosolids; and
- Reduces potential odors by enclosing the dewatering process and implementing additional odor control options.

Because mechanical dewatering is a new process for the RWF, the design-build delivery approach has been chosen for the project. This approach will allow for dedicated interaction with O&M staff during design and construction, and could result in the following potential benefits: it is anticipated to reduce the City's risk; potentially lower the volume and cost of contract change orders; decrease construction delays; increase the likelihood of having high-quality specialized equipment installed; and provide more efficient solutions to complex construction sequencing issues.

The design-build delivery method involves two procurements: one for an owner's advisor consultant, and one for a design-build firm. Owner's advisor services include development of project alternatives and a required Basis of Design report; assistance during the procurement process for the design-build firm; technical support during design development; CEQA review process completion support and, potentially, assistance with the State Revolving Fund application process; independent reviews of cost estimates; and support during negotiations for a guaranteed maximum price for the project. The owner's advisor will also provide as-needed construction management services and, potentially, warranty support and performance troubleshooting after substantial completion. The design-build firm will provide the detailed design for the project, and will construct the project's physical elements. The project team is developing procurement documents to obtain owner's advisor services, with the contract award anticipated in October. The team expects to have a Basis of Design report completed by fall 2018, allowing procurement of the design-build firm and detailed design to proceed. Project construction is scheduled to begin in fall 2019 with substantial completion expected by winter 2021.

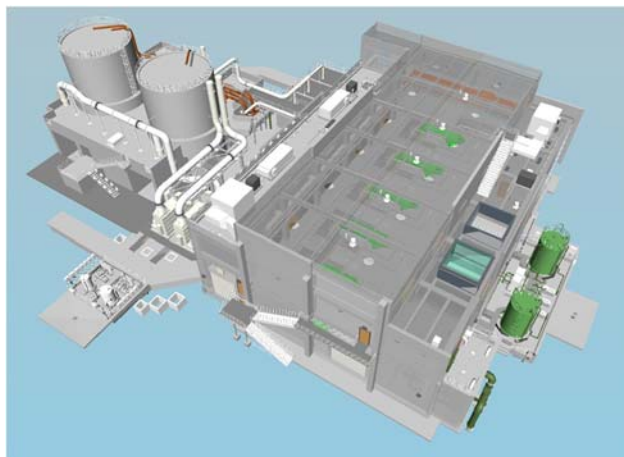


Figure 2: Typical Concept for a Mechanical Dewatering Facility

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Regional Wastewater Facility Treatment – Current Treatment Process Flow Diagram

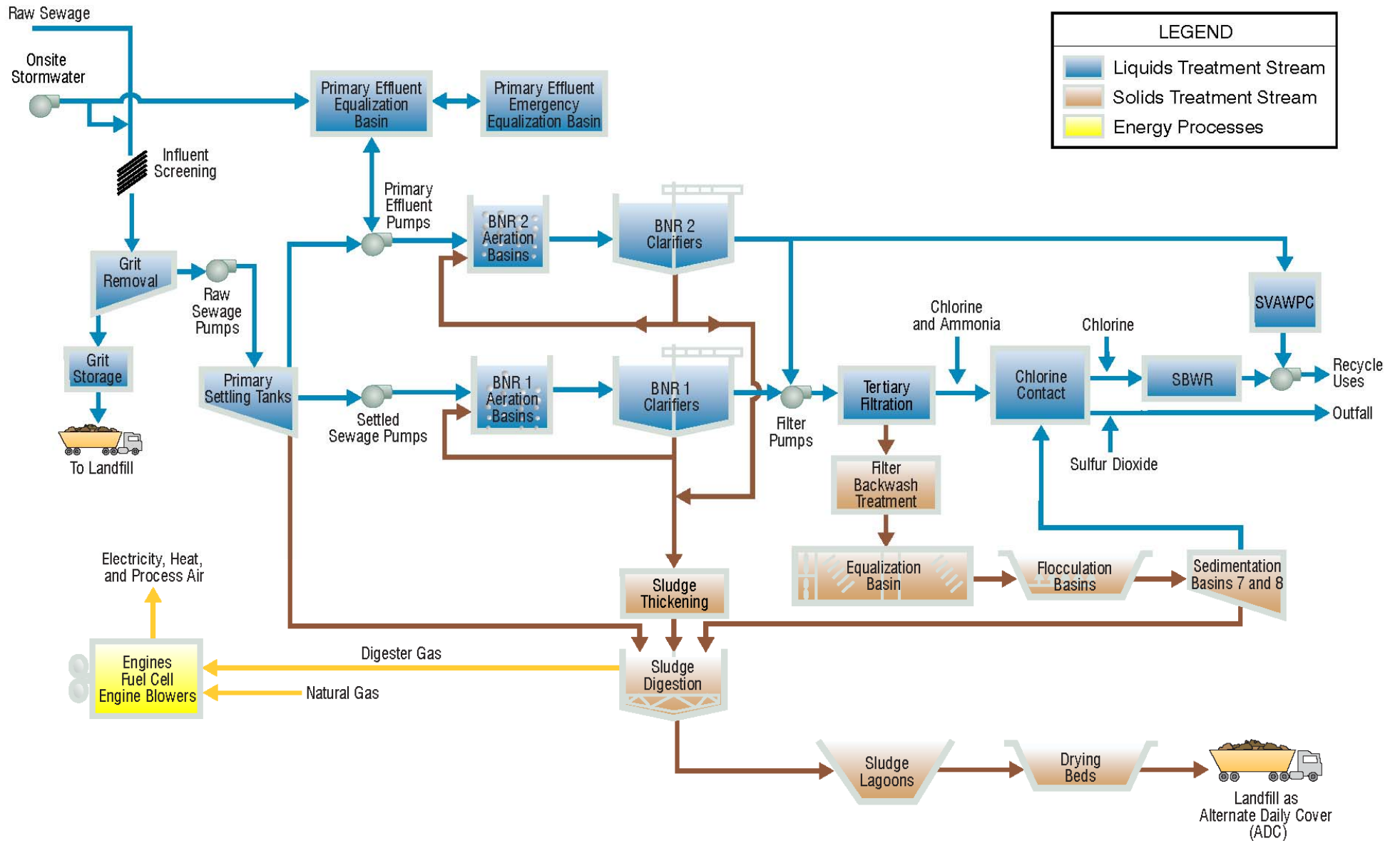


Figure 3 – Current Treatment Process Flow Diagram



Regional Wastewater Facility Treatment – Proposed Treatment Process Flow Diagram

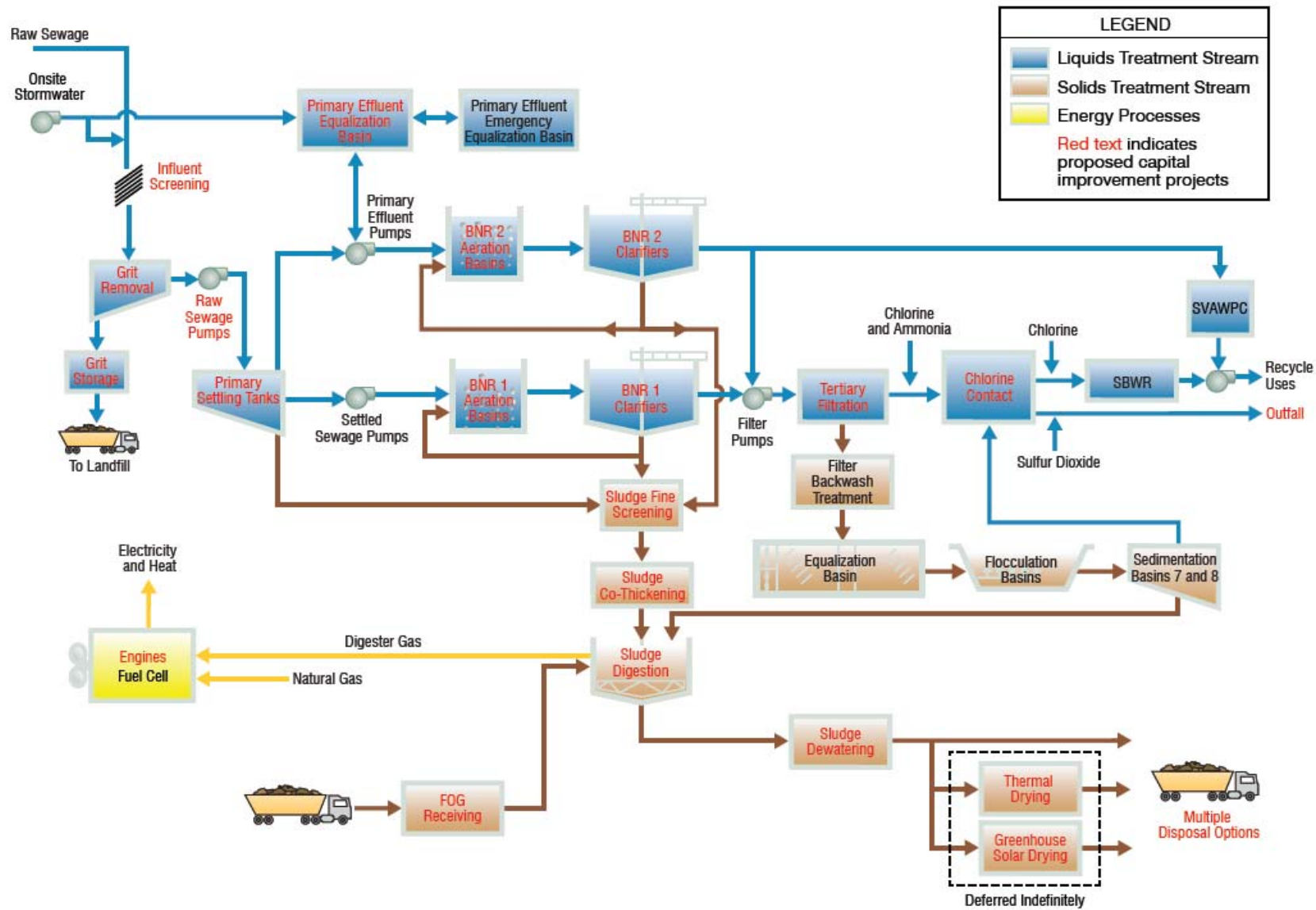


Figure 4 – Proposed Treatment Process Flow Diagram



Active Construction Projects – Aerial Plan

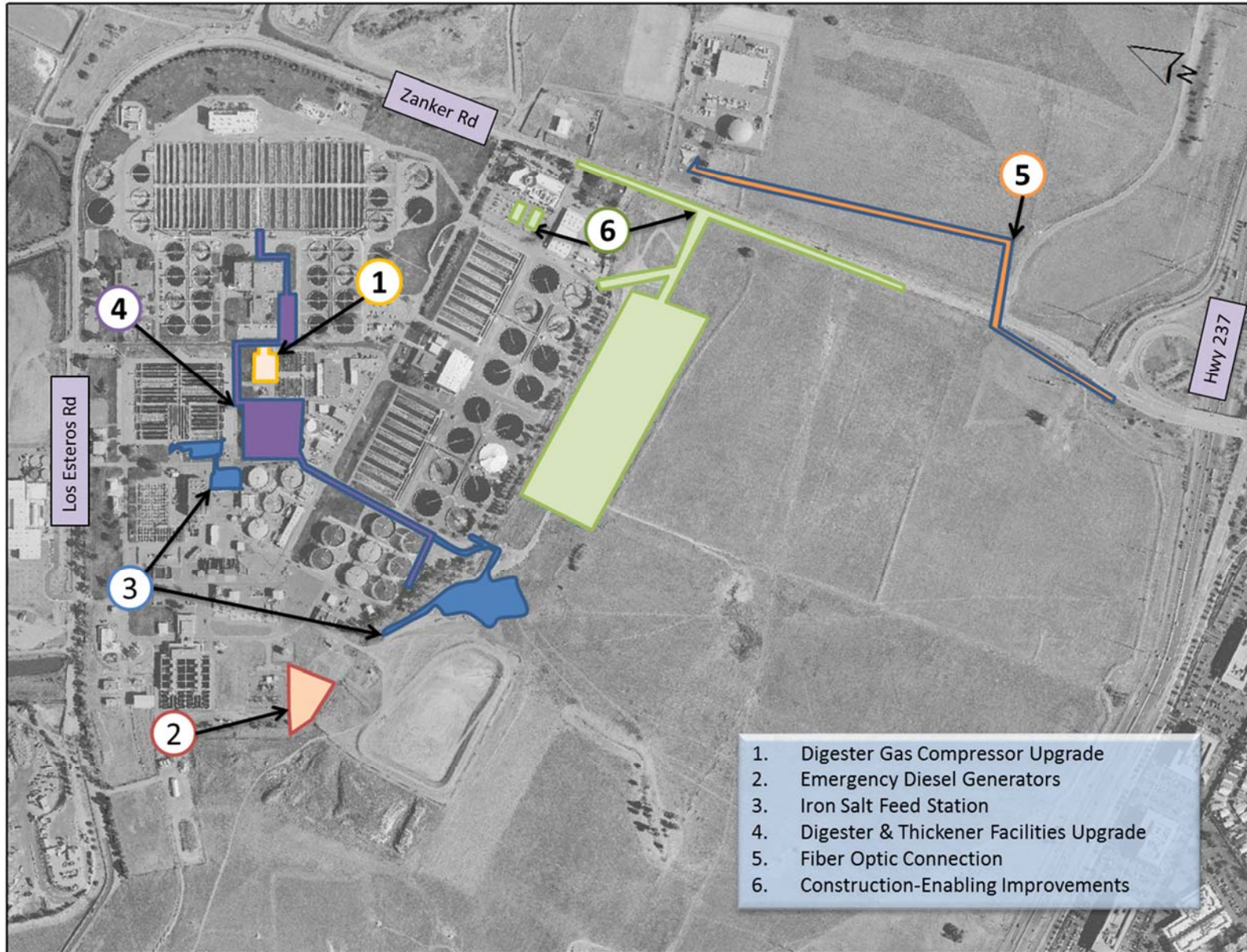
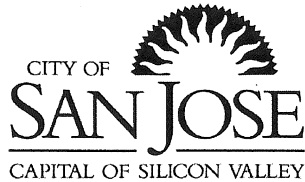


Figure 5 – Active Construction Projects





Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow
Jon Cicirelli

SUBJECT: SEE BELOW

DATE: August 29, 2016

Approved

Date

9/1/16

SUBJECT: MASTER CONSULTANT AGREEMENT WITH KENNEDY/JENKS CONSULTANTS, INC., FOR ENGINEERING SERVICES FOR THE 7760 - FACILITY WIDE WATER SYSTEMS IMPROVEMENTS PROJECT AT THE SAN JOSE-SANTA CLARA REGIONAL WASTEWATER FACILITY

RECOMMENDATION

Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc., to provide engineering services for the 7760 - Facility Wide Water Systems Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$2,100,000, subject to the appropriation of funds.

OUTCOME

Approval of the master consultant agreement with Kennedy/Jenks Consultants, Inc., (Kennedy/Jenks) provides the City with the ability to obtain professional engineering services for the preliminary engineering, design, and engineering services during bid and award and construction of the Facility Wide Water Systems Improvements Project (Project) at the San José-Santa Clara Regional Wastewater Facility¹ (RWF). Approval of this master consultant agreement will not result in any physical changes to the environment as Council will need to take additional actions before construction on the Project commences.

¹ The legal, official name of the facility remains San José-Santa Clara Water Pollution Control Plant, but beginning in early 2013, the facility was approved to use a new common name, the San José-Santa Clara Regional Wastewater Facility.

EXECUTIVE SUMMARY

The Regional Wastewater Facility (RWF) has four separate water systems that provide the potable water, utility water, and process water to support the continuous operations of the facility, as well as providing water to fire hydrants for fire protection. The water systems were constructed over time with the various facility expansions, and are in need of rehabilitation and upgrades due to performance issues, age, and condition. The objective of this Project is to rehabilitate and upgrade the water distribution systems at the RWF in order to improve reliability and to provide the water supply and redundancy needed for the current and future facilities within the RWF. The full extent of these improvements will be determined and designed following system condition assessments and development of system hydraulic models.

Staff has completed the evaluation of five consulting firms that responded to a Request for Qualifications (RFQ). Kennedy/Jenks was the top ranked consultant. Staff has negotiated a master consulting agreement with Kennedy/Jenks that is being recommended for award. The master agreement will have a total maximum compensation of \$2,100,000 and a term that ends June 30, 2023. The master consultant agreement will include hydraulic modelling, condition assessment, alternates analysis, detailed design and engineering services during bid and award, construction, and post-construction. After execution, Kennedy/Jenks would proceed with specified tasks under the master consultant agreement upon issuance of service orders by the City.

