

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
Jennifer Maguire

SUBJECT: SEE BELOW

DATE: 10-26-09

Approved

Date

11-2-09

SUBJECT: SIXTH AMENDMENT TO AGREEMENT WITH THE CITY OF SANTA CLARA FOR CONSTRUCTION SERVICES FOR SOUTH BAY WATER RECYCLING PROGRAM

RECOMMENDATION

1. Adopt a resolution authorizing the City Manager to negotiate and execute the Sixth Amendment to the construction service agreement with City of Santa Clara for the South Bay Water Recycling Program, revising the approved project list, increasing the maximum amount payable by \$3,000,000 to a total maximum amount not to exceed \$30,600,000 and extending the term of the agreement by eighteen months to December 31, 2011.
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José-Santa Clara Treatment Plant Capital Fund:
 - a. Increase the appropriation to the Environmental Services Department for the Revised South Bay Action Plan – SBWR Extension by \$3,410,000; and
 - b. Decrease the Ending Fund Balance by \$3,410,000.

OUTCOME

Approval of the Sixth Amendment to the construction services agreement with the City of Santa Clara (Santa Clara) for South Bay Water Recycling (SBWR) will allow additional extension projects to be designed and built in Santa Clara. The approval of the appropriation actions will provide sufficient matching funds for an anticipated American Recovery and Reinvestment Act of 2009 (ARRA) grant from the U.S. Bureau of Reclamation, which in turn would provide for additional extension projects.

BACKGROUND

On May 24, 1995 the City of San José entered into an agreement with the City of Santa Clara (Santa Clara) in the amount of \$12.6 million for design and construction services to extend the recycled water system within the boundaries of Santa Clara. The City of San José and Santa Clara subsequently executed five amendments to the original agreement increasing the total compensation to \$27.6 million expanding the recycled water pipeline extensions to be constructed by Santa Clara, and providing funding for administration of a grant program to convert customers from existing potable water connections to the recycled water system.

Following successful completion and startup of the first phase of water recycling facilities the City of San José and the tributary agencies of the San José/Santa Clara Water Pollution Control Plant authorized the expenditure of up to \$100 million for the development and implementation of South Bay Water Recycling Phase 2. Of that amount, approximately \$83 million in Phase 2 facility improvements were built between 1998 and 2008, leaving approximately \$17 million in Phase 2 assets still remaining to be built.

ANALYSIS***Sixth Amendment to Santa Clara Agreement***

Since execution of the Fifth Amendment to the Santa Clara Agreement in March 2008, design work has been completed on two projects identified in that Amendment, and other recycled water expansions within Santa Clara have been identified given projected customer demand. As a result, there are now three Santa Clara projects that are scheduled to have environmental clearance from Santa Clara and be ready to proceed with final design and construction by the time that this memorandum is considered by the San José City Council. In addition, two other Santa Clara projects have been identified given potential customer demand, but further design work is needed in order to pursue environmental clearance.

The projects and the estimated design and construction costs associated with each are as follows:

Pipeline Extension	Description	Total Cost (\$)
Santa Clara Central Park (SC-6)	Design and construction of approx. 12,000 LF of 8-16 in. pipe to serve 115 acre-feet per year (AFY) to 52-acre Santa Clara Central Park and adjacent customers.	\$4,200,000
Santa Clara Industrial 1 (SC-9)	Design and construction of approx. 3000 LF of 8-12-inch pipe to serve 300 AFY for cooling and irrigation at data centers and other sites.	750,000
Santa Clara Industrial 2 (SC-8)	Design and construction of approx. 6500 LF of 12-in pipe to serve 140 AFY to Santa Clara industrial sites for cooling and irrigation.	1,900,000
Santa Clara Industrial 3A (SC-3)	Design of approx. 14,000 LF of 12-inch pipe to serve 500 AFY to industrial sites for cooling and irrigation.	250,000
Santa Clara Industrial 3B	Design of approx. 8340 LF of 12-in dia. pipe to serve 500 AFY to industrial sites for cooling and irrigation.	250,000
	Customer retrofits in Santa Clara	550,000
	Total cost	\$7,900,000
Available Under the current construction service agreement with the City of Santa Clara		4,900,000
Contract Amendment Required		\$3,000,000

It should be noted that the total cost for design and construction of pipeline extensions Industrial 3A and 3B is \$3.3 million and \$2.0 million, respectively. The funding required for the construction of the Industrial 3A extension (\$3.3 million) is available within the Revised South Bay Action Plan – SBWR Extension appropriation. The funding for the construction of the Industrial 3B extension (\$2.0 million) has not yet been identified, but may come from savings in current projects, additional federal funding, or require the use of fund balance. Staff will return to Council seeking appropriation actions for this project if savings are not identified.

