

**MINUTES OF THE
SAN JOSÉ/SANTA CLARA
TREATMENT PLANT ADVISORY COMMITTEE**
San José City Hall, T-1734
Thursday, September 14, 2017 at 4:00 p.m.

1. ROLL CALL

Minutes of the Treatment Plant Advisory Committee convened this date at 4:04 p.m. Roll call was taken with the following members in attendance:

Committee Members: Dev Davis, Lan Diep, John Gatto, Marsha Grilli, Steven Leonardis, Dave Sykes, Kathy Watanabe (alternate), Sam Liccardo

Absent: Committee Member Debi Davis

2. APPROVAL OF MINUTES

A. June 8, 2017

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

Ayes – 8 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Sykes, Watanabe)

Nays – 0

Absent – 1 (Liccardo)

3. UNFINISHED BUSINESS/REQUEST FOR DEFERRALS

4. DIRECTOR'S REPORT

A. Director's Report (verbal)

- Monthly Progress Report

Assistant Director Ashwini Kantak and Deputy Director Julia Nguyen presented an update on the Emergency Diesel Generators and the Digester and Thickener Facilities Upgrade.

Chair Liccardo asked what the bonding capacity is for accelerating projects and if new technology is being installed to detect issues before they're discovered by staff.

Assistant Director Ashwini Kantak mentioned that the Yard Piping Project was accounted for in the adopted budget and that staff will evaluate how they can be flexible with this project if there are unforeseen financial limitations. In addition, the Advanced Meter Replacement will help staff look at the flow of water, but not the condition of the pipe. Deputy Directors Julia Nguyen and Amit Mutsuddy mentioned that the consultants take into account what protectants and raw materials should be used to best maintain the Regional Wastewater Facility (RWF). The RWF was built in the 1950s and 1960s, and the pipes currently don't have corrosion protection compared to modern technology. Staff is currently coating them with plastics and proxies as the

technology for detecting acid build up in the pipes has not been developed yet. Ms. Kantak added that staff is looking at ways to isolate sections of the RWF so that regular maintenance and condition assessments can be done more easily in the future, Committee Member Gatto requested for a status update on the Biosolids Disposal Plan and emphasized that a complete plan should be developed as soon as possible. Ms. Nguyen replied that a team will be looking at disposal sites and contract options in the upcoming budget cycle. Director Kerrie Romanow reassured the Committee that they will develop a couple options for TPAC to consider.

5. **AGREEMENTS/ACTION ITEMS**

A. **Amendment to the Master Consultant Agreement with Stantec Consulting Services Inc. (formerly MWH Americas, Inc.) for Program Management Services for the San Jose – Santa Clara Regional Wastewater Facility Capital Improvement Program**

Staff Recommendation: Approve an Amended and Restated Master Consultant Agreement with Stantec Consulting Services Inc. (formerly MWH Americas, Inc.) for program management services for the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program, increasing the not to exceed agreement amount From \$39,000,000 to a revised not to exceed agreement amount of \$78,000,000; and extending the term of the agreement from September 30, 2018 to June 30, 2023.

This item is scheduled for consideration by the City Council on September 26, 2017.

Assistant Director Ashwini Kantak and Deputy Director Julia Nguyen presented.

Ms. Nguyen explained the relationship between the Stantec agreement and Auditor's Report for Committee Member Diep, and noted the Auditor's proposed recommendations were incorporated into the Stantec amendment. Committee Member Grilli followed up about when the recommendations will be implemented. Ms. Kantak mentioned six of the ten recommendations were addressed through the amendment. Once the amendment is approved by Council, they will be implemented. The remaining item is separate from the amendment and will be resolved by the end of September.

Committee Member Watanabe asked about the frequency of audits for consulting agreements. Auditor Sharon Erickson and Director Kerrie Romanow indicated that there is not a routine schedule for these types of audits.