BACKGROUND

Description of existing water systems

The RWF currently has four water systems that support the on-going operations and maintenance of the wastewater treatment processes at the facility. The four water systems are:

1. A potable water system (referred to as the 1W system), supplied from San José Municipal Water System, and used for potable water, domestic hot water, toilet water, eyewash stations and emergency showers, and air conditioner chiller water.
2. A groundwater system (referred to as the 2W system), supplied from two wells located at the RWF. The 2W water is not filtered or chlorinated and is used as a backup system for process water needs such as seal water for sewage and sludge pumps, polymer dilution, irrigation water, wash-down water, and backup cooling water.
3. A process water system (referred to as the 3W system), supplied from the final effluent of the RWF, and used for seal water for sewage and sludge pumps, wash-down water, equipment cooling water, space heat loop water, digester hot water, chilled water, irrigation water, polymer dilution, and chemical feed solutions.
4. A fire protection water system (referred to as the 4W system), supplied from the final effluent of the RWF, and used to supply fire water to all fire hydrants at the RWF.

Collectively, these are referred to as the “four water systems,” and are comprised of piping, valves, pumps and other appurtenances, and ancillary equipment. There are over 100,000 linear feet of piping in the four water systems, ranging in size from a ½-inch diameter to a 30-inch diameter. The four water systems were constructed over time with the various RWF expansions. Although there has been maintenance of the systems over the years, there are significant portions of the system that are over 50-years-old.

In 2007, the City commissioned a cursory level condition assessment (Infrastructure Condition Assessment Report, CH2M Hill Engineers, Inc.) that noted pitting, corrosion, and leaks in the water systems, and estimated that 20 to 40 percent of the specialty equipment needed renewal. The Plant Master Plan (PMP) subsequently noted that the 3W system pumps are experiencing severe cavitation issues, posing a risk to worker safety and potential damage to the RWF. While some 3W system issues are being addressed by Process Water Pumps Replacement project, other 3W system redundancy and reliability concerns still exist.

During the 2013-2014 Capital Improvement Program (CIP) validation exercise, scope was added to the PMP project to address needs that had been identified by RWF staff relating to the 1W, 2W, and 4W systems in addition to the needed 3W system upgrades. For example, RWF staff identified needed corrections to fire pumps, valves, dedicated room for pumps, and addition of sprinklers to fire pump area at the Filtration Influent Pump Station, which will be addressed by this Project. The validation exercise bundled all water system related projects into this Facility Wide Water Systems Improvements Project, intending to take a comprehensive, systematic look at all facility water system needs.

Finally, subsequent to program validation, one of the programmatic studies confirmed the need and urgency of proceeding with this Project. The recently completed “Yard Piping Condition Assessment Plan,” by Black & Veatch identified key portions of the large-diameter piping in the 3W system that pose a risk based on potential process impacts in the event of a water system failure, due to limited system redundancy.

Collectively, these prior engineering assessments and recent facility maintenance records demonstrate that the potable and utility water systems are in need of rehabilitation and upgrade due to age, condition, operational risk, and safety considerations. Documents also point out that past and future changes to the water uses and demands have not been assessed and addressed over the years.

Facility Wide Water Systems Improvements Project Description

The Project will rehabilitate and upgrade and/or replace the four water systems at the RWF to improve system reliability and ensure adequate capacity to meet current and future water demands. Please see Attachment A for Project location map. The extent of work under the Project will be based on a preliminary engineering analysis including condition assessments, hydraulic modeling, and a study of existing and future water demands at the RWF. That analysis will result in a recommended scope of construction work that is anticipated to include, but not be limited to the following: 1) replacing aging equipment including piping, valves, pumps, controls,

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Subject: Consultant Agreement with Kennedy/Jenks for Facility Wide Water Systems Improvements Project

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and other ancillary equipment; 2) expanding existing infrastructure and adding new equipment; 3) designing and constructing entire or partial new potable and utility water systems; and 4) removing abandoned infrastructure to release underground space for new pipelines.

The planning level construction estimate for the above work is \$9,500,000, which will be refined as the Project advances through feasibility/development, preliminary design, and detailed design. The Project will be delivered using the conventional design-bid-build method. Design is estimated to be completed by late autumn 2018, with beneficial use anticipated by late winter 2022.

The Project will not include the replacement, rehabilitation, expansion/extension, or removal of pipe, and ancillary equipment inside buildings or treatment facilities. The water systems within buildings or treatment facilities will be dealt with as needed by other CIP projects.

ANALYSIS

The City issued a Request For Qualifications (RFQs) on December 23, 2015, seeking consultant services from firms qualified to provide condition assessments, develop hydraulic models, evaluate alternatives, prepare design documents, and provide engineering services during bidding, construction, commissioning and post-construction for the Project. A non-mandatory pre-submittal meeting was held on January 12, 2016, with 15 attendees from interested consulting firms.

The City received five responsive Statements of Qualifications (SOQs) by the February 3, 2016, submittal deadline. A technical evaluation panel was established to review and score the SOQs, consisting of staff from the Department of Public Works, the Environmental Services Department, and from the City of Sunnyvale. Evaluations of the SOQs were based on the following criteria:

Description	Weight
Responsiveness	Pass/Fail
Expertise	12%
Experience	20%
Approach	18%
Cost Form	10%
Local Business Enterprise	5%
Small Business Enterprise	5%
Interview	30%
TOTAL	100%

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Based on the scoring of the SOQs, the three highest-ranked firms were invited to an oral presentation and interview. Those firms were:

- Kennedy/Jenks Consultants, Inc. (Kennedy/Jenks)
- HydroScience Engineers, Inc. (HydroScience)
- West Yost Associates, Inc. (West Yost)

The final rankings and rounded scores following the oral presentation and interviews are as follows.

Rank	Consultant	Expertise	Experience	Approach	Cost	LBE	SBE	Interview	Total
1	Kennedy/Jenks	8.5	14.5	13.6	9.0	5.0	0.0	27.0	77.6
2	HydroScience	6.9	15.9	13.4	9.9	5.0	0.0	24.4	75.5
3	West Yost	8.3	14.0	11.1	9.2	5.0	0.0	21.8	69.4

In accordance with City policy, ten percent of the total evaluation points were reserved for local and small business enterprise status. All three of the interviewed firms qualified for the LBE status. None of the firms qualified for the SBE status.

On May 16, 2016, the City received a formal written protest of the final consultant rankings from HydroScience. Specifically, HydroScience protested the City's reduction of its interim ranking and interview scores as a result of HydroScience's unapproved substitution of key project personnel. During June and July of 2016, Mr. Mark Giovannetti, the City's Deputy Director from the Department of Finance, conducted an independent review of HydroScience's protest. The review concluded that the City's evaluation was conducted in a manner consistent with the process described in the RFQ and that the City had followed a well-documented, deliberative process where all information presented was considered, scored, and re-scored if required. Thus, the hearing officer recommended that the City deny HydroScience's protest. In a follow-up letter, the City formally denied HydroScience's protest and advised the firm that it could appeal the denial to the City Council as provided in Chapter 4.12 of the San José Municipal Code. The City did not receive an appeal from HydroScience in accordance with Chapter 4.12.

Award Recommendation

Staff recommends awarding a master consultant agreement to the top-ranked firm in an amount not-to-exceed \$2,100,000. Kennedy/Jenks offered a project team with proven skills and breadth of expertise required for the project, with extensive experience in providing similar services for pressurized water projects at other wastewater treatment facilities. Kennedy/Jenks' proposed team, including its proposed sub-consultants, its team experience, project management approach, technical approach, and understanding of the project provided staff with a high level of confidence in selecting this team to perform the variety of engineering services needed for this Project.

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Professional services to be provided under this agreement will include project management, condition assessments, hydraulic modeling, evaluating alternatives, providing preliminary engineering, detailed design, and engineering support services during bidding, construction, start up and commissioning. Other support services include assisting the City to obtain financing from the Clean Water State Revolving Fund (SRF), value engineering participation, and other items of work as may be requested by the City and authorized by service orders. Individual service orders will be drafted and negotiated under the master consultant agreement for specific phases of work.

The not-to-exceed amount of \$2,100,000 represents approximately 22 percent of the current estimated construction cost (of approximately \$9,500,000), which staff considers appropriate for the work involved and consistent with the industry standard. The estimated costs are considered planning level estimates. The construction cost, as well as corresponding level of effort for engineering services, assume that 40 to 45 percent of the RWF's water systems will need to be replaced or expanded. If preliminary engineering investigations and analysis indicate a higher percentage, then it is likely that a future amendment will be needed to provide for additional engineering and design services under this Master Consultant Agreement.

Kennedy/Jenks' compensation will be based on its employees' actual hourly wages (*i.e.*, its direct labor cost) times a multiplier of 3.2. The multiplier will not change during the term of the master agreement. The multiplier is based on an independent auditor's financial report, and in addition to Kennedy/Jenks' direct labor cost, covers all of Kennedy/Jenks' overhead (e.g., fringe benefits, payroll taxes, group insurance, building/rental expenses, etc.), associated project cost (e.g., computer equipment, network and telecommunications expenses, routine printing and copying, etc.), and profit under the master agreement. The master agreement also allows Kennedy/Jenks to receive compensation for pre-approved subconsultants and contract personnel, as well as certain reimbursable expenses.

The term of agreement will be from the date of execution through June 30, 2023.

Funding Strategy

In accordance with the RWF Ten-Year-Funding Strategy that was presented to and approved by the Treatment Plant Advisory Committee (TPAC) on May 14, 2015, and by City Council on June 2, 2015, staff will be pursuing an SRF loan to finance the Project through the State Water Resources Control Board.

EVALUATION AND FOLLOW-UP

All service orders issued under this master consultant agreement will be reported to the TPAC on the monthly summary of procurement and contract activity and the quarterly CIP agreement and service order summary. A progress report on this and other RWF capital projects will be made to the Transportation and Environment Committees and the City Council on a semiannual basis.

HONORABLE MAYOR AND CITY COUNCIL

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Monthly progress reports of the RWF CIP will also be submitted to TPAC and posted on the City's website.

Since the current action is for award of a master consultant agreement for professional engineering services only, staff will return to City Council with a construction contract award for recommendation after the final design and bidding phases of the project are complete.

POLICY ALTERNATIVES

Alternative: Do not award the master consultant agreement and direct staff to provide the required services using in-house resources.

Pros: Staff would have opportunity to gain experience in developing hydraulic models and in the design of utility water systems to support large wastewater treatment facilities.

Cons: A lack of existing in-house capacity and expertise will result in significant delays to this project and subsequently create delays to other pending capital projects.

Reason for not recommending: The challenges of implementing a project of this complexity will require the assistance of specialized expertise and experience that does not currently exist within City staff. The City would need to hire several new staff members with knowledge and expertise in a variety of professional disciplines.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the September 20, 2016, City Council Meeting Agenda. This item is scheduled to be heard at the September 8, 2016, TPAC meeting.

COORDINATION

This project and memorandum have been coordinated with the City Manager's Budget Office, the Finance Department, the City Attorney's Office, and the Department of Planning, Building and Code Enforcement.

COMMISSION RECOMMENDATION/INPUT

This item is scheduled to be heard at the September 8, 2016, TPAC meeting. A supplemental memo with the committee's recommendation will be included in the amended September 20, 2016, City Council meeting agenda.

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$2,100,000

2. COST ELEMENTS OF MASTER AGREEMENT:

Alternatives Analysis	\$570,000
Conceptual and Preliminary Design	\$370,000
Detailed Design	\$560,000
Bid and Award Services	\$50,000
Engineering Services During Construction	\$475,000
<u>SRF Assistance</u>	<u>\$75,000</u>
TOTAL AGREEMENT AMOUNT	\$2,100,000

3. SOURCE OF FUNDING: 512 - San José-Santa Clara Treatment Plant Capital Fund.

4. FISCAL IMPACT: This Project is funded through the San José-Santa Clara Treatment Plant Capital Fund and will have no impact on the San José-Santa Clara Treatment Plant Operating Fund (Fund 513) or the General Fund.

5. PROJECT COST ALLOCATION: In accordance with the recommendations set forth in Capital Project Cost Allocations Technical Memorandum (Carollo Engineers, March 2016), this project is allocated between the four billable parameters relative to the rolling weighted average distribution of all RWF assets.

BUDGET REFERENCE

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

Fund #	Appn. #	Appn. Name	Total Appn.	2016-2017 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
512	7679	Facility Wide Water Systems Improvements	\$2,090,000	V – 170	06/21/2016, Ord. No. 29762

*The 2016-2017 Capital Budget was adopted on June 21, 2016.

HONORABLE MAYOR AND CITY COUNCIL

August 29, 2016

Subject: Consultant Agreement with Kennedy/Jenks for Facility Wide Water Systems Improvements Project

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Services performed by Kennedy/Jenks under this agreement will be authorized by service order. An appropriation is not required for execution of the master consultant agreement, but is required for each service order authorized under this agreement. The appropriation listed above is included in the 2016-2017 Capital Budget, as adopted by the City Council on June 21, 2016, and may be used for service orders issued in 2016-2017. Future funding is subject to appropriation and, if needed, will be included in the development of future year budgets during the annual budget process.

CEQA

Statutory Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the alternatives analysis and design work under the master agreement.

Kennedy/Jenks' scope of work for construction-related services such as award of the construction contract and engineering services during construction, as well as any future activities resulting in a change to the physical environment, would require approval of CEQA review.

/s/

JON CICIRELLI

Assistant Director, Public Works

/s/ Ashwini Kantak for

KERRIE ROMANOW

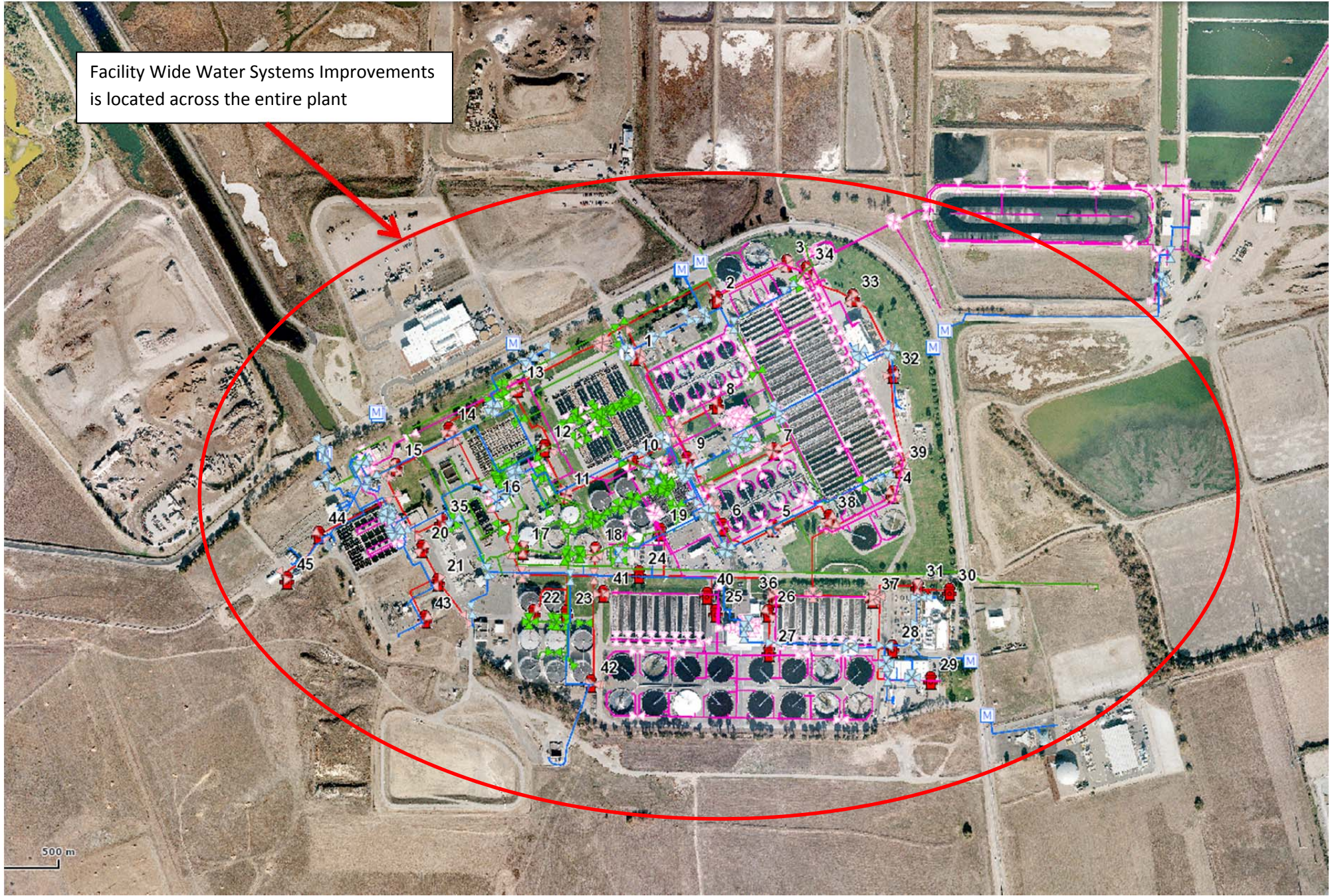
Director, Environmental Services

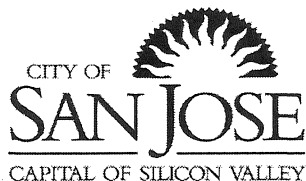
For questions, please contact Ashwini Kantak, Assistant Director, Environmental Services Department, at 408-635-4027.

