

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
John Stufflebean
David Sykes
Jennifer A. Maguire

SUBJECT: Legal Services - Environmental
Services and Public Works
Capital Projects

DATE: May 26, 2011

Approved

Date

5-27-11

RECOMMENDATION

It is recommended that City Council amend the 2011-2012 Proposed Operating Budget to approve the restoration of 1.0 Senior Deputy City Attorney and 1.0 Legal Analyst II in the City Attorney's Office (limit dated for June 30, 2012).

OUTCOME

Approval of this action will authorize 2.0 positions in 2011-2012 for legal services necessary to support the 5-Year Water Pollution Control Plant Capital Improvement Program, and the 5-Year Sanitary Sewer Capital Improvement Program.

BACKGROUND

Environmental Services is beginning a massive effort at the San José-Santa Clara Water Pollution Control Plant to rehabilitate and upgrade its aging infrastructure as proposed in the 5-year Capital Improvement Program and as identified as part of the Plant Master Plan efforts. Capital improvement projects are anticipated for virtually every process area at the Water Pollution Control Plant.

The Sanitary Capital Improvement Program for the collection system includes increased funding in the proposed 5-year Capital Budget to rehabilitate and maintain the City's large sewer interceptors, trunk lines and small diameter neighborhood sewers. This increased investment into the collection system warrants additional assistance from the City Attorney's Office to address the increased number of capital sanitary sewer projects.

ANALYSIS

Significant legal services will be required to support the \$435 million Treatment Plant Capital Improvement Program (1.60 positions) and the 5-Year Sanitary Sewer Capital Improvement Program (0.4 position). The City Attorney's Office will need to dedicate 1.0 Legal Analyst II and 1.0 Senior Deputy City Attorney to draft and review contracts, and to provide legal advice on procurement, finance, environmental, construction, and regulatory issues related to these projects. Funding for these positions has been assumed in the 2012-2016 Proposed CIP, however the positions must be authorized by the City Council.

Funding in the Sanitary Capital Program has increased significantly. Anticipated transfers from the Sewer Service and Use Charge Fund have increased from \$73.5 million over 5 years in the 2011-2015 CIP, to \$131 million in the 2012-2016 CIP.


Providing legal services with in-house staff is more efficient and cost effective than hiring outside counsel. The legal costs will be funded jointly by the Treatment Plant Capital Budget (80%) and the Sewer Service and Use Charge Capital Improvement Budget (20%), within the respective appropriated budgets. The costs for these positions are estimated to be \$347,000 in 2011-2012.

During the next year, the City Attorney's Office, along with Environmental Services and Public Works, will reevaluate the level of legal services necessary to support the capital projects discussed in this memo as part of the 2012-2013 budget process.

/s/
Richard Doyle
City Attorney

/s/
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Director, Environmental Services

/s/
David Sykes
Acting Director, Public Works


Jennifer A. Maguire
Budget Director