Committee Member Gatto inquired who decides when to utilize staff or consultants for projects. Ms. Romanow responded that she works directly with the City Manager's Office to evaluate recommendations.

Chair Liccardo expressed concerns about the vacancy rate. He asked if (1) there is time to work with the bargaining units to start increasing wage levels to better

recruit and select candidates for wastewater positions, and (2) if there is a way to unbind constraints so staff is given the flexibility they need to hire. Ms. Romanow clarified that some of the challenges are related to compensation, and how classifications are Citywide. It would require five to seven deputy director level staff to manage staff which would cause organizational challenges. The Environmental Services Department will work with Human Resources and the City Manager's Office if adjustments can be made. Assistant City Manager Dave Sykes added that the issue is also due to compaction with the leadership positions across the City. These positions report up to Deputy Director, Assistant Director, and Director. Ultimately, they will need to look at how these positions relate to other City departments.

Committee Member Gatto inquired if there is flexibility to modify a contract if the economy improves. Ms. Kantak replied that this particular agreement is a Master Agreement with a not to exceed amount. Staff authorizes the work for each year through service orders.

On a motion made by Vice Chair Kolstad and a second by Committee Member Diep, TPAC recommended approval of staff's recommendation for Item 5.A.

Ayes – 6 (Davis, Diep, Kolstad, Liccardo, Sykes, Watanabe)

Nayes – 2 (Grilli, Leonardis)

Absent – 0

Abstain – 1 (Gatto)

B. Approval of Citywide Insurance Renewals

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

- (a) Select and purchase City property and liability insurance policies for the period October 1, 2017 to October 1, 2018, at a total cost not to exceed \$1,850,000, including a 12.6% contingency for additional property or assets scheduled, 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 change).
 - (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.

- (6) Berkley Regional Insurance Company for Government Fidelity/Crime Coverage.
- (7) Hudson Insurance Company, for Fiduciary Liability Coverage for the VERBA Health Savings Trust.

This item is scheduled for consideration by the City Council on September 19, 2017.

On a motion made by Committee Member Leonardis and a second by Committee Member Davis, TPAC recommended approval of staff's recommendation for Item 5.B.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nays – 0
Absent – 0**

C. Purchase of California Carbon Allowances

Staff Recommendation: Approve the Agreement between the City of San José and Vitol, Inc., which is approved by the California Air Resources Board for the purchase of California Carbon Allowances for the San José – Santa Clara Regional Wastewater Facility, as part of the California Cap-and-Trade Program, for an amount of \$303,437.60.

This item is scheduled for consideration by the City Council on September 26, 2017.

Assistant Director Ashwini Kantak responded to questions from Committee Member Watanabe and Chair Liccardo about the duration of the City of San José's participation in the Cap-and-Trade Program and reason for phase out.

Ms. Kantak clarified had the RWF had entered into the Cap-and-Trade Program in 2013, and must stay in the program for a certain number of years. 2018 will be the last year in the program if we continue to stay under the emissions threshold. City staff will forward an overall energy strategy once the new Cogeneration Facility is online.

On a motion made by Committee Member Gatto and a second by Committee Member Grilli, TPAC recommended approval of staff's recommendation for Item 5.C.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nays – 0
Absent – 0**

D. Actions Related to the May 18, 2017 Hearing on the Tributary Agencies' Claims of Breach of Agreement and Inequities

Staff Recommendation: Adopt a Resolution setting forth the San José/Santa Clara Treatment Plant Advisory Committee's (TPAC) report, findings, and recommendations Following the Mat 18, 2017 hearing before TPAC on the Claims of Breach of Agreement and Inequities Filed on September 7, 2016 by West Valley Sanitation District, Burbank Sanitary District No. 2-3, and the City of Milpitas (Tributary Agencies).

Senior Deputy Attorney Jennifer Pousho noted Senior Deputy Attorney Rosa Tsongtataarii's presentation was missing from the list of exhibits. TPAC will receive an amended packet from TPAC Liaison Melrose Cacal.