ATTACHMENT A: Location Map

ATTACHMENT A

Facility Wide Water Systems Improvements is located across the entire plant





Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia Cooper
Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 29, 2016

Approved

D. D. Syl

Date

9/1/16

SUBJECT: REPORT ON REQUEST FOR PROPOSAL FOR BROKER, ADMINISTRATIVE, AND CLAIMS SERVICES TO IMPLEMENT AN OWNER CONTROLLED INSURANCE PROGRAM FOR THE SAN JOSE-SANTA CLARA REGIONAL WASTEWATER FACILITY CAPITAL IMPROVEMENT PROGRAM

RECOMMENDATION

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

1. Negotiate and execute an Agreement with Alliant Risk Insurance Services, Inc. to provide broker, claims, and administrative services to establish and maintain a multiline, rolling Owner Controlled Insurance Program for capital improvements at the San José-Santa Clara Regional Wastewater Facility for the term September 20, 2016 through September 19, 2021, with a maximum compensation amount of \$1,025,000 for the initial five year term, not to exceed \$245,000 per year.
2. Exercise up to two five-year options to extend the term of the Agreement after the initial term through September 2031, subject to the appropriation of funds, with maximum compensation not to exceed \$245,000 per year.

OUTCOME

Approval of the Agreement would enable the City to centrally manage an Owner Controlled Insurance Program (OCIP) to cover losses or claims arising from the performance of capital improvement projects at the Regional Wastewater Facility (RWF). The OCIP should result in cost savings and enhance risk and claims management services for the capital improvement programs at the RWF.

EXECUTIVE SUMMARY

The RWF is in the process of implementing a \$1,400,000,000 capital improvement program over the next ten years. Capital improvement programs of this size and complexity often benefit by having a consolidated insurance program procured and managed by either the owner or prime contractor.

In April 2015, the City retained Bickmore Consultant Services, Inc. to conduct a feasibility study to determine the best and most cost effective mechanism to insure for potential losses arising out of the capital improvement projects to be performed at the RWF. The feasibility study evaluated potential cost savings, which insurance program(s) offer the best insurance product for value, the ability to successfully control claims, increased safety, the flexibility to define and modify the program if the capital improvement projects should materially change, and additional resources needed to implement the selected products.

The study concluded that a multiline, rolling OCIP had the greatest probability of cost savings to the City as well as meeting the City's insurance and risk program objectives. Projected savings from implementing an OCIP over the first five years ranged from \$300,000 to \$3,000,000 depending on the actual loss exposure resulting from claims.

Staff recommends contracting with a third party administrator for the procurement and administration of an OCIP for the capital improvement projects at the RWF because a centralized, owner controlled policy offers the greatest opportunity for savings and enhanced risk control and safety features for the capital improvement program. The City issued a Request for Proposal (RFP) for packaged services (broker, administrative, and claims management) in February 2016.

BACKGROUND

Multiple capital improvement projects of differing values and complexity are to be performed at the RWF. The cumulative cost of these projects is expected to range from \$500,000,000 to \$600,000,000 in construction costs over the next five years. Currently, the projects are at various degrees of planning, design and implementation and involve typical exposures found with heavy civil construction. There are many products to address insurable exposures associated with these construction projects.

For projects of this size and complexity, the City analyzes if a centralized or decentralized insurance program best meets the City's objectives for product value, control of claims management, increased safety, increased flexibility, and minimal use of City resources.

An OCIP is a centrally procured and managed insurance and risk control program for a single construction project or a series of construction projects. An OCIP has the potential to secure an insurance product with higher limits and broader scope of coverage compared to traditional

insurance programs where individual contractors and subcontractors maintain corporate insurance policies oftentimes having lower limits, a narrower scope of coverage, and passing the risk of loss to the project owner.

Rather than have each contractor provide their own insurance and pass the cost with markup to the owner through the construction contract, the City (or project "owner") would purchase certain lines of insurance (such as general liability, excess liability, and workers compensation) to cover the contractors on a job site. The owner sees savings because contractors are instructed during the bid process not to include insurance, with associated cost and markup, in their bids for on-site work.

Historically, the City has successfully used OCIPs for various large scale projects including the construction of City Hall, the Airport North Concourse, the Terminal Airport Improvements, and the Convention Center Renovation. Not all public construction projects are eligible for OCIP programs. State law requires certain criteria be met in order for the City to utilize an OCIP. The primary threshold is that the construction cost for the construction project totals at least \$50,000,000. The RWF projects meet this requirement.

Additionally, pursuant to California Govt. Code Section 4420(b)(2), the City must show that the use of owner-controlled insurance will minimize the expenditure of public funds on the project in conjunction with the exercise of appropriate risk management. The City undertook the necessary steps to have a feasibility study performed to determine if procurement of an OCIP would result in cost savings at the RWF.

In 2015, Bickmore Consultant Services, Inc. (Bickmore) - a risk management company specializing in construction risk management, was selected through a competitive request for proposal process, to analyze and recommend what insurance products would result in the greatest probability of cost savings as well as meet the City's safety and loss control objectives. The feasibility study evaluated all costs associated with implementation of the program, risk exposures and available liability limits, claims handling costs and expenses, and the necessary costs associated with maintaining a centralized safety program. Bickmore reviewed the capital improvement liability exposures, property exposures, continuity planning, safety planning, city resources allocated to the process, and insurance product availability. For the first five years of capital improvement projects, the estimated total OCIP cost ranges from \$5,700,000 to \$8,400,000 with savings ranging from \$300,000 to \$3,000,000.¹ At the bid and contract stage, eligible contractors and subcontractors would be required to enroll in the OCIP program. Contractor insurance and services costs, through the traditional insurance model, are estimated at \$8,700,000.

¹ Estimated capital improvement construction costs are derived from City data setting construction costs at approximately \$550,000,000. The estimated cost of an OCIP at \$11.00 per \$100 of payroll and anticipated breakout of payroll from hard-construction costs (14% of \$550,000,000 multiplying .7 to remove soft costs) are based on similar projects reported in the State of California. Although the feasibility study included estimated safety costs at \$170,000 per year in determining OCIP cost savings, owner safety services have already been secured through a separate contract and the City is not seeking approval of those services as part of this Memorandum.

Lastly, State law requires that potential bidders meet certain safety requirements and that the bid documents inform the potential bidders that an OCIP has been procured and that minimum safety requirements must be met. In the event an OCIP is procured, these requirements will be included in the bid packages for the RWF projects.

Ultimately, based on cost savings as well as meeting the City's objectives for safety and continuity of coverage, Bickmore recommended implementation of a multiline, rolling OCIP. The multiline products would include commercial general liability, excess liability, workers' compensation, and added builders risk. Additional product features could possibly include professional liability and pollution liability depending on market availability and costs.

Based on the study's findings and the City's prior successes with OCIPs for other major capital improvement projects, the City took steps to procure a multiline, rolling OCIP through the issuance of a RFP for packaged broker, claims management, and administrative services needed to successfully implement an OCIP.

ANALYSIS

In February 2016, the Finance Department issued a Request for Proposal for professional services to implement a multiline, rolling OCIP insurance program for the capital improvement projects at the RWF.

Four Proposals were received by the March 29, 2016 deadline from:

- Alliant Risk Insurance Services, Inc. (San Diego, CA),
- Aon (San Francisco, CA),
- Gallagher (San Francisco, CA), and
- Marsh (New York, NY).

A six person evaluation panel with representation from Public Works, Risk Management, and risk safety and risk construction-consultants was formed to evaluate and score the Proposals.

The proposal evaluation process consisted of three phases as follows:

Phase 1: Proposal Responsiveness. Each proposal was reviewed to ensure that minimum qualifications were met and a certification was provided by the proposer. All proposals passed this phase.

Phase 2: Technical and Cost. Proposals were reviewed for expertise, experience, technical approach, and cost. At the conclusion of this phase, two proposers, Alliant and Aon, were invited to participate in the next phase of the process, oral presentations.

Phase 3: Oral Presentations. Each proposer was invited to present the method to broker, administer, and manage claims with an OCIP followed by an interview panel consisting of eight predesignated questions. Presentations were reviewed for expertise, experience, technical approach, and cost. At the conclusion of this phase, the panel recommended that Alliant be awarded a contract.

The table below demonstrates the final scores at the conclusion of Phase 3:

	Aon	Alliant
Expertise	16.5	14.5
Experience	24.0	22.6
Approach	20.6	19.4
Cost	4.6	5.0
Local	0.0	5.0
Small	0.0	0.0
Total	65.7	66.5

Local and Small Business Preference: In accordance with City policy, ten percent of the total evaluation points were reserved for the local and small business preference. Both Alliant and Aon requested the preference. Alliant submitted the required documentation and qualified for the Local Business Preference, earning five points. Aon was denied the preference because they were unable to demonstrate that they qualified for the preference as required in the RFP. The Local Business Preference was a factor in the award recommendation.

Protest: The RFP process included a ten day protest period that commenced when Proposers received the City's Notice of Intended Award. Aon submitted a protest on May 18, 2016 contending that the City 1) incorrectly failed to award a five point local business preference; 2) failed to introduce extraneous information from the proposal to constitute adequate knowledge of meeting the local business preference, and 3) conducted an overall review of proposals that was inadequate and defective.

The Chief Purchasing Officer reviewed the protest and determined that Aon's contentions were not supported by the facts. Aon was notified in writing that their protest was denied on June 15, 2016 and advised of their right to appeal the decision of the Chief Purchasing Officer to the City Council. Aon did not file an appeal by the June 25, 2016 deadline.

Aon's protest letter and the Chief Purchasing Officer's response are attached to this memorandum as Attachment A and Attachment B, respectively.

Award Recommendation: The City recommends awarding an agreement to Alliant to perform broker, administrator, and claims management services for a multiline, rolling OCIP for capital improvements to be performed at the RWF. These services are required to implement an OCIP and obtain the projected savings from the central management of the risk and insurance programs. Successful implementation of an OCIP has potential cost savings even at maximum

loss and meets the City's program objectives. A successful OCIP would also serve to provide higher policy limits, broader coverage, reduced cross allegations and complexity of parties in litigation, and centralized safety.

Summary of Proposed Agreement: Alliant will be required to assemble a submission to potential insurers that favorably represents the capital improvement projects and shows how an OCIP will be implemented and managed in order to procure quotes for OCIP coverage. Assuming that OCIP coverage is procured, Alliant shall perform pre bid reviews, contract reviews, post bid award meetings, and contractor/subcontractor enrollment meetings as required to administer the OCIP. Alliant shall further provide claims management services on the insurance products procured and will assist with the return to work program for employees working on site for the capital improvement projects. Alliant will also perform additional analysis to determine the economic benefit of adding an owner's pollution liability policy and professional liability coverages. The proposed Agreement with Alliant provides for extended claims management services because claims can extend ten years past the date of completion of construction or for the life of a workers' compensation claim.

Work performed under the Agreement shall be at a fixed cost to be paid on a quarterly basis and shall not exceed \$245,000 per year or \$1,025,000 during the initial five year term of the agreement. Renewal options shall allow for additional compensation to be negotiated, but not for more than \$245,000 a year and subject to the annual appropriation of funds. This fee was arrived at through a competitive process. The renegotiated fee at the expiration of the original term will be based upon the status of the capital improvement plan and the OCIP at the time of renewal, but shall not exceed \$245,000.

EVALUATION AND FOLLOW-UP

The selection and purchase of an OCIP will be presented to TPAC and Council. Thereafter, a progress report on the OCIP and other RWF Capital projects will be made to the Transportation and Environment Committee on a semiannual basis.

POLICY ALTERNATIVES

Alternative #1: Award Alliant broker, claims, and administrative services to procure and administer a commercial general liability and excess liability OCIP at a reduced contract rate to solely administer a commercial general liability and excess liability OCIP.

Pros: A commercial general liability and excess liability OCIP would be a single line program and would require less staff time to administer the program and to manage claims. The program costs at inception would be lower although contractors would include insurance costs for workers' compensation costs associated with the project.

Cons: Cost savings from procurement of a single line liability product is more heavily dependent on contractor compliance with contract provisions to deduct general and excess liability insurance costs through the net bid method. Smaller contractors may not be able to do so because of flat or minimum premiums. A general liability only OCIP includes the risk of potential cross suits from contractor workers' compensation carriers, although this exposure can be addressed to some extent by a requirement for waivers of subrogation from all contractor and subcontractor workers' compensation insurers.

Reason for not recommending: The savings opportunities under a single line, liability OCIP are typically less than with a multiline OCIP or not at all. The City would purchase this program for the coverage certainty benefit such as higher limits of insurance and broader coverage for contractors and subcontractors.

Alternative #2: Decline award to Alliant of the OCIP services contract and continue to evaluate insurance requirements on a by-contract basis. The prime contractor would determine the most effective method of meeting the City's contractual insurance requirements whether it be through a traditional insurance approach or a prime contractor procured CCIP.

Pros: Traditional insurance requirements are placed in each general contractor's agreement with the City and each contractor decides how to meet those requirements—either by the traditional approach or a CCIP. Unlike with an OCIP, if the City elected this approach, the City would not require the use of broker, claims, and administrative services or internal resources as may be required to implement an OCIP.

Cons: Although the City would not need to expend as much staff, payment of upfront costs, and personnel time with a CCIP or traditional insurance requirements as with an OCIP, the City would lose control on negotiating policy terms. The City also would not have or would have more difficulty maintaining an owner controlled safety program. Prime contractors will likely include insurance product markups in their costings which will reduce overall cost savings from the City.

Reason for not recommending: Cost savings, improved coverage, and improved safety are the three main objectives of an insurance program. An OCIP meets those objectives while allowing the prime contractor to determine the most effective method of delivery for insurance and risk management is less likely to meet the City's financial and management objectives.

PUBLIC OUTREACH

This Memorandum will be posted on the Treatment Plant Advisory Committee (TPAC) website for the September 8, 2016 meeting and the City Council website for the September 20, 2016 meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Department of Public Works, and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

This item is scheduled to be heard at the September 8, 2016 TPAC meeting. A supplemental memo with the Committee's recommendation will be included in the amended September 20, 2016 City Council meeting agenda.

FISCAL/POLICY ALIGNMENT

This Project is consistent with the City Council-approved budget strategy to focus on rehabilitating aging RWF 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/COST OF PROJECT:	
	Services	\$954,500
	Risk Management Insurance System Access and Extended	50,000
	Claims Management	
	Travel	<u>20,500</u>
	Total Project Costs*	\$1,025,000
2.	COST ELEMENTS OF AGREEMENT/CONTRACT:	
	Claims Management Services	\$250,000
	Program Management Services	350,000
	Marketing Services	100,000
	Administrative Services	275,000
	Risk Management Insurance System Access and Extended	<u>50,000</u>
	Taxes and Fees**	
	TOTAL AGREEMENT/CONTRACT AMOUNT	\$1,025,000

*Alliant shall provide services in an amount not to exceed \$245,000 per year and in total for \$1,025,000 subject to the appropriation of funds. The costs for the option terms are not included in the services contract and will be negotiated, subject to the appropriation of funds, and shall not exceed the annual maximum cost.

**The taxes and fees cost element is estimated based on the entire or portions of the agreement/contract value, which require the payment of taxes and fees.

August 29, 2016

Subject: OCIP Administration

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3. SOURCE OF FUNDING: 512-San José-Santa Clara Treatment Plant Capital Fund.
4. FISCAL IMPACT: This contract will have no additional impact on the San-José-Santa Clara Treatment Plant Operating Fund (Fund 513) or the General Fund.

BUDGET REFERENCE

Fund #	Appn # / RC#	Appn Name	Current Total Appn	Amt for Contract	2016-2017 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
512	7481 / 182971	Program Management	\$9,108,000	\$240,000	V – 177	06/21/2016, Ord. No. 29762

*The 2016-2017 Capital Budget was adopted on June 21, 2016

CEQA

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

/s/
JULIA COOPER
Director, Finance

/s/
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Stephanie C. Williams, Risk Manager at (408)975-1438.

Attachments

ATTACHMENT A



Samantha Caldwell | Senior Counsel | samantha.caldwell@aon.com

May 18, 2016

City of San José
Attention: Mark Giovannetti, Chief Purchasing Officer
200 East Santa Clara Street, 14th Floor
San José, CA 95113-1905

Re: Protest of Award for Request for Proposal – Broker, Administrative, and Claims Management Services to Establish and Maintain a Multiline, Rolling Owner Controlled Insurance Program (OCIP) for Capital Improvements at the San José-Santa Clara Regional Wastewater Facility (“RFP”)

Dear Mr. Giovannetti:

The City of San José issued an RFP for OCIP services for the San José-Santa Clara Regional Wastewater Facility on February 24, 2016. Aon participated in the RFP, completing all forms and responding in a timely manner. We received a passing score in Phase I of the City’s process – Proposal Responsiveness, indicating that we had met the minimum qualifications, which included having a current Business License with the City. We performed very well in Phase II – Technical and Experience, ranking second out of four bidders, scoring only 1.55 points behind the first rank’s 73.68. But for the Local Preference points that the City failed to apply to Aon’s score, we would have ranked first in Phase II. Aon was invited by the City to participate in Phase III – Oral Presentation, where Aon scored higher in all categories than Alliant, the other bidder who presented in Phase III. The only categories in which Aon did not score higher in Phase III were Cost (our bid was scored 0.43 below our competitor’s 5.00) and Local Preference (our bid was erroneously not provided with the 5 points for having an office in San José), resulting in an overall score of 0.83 less than our competitor’s 66.48. Had Aon’s local office been properly recognized, Aon would have scored 70.65, 4.17 higher than Alliant. Aon was not aware of the omission of Aon’s Local Preference points until May 6, 2016 when we received notification from the City via Tony Nguyen of Procurement of the scores and rankings and the City’s intent to award the RFP to Alliant.