For the projects listed in the table on the previous page, \$4.9 million is available in the Revised South Bay Action Plan – SBWR Extension appropriation for the existing construction service agreement with City of Santa Clara. An additional \$3.0 million is needed to cover the cost of additional work, including the design and construction of Santa Clara Central Park, Industrial 1, and Industrial 2; and design of Industrial 3A and Industrial 3B (\$500,000 total); and up to \$550,000 in retrofits to serve new customers in Santa Clara. The Sixth Amendment also revises the Agreement to require conformance with various provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) funding program, to enable San José to continue to pursue federal funding for reimbursement of these project's costs.

The proposed Santa Clara Extensions include more than eight miles of recycled water pipe ranging between eight inches and sixteen inches in diameter. These pipelines will annually serve an additional 1,400 acre-feet of recycled water to irrigate Santa Clara Central Park and provide cooling water for data centers and other industrial facilities. This represents a significant increase in the amount of recycled water delivered by the SBWR system, reducing summer discharge flows from the San Jose/Santa Clara Water Pollution Control Plant by up to 3 million gallons per day (mgd) and generating up to \$250,000 per year in additional revenues under the current rate structure.

Appropriations Actions

Since the inception of the SBWR project, a total of \$31.7 million in federal Title XVI grants has been received through a Cooperative Agreement with the US Bureau of Reclamation for reimbursement of Phase 1 recycled water improvements. This represents a federal cost share to date for Phase 1 of approximately 23% of total eligible costs. In April 2009, San José applied for an ARRA grant from the US Bureau of Reclamation to fund additional extensions to the South Bay Water Recycling system, including some pipelines that had been identified for construction within the existing Santa Clara Agreement as well as some new pipelines. On July 1, 2009 the US Bureau of Reclamation notified San José of its intention to award up to \$6.46 million in ARRA funding to reimburse the City for construction of additional water reuse facilities. The final grant agreement has not yet been executed.

On July 23, 2009 the City submitted the requisite forms to initiate a new Cooperative Agreement with the US Bureau of Reclamation to apply the anticipated \$6.46 million award, and a \$8.33 million SBWR match towards the construction of a total of \$14.8 million of projects (see table below). This would bring the federal cost share of these projects to 44%. Of the SBWR match, \$4.9 million is encumbered by the existing Agreement with the City of Santa Clara for In-Kind Services and is available in the current South Bay Action Plan – SBWR Extension appropriation.

10-26-09

Subject: Sixth Amendment To The Agreement With The City Of Santa Clara

Page 4

The remaining \$3,410,000 required to meet SBWR's match under the proposed Cooperative Agreement is recommended for appropriation to the Environmental Services Department for the Revised South Bay Action Plan – SBWR Extension project for this purpose. A corresponding decrease to Ending Fund Balance would fund this recommended appropriation action.

Unbudgeted grant revenue of \$3.1 million was received in 2008-2009 from the U.S. Bureau of Reclamation for SBWR projects. This unanticipated revenue has resulted in a higher than expected ending fund balance, and offsets most of the recommended appropriation action.

The table below describes the \$14.8 million in projects proposed to be funded under the Cooperative Agreement.:

Project Name	Description	Cost (\$M)
Projects in San José		
San José Airport Extension	Approx. 4500 LF of 12-inch pipe to serve 75 AFY to Norman E. Mineta-San José International Airport.	\$1.7
SBWR Laterals and Garden Improvements	Approx. 1500 LF of 6-12-inch pipe to serve 100 AFY to a community garden, civic buildings and access points in SBWR service area.	\$1.0
San José School Extensions	Approx. 1800 LF of 6-inch pipe to serve 75 AFY to four schools in central and south San Jose.	\$1.1
San Jose State University Improvements (SJSU)	Approx. 500 LF of 6-8-inch pipe to serve up to 150 AFY to SJSU campus for irrigation and indoor use.	\$0.8
Projects in Santa Clara*		
Santa Clara Central Park (SC-6)	Approx. 12,000 LF of 8-16-inch pipe to serve 115 AFY to 52-acre Santa Clara Central Park and adjacent customers.	\$4.2
Santa Clara Industrial 1	Approx. 3000 LF of 8-12-inch pipe to serve 300 AFY for cooling and irrigation at data centers and other industrial sites.	\$0.8
Santa Clara Industrial 2	Approx. 6500 LF of 12-inch pipe to serve 140 AFY to Santa Clara industrial sites for cooling and irrigation.	\$1.9
Santa Clara Industrial 3A	Approx. 14,000 LF of 12-inch diameter pipe to serve 500 AFY to Santa Clara industrial sites for cooling and irrigation.	\$3.3
Total Cost of Projects for Proposed Contract (\$M)		14.8
Proposed Federal ARRA Share (\$M)		6.5
Proposed Local Share – already encumbered and available (\$M)		4.9
Proposed Local Share – recommended for appropriation (\$M)		3.4
Total Proposed Funding for Projects		\$14.8

