



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Carl W. Mosher

SUBJECT: SEE BELOW

DATE: 6-1-04

Approved

Date

**SUBJECT: EIGHTH AMENDMENT TO SOUTH BAY WATER RECYCLING
IMPLEMENTATION AGREEMENT WITH THE CITY OF MILPITAS**

RECOMMENDATION

Approval of the eighth amendment to the agreement with the City of Milpitas for Implementation of Portions of the South Bay Water Recycling (SBWR) Program to extend the term of the original agreement by two years from June 30, 2004 to June 30, 2006, at no additional cost to the City.

BACKGROUND

In June 1995, San Jose entered into an interagency agreement with the City of Milpitas to secure engineering design and construction inspection services for South Bay Water Recycling (SBWR) facilities within the City of Milpitas at a cost not to exceed \$200,000. The agreement was subsequently amended several times to add design and construction services for three major infill project (M-2, M-3, and M-4) as well as several other smaller pipeline extensions. These amendments increased the total compensation to \$12,504,253 and extended the term of the agreement to June 30, 2004.

ANALYSIS

Construction of the pipeline projects M-2, M-3 and M-4 was completed in 2003, however project acceptance is being delayed due to contractors' claims for additional work related to pipe installation. The contractor for the alignment M-4 has claimed that an additional amount of approximately \$200,000 is due for additional effort required to install the pipeline, allegedly due to defective project specifications. The City of Milpitas has requested that the agreement be extended until this claim, and any other final pay claims are resolved. This eighth amendment

will extend the duration of the agreement with the City of Milpitas by two years to June 30, 2006, at no additional cost to the City.

PUBLIC OUTREACH

Public outreach is not necessary for this recommendation.

COORDINATION

This memo was coordinated with the City Attorney's Office, Budget Office, Planning, Building and Code Enforcement Department, and the City of Milpitas. This item is scheduled to be heard at the June 10, 2004, Treatment Plant Advisory Committee (TPAC) meeting.

COST IMPLICATIONS

1. TOTAL AGREEMENT AMOUNT: \$ 12,504,253

2. COST OF PROJECT:

Project Delivery	\$4,016,753.00
Construction	\$6,930,297.09
Contingency	<u>\$1,557,202.91</u>

TOTAL	\$12,504,253.00
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3. SOURCE OF FUNDING: 512 – San Jose-Santa Clara Treatment Plant Capital Fund

Fiscal Impact:

This project is consistent with the Council-approved Budget Strategy. Extension of the term of the agreement will provide the City of Milpitas with additional time to resolve the issues of construction claims and settle the lawsuit so that the project can be finally closed for beneficial use. The annual operating and maintenance costs of this project have been reviewed, and it has been determined that the extension of the term of the agreement will have no significant adverse impact on the General Fund operating budget.

HONORABLE MAYOR AND CITY COUNCIL

6-1-04

Subject: Eighth Amendment to South Bay Water Recycling Implementation Agreement with City of Milpitas

Page 3

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2003-2004 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
512	6589	Revised SBAP -SBWR Extension	062873	34,030,000	N/A	207	10/14/03 – Ord. No. 26997

CEQA

EIR Resolution No. 64667

CARL W. MOSHER
Director, Environmental Services Department