As permitted by Section 7.1 of the RFP (Exhibit 7), Aon is protesting the rankings results based on failure by the City to recognize Aon’s San José office in the Local Preference scores, which would have resulted in Aon being ranked first.

Aon’s Local Office Preference:

The May 6th written notice (Exhibit 1) contained the rankings provided as the basis for the award as follows. However, these rankings were flawed in that they do not recognize Aon’s Local Preference in Phases II and III.

Minimum Requirements		
Phase I	Proposal	Requirements
Gallagher	Pass	Pass
Aon	Pass	Pass
Marsh	Pass	Pass
Alliant	Pass	Pass

Phase II	Expertise	Experience	Approach	Cost	Local	Small	Rank	Total
Gallagher	16.60	20.47	17.30	5.00	0.00	0.00	3.00	59.37
Aon	17.33	29.77	22.58	2.45	0.00	0.00	2.00	72.13
Marsh	14.83	17.98	14.08	1.84	5.00	0.00	4.00	53.74
Alliant	15.33	27.83	22.83	2.68	5.00	0.00	1.00	73.68

Phase III	Expertise	Experience	Approach	Cost	Local	Small	Rank	Total
Aon	16.50	24.00	20.58	4.57	0.00	0.00	2.00	65.65
Alliant	14.50	22.58	19.40	5.00	5.00	0.00	1.00	66.48

After reviewing the Notice of Award, we noticed that Aon was not given 5 points for the Local Business Preference, despite the fact that Aon completed and attached Form 2 to its original proposal submission claiming the local business preference as we have an office in San José with at least one employee. Julie Theirl, Aon Senior Vice President and lead for the Aon proposal, promptly emailed Mr. Nguyen, inquiring as to why Aon was not given the local preference points. Ms. Theirl subsequently received an email from Stephanie Williams, the City's risk manager, that the matter would be reviewed.

It should be noted that Aon was given a passing score by the City in Phase I. In order to receive a passing score in Phase I, a bidder must meet the City's prescribed minimum qualifications which include the possession of a valid City of San José Business License. In passing Aon in Phase I to participate in Phase II, it was presumed that Aon met all of the minimum qualification requirements.

On the morning of May 11, 2016, Ms. Williams and Ms. Theirl spoke via telephone. Ms. Williams informed Ms. Theirl that she conferred with the Procurement department and was informed that Aon's completed Local Preference Form 2 was inadvertently missed during the review process. Ms. Williams went on to state to Ms. Theirl the following:

"Aon 100% unequivocally qualifies for the local preference points because I know that Aon has a local office and we did indeed receive Aon's completed Form 2 in the proposal as required."

Ms. Williams informed Ms. Theirl that the initial award notice would be rescinded and reissued to Aon. Ms. Williams told Ms. Theirl that she would contact Alliant to notify them of that the RFP would be awarded to Aon. Ms. Williams also initiated discussions with Ms. Theirl regarding on contract negotiations and developing a fee schedule (Exhibit 2).

Aon's Business License:-

Shortly after Ms. Williams and Ms. Theirl spoke about the City's intent to rescind the initial award, the City's focus changed from moving forward with the award to Aon to the status of Aon's Business License, despite Aon

receiving a passing score in Phase I signifying that Aon's proposal had been reviewed by the City to ensure it met the minimum qualification requirements (Sections 3.4 and 3.5.1 of Exhibit 7). Ms. Williams informed Ms. Theirl that she spoke to Alliant representatives to inform them that the City intended to rescind the award to Alliant and award to Aon, and Alliant had inquired into the status of Aon's Business License which appeared to be expired (Exhibit 3). Ms. Theirl responded stating that Aon had a newer license that was valid and immediately provided Ms. Williams with the current Business License number (Exhibit 3). Then Ms. Williams asked Ms. Theirl to clarify the relationship between Aon Consulting/Radford Division and Aon Risk Insurances West. Ms. Theirl responded that they are both divisions of Aon plc (Exhibit 3).

Ms. Theirl followed up with Ms. Williams on May 12, 2016 and provided the following statement (Exhibit 4):

"We acknowledge that we unintentionally provided the incorrect Aon Business License information with Form 2 - Local Business Preference in our proposal. You followed up with me asking if we have a valid San José Business License for Aon to which I responded affirmatively and subsequently provided a valid City of San José Business License number for Aon. I hope you don't mind me pointing out several provisions of the City's RFP which may help bring resolution to this matter in favor of awarding to Aon:

- 3.1 Responsive of Submission - indicates that the City reserves the right to waive minor irregularities in a proposal. We view this as a minor irregularity given the fact that we do indeed have a valid City of San José Business License with more than one employee which satisfies the Local Business Preference requirements.*
- 3.2 Supplemental Information - gives the City the right to require any consultant to provide supplemental information clarifying the submitted materials. The City asked us to provide supplemental clarifying information to which we responded by providing a valid City of San José license and therefore satisfy the Local Business Preference.*
- 3.3 Consideration of Information Outside of Submission -gives the City the right to conduct further investigation of information provided with the proposal. We believe that the City investigated the information provided by Aon by inquiring as to the availability of a valid Business License. We responded by providing a valid Aon Business License and therefore satisfy the Local Business Preference requirements.*

In addition, a question was raised regarding the difference or relationship between Aon Risk Insurance Services West and Aon Consulting. They are departments/divisions within Aon. Most of our offices are comingled and shared between the two divisions, including services which can be contracted under the name of Aon Risk Insurance Services West or Aon Consulting regardless of the Aon name listed on a local agency's Business License." On May 14, 2016, in the event the City interpreted Aon's Business License differently from Aon, Ms. Theirl inquired of Ms. Williams the possibility of renewing the expired license or applying for a new one (Exhibit 5), with no response from Ms. Williams.

On May 16, 2016, Ms. Williams sent an email to Ms. Theirl indicating that "the City cannot grant Aon the local preference because Aon did not demonstrate that it had a valid business certificate at the time its proposal was submitted." (Exhibit 6) Ms. Williams went on to cite the following provision of the RFP as the basis for its decision:

"As stated under Tab B of the RFP, the City cannot accept any late requests or submittals for this preference."

First, the City's basis for denying our local preference is flawed because Tab B, as directly lifted from the RFP, states the following:

“Consultants cannot submit FORM 2 after the Submittal Deadline. If a Consultant does not complete and submit FORM 2 with its Proposal, then the Consultant cannot receive the preference – even if the Consultant otherwise might qualify for the preference.” (Section 5.2 of Exhibit 7)

Aon provided Form 2 with our timely proposal. Form 2 was missed by the City’s procurement staff but later confirmed it was received with the proposal. We are not attempting to submit Form 2 after the submittal deadline. Therefore, Tab B does not directly or indirectly support the basis for denial of the local preference points.

Second, as stated in Sections 3.1, 3.2 and 3.3 of Exhibit 7, the City is afforded several remedies from which to choose based on provisions contained in its RFP which allow Aon to correct the problem and submit a current Business License. In fact, the City exercised 3.2 and 3.3 by investigating Aon’s Business License status and by requesting additional information from Aon which was provided to the City.

Third, the City has called into question Aon’s current Business License which is listed as “Aon Consulting” versus the name we used in our proposal of “Aon Risk Insurance Services West, Inc.” We believe we have sufficiently addressed the relationship between the two names which both are divisions of Aon and have met the burden of having a valid City of San José Business License with a local business address. Aon has had Business Licenses with the City at all times for the past 22 years. The precise name on the license has not been considered by the City previously in other RFP bids or during Phases I, II or III of this RFP.

Furthermore, the City awarded a bid to Aon in 2013 and entered into an agreement with Aon in January 2014 as the result of an RFP for Employee Benefits and Actuarial Consulting Services.

That contract is still valid and in force today. Due to Aon having a business office in the City of San José, Aon was awarded Local Preference points for that bid. The City’s own records would have indicated that Aon qualifies for the Local Preference. Ms. Williams mentioned to Ms. Theirl that she was involved in the negotiation of that contract and would have been aware of Aon’s San José office.

While Aon fully believes the current Business License in the name of Aon Consulting is valid for this bid, Aon has subsequently-reinstated the Business License in the name of Aon Risk Insurance Services West to provide continuity with our long-term operations in the City of San José. We appreciate the City bringing to our attention the oversight so that we could rectify it promptly. The lapse in its currency occurred when Aon relocated offices shortly after several staff who were responsible for office administration departed Aon for a competitor.

Aon was licensed at the time it submitted its bid and anticipated being licensed when the work begins making any non-compliance non-material.

RFP Evaluation Process:

If the City rejects our right to use the Aon Consulting license for this RFP, then Aon should have been disqualified during Phase I of the RFP process as we would have failed to meet the minimum qualifications of having a City of San José Business License. However, the City did not disqualify Aon, and instead continued to include Aon in all three Phases of the evaluation process.

3.5.1 PHASE 1-PROPOSAL RESPONSIVENESS

Required Documentation: Proposals will be reviewed to determine if all required documentation was included with the proposal. Proposals will be reviewed to ensure that they meet minimum qualification requirements as described in the RFP in Tab (A) through (L).

The City did not review the proposals to determine if all required documentation was included in the proposals. This was apparent when the City did not give Aon the Local Preference points because it “inadvertently missed” Aon’s Form 2 during Phase I’s review. Had the City thoroughly reviewed Aon’s proposal, it would have identified Form 2 and the existence of Aon’s local office. And yet, despite the alleged absence of Form 2 and thereby Aon’s apparent failure to meet the minimum qualifications, the City passed Aon through Phase I. Furthermore, had the City recognized Aon’s completed Form 2 during Phase II, Aon would have ranked in first place.

The City did not review the proposals to ensure that they meet minimum qualification requirements. If the City had reviewed Aon's proposal to ensure the minimum qualifications were met, it would have identified at that time that Aon's license cited in Form 2 was not current. And yet, the City did not ensure the minimum qualifications were met, that Aon's license was current, and the City passed Aon through Phase I.

Had Aon been disqualified at Phase I, then the outcome of the RFP process and rankings would have significantly changed as we would not have been invited to participate in the subsequent phases; the other bidders (Marsh and Gallagher) may have been scored differently been invited to interview; and could have outranked Alliant thereby being ranked number 1 and receiving the award.

In reviewing the Notice of Award, issued by Tony Nguyen on May 6th, there also appears to be other potential inconsistencies with regards to Local Preference points. On the cover letter of the notice, a distinction is made for Gallagher and Alliant as "San Jose, California"; yet in Phase II, Gallagher is not given local preference points but Marsh is. In reviewing business licenses for all 3 competitive firms, they all appear to have a San Jose business address and corresponding business license. This further questions the reliability of the proposal review process undertaken by the City and point allocations during the evaluation process.

Summary:

The City of San José issued an RFP for OCIP services for the San José-Santa Clara Regional Wastewater Facility. Four firms apparently responded. Irrespective of the local preference points, Aon ultimately outranked all four firms in the areas of expertise, experience, and approach, ranked number 1 in each category. Even though the fee bid by Alliant must have been lower than Aon's fee, based on Alliant's higher score in that category, Aon still ranked number 1 even with cost considered. The deciding factor came down to the local preference points for which Aon and Alliant both qualified. However, the City erroneously withheld Aon's local preference points first, due to the City's own administrative oversight; and second, due to an administrative oversight which caused Aon's business license to lapse. The City queried Aon regarding the lapsed license to which Aon provide a newer valid license as well as reinstated the lapsed-license which is now current. Aon now has two valid City of San José business licenses both of which qualify for the local preference points. Therefore, Aon should be given the local preference points and be awarded the bid.

In summary, the City is seeking to award a bid to an insurance broker and consulting firm to provide oversight for a multi-million dollar construction project of a wastewater facility. The City's own process resulted in Aon ultimately outranking all competitive firms in the areas of expertise, experience, and approach. Given the highly technical nature of the scope of work and the potential risk exposure to the City by not hiring the most qualified firm, the City Council should strongly consider awarding this bid to Aon, a firm that by the City's own process and scoring is the most qualified firm to perform the necessary services. The minor and immaterial administrative oversight regarding the Aon business license that has subsequently been addressed and which has nothing to do with front runner's capabilities.

Protest Demand:

If the City did not thoroughly review Aon's proposal to notice that Form-2 was in fact submitted and Aon's cited business license was expired and still gave Aon a passing score to move to Phase II, it very likely did not conduct a thorough review of the other three bidders' submissions and/or may have allowed all of the bidders to pass Phase I despite not meeting minimum qualifications. This significant lapse by the City in following the City's published RFP Evaluation Process puts the entire evaluation and its results under justifiable suspicion.

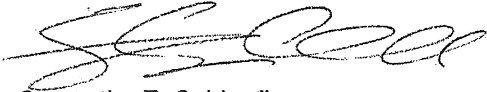
We believe that the City has three options:

- 1) Recognize the revised Business License number that was provided by Aon to the City at the City's request when the City exercised its right to require Aon to provide supplemental information, the result of which supports applying the local business preference of 5 points to Aon, which changes Aon's rank to first.

- 2) Recognize the Business License number that was provided to the City on Form 2 as being reinstated and current with all back fees paid, the result of which includes applying the local business preference of 5 points to Aon, which changes Aon's rank to first.
- 3) Cancel and reissue the RFP based on the fact the process was flawed to the point of significantly impacting the outcome of the RFP.

We demand that the City exercise one of these three options.

Sincerely,

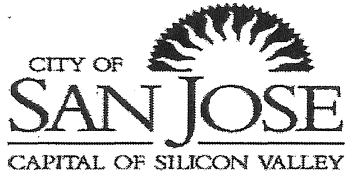


Samantha E. Caldwell
Senior Counsel

Enclosures

cc: Julie Theirl, Aon

ATTACHMENT B



Finance Department
Purchasing Division

June 15, 2016

Ms. Samantha Caldwell
Senior Counsel
Aon Risk Insurance Services West, Inc.
200 East Randolph Street
Chicago, IL 60601

Dear Ms. Caldwell,

Subject: Protest of Award for Request for Proposal – Broker Administrative, and Claims Management to Establish and Maintain a Multiline, Rolling Owner Controlled Insurance Program (OCIP) for Capital Improvements at the San Jose-Santa Clara Regional Wastewater Facility.

Reference: City of San Jose Request for Proposal - Broker Administrative, and Claims Management to Establish and Maintain a Multiline, Rolling Owner Controlled Insurance Program (OCIP) for Capital Improvements at the San Jose-Santa Clara Regional Wastewater Facility.

The City received Aon's letter dated May 18, 2016 objecting to the notice of award for the referenced Request for Proposal on the basis that Aon should have been granted a small business award and/or a local business award of up to 10% in the review of the Proposal. The City has conducted a thorough review of the documents including the original submission from Aon Risk Insurance Services West, Inc. Based on this review, we have concluded that Aon Risk Insurance Services West, Inc. Form 2 (request for Local and Small Business Preference) did not support a local preference and/or small business preference. The City's findings are based on the following:

Local Business Preference:

Section 4.12.030 of the San Jose Municipal Code defines a Local Business enterprise as having a legitimate business presence in San Jose, having a current San Jose business tax certificate and operating legally within Santa Clara County as the principal business office or having a regional or branch office located in Santa Clara County.

Aon submitted a proposal certifying the name of the proposing firm as "Aon Risk Insurance Services West, Inc." Aon identified its place of business as 60 South Market Street in San Jose and listed the current Business Tax Certificate number as 3483511210. (See Form 2). The business license for Aon Risk Insurance Services West, Inc. expired in July 2015. The determination that Aon did not meet the requirements for the preference is summarized below:

1. Aon Risk Insurance Services West, Inc. is the company in Aon's proposal as the "proposing firm."

2. Form 4 in Aon's proposal (Proposal Certification) acknowledges insurance for Aon Risk Insurance Services West, Inc.
3. Form 6 in Aon's proposal (Proposer Questionnaire) discloses the company was incorporated in California in 1978 – and this is consistent with the Secretary of State records for Aon Risk Insurance Services West, Inc.
4. Form 2 in Aon's proposal (Local and Small Business Preference) lists a San Jose business tax certificate number 3483511210 that matches the business license database for Aon Risk Insurance Services West, Inc. with the same listed address. This tax certificate number expired in July 2015.
5. There is a business tax certificate on file for Aon Consulting/Radford Div. However, this firm is not the firm name that was certified in Aon's proposal, and has a different San Jose Business Tax Certificate Number than the number submitted on Form 2 for Aon Risk Insurance Services West, Inc.