On a motion made by Committee Member Kolstad and a second by Committee Member Diep, TPAC recommended approval of staff's recommendation for Item 5.D.

Ayes – 8 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nays – 0
Absent – 0
Abstain – 1 (Gatto)

E. Audit of Environmental Services Department Consulting Services

Staff Recommendation: Accept the audit report on Environmental Services Department Consulting Services.

This item was considered at the Transportation and Environment Committee on September 11, 2017 and is scheduled for consideration by the City Council on September 26, 2017.

Auditor Sharon Erickson presented.

Director Kerrie Romanow mentioned that the Environmental Services Department (ESD) included the Auditor's report recommendations into the Stantec amendment and the target dates for staff to address most of the recommendations were September 2017.

Committee Member Watanabe asked if an update on the Auditor's recommendations can be provided to TPAC on a quarterly basis to ensure transparency. Ms. Erickson responded that staff will be following up on the recommendations once every six months, and that an update will be provided to TPAC.

Committee Member Gatto inquired as to why the audit did not cover a broader evaluation of total costs. Ms. Erickson noted the Auditor's Office was asked to audit ESD's consulting agreements at a request of a Councilmember. The Stantec Agreement amendment is also being considered by TPAC on September 14, 2017. An evaluation of the cost of the agreement is not in their scope of review at this time.

On a motion made by Vice Chair Kolstad and a second by Committee Member Davis, TPAC recommended approval of staff's recommendation for Item 5.D.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nayes – 0
Absent – 0**

F. Election of Pro Tem Chair for October 12, 2017 TPAC Meeting

Chair Liccardo, Vice Chair Kolstad, and Committee Member Lan Diep noted they will be absent at the October 12, 2017 meeting. Committee Members will be notified by the TPAC Liaison prior to the October 12, 2017 if the meeting needs to be re-scheduled.

On a motion made by Committee Member Kolstad and a second by Committee Member Watanabe, TPAC elected Committee Member Debi Davis to serve as Pro Tem Chair for the October 12, 2017 meeting.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nayes – 0
Absent – 0**

6. OTHER BUSINESS/CORRESPONDENCE

- A. Information Memorandum: Update on Clean Water State Revolving Fund Loan for Regional Wastewater Facility Project dated August 2, 2017
- B. Information Memo: Update on Commercial Fats, Oils, Grease (FOG) Inspection and Plan Check Services dated July 24, 2017
- C. Environmental Services Department Staffing Update and Building the Future Workforce dated May 23, 2017

All items under Section 6 were approved to note and file.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nayes – 0
Absent – 0**

7. STATUS OF ITEMS PREVIOUSLY RECOMMENDED FOR APPROVAL BY TPAC

- A. Report on Procurement of Insurance Products for an Owner Controlled Insurance Program for the San Jose – Santa Clara Regional Wastewater Facility

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

- (a) Purchase insurance policies for the San Jose – Santa Clara Regional Wastewater Facility Capital Improvement Program with a total cost not to exceed \$10,810,576 including insurance premiums of \$8,153,181 and a cash collateral fund of \$2,657,395, to be paid in five annual installments and subject to the appropriation of funds, as follows:
 - (1) Old Republic General Insurance Corporation: Commercial General Liability Insurance and Workers' Compensation Insurance with a Program Agreement Endorsement stipulating terms of cash collateral fund management
 - (2) Allied World Assurance Company: Commercial Excess Liability Insurance
 - (3) Endurance Risk Solutions Assurance Company: Commercial Excess Liability Insurance
 - (4) Ironshore Specialty Insurance Company: Commercial Excess Liability Insurance
 - (5) American Fire and Casualty Company: Commercial Excess Liability Insurance
 - (6) Liberty Mutual Fire Insurance Company: Builder's Risk Insurance with special endorsement for Flood
 - (7) Ironshore Specialty Insurance Company: Contractors Pollution Liability Insurance
 - (8) Owners Protective Professional Liability Insurance with the insurance carrier to be determined pending the City's completion of the application process.
- (b) Adopt the following 2016 – 2017 Appropriation Ordinance Amendments in the San Jose – Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease Program Management appropriation to the Environmental Services Department by \$2,500,000; and
 - (2) Decrease the Program Management appropriation to the Environmental Services Department by \$2,500,000; and
 - (3) Establish the Owner Controlled Insurance Program appropriation to the Environmental Services Department in the amount of \$3,200,000.