* The projects in Santa Clara to be funded by this Cooperative Agreement are included in the construction service agreement with City of Santa Clara for the South Bay Water Recycling

Program that is discussed in the “*Sixth Amendment to Santa Clara Agreement*” section of this memorandum.

PUBLIC OUTEACH

- ✓ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

During the summer and fall of 2000 the cities of San José, Santa Clara, and Milpitas held public meetings on the local use of recycled water. Also, representatives of various stakeholder groups (e.g. Sierra Club, League of Women Voters, Silicon Valley Chamber of Commerce) met regularly in 1998 and 1999 to create the present plans for extension of the recycled water systems. In addition, staff members from the cities of San José (San José Municipal Water), Santa Clara and Milpitas, and San José Water Company have attended monthly meetings to review South Bay Water Recycling planning and operations.

COORDINATION

This memo has been coordinated with the City’s Attorney’s office, Human Resources Risk Management, and the City of Santa Clara. This memo is scheduled to be heard at the November 12, 2009, Treatment Plant Advisory Committee (TPAC) meeting.

FISCAL/POLICY ALIGNMENT

The tasks under this agreement support the Council’s Green Vision Goal #6 by increasing the capacity of the South Bay Water Recycling system to “Recycle or beneficially reuse 100 percent of our wastewater (100 million gallons per day).”

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION FOR CONTRACT AMENDMENT:	\$3,000,000
Project Delivery	\$1,340,000
Construction	6,560,000
Total Current Year Costs	\$7,900,000
Prior Year Expenditures	22,700,000
Total Project Costs	\$30,600,000

2. SOURCE OF FUNDING: 512 – San José/Santa Clara Treatment Plant Capital Fund

3. OPERATING COST:

Approval of this Agreement is not expected to significantly increase South Bay Water Recycling annual operating costs, since new pressure-tested pipelines do not normally require much maintenance, and construction of all the proposed Santa Clara extensions will comprise only about eight miles of additional pipe increasing the total length of the pipeline network by less than 8%. While delivery of an additional 1500 acre-feet of recycled water per year amounts to an increase in usage of about 15%, this will correspond to an increase in operating costs of only about \$50,000 per year, primarily for additional pumping costs.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for agreement with City of Santa Clara	Recommended Appropriation Action	Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
Total Funding For Agreement					\$3,000,000			
Funding Available								
512	6589	Revised SBAP-SBWR Extension	062873	\$14,364,000	\$3,000,000*		V - 150	6/23/2009 Ord. No. 28593
Recommended Budget Actions								
512	8999	Ending Fund Balance	TBD	\$3,410,000**		\$3,410,000	V - 140	6/23/2009 Ord. No. 28593
Total Funding for Agreements					\$3,000,000	\$3,410,000		

* The \$3,000,000 for the Agreement with the City of Santa Clara is part of the \$14,770,000 package of projects under the proposed Cooperative Agreement with the US Bureau of Reclamation.

** The Current Ending Fund Balance is \$24,143,907. Funding of \$3,410,000 is recommended to be reallocated to the Revised SBAP – SBWR Extension appropriation as part of this memorandum. This would bring the current Ending Fund Balance to \$20,733,907, and the current Revised SBAP – SBWR Extension appropriation to \$17,774,000.

HONORABLE MAYOR AND CITY COUNCIL

10-26-09

Subject: Sixth Amendment To The Agreement With The City Of Santa Clara

Page 7

CEQA

Resolution No. 64667 (PP#91-04-090) and Addenda thereto scheduled for action by City of Santa Clara prior to action by San José City Council under the following reference numbers:

Santa Clara Central Park: PLN 2009-07751; CEQ 2009-01085.

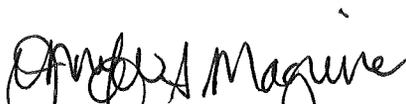
Santa Clara Industrial 1: PLN 2009-07749, CEQ 2009-01083

Santa Clara Industrial 2: PLN 2009-07616, CEQ 2009-01080



JOHN STUFFLEBEAN

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