Small Business Preference:

Section 4.12.056 of the San Jose Municipal Code defines a Small Business enterprise as a Local Business enterprise with 35 or fewer employees. Aon included in its proposal Form 2, requesting five points as a Small Business Enterprise listing JLA Insurance Agency as the business name, located in Alameda, CA. Aon was not awarded five points for a Small Business Preference because they did not qualify as a local business and the name of the firm requesting the preference was not the firm that was certified in Aon's proposal (Aon Risk Insurance Services West, Inc.).

Conclusion

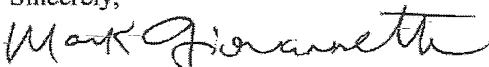
Section 5.2.2 of the RFP states that Consultants must submit requests for either the Local or Small Business Preference with their proposal, and that information submitted late shall not be considered, even if the consultant might qualify for the preference. The City cannot waive this requirement as a minor irregularity, as requested by Aon.

For the reasons stated above, Aon Risk Insurance Services West, Inc. does not meet the City's Municipal Code requirements for receiving the five point local business preference because they could not demonstrate at the time they submitted their proposal that they had a valid business tax certificate. In addition, Aon Risk Insurance Services West, Inc. does not meet the Municipal Code requirements for the five point small business preference because they did not meet the criteria for Local Business enterprise. Further, the City cannot consider the preference for a different company, located in Alameda, CA that did not meet the local business preference requirement.

After careful review, I have determined that the City's RFP process was followed and uphold Staff's recommendation of award to Alliant.

You may appeal this decision to the San Jose City Council by filing a written appeal with the City Clerk within ten days from the date of this letter. Tentatively, this item is expected to be considered by the San Jose City Council on August 16, 2016.

Sincerely,



Mark Giovannetti
Deputy Director, Finance



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: August 29, 2016

Approved

D. OSYL

Date

8/31/16

SUBJECT: APPROVAL OF CITYWIDE INSURANCE RENEWALS

RECOMMENDATION

Adopt a resolution authorizing the Director of Finance to:

- (a) Select and purchase certain City property and liability insurance policies for the period October 1, 2016 to October 1, 2017, at a total cost not to exceed \$1,750,000, with the following insurance carriers:
 - (1) American Home Assurance Company for Property & Casualty Insurance, including Boiler & Machinery.
 - (2) Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess) and Police Aircraft Hull & Liability including War Risks & Extended Perils.
 - (3) The Travelers Indemnity Company of CT for Automobile Liability, or other insurance carriers that the City is currently in negotiations with, (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).
 - (4) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.
 - (5) National Union Fire Insurance Company of Pittsburg, PA for Life/Accidental Death and Dismemberment Policy for the Police Air Support Unit.
- (b) Select and purchase Government Fidelity/Crime Coverage for the period December 18, 2016 to December 18, 2017, at a cost not to exceed \$26,000.

OUTCOME

Approval of these insurance policies will ensure the City maintains appropriate insurance coverage to provide financial protection from certain types of catastrophic or financial loss.

EXECUTIVE SUMMARY

The recommended insurance policies will provide coverage to protect the City from loss or claims due to specified catastrophic events or financial losses. Annually, the Finance Department, on behalf of the City, analyzes the City's insurance coverage with the City's Insurance Broker, Arthur J. Gallagher Insurance Services ("Gallagher"). In addition, the City will purchase Government Fidelity/Crime Coverage for the period of December 18, 2016 to December 18, 2017.

Gallagher receives competitive quotes from the insurance market and presents the results to the City Administration for consideration. After reviewing the City's financial standing, the scope and cost of coverage, as well as the insurer's financial strength to pay claims and provide additional resources, the Finance Department determines the appropriate insurance coverage and recommends the most advantageous insurance policies. All policies, except for the Life/Accidental Death and Dismemberment Policy for the Police Air Support Unit, are for a one-year term, although some have a guaranteed rate renewal term for up to three years.

BACKGROUND

Every year, the City of San José ("City") purchases insurance to protect the City against a catastrophic event or specified loss perils, when the frequency of events cannot be predicted, the severity of potential loss could seriously hamper operations, and the cost of the insurance policy is not prohibitive.

To secure policies through "best practices," the City utilizes its insurance broker to review and analyze the insurance market, regional claims' history and exposures, the City's insurance needs, and the City's historical approach to insuring for potential losses. For this year's renewals, the City also compared its scope of coverage and program costs with other California public entities to identify potential opportunities and cost savings. Furthermore, the City evaluated property values through targeted appraisals of forty-four structures. The City further identified loss prevention measures by engaging risk engineering services to evaluate nine of the City's more complex structures.

Unless otherwise noted, the insurance policies addressed in this Memorandum have a renewal date of October 1, 2016. The annual premiums are subject to change during the term associated with to changes to the City's insured property or assets.

This year, staff is recommending insurance products consistent with the City's existing insurance program. The City also added Life/AD&D Policy for the Police Air Support Unit to its annual renewal program because the application for this product had substantial crossover with the Police Aircraft Hull & Liability policy. The City has traditionally purchased this coverage outside of the annual renewal program.

In addition, staff reviewed and considered Excess Liability Insurance, Earthquake Insurance, Program-Specific Excess Liability for Law Enforcement Liability and the Regional Wastewater Facility, and Excess Workers' Compensation Insurance including a workers' compensation cash flow only policy for catastrophic loss. The City does not recommend any of these additional coverages at this time due to the products being cost prohibitive or, that no quote was provided due to the nature of the risk.

ANALYSIS

Annually, the Finance Department reviews the City's risk exposures with the City's insurance broker, Gallagher, and measures those exposures, recent City claims, insurance market trends, product availability, and the City's historical approach to insuring for losses. In May 2013, Gallagher was awarded a two year contract, with three one year renewals, through a competitive Request for Proposal process. Gallagher's responsibilities include working with staff to analyze the City's exposures and presenting the City's risk portfolio to insurance carriers to obtain best value for insurance coverage.

Gallagher solicits major insurance companies to provide quotes for the insurance policies described below. The quotes were compared and evaluated with respect to scope of coverage, cost, the insurer's financial strength and reputation on paying claims, and the insurer's availability of resources to provide industry-related services such as property evaluations, safety training, risk related engineering services, and loss control.

Appendix A reflects the best value coverage, renewal premiums and insurance carriers presented for fiscal year 2016-2017 for all renewal policies. The quoted renewal premiums may change with the addition or deletion of insurable property prior to binding coverage or during the policy term.

Appendix B provides a comparison of insurance premiums by fund and type of insurance. This comparison shows that the aggregate cost of insurance is \$1,518,591, which is \$9,974 more than last year's premium of \$1,508,817, a .65% increase.

A. Insurance Coverage Recommended

1. All Risk Property & Casualty including Boiler & Machinery Property Insurance

Provides coverage for City owned and leased real and personal property (including buildings, contents, business interruption, boiler and machinery, electronic data processing equipment and media, fine arts, loss of rents, expediting expenses, off premises services interruption, unnamed locations, transit, tunnels/bridges/roadways, animals, accounts receivable, valuable papers, data, rebuild with green upgrades, and other coverage as detailed in the policy forms subject to sub-limits as defined in the policy). This includes property previously owned by the Redevelopment Agency of the City of San José, which as a result of the dissolution of the Redevelopment Agency on

February 1, 2012, is now owned by the Successor Agency to the Redevelopment Agency (“Successor Agency”).

The property insurance limit is \$1 billion each occurrence with a \$100,000 deductible per occurrence. The City inquired whether there would be cost savings with a higher deductible of \$250,000 per occurrence and did not receive a reduced rate on the cost per dollar of total replacement value. The City was successful in negotiating the addition of cost coverage for historic building reproduction and consulting costs as well as doubled coverage for errors and omissions on the policy as well as coverage for miscellaneous unnamed locations.

The City successfully utilized risk engineering services, at no additional cost, to evaluate the risk engineering at nine of the City-owned properties. This provides insurer services to review plans and physical property sites to make non-mandatory recommendations for improvements to mitigate against property loss or damage in the future, at no additional cost. The City also used its additional appraisal services, at no additional cost, to survey and value the total replacement value of forty-four properties. Due to property value inflations for the Santa Clara index, some properties experienced an increase in total replacement values by approximately 1%. The annual rate for the October 1, 2016 renewal remains unchanged at .032 per \$100 of insured value.

The property insurance premium and total program costs increased by \$14,361 or 1.18% from the previous fiscal renewal year as the property schedule total replacement value fluctuated due to sale of properties or adjustments to values associated with property appraisals. The property schedule was evaluated and updated as to the estimated total replacement value of contents, business interruption, rental interruption, and real property value.

Insurance Carrier: American Home Assurance Company

<u>Annual Premium:</u>	\$1,123,962 ¹
Broker Fees	85,500
TRIA Coverage:	<u>19,879</u>
Total Annual Premium:	\$ 1,229,341

2. **Airport Owners and Operators Liability including War Risks & Extended Perils Coverage**

Provides coverage for those amounts that the City becomes legally obligated to pay as damages because of bodily injury, property damage and personal injury resulting from airport operations. Additionally, the program provides coverage for bodily injury or property damage caused by war and other perils.

¹ This includes an estimated premium of \$7,728 that will be directly invoiced to the Successor Agency, for their properties.

In 2015, the airport liability insurance premium decreased by 47% as the result of aggressive product marketing, competitive industry market, and a favorable loss history. The City received a guaranteed rate for three years and the incumbent carrier's locked rate continues to be the best market rate. The City verified that no provider would offer competitive rates to the incumbent carrier's rate for Fiscal Year 2016-2017. This is the second of the three year guaranteed rate.

Insurance Carrier: Old Republic Aerospace, Phoenix Aviation Managers

Annual Premium:	\$41,800
TRIA Coverage:	<u>3,800</u>
Total Annual Premium:	\$45,600

3. Secondary Employment Law Enforcement Professional Liability

Provides coverage for an actual or alleged error or omission, negligent act, neglect or breach of duty that results in bodily injury, property damage, or personal injury by City police officers who have been approved to participate in the Secondary Employment program by the City's Secondary Employment Unit (SEU) while conducting law enforcement activities on behalf of an approved third party secondary employer.

The City's incumbent carrier, Indian Harbor Insurance Company no longer offers the Secondary or On-Duty Law Enforcement coverage. The City sought alternate quotes for coverage and secured a reduced rate of \$140 per officer compared to the previous year's rate at \$155 per officer or, a 10% decrease in the rate per participant. Participating officers all contribute \$110 per year to obtain coverage and the number of participating officers increased from 739 officers to 777 officers. The insurance premium increased due to the number of increased participants in the Program.

Insurance Carrier: QBLE Specialty Insurance Company

City Cost:	\$23,300
Officer Cost:	85,470
Surplus Lines Tax	<u>3,481</u>
Total Annual Premium:	\$112,251 (Gross)

4. Automobile Liability for Airport Fleet & Shuttle Bus Fleet Physical Damage

Automobile Liability provides coverage for bodily injury, property damage, and personal injury for claims arising out of the operation at the Airport. Airport Shuttle Bus Physical Damage coverage provides comprehensive physical damage (i.e. fire, theft, vandalism, malicious mischief) and collision damage subject to a \$25,000 deductible.

Total premium decreased by 2.5% because of a reduction in number of vehicles on the schedule. The rate per vehicle increased by 2.4%.

Insurance Carrier: The Travelers Indemnity Company of CT

Total Annual Premium: \$56,196

5. Automobile Liability for Water Pollution Control Plant Fleet

Automobile Liability provides coverage for bodily injury, property damage and personal injury for claims arising out of the operation at the Treatment Plant.

Total costs increased by 4.8% because of the higher total replacement value of scheduled vehicles and the increase in the number of scheduled vehicles.

Insurance Carrier: The Travelers Indemnity Company of CT

Total Annual Premium: \$29,015

6. Police Aircraft Hull and Liability including War Risks & Extended Perils Coverage

Provides coverage for those amounts that the City becomes legally obligated to pay as damages because of bodily injury (including passengers), property damage and hull coverage for the Cessna 182 and American Eurocopter EC 120B. Additionally, this program provides coverage for bodily injury or property damage caused by war and other perils resulting from aviation operations. Two aircraft are on the schedule, N408DC and N2705 with current hull values of \$1,750,000 and \$275,000 respectively and liability limit of \$50,000,000.

In 2015, the police aircraft hull and liability insurance premium was a locked rate reflecting the same savings from the decrease in premium the previous year by 44% as the result of aggressive product marketing and favorable loss history. Fiscal Year 2016-17 is the second of the three year rate guarantee and staff verified through the competitive process the rate guarantee remains a best rate.

Unmanned aerial vehicle (UAV or "drone") insurance is not included in this recommendation because the aircraft use is not anticipated in Fiscal Year 2016-2017. Annual estimated cost for this additional coverage is \$4,000 with a \$50,000,000 per occurrence limit.

Insurance Carrier: Old Republic Aerospace, Phoenix Aviation Managers

Total Annual Premium: \$17,998

7. Government Crime Policy

Provides coverage for City losses arising from employee theft, forgery or alteration, robbery or safe burglary, computer fraud, funds transfer fraud, or money orders and

counterfeit money fraud. A Government Crime policy was first procured in compliance with Section 905 of the City Charter which requires a bond for all officers and employees having custody or control of public funds. A Government Crime policy affords equal or greater scope of coverage than a bond and has the added benefit of not having the administrative burden of monitoring the covered employees and removing and adding employees as would be required by a bond.

At renewal in December of 2015, Berkley Regional Insurance Company quoted for coverage at a 16% lower rate than the incumbent carrier's quote of \$24,830, offering an overall 7% savings from the previous year's rate. As this policy is on a different renewal cycle, the City will enter into the market to renew coverage in October 2016 with the selected carrier to be bound on or before December 18, 2016 for an amount not to exceed \$26,000. The City will also solicit quotes for a policy running on a short term from December 18, 2016 to September 30, 2016 in order to place this policy on the same annual renewal cycle.

Insurance Carrier: TBD (current policy term with Berkley Regional Insurance Company 12/18/15-12/18/16).

Annual Estimated Premium: Not to exceed \$26,000

8. Life/Accidental Death and Dismemberment Policy for Police Air Surveillance Unit

Provides a life benefit and an accidental death and dismemberment benefit of \$250,000 for accident or injury of any member of the Police Air Support Unit. Section 5.3.8 of the San José Police Officer's Association (POA) Memorandum of Agreement (MOA) states that: "Each employee when assigned to the air surveillance unit shall be covered by a City provided \$250,000 life insurance policy, which shall cover aerial photograph and aerial surveillance." This year, the City has added this insurance product to its annual renewal process as the policy term runs concurrent with the annual policy terms and the policy has substantial overlap in the application process with the Police Aircraft Hull and Liability Policy.

The previous year's policy premium of \$18,300 was reduced by 87% in changing from the City's incumbent carrier to National Union Fire Insurance Company of Pittsburgh, PA for a three year policy at \$6,699. The City's incumbent carrier quoted an annual rate of \$15,555 for continued coverage.

Insurance Carrier: National Union Fire Insurance Company of Pittsburgh, PA

Annual Estimated Premium (three year policy rate)²: \$2,233 per year

² The recommended policy is for three years with an annual installment premium and the policy is subject to termination based on annual appropriation of funds and the City having the ongoing obligation to procure coverage per Section 5.3.8 of the San José Police Officer's Association (POA) Memorandum of Agreement (MOA).

9. Terrorism Risk Insurance Act of 2002 (TRIA)

Provides an insurance mechanism (shared by private carrier and federal government) for losses arising from acts of terrorism as certified by the Secretary of Treasury and defined by the Terrorism Risk Insurance Act (TRIA). Coverage is currently provided through a temporary federal program for 85% of total aggregate loss up to \$100 billion in aggregate losses. Total damages suffered by all insureds from an "Act of Terrorism" as defined by TRIA must be at least \$5,000,000. If the \$5,000,000 threshold is met and the loss is certified by the Department of Treasury as an Act of Terrorism, coverage applies subject to specific policy terms and conditions.

Prior to 2015, the City did not purchase TRIA coverage because premiums were in excess of \$70,000. However, due to potential loss exposures and minimal cost of coverage for the Property and Casualty Policy (\$19,879) as well as the Airport Liability Policy (\$3,800), the Finance Department and Gallagher continue to recommend the continued purchase of TRIA coverage. The cost of purchasing TRIA coverage is fully incorporated in the product cost analysis above and totals \$23,079 per year.

B. Insurance Coverage Not Recommended

The insurance coverages described below were reviewed and analyzed by staff and were determined to be cost prohibitive or were not available on the market. Staff, in consultation with Gallagher, will continue to review the market on a periodic basis and make the appropriate recommendations to Council should circumstances change.

1. Excess Workers' Compensation

Provides workers' compensation claims coverage for work related injuries that are above a defined dollar threshold. Fully insured workers' compensation coverage would not be available except through State Fund which is required by California Statute to provide coverage.

For a limit of \$5,000,000 in employer's liability and statutory for workers' compensation, estimated insurance premiums on three different self-insurance retention levels as shown in the table below are:

<u>Self-Insured Retention/Deductible per Occurrence</u>	<u>Annual Premium</u>
\$5,000,000	\$550,000
\$3,000,000	\$825,000
\$2,000,000	\$1,300,000

Estimated costs of coverage for Fiscal Year 2016-2017 have increased consistent with the product's cost industry wide. In 2015-16, Gallagher notified the City in its renewal process that coverage would no longer be quoted with a self-insured retention or deductible below \$2,000,000 (with the exception of State Fund) and that premium for a policy with a self-insured retention/deductible of \$5,000,000 would likely exceed \$500,000. In 2016-2017, the market and costs associated with workers' compensation continues to rise and the premium costs would be in excess of \$550,000 for a \$5,000,000 self-insured retention. In lieu of a traditional excess workers' compensation policy, the City also explored a Cash Flow product to fund losses arising from workers' compensation claims in the event of mass casualty. The coverage is not recommended because the policy terms were limited in scope compared to the cost of the product.

The City has only experienced one workers' compensation claim costing over \$2,000,000 in the last 20 years with two claims valued just under \$2,000,000. In light of the City's claim cost history, high frequency of claims, and the high self-insured retentions and annual premiums, staff believes that purchase of excess workers' compensation insurance is not cost effective.

2. Excess Liability

Provides excess liability insurance for third-party claims alleging bodily injury, property damage, and personal injury arising from City premises, operations, and vehicles above a defined dollar threshold.

The City has historically been self-insured for its exposures to third-party liability claims, with the exception of the Airport Owners and Operators Liability Insurance program. In the current Fiscal Year, the City sought competitive quotes for Liability policies for additional high risk activities such as Law Enforcement Liability coverage for active police officers in addition to coverage for the Secondary Employment Unit and for the Regional Wastewater Facility.

In 2014, the City sought competitive quotes for excess insurance for varying Self-Insured Retentions and Limits and has verified industry rates remain consistent with Gallagher on an annual basis thereafter. The following is a brief summary of available coverage for best option at each level that were then available:³

³ This insurance renewal cycle the City also sought quotes on stand-alone liability plans for the Police Department and the Regional Wastewater Facility. No carrier would quote on a stand-alone product for the Police Department. Excess liability insurance was quoted for a premium of approximately \$125,000 for \$100,000,000 in excess liability for the Regional Wastewater Facility.

Self-Insured Retention/ Deductible per Occurrence	Annual Premium	Limit Per Occurrence/ Aggregate	10 Year Total Premiums Paid by City
\$5,000,000	\$1,289,690	\$50,000,000	\$12,896,690
\$5,000,000	\$1,114,690	\$25,000,000	\$11,146,900
\$3,000,000	\$1,692,537	\$50,000,000	\$16,925,370
\$3,000,000	\$1,442,537	\$25,000,000	\$14,425,370
\$2,000,000	NA	NA	NA

For the past ten fiscal years, as was the case at the time of the policy application, the City has paid approximately \$2,500,000 per year for costs associated with liability claims, but staff anticipates payment of up to \$12,000,000 in total claims in one of the upcoming fiscal years due to a single large pending claim. Please note that the data does not include claims the City has filed against third parties, grievances, appeals to City filed cases, regulatory matters, environmental liability claims, employment matters, professional liability matters, or contract disputes as those matters would not have coverage through an excess policy.

The largest compensable paid claim that an excess insurance policy would have covered was for \$4,950,000 and currently two claims are pending with values that are expected surpass that loss. Total claims value in the upcoming fiscal year, or the year thereafter, are budgeted for up to \$12,000,000. Of the pending claim, the City might have seen a slight savings from the procurement of excess liability insurance; however, due to the recent losses, premiums would increase upon close of the claim. Of claims filed, only 13 were in excess of \$250,000. Overall, the City has been successful in mitigating costs associated with claims when compared to other public entities in California.

Statewide areas of loss for public entities appear to mirror the City's exposures, i.e. roadway defects, police services, recreational services geared towards youth populations, and automobile accidents. The largest reported loss against a public entity (Los Angeles School District) was a settlement for \$88,000,000 and was the direct result of a settlement for systematic and ongoing failure to oversee and report minor abuse on a large scale. The largest settlement/verdict against a City that has been reported is with City of Dana Point or \$50,000,000 for a roadway defect resulting in catastrophic injury to two people.

Considering the City's history, geographic location, current industry trending as well as the breakdown of the City's cost per claim, Risk Management currently recommends that the City continue to be self-insured and not purchase excess liability coverage. The Self Insured Retention would eliminate coverage for the most likely events and coverage would be capped for catastrophic events. In evaluating whether to include the program, the City has looked at the long term costs of maintaining the insurance and City reserves

for claims and will be have external review of its reserves and loss exposures in 2016. The City recommends foregoing purchase of this product at this time and will review and update its recommendation pending completion of the study on reserves and projection of losses to determine if this is the most suitable method of insuring losses for the City. Funding to undertake this study was included in the Fiscal Year 2016-17 Adopted Budget.

In the event the City experiences a catastrophic loss, options exist for payment of claim(s) which include the issuance of judgment bonds (no greater than 40-year term), as well as court-ordered installment payments (no greater than ten-year period). It should be noted that these options require either a successful validation action (for the first option) or court approval (for the second option).

3. Earthquake

Provides coverage for damage caused by earthquake or volcanic action. The coverage is limited to direct damage caused by an earthquake. Coverage for sprinkler damage resulting from an earthquake is provided by the All Risk Property & Casualty.

In previous years, the City has inquired into the total cost of earthquake insurance for the entire property schedule and the City found coverage to be cost prohibitive. During this year’s marketing efforts, the City verified that the cost for \$5,000,000 in coverage was in excess of \$500,000 annually.

The City reviewed and revised its approach and requested quotes for earthquake coverage for a select listing of facilities only, seeking higher limits of coverage for a portion of the property schedule.⁴

The following is the best value cost proposal for a selected number of City properties:

Self-Insured Retention/ Deductible per Occurrence	Annual Premium	Limit Per Occurrence/ Aggregate	10 Year Total Premiums Paid by City
\$100,000 or 5% of total loss	\$366,750	\$25,000,000	\$3,667,500
\$100,000 or 5% of total loss	\$178,891	\$10,000,000	\$1,788,910

The insurance markets that underwrite catastrophic coverage (flood, wind, and earthquake) have reduced available capacity along with increasing insurance rates. This pricing level, the

⁴ The City contractual obligations with the Arena for Earthquake coverage. The Arena purchases coverage, at no cost to City, with City having additional responsibilities to meet self-insured retention/deductible obligations.

minimum deductible of 5% of the values at risk, and the relatively low limits of coverage available, make it uneconomical to purchase coverage citywide.

EVALUATION AND FOLLOW-UP

The City Council will be informed as to the status of these policies as part of the annual renewal process each September.

PUBLIC OUTREACH

This item will be posted to the City's website for the September 20, 2016 Council Agenda.

COORDINATION

This memo has been coordinated with the Airport, Transportation, Police, Housing, and Environmental Services Departments, as well as the City Manager's Budget Office and the City Attorney's Office. This memo has also been reviewed by staff of Successor Agency to the Redevelopment Agency (SARA).

COMMISSION RECOMMENDATION/INPUT

This item is scheduled to be heard at the September 8, 2016 Treatment Plant Advisory Committee meeting.

COST SUMMARY/IMPLICATIONS

The funding associated with the recommendations in this memo was appropriated as part of the 2016-2017 Operating Budget, approved by the City Council on June 21, 2016.

BUDGET REFERENCE

The insurance policies are funded by appropriations in the 2016-2017 Operating Budget, approved by the City Council on June 21, 2016.

In addition to the appropriations listed on page 13 of this memorandum, costs associated with insuring the remaining Successor Agency assets are estimated to be \$7,728 in 2016-2017. The anticipated payment of these costs associated with asset management for the Successor Agency is reflected on line 85 of the Recognized Obligation Payment Schedule (ROPS) as an enforceable obligation to maintain and protect the assets of the Successor Agency allowed under the

dissolution law. As a result of the Successor Agency's insufficiency in redevelopment property tax increment to meet all obligations in Fiscal Year 2016-2017, the Successor Agency anticipates relying on the City's General Fund support to provide funding for this obligation. The Dissolution legislation allows for reimbursement to the City of certain administrative and other financial support (beginning July 1, 2012) once sufficient funds are available to pay for the Successor Agency's enforceable obligations.

The table below identifies the fund and appropriations recommended to fund the insurance premiums identified.

Fund #	Appn #	Appn. Name	Total Appn.	Recommended Budget Action	Amount for Premium*	2016-2017 Proposed Budget Page**	Last Budget Action (Date, Ord. No.)
001	2001	Insurance Premiums	\$554,000	N/A	\$545,566	IX-24	06/21/2016, Ord. No. 29762
001	2864	Police Officers' Professional Liability Insurance	\$122,000	N/A	\$112,251	IX-20	06/21/2016, Ord. No. 29762
001	0502	Non-Personal (Police Department)	\$4,647,769	N/A	\$20,231	VIII-241	06/21/2016, Ord. No. 29762
523	0802	Non-Personal	\$33,513,853	N/A	\$424,341	X-3	06/21/2016, Ord. No. 29762
536	3405	Insurance Expenses	\$245,000	N/A	\$225,806	X-26	06/21/2016, Ord. No. 29762
533	0512	Non-Personal/ Equipment (Department of Transportation)	\$6,429,529	N/A	\$51,870	X-41	06/21/2016, Ord. No. 29762
513	0762	Non-Personal/ Equipment (Environmental Services Department)	\$30,439,019	N/A	\$125,668	X-78	06/21/2016, Ord. No. 29762
515	0762	Non-Personal/ Equipment (Environmental Services Department)	\$32,235,756	N/A	\$5,626	X-90	06/21/2016, Ord. No. 29762
423	0762	Non-Personal/ Equipment (Environmental Services Department)	\$2,781,172	N/A	\$4,792	X-50	06/21/2016, Ord. No. 29762
346	0562	Non-Personal/ Equipment (Housing Department)	\$937,734	N/A	\$2,440	X-53	06/21/2016, Ord. No. 29762
Totals			\$103,688,836		\$ 1,518,591		

* The amount for premium is subject to change up until the beginning date of the new insurance policy. Therefore, current estimates are lower than the recommended contract amount not to exceed \$1,750,000. SARA is billed separately for its share of broker fees and premium costs.

** The 2016-2017 Proposed Operating Budget was approved by the City Council on June 21, 2016.

HONORABLE MAYOR AND CITY COUNCIL
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Subject: Approval of Citywide Insurance Renewals
Page 14

CEQA

Not a Project, File No. PP 10-066(a), Agreements and Contracts for purchase of insurance.

/s/
JULIA H. COOPER
Director of Finance

If you have questions, please contact Stephanie Williams, Risk Manager, at (408) 975-1438.

Appendix A
Appendix B

APPENDIX A

1. ALL RISK AND BOILER & MACHINERY PROPERTY INSURANCE

	CURRENT PROGRAM 10/01/2015-10/1/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	American Home Assurance Company New York, New York	American Home Assurance Company New York, New York
Total Insurable Values	\$3,654,371,469	\$3,638,078,927
Limit of Liability	\$1,000,000,000 subject to a \$100,000 Deductible Per Occurrence	\$1,000,000,000 subject to a \$100,000 Deductible Per Occurrence
Boiler & Machinery	Included	Included
Earthquake	Excluded. Relatively low limits available (25,000,000 per occurrence), 5% deductible, high premium-not recommended.	Excluded. Relatively low limits available (25,000,000 per occurrence), 5% deductible, high premium-not recommended.
Flood	\$100,000,000 but not to exceed \$25,000,000 in Zone B and \$15,000,000 in Zone A. Locations Specified in the insurance policy on file in Risk Management	\$100,000,000 but not to exceed \$25,000,000 in Zone B and \$25,000,000 in Zone A. Locations Specified in the insurance policy on file in Risk Management
Other Sub-limits	Other sub-limits as outlined in the insurance policy on file in Risk Management	Other sub-limits as outlined in the insurance policy on file in Risk Management
Terrorism and Non Certified Act of Terrorism	\$19,625	\$19,879
Average Rate per \$100 of Values	.032 per \$100.00 of Insured Value	.032 per \$100.00 of Insured Value

Annual Premium for City	\$1,111,812 Annual Premium \$ 19,625 TRIA \$ 0 Surplus lines Tax and Fees (3.20%) \$ 83,500 AJG Broker Fee ¹ \$1,214,937 Total Annual	\$ 1,123,962 Annual Premium ² \$ 19,879 Optional TRIA \$ 0 Surplus lines Tax and Fees (3.20%) \$ 85,500 AJG Broker Fee ³ \$1,229,341 Total Annual
Engineering Services	Included in coverage	Included in coverage
Multiyear	Available-quoted 3 year rate	Year 2 of available-quoted 3 year rate

¹ The broker's fee is an annual fixed fee and listed as a separate line item, and not included with the premium as requested by the broker. In years prior to 2012/2013, premium included commission.

² This includes an estimated premium of \$7,590 that will be directly invoiced to the City as Successor Agency.

³ The broker's fee is an annual fixed fee listed as a separate line item, and not included with the premium as requested by the broker. In years prior to 2012/2013, premium included commission.

2. AIRPORT OWNERS AND OPERATORS LIABILITY

	CURRENT PROGRAM 10/01/2015-10/01/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	Old Republic Aerospace (Phoenix Aviation Managers) Kenesaw, Georgia	Old Republic Aerospace (Phoenix Aviation Managers) Kenesaw, Georgia
Coverage and Deductible	Airport Liability - \$200,000,000 each occurrence combined single limit for bodily injury and property damage with a \$50,000,000 each occurrence limit for personal injury, war risk liability at \$150,000,000 each occurrence and in the annual aggregate and \$50,000,000 Excess Automobile and Excess Employers Liability. Deductible: \$0 each occurrence 2-Year Price Guarantee (see endorsement)	Airport Liability - \$200,000,000 each occurrence combined single limit for bodily injury and property damage with a \$50,000,000 each occurrence limit for personal injury, war risk liability at \$150,000,000 each occurrence and in the annual aggregate and \$50,000,000 Excess Automobile and Excess Employers Liability. Deductible: \$0 each occurrence 2-Year Price Guarantee (see endorsement)
Annual Premium	\$41,800	\$41,800
Optional TRIA premium (recommended for purchase)	\$3,800	\$3,800
Total (Including Taxes/Fees)	\$45,600 (Net) ⁴	\$45,600 (Net) ⁵

⁴ Net cost does not include commission; whereas, gross cost includes commission. City is obligated for amounts designated as "net," where indicated, as Gallagher waives its proportionate share of fees per the terms and conditions of the City's brokerage agreement with Gallagher.

⁵ Net cost does not include commission; whereas, gross cost includes commission. City is obligated for amounts designated as "net," where indicated, as Gallagher waives its proportionate share of fees per the terms and conditions of the City's brokerage agreement with Gallagher.

3. SECONDARY EMPLOYMENT LAW ENFORCEMENT PROFESSIONAL LIABILITY

	CURRENT PROGRAM 10/01/2015-10/01/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	Indian Harbor Insurance Company Stamford, CT	QBE Specialty Insurance Co. New York, New York
Limits of Insurance and Deductibles	\$2,000,000 Each Occurrence \$2,000,000 Annual Aggregate Subject to a \$100,000 Deductible including Loss Adjustment Expense (LAE) ⁶	\$2,000,000 Each Occurrence \$2,000,000 Annual Aggregate Subject to a \$100,000 Deductible including Loss Adjustment Expense (LAE) ⁷
Average Rate per Officer	\$155 (739 officers at policy inception)	\$140 (777 officers at policy inception)
Annual Premium	\$103,091 (Net)	\$108,780 (Net)
Surplus Lines Taxes and Fees	\$3,289	\$3,481
Fees (if any)	None	None
Total (Including Taxes/Fees)	\$106,390 (Gross)	\$112,251 (Gross)

4. AUTOMOBILE LIABILITY FOR THE AIRPORT FLEET & AIRPORT SHUTTLE BUS FLEET PHYSICAL DAMAGE

	CURRENT PROGRAM 10/01/2015-10/01/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	St. Paul/Travelers Hartford, CT	St. Paul/Travelers Hartford, CT
Coverage and Deductibles	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) \$1,000,000 UM/UIM (Owned Autos) Physical Damage-Buses Only Per Schedule Subject to \$10,000 Comp/\$25,000 Coll. Deductible \$500 Comp/Coll. Deductible for Hired Physical Damage	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) \$1,000,000 UM/UIM (Owned Autos) Physical Damage-Buses Only Per Schedule Subject to \$10,000 Comp/\$25,000 Coll. Deductible \$500 Comp/Coll. Deductible for Hired Physical Damage
Exposure	Number of Vehicles 89	Number of Vehicles 80
Average Rate Per Unit	\$649.73	\$666.10
Annual Premium	\$57,846 (Net)	\$56,196 (Net)

⁶ LAE includes staffing and legal costs for processing claims.

⁷ LAE includes staffing and legal costs for processing claims.