This proposed recommendation was approved by the City Council on June 20, 2017.

G. Amendments to the Master Consultant Agreement with Stantec Consulting Services Inc. (formerly MWH Americas, Inc.) for Program Management Services for the San Jose – Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendation: Approve an Amended and Restated Master Consultant Agreement with Stantec Consulting Services Inc. (formerly MWH Americas, Inc.) for program management services for the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program, increasing the not to exceed agreement amount from \$39,000,00 to a revised not to exceed agreement amount of \$78,000,000; and extending the term of the agreement from September 30, 2018 to June 30, 2023.

The item was deferred to the September 14, 2017 TPAC meeting and September 26, 2017 City Council meeting.

H. Report on Bids and Award of Contract for 8241 – Paint Shop Spray Booth Replacement Project at the San Jose – Santa Clara Regional Wastewater Facility

Staff Recommendation:

- (a) Report on bids and award of a construction contract for 8241- Paint Shop Spray Booth Replacement Project to the low bidder Integra Construction Services, Inc. for the base bid in the amount of \$1,040,112 and approval of a construction contingency of 15 percent in the amount of \$156,017.
- (b) Adopt the following 2016-2017 Appropriation Ordinance amendments in the San Jose – Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease the Lagoons and Drying Beds Retirement appropriation to the Environmental Services Department by \$1,400,000; and
 - (2) Increase the Plant Infrastructure Improvements appropriation to the Environmental Services Department by \$1,400,000.
- (c) Adopt the following 2016-2017 Appropriation Ordinance amendments in the San Jose – Santa Clara Treatment Plant Operating Fund:
 - (1) Decrease the Non-Personal/Equipment appropriation to the Environmental Services Department by \$450,000; and

The funding source for the project was changed from the Plant Infrastructure Improvements appropriation to the San José – Santa Clara Treatment Capital Fund following the June 8, 2017 TPAC meeting (see attached revised memo to the San José City Council). The item was deferred from the June 20, 2017 City Council meeting and approved by the City Council on June 27, 2017.

I. Third Amendment to Legal Services Agreement for Regional Wastewater Facility Capital Improvement Program

Staff Recommendation: Approve a Third Amendment to the legal services agreement with Hawkins, Delafield, & Wood LLP, to extend the term of the agreement through June 30, 2020, revise the scope of service, and increase the maximum amount of compensation by \$2,500,000, subject to the appropriation of funds by City Council, to support the San Jose – Santa Clara Regional Wastewater Facility (“RWF”) Capital Improvement Program

The proposed recommendation was approved by the City Council on June 13, 2017.

Item 7.A. was approved to note and file.

**Ayes – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)
Nays – 0
Absent – 0**

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 – 9 (Davis, Diep, Gatto, Grilli, Kolstad, Leonardis, Liccardo, Sykes, Watanabe)

Nays – 0

Absent – 0

9. **MISCELLANEOUS**

A. The next monthly TPAC Meeting is **October 12, 2017** at 4:00 p.m., City Hall, Room 1734.

10. **OPEN FORUM**

11. **ADJOURNMENT**

A. The Treatment Plant Advisory Committee adjourned at 4:59 p.m.



Debi Davis, Interim Chair
TREATMENT PLANT ADVISORY COMMITTEE