

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** 11-22-10

Approved

Date 12/2/10

**SUBJECT: EIGHTH 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 Eighth Amendment to the construction service agreement with the City of Santa Clara for the South Bay Water Recycling Program, extending the term of the agreement to December 31, 2012, adding a new project to the list of recycled water pipeline projects, and increasing the maximum amount payable by the City of San José by \$1,011,000 to a total maximum amount not to exceed \$34,661,000.
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José/Santa Clara Treatment Plant Capital Fund for 2010-2011:
  - a. Increase the estimate for Earned Revenue by \$511,000;
  - b. Increase the appropriation for Revised South Bay Action Plan –South Bay Water Recycling Extension by \$1,011,000; and,
  - c. Decrease the Ending Fund Balance by \$500,000.

## OUTCOME

Approval of the Eighth Amendment to the construction services agreement with City of Santa Clara will allow the City of Santa Clara to build the Santa Clara Industrial 3B-Package 1 project, increasing the use of recycled water in their service area by up to 250 acre-feet per year (AFY), and increasing South Bay Water Recycling (SBWR) revenues (beginning in 2013) by nearly \$50,000 at current rates per year.

**BACKGROUND**

In September 1993, as administering agency of the San José/Santa Clara Water Pollution Control Plant (Plant), the San José City Council authorized design and construction of a project to divert up to 15 million gallons per day (mgd) of treated effluent from the south Bay during the summer by providing nonpotable recycled water to customers in Milpitas, Santa Clara and San José. Between 1993 and 1999 the City built SBWR Phase 1A facilities at a cost of approximately \$140 million including four pump stations, a reservoir, and over sixty miles of pipeline.

In June 2000, the Council approved an additional \$100 million for the Phase 1B “Revised South Bay Action Plan,” including \$82.5 million in the 2001-2005 Capital Budget to expand the SBWR system and increase its reliability. Between 2000 and 2009 the City built SBWR Phase 1B facilities at a cost of approximately \$83 million, including two reservoirs and more than 40 miles of recycled water pipeline, as well as various reliability improvements.

In April 2010, the Council approved construction of the \$14.8 million Phase 1C facilities, including an additional nine miles of pipeline. This project received \$6.4 million in grants from the US Bureau of Reclamation (USBR) through the American Recovery and Reinvestment Act of 2009 (ARRA) (a federal reimbursement of 44%) of which \$3.4 million was awarded in lieu of additional reimbursement for the Phase 1A projects.

On May 24, 1995, the City of San José entered into an agreement with the City of Santa Clara in the amount of \$12,600,000 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 seven amendments to the original agreement increasing the total compensation to \$33.7 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. The proposed Eighth Amendment to the agreement increases the funds available to the City of Santa Clara by \$1,011,000 to \$34.7 million and adds construction of the project designated as Industrial 3B-Package 1. This project consists of approximately 2,250 linear feet of 12-inch diameter pipe and will deliver up to 250AFY of recycled water for irrigation and to data centers in north Santa Clara.

Summary of the Construction Service Agreement with the City of Santa Clara and Related Amendments						
#	Date	Council Date	Agenda Item	Reso #	Amount (\$M)	Purpose
	5/24/1995	5/24/1995	9.g	65890	\$12.60	Established an agreement between the City of San José and City of Santa Clara for engineering, construction, and construction services for the South Bay Water Recycling Program. The maximum amount of compensation established by this agreement was \$12,600,000.

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#	Date	Council Date	Agenda Item	Reso #	Amount (\