5. AUTOMOBILE LIABILITY-WATER POLLUTION CONTROL PLANT FLEET

	CURRENT PROGRAM 10/01/2015-10/01/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	St. Paul Travelers Hartford, CT	St. Paul/Travelers Hartford, CT
Coverage	\$1,000,000 Combined Single Limit (Any Auto) \$1,000,000 UM/UIM (Owned Autos) \$5,000 Medical Payments (Any Auto) \$3,500 Property Damage UM	\$1,000,000 Combined Single Limit (Any Auto) \$1,000,000 UM/UIM (Owned Autos) \$5,000 Medical Payments (Any Auto) \$3,500 Property Damage UM
Exposure	Number of Units 42	Number of Units 44
Average Rate Per Unit	\$640.78	\$659.43
Total (Including Taxes/Fees)	\$26,913 (Net)	\$29,015 (Net)

6. POLICE AIRCRAFT HULL AND LIABILITY

	CURRENT PROGRAM 10/01/2015-10/01/2016	RENEWAL PROGRAM 10/01/2016-10/01/2017
Carrier	Old Republic Aerospace, Phoenix Aviation Managers	Old Republic Aerospace, Phoenix Aviation Managers
Coverage	Aircraft Hull and Liability- \$50,000,000 each occurrence for liability. Hull coverage: Cessna \$275,000 Eurocopter \$1,750,000 Deductible: Liability - NIL <ul style="list-style-type: none"> • Hull/Cessna-\$500 per occurrence (in-motion) • Hull/Cessa-\$100 per occurrence (not in-motion) • Hull/Eurocopter-\$25,000 per occurrence (rotors in-motion) • Hull/Eurocopter-\$500 per occurrence (rotors not in- motion) 	Aircraft Hull and Liability- \$50,000,000 each occurrence for liability. Hull coverage: Cessna \$275,000 Eurocopter \$1,750,000 Deductible: Liability - NIL <ul style="list-style-type: none"> • Hull/Cessna-\$500 per occurrence (in-motion) • Hull/Cessa-\$100 per occurrence (not in-motion) • Hull/Eurocopter-\$25,000 per occurrence (rotors in-motion) Hull/Eurocopter-\$500 per occurrence (rotors not in-motion)
Annual Premium	\$17,998	\$17,998
Surplus Lines Taxes and Fees	NA	NA
War Liability & Hull--both aircraft	Included	Included
Total (Including Taxes/Fees)	\$17,998	\$17,998
TRIA (if purchased with War)	Included Both Hull & Liability with War Premium	Included Both Hull & Liability with War Premium

7. GOVERNMENT CRIME

	CURRENT PROGRAM 12/18/2015-12/18/2016	RENEWAL PROGRAM 12/18/2016-12/18/2017
Carrier	Berkley Regional Insurance Company	TBD
Limits of Insurance and Deductibles	Employee Theft, Forgery or Alteration and Inside the Premises- Theft of Money and Securities-\$5,000,000 per occurrence subject to a \$100,000 deductible per occurrence.	Employee Theft, Forgery or Alteration and Inside the Premises- Theft of Money and Securities-\$5,000,000 per occurrence subject to a \$100,000 deductible per occurrence.
Sublimits of Insurance	Computer Fraud, Funds Transfer Fraud, and Money Orders and Counterfeit Money- \$1,000,000 per occurrence subject to a \$100,000 deductible per occurrence.	Computer Fraud, Funds Transfer Fraud, and Money Orders and Counterfeit Money- \$1,000,000 per occurrence subject to a \$100,000 deductible per occurrence.
Annual Premium	\$20,816	Not to exceed \$26,000
Surplus Lines Taxes and Fees	NA	NA
Total (Including Taxes/Fees)	\$20,816 ⁸	Not to exceed \$26,000

⁸ Costs are not available for Fiscal Year 2016/2017 as the Government Crime Policy will not renew until December 2016. The premium is estimated not to exceed \$26,000. From Fiscal Year 2014/15 to FY 2015/16, the City saw a seven percent (7%) decrease in premium costs associated with the Government Crime Policy.

8. LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT

	CURRENT PROGRAM 12/18/2015-12/18/2016	RENEWAL PROGRAM 12/18/2016-12/18/2019
Carrier	Life Insurance Company of North America, Philadelphia	Provident (AXIS)
Limits of Insurance and Deductibles	Accidental Death & Dismemberment (Accident Only; Injury Only) Principal Sum (loss of Life): \$250,000	Blanket Accident & Health Policy (Accident Only; Injury Only) Principal Sum (loss of Life): \$250,000
Annual Premium	\$18,300	\$2,233
Surplus Lines Taxes and Fees	NA	NA
Total (Including Taxes/Fees)	\$18,300	\$2,233 per year

APPENDIX B
Allocation of Insurance Premiums by Fund & Type of Insurance

	FY 2015-16 Premiums 12 Month	FY 2016-17 Premiums 12 Month	Percentage Increase/ Decrease
<u>General Fund-Fund 001</u>			
Property Insurance [a]	\$506,650	\$511,838	1.02%
Government Crime Policy [b]	20,816	26,000	24.90%
AD&D	18,300	2,233	-87.80%
Police Secondary [c]	106,389	112,251	5.51%
Police Air Support (Hull & Liability)	17,998	17,998	0.00%
Subtotal	\$670,153	\$670,320	0.02%
<u>Airport- Fund 523</u>			
Property Insurance	\$321,693	\$322,545	0.26%
Liability Insurance	45,600	45,600	0.00%
Auto Liability/Property Insurance	57,864	56,196	-2.88%
Subtotal	\$425,157	\$424,341	-0.19%
<u>ESD – Fund 513</u>			
Property Insurance	\$95,495	\$96,653	1.21%
Auto Liability Insurance	26,913	29,015	7.81%
Subtotal	\$122,408	\$125,668	2.66%
<u>ESD – Fund 515</u>			
Property Insurance	\$5,608	\$5,626	0.32%
Subtotal	\$5,608	\$5,626	0.32%
<u>ESD – Fund 423</u>			
Property Insurance	\$4,780	\$4,792	0.25%
Subtotal	\$4,780	\$4,792	0.25%
<u>Convention & Cultural Affairs - Fund 536</u>			
Property Insurance	\$218,841	\$225,806	3.18%
Subtotal	\$218,841	\$225,806	3.18%
<u>General Purpose Parking - Fund 533</u>			
Property Insurance	\$51,248	\$51,870	1.21%
Subtotal	\$51,248	\$51,870	1.21%
<u>Successor Agency [4]</u>			
Property Insurance	\$8,647	\$7,728	-10.63%
Subtotal	\$8,647	\$7,728	-10.63%

Housing - Fund 346

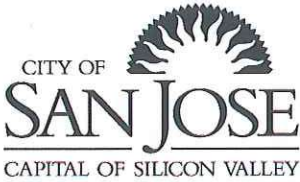
Property Insurance		<u>\$1,975</u>	<u>\$2,440</u>	<u>23.54%</u>
	Subtotal	\$1,975	\$2,440	23.54%
TOTAL		<u><u>\$1,508,817</u></u>	<u><u>\$1,518,591</u></u>	<u><u>0.65%</u></u>

[a] Brokers' fees are not included and TRIA costs are included in the property insurance provisions.

[b] Costs are not yet available for FY 2016-17 as the Government Crime Policy will not renew until December 2016. The premium is estimated at \$26,000.

[c] Each Police Officer participating in the secondary employment program pays \$110 toward the premium cost. Renewal premium is based on 777 reported officers versus 739 officers enrolled at policy inception in 2015 to 2016.

[d] The City as Successor Agency to the Redevelopment Agency has assumed operations previously performed by the Redevelopment Agency. Allocated premium will be directly invoiced to the Successor Agency.



Memorandum

TO: TRANSPORTATION &
ENVIRONMENT COMMITTEE

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 23, 2016

Approved

Date

8/29/16

**SUBJECT: BURROWING OWL HABITAT IMPROVEMENTS AT THE
SAN JOSE – SANTA CLARA REGIONAL WASTEWATER FACILITY**

RECOMMENDATION

Accept this progress report highlighting ongoing habitat management activities for the Western Burrowing Owl on San José-Santa Clara Regional Wastewater Facility bufferlands.

OUTCOME

Provide an update to the Transportation and Environment (T&E) Committee on the progress of habitat management for the Western Burrowing Owl on San José-Santa Clara Regional Wastewater Facility¹ (RWF) bufferlands and increasing the owl population at the site.

BACKGROUND

The Western Burrowing Owl is listed as a Federal and State Species of Special Concern, with significant population decreases over the past several decades. The Western Burrowing Owl is a small owl, about nine inches tall, and is typically migratory throughout much of its range, although many birds reside year round in California. Western Burrowing Owls are both diurnal and nocturnal and are most active at dawn and dusk. They do not hoot as do most other owl species and are the only species of owl worldwide that live and nest underground. Western Burrowing Owls will use other “burrows” such as pipes, crevices in rocks, or burrows dug by other animals.

¹ The legal, official name of the facility remains San José-Santa Clara Water Pollution Control Plant, but beginning in early 2013, the facility was approved to use a new common name, the San José-Santa Clara Regional Wastewater Facility.

August 23, 2016

Subject: Burrowing Owl Habitat Update

Page 2

Western Burrowing Owls have been documented to nest at the RWF bufferlands for the past decade; however numbers had declined until the City initiated habitat improvements in 2012. City staff implemented activities based on the City's Bufferlands Interim Burrowing Owl Management Plan (Interim Plan) as temporary measures until certification of the Plant Master Plan (PMP) Environmental Impact Report (EIR). City Council certified the PMP EIR on November 19, 2013. As part of the PMP's goal to improve habitat and minimize impacts to the local and global environment, it designated 180 acres as burrowing owl habitat. Protection and maintenance of the owl habitat is provided under the terms of required mitigation measures in the Mitigation Monitoring and Reporting Program (MMRP). Council Policy 6-31 also supports the use of RWF bufferlands to provide direct benefit to habitats supporting United States Department of Fish and Wildlife and California Department of Fish and Wildlife Species of Special Concern. Improving the habitat quality at the bufferlands has increased the number of nesting owls and promoted reproductive success, two goals the City of San José has set out to achieve on the bufferlands.

In 2014, the City of San José was granted title to a 21.4 acre parcel of land by Cisco Technologies, adjacent to the City's 180 acre Burrowing Owl habitat. A portion of fencing separating the two properties was removed, and the combined area is now managed as one contiguous habitat. The addition of the Cisco property brought the total area managed for burrowing owls to over 201 acres (see Attachment). The City entered into a Grant Agreement with Santa Clara Valley Audubon Society (SCVAS) in March 2014 to provide services related to the upkeep, improvement, and promotion of the burrowing owl habitat consistent with the PMP and EIR following the guidelines set forth in the Interim Plan and MMRP. The three-year Grant Agreement concluded on June 30, 2016.

In May 2013, the Santa Clara Valley Habitat Agency (SCVHA) was formed after a 10-year stakeholder and public outreach process that coincided with the development of the Habitat Conservation Plan (HCP). The SCVHA is the designated lead agency in implementing the HCP, which was developed by the Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, County of Santa Clara, and the Cities of Gilroy, Morgan Hill, and San José. The HCP covers about two-thirds of the area of Santa Clara County, providing streamlined state and federal permitting for public and private projects, while offering a comprehensive and effective way to address impacts of those projects on endangered and threatened species and their habitats. The most significant role of the SCVHA is to acquire and manage a Reserve System that will serve as mitigation for project impacts and contribute to the recovery of the species covered by the HCP.

Effective July 1, 2016, the City has transferred the oversight and underwriting of these activities to this agency. However, RWF maintains ownership of the majority of the land and continues to provide mowing services. In addition to already managing the RWF property, the SCVHA will soon place a 72-acre conservation easement over an initial portion of the habitat (see Attachment) once the City permanently enters it in their reserve system in the first land enrollment of its kind.

ANALYSIS

Current habitat improvement and management activities by Environmental Services Department staff, SCVHA and volunteers are based on the Interim Plan, developed by Western Burrowing Owl specialists Dr. Lynn Trulio and Phil Higgins, as well as the measures outlined in the MMRP.

The management activities are designed to improve both foraging and nesting habitat for the owls as well as for California ground squirrels, a species the owls depend upon for quality habitat. Key factors for improving conditions for the owls have included, but are not limited to:

1. Short grass habitat (less than five inches) directly around burrows for nesting and non-nesting purposes. This provides adequate visual range for the owls to spot predators and seek cover or escape. RWF staff actively manage the grass height.
2. Longer grass habitat in large open fields to provide a habitat for Western Burrowing Owl prey, especially large insects and small rodents. Woody debris piles have been placed at intervals throughout the habitat to foster the establishment of owl prey.
3. Conditions that support a healthy, large ground squirrel population. Primarily, soil conditions need to allow burrowing mammals to burrow. The sheep and goats no longer graze on the bufferlands because they caused too much soil compaction. This change, along with thousands of cubic yards of imported soil, have allowed the ground squirrel population to rebound and dig more burrows. The added soil mounds throughout the site are approximately three feet high, and are also attractive burrowing sites because of the vantage point provided. Additionally, "move-in ready" artificial burrows were installed in many of these soil mounds.
4. Conditions that discourage predators, including little to no vegetative cover near burrows, the absence of trees or other tall perches for large birds of prey, and the absence of cat colonies.
5. Low levels of human activity near burrows. The RWF bufferlands are ideal in this sense since they are gated with no public access.

The SCVHA has continued vegetation maintenance around burrows; installed and maintained perches; installed motion sensing cameras; and conducted site surveys with corresponding survey reports.

Surveys conducted in July 2016 during the breeding season identified 25 adults and 58 chicks, in comparison to 20 adults and 46 chicks identified in 2015. The 2016 population numbers are a significant improvement due to habitat enhancement efforts. Prior to the active management of the habitat, owl sightings were rare and sporadic with no more than four owls generally seen during unofficial surveys.

The increase in the burrowing owl population observed this year and over the past several years is significantly higher than any other site in Santa Clara County. The burrowing owl population at this site is experiencing significant growth while all other County sites are declining. The overall trend for all sites in Santa Clara County show a continued decline in species abundance,

which could lead to the owl becoming locally extinct. This project is proving that a coordinated effort and good science can reverse the trends if some of our actions are applied to other sites.

The MMRP also requires that Western Burrowing Owl habitat maintenance and improvement activities reduce impacts to Congdon's tarplant, which is native to the site, and also a species of special concern. In adherence to this mitigation measure, surveys for tarplant are conducted prior to any activity, and areas containing tarplant are avoided. In 2014, approximately 6,159 plants were counted. In 2015, the numbers increased to more than 15,698. This year, the numbers dropped down to 822. Tarplant flourishes in heavy rain events that lead to pooling of water, occurrence of which took place in 2015. In 2016, while there was more precipitation overall, it was spread out over the season with almost no pooling. This most likely explains the drop in numbers of tarplant observed during the 2016 survey.

EVALUATION AND FOLLOW UP

During the current fiscal year, staff will manage a new five-year, short-term management agreement with SCVHA, which will cover the entire 201-acre habitat and will transfer the bulk of the cost to manage the habitat from the City to SCVHA. A land-in-lieu of Habitat Plan fees deal will also be executed. To date, 20 acres of RWF Capital Improvement Program projects requires the enrollment of 72 acres of habitat which will save the City roughly \$1,400,000. The 72 acres will be a subset of the 201-acre habitat. This enrollment into the SCVHA's reserved system will be a conservation easement, not a land title transfer, so RWF will maintain ownership of the land.

The management agreement calls for continued surveying of the habitat which will allow staff to use burrowing owl counts as the primary performance measure. Staff will limit their input on SCVHA's budget as long as they are in compliance with baseline management practices outlined in the agreement. Staff will return to the T&E Committee in September 2017 to present information on the next Western Burrowing Owl breeding season in the Facility bufferlands and the continued effect of the habitat improvements.

PUBLIC OUTREACH/INTEREST

This memorandum will be posted on the City's website for the September 12, 2016 T & E agenda.

COORDINATION

This report has been coordinated with the City Attorney's Office and the Department of Planning, Building and Code Enforcement (PBCE). PBCE prepares quarterly memos to T&E to report on Mitigation Monitoring and Reporting Requirements for individual projects, including

TRANSPORTATION & ENVIRONMENT COMMITTEE

August 23, 2016

Subject: Burrowing Owl Habitat Update

Page 5

for burrowing owl mitigation parcels that are required as a condition of approval of development permits.

COMMISSION RECOMMENDATION/INPUT

This item is scheduled to be heard at the September 8, 2016 Treatment Plant Advisory Committee meeting. A supplemental memo with the committee's recommendation will be included in the October 4, 2016 City Council meeting agenda as part of the T & E Committee's September 12, 2016 meeting minutes.

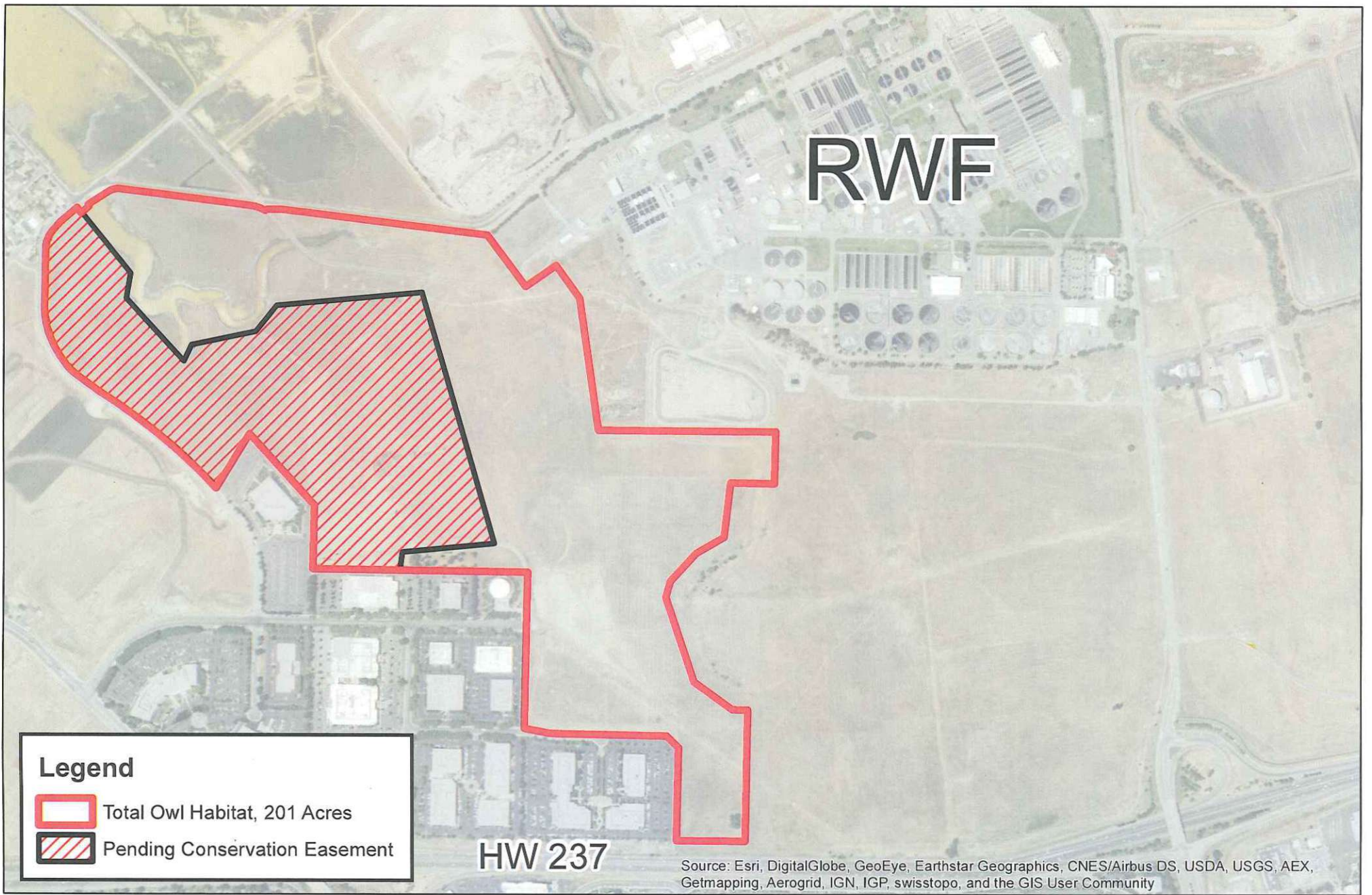
CEQA

File No. PP11-043, Environmental Impact Report for the San José/Santa Clara Water Pollution Control Plant Master Plan.

/s/ Napp Fukuda for
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Ken Davies, Sustainability and Compliance Manager (Acting), at (408) 975-2587.

Attachment: Location Map



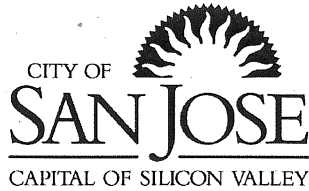
0 400 800 1,600 2,400 3,200 Feet

Attachment: Location Map



San José-Santa Clara
Regional Wastewater Facility





Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 29, 2016

Approved

Date

8/31/16

SUBJECT: MASTER CONSULTANT AGREEMENT WITH WILLIAMS, ADLEY & COMPANY-CA, LLP FOR 8132 - AUDIT SERVICES FOR THE SAN JOSE-SANTA CLARA REGIONAL WASTEWATER FACILITY CAPITAL IMPROVEMENT PROGRAM

RECOMMENDATION

Approve a Master Consultant Agreement with Williams, Adley & Company-CA, LLP to provide audit services for the Capital Improvement Program at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2021, in a total amount not to exceed \$1,000,000, subject to the appropriation of funds.

OUTCOME

Approval of this master agreement provides the City with the ability to obtain as-needed professional auditing services for projects in the Capital Improvement Program (CIP) at the San José - Santa Clara Regional Wastewater Facility¹ (RWF). Approval of this master consultant agreement will not result in any physical changes to the environment.

BACKGROUND

The Adopted 2017-2021 CIP provides funding of approximately \$800,000,000 for construction at the RWF. The CIP contains more than 20 major capital projects to improve and upgrade infrastructure at the RWF, ranging from \$10,000,000 to \$150,000,000 in total estimated project

¹ The legal, official name of the facility remains San José-Santa Clara Water Pollution Control Plant, but beginning in early 2013, the facility was approved to use a new common name, the San José-Santa Clara Regional Wastewater Facility.

costs, including the Cogeneration Facility, Digester and Thickener Facilities Upgrade, and Headworks Improvements / New Headworks projects. Given the scale and large capital outlay, regular audits may be needed to ensure that the work performed and services provided by design-builders, construction contractors, and consultants are in compliance with applicable laws and contract requirements. Audits may also be needed to verify reported invoice and expenditure amounts to ensure that the City is receiving fair prices and is being properly invoiced for the work performed.

In August 2012, the City Auditor issued a report entitled “Environmental Services: A Department at a Critical Juncture”, which recommended ongoing construction audit work during the implementation of the CIP. The report noted that other large capital programs had contracted with outside firms to conduct regular audits of their major projects.

Examples include the Norman Y. Mineta San José International Airport Terminal Area Improvement Program (\$750 million), Orange County Sanitation District CIP (\$2.8 billion), and Kaiser Permanente Capital Projects Expansion Program (\$12 billion). Typical audit work performed on these programs included regular reviews of the contractors’ books to ensure payment applications were accurate and supported by proper documentation, audits to ensure that payments and change orders were approved in accordance with the contract requirements, and audits of consultant invoices to validate costs and work performed.

ANALYSIS

On February 29, 2016, the City issued a Request for Qualifications (RFQ), seeking professional audit services for the CIP at the RWF. The City received six Statements of Qualifications (SOQs) by the March 28, 2016 submittal deadline.

A Technical Evaluation Panel, consisting of representatives from the Environmental Services Department (ESD) and City Auditor’s Office evaluated and ranked the SOQs in accordance with the procedures set forth in the RFQ. Each panel member evaluated the SOQ using a consistent scoring matrix based on the firm’s expertise, experience, approach, cost, and Local/Small Business Enterprise (LBE/SBE) status. Each firm received a total score comprised of their SOQ score, and LBE/SBE status as shown below:

Description	Weight
Proposal Responsiveness	Pass/Fail
Expertise	24
Experience	32
Approach	24
Cost	10
Local Business Enterprise (LBE)	5
Small Business Enterprise (SBE)	5
TOTAL	100

As a result of the evaluation of the SOQs, the top proposing consultant was selected. No oral interviews were conducted. The final ranking and scores for each firm were as follows:

Rank	Firm	Expertise	Experience	Approach	Cost	LBE	SBE	Total
1	KPMG LLP	14.0	17.3	12.0	0.0	5.0	0.0	48.3
2	Williams, Adley & Company-CA, LLP	11.0	14.7	11.3	9.2	0.0	0.0	46.2
3	Cupp and Hudson	11.0	14.0	9.0	10.0	0.0	0.0	44.0
4	Macias Gini & O'Connell LLP	11.3	11.3	12.0	6.9	0.0	0.0	41.5
5	Brown Smith Wallace LLP	10.3	12.0	9.0	5.0	5.0	0.0	41.3
6	Vasquez & Company LLP	10.7	9.7	9.7	9.0	0.0	0.0	39.1

In accordance with City policy, 10 percent of the total evaluation points were reserved for local and small business enterprise status. Two of the firms qualified for the Local Business Enterprise (LBE), and none of the firms qualified for the Small Business Enterprise (SBE) status.

Award Recommendation

In July 2016, the City entered into negotiations with the top-ranked firm, KPMG LLP, but was unable to reach agreement on the terms and conditions of the consultant contract. KPMG LLP had substantial exception requests to the City's master consultant agreement exemplar, which would have constituted a material change in the transfer of risk to the City. Pursuant to the terms of the RFQ, staff terminated negotiations with KPMG LLP and began negotiating with the second-ranked firm Williams, Adley & Company-CA, LLP (Williams Adley). The City has reached an agreement with Williams Adley, and staff is recommending award of the master consultant agreement to Williams Adley in an amount not to exceed \$1,000,000.

Williams Adley is a certified public accounting firm with a solid public sector practice, providing financial and compliance auditing services to local government agencies for more than 30 years. The firm has a multi-disciplinary staff of roughly 20 professionals in California, including Oakland, and approximately 120 professionals located in other offices. It has provided construction and other audit related services to a number of agencies including Kaiser Health Foundation, the City of Oakland, the City and County of San Francisco, and the Valley Transportation Authority.

Professional services to be provided under this master agreement may include, but are not limited to: capital project financial audits, pre-award and closeout audits, compliance and

performance audits, incurred costs audits, claims/change order analysis, and internal controls review. Staff anticipates issuing an average of \$200,000/year in audit services work which is comparable to the amount of work issued on other large programs. For comparison, the SJIA-TAIP issued more than \$500,000 in audit services work over a four year period.

Williams Adley will be compensated based on actual hourly wages (i.e., their direct labor cost) times a multiplier of 1.50. The multiplier will not change during the term of the master agreement. The multiplier is based on an independent audit of the firm's payroll and financial records. In addition to the firm's direct labor cost, the multiplier covers all of the firm's overhead (e.g., fringe benefits, payroll taxes, group insurance, building/rental expenses, etc.), associated project cost (e.g., computer equipment, network and telecommunications expenses, routine printing and copying, etc.), and profit limited to 10 percent under the master agreement. The master agreement also allows the City to compensate the firm for pre-approved subconsultants and contract personnel, as well as certain reimbursable expenses.

The term of agreement will be from the date of execution through December 31, 2021.

EVALUATION AND FOLLOW UP

No follow-up action with City Council is expected at this time. All service orders issued under this master consultant agreement over \$100,000 will be reported to the Treatment Plant Advisory Committee (TPAC) on the monthly summary of procurement and contract activity. Service orders will also be reported to TPAC in the quarterly CIP agreement and service order summary. A progress report on this agreement and other RWF capital efforts will be made to the Transportation and Environment Committee and the City Council on a semiannual basis. Monthly progress reports of the RWF CIP will also be submitted to TPAC and posted on the City's website.

POLICY ALTERNATIVES

Alternative 1: Do not award the master consultant agreement and direct City Auditor staff to provide the required services with in-house resources.

Pros: Increased work options for City staff.

Cons: Lack of existing capacity and specialized expertise to provide ongoing construction audit work. The City Auditor recommended that ESD contract with outside auditors for such services in its August 2012 report.

Reason for not recommending: The lack of expertise and in-house staff resources might result in less effective and delayed project audits. In addition, allocating existing audit staff for ongoing construction audit work would impact the City Auditor's Office's ability to conduct audits of other programs and services contained in its City Council-approved work plan.

PUBLIC OUTREACH

The Request for Qualifications was advertised on BidSync on February 29, 2016. This memorandum will be posted on the City's website for the September 20, 2016 City Council meeting agenda.

COORDINATION

This memorandum has been coordinated with the Departments of Finance and Public Works, the City Auditor's Office, the City Manager's Budget Office, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

This item is scheduled to be heard at the September 8, 2016 TPAC meeting. A supplemental memo with the committee's recommendation will be included in the amended September 20, 2016 City Council meeting agenda.

FISCAL/POLICY ALIGNMENT

This project is consistent with the City Council-approved Budget Strategy to focus on rehabilitating aging RWF infrastructure, improving efficiency, and reducing 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: \$ 1,000,000
2. COST ELEMENTS OF MASTER AGREEMENT: The consultant's services are reimbursed on actual hourly wages times a multiplier, which is based on an independent auditor's financial report and will not change during the term of the master agreement. The firms are also compensated for pre-approved subconsultants and contract personnel, as well as certain reimbursable expenses.
3. SOURCE OF FUNDING: 512 - San José/Santa Clara Treatment Plant Capital Fund.
4. FISCAL IMPACT: This agreement is funded through the San José-Santa Clara Treatment Plant Capital Fund and will have no impact on the San José-Santa Clara Treatment Plant Operating Fund (Fund 513).

BUDGET REFERENCE

Services performed by the consultant under this agreement will be authorized by service orders. An appropriation is not required for execution of this master consultant agreement, but is required for each service order authorized under this agreement. Services performed for a specific project will be funded by that project's appropriation. Future funding is subject to appropriation and, if needed, will be included in the development of future year budgets during the annual budget process.


CEQA

Statutory Exemption, File No. PP10-066 (d), Consultant Services, CEQA Guidelines Section 15262, Feasibility and Planning Studies. Any future activities resulting in a change to the physical environment would require approval of CEQA review.

/s/ Ashwini Kantak for
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Ashwini Kantak, Assistant Director of the Environmental Services Department, at (408) 975-2553.

CITY COUNCIL ACTION REQUEST

Department(s): Environmental Services, Public Works	CEQA: MND (File No. PP13-049) and Addenda (File No. PP14-076)	Coordination: City Attorney Office, City Manager's Budget Office, Treatment Plant Advisory Committee (TPAC)	Dept. Approval: /s/ Ashwini Kantak /s/ Barry Ng
Council District(s): City-Wide			CMO Approval: 

SUBJECT: CONTRACT CHANGE ORDER NO. 12 FOR 7394 – EMERGENCY DIESEL GENERATOR PACKAGE 2A PROJECT

RECOMMENDATION:

Approve a Contract Change Order for a credit to the City in the amount of \$718,100 and extend the construction completion date from January 11, 2017 to February 22, 2017 for the 7394 - Emergency Diesel Generator Package 2A Project.

BASIS FOR RECOMMENDATION:

On June 3, 2014, the City Council awarded a design-build contract for the 7394-Emergency Diesel Generator Package 2A Project (Project) to Anderson Pacific Engineering Construction, Inc. (Anderson Pacific) with a total base bid of \$15,310,000. The City Council also approved a construction contingency in the amount of \$1,531,000. The Project includes the installation of four diesel generators (3 MegaWatts each) and two 45,000-gallon diesel fuel tanks to sustain critical operations in the event of a power outage at the San José-Santa Clara Regional Wastewater Facility.

At the time the Project was awarded, the specifications required the most current clean-emissions engine (EPA Tier 4i) along with the best available emissions control technology. This included a selective catalytic reduction (SCR) system and diesel oxidizing catalyst (DOC) for the reduction of nitrogen oxides emitted from each of the engines, along with an active regeneration diesel particulate filter (particulate filter) to further control emissions. During the permitting process, the Bay Area Air Quality Management District (BAAQMD) determined that the particulate filter was not necessary and that current emission control requirements would be satisfied with only the installation of the SCR system and DOC. This was primarily because the particulate filter has not yet been fully evaluated by the California Air Resources Board for its emission control effectiveness when using EPA Tier 4i engines.

As a result, staff recommends eliminating the particulate filter from the Project's scope. The Project's structural support elements will be designed and constructed to allow the installation of particulate filter in the future should the BAAQMD's operating permit requirements change. By approving this change order eliminating the four particulate filter units, the City saves \$718,100 in project costs. A contract extension of 28 working days is recommended to accommodate the time required by Anderson Pacific to modify the structural design related to this change.

This item is scheduled to be heard at the September 8, 2016 TPAC meeting. A supplemental memo with the committee's recommendation will be included in the amended September 20, 2016 City Council meeting agenda.

COST AND FUNDING SOURCE:

1. COST OF RECOMMENDATION:	(\$ 718,100)
Original Construction Contract Amount	\$ 15,310,000
Original Contingency Amount	<u>\$ 1,531,000</u>
Original Total Contract Amount	\$ 16,841,000
Contract Amount Completed as of July 28, 2016	\$ 12,791,093
Contract Change Order (Credit to Project)*	<u>(\$ 718,100)</u>
Total Funding Remaining within Contract Authority	\$ 4,768,007

*Contract Change Order No. 12 is a reduction to the contract's bid items. Once the project is complete and the contractor is paid in full, the encumbrance balance will be liquidated and this credit will fall to fund balance.

2. **SOURCE OF FUNDING:** Fund 512 – San José-Santa Clara Treatment Plant Capital Fund
Appn. 7454 – Energy Generation Improvements (RC 176625)

FOR QUESTIONS CONTACT: Ashwini Katak, Assistant Director of ESD, at (408) 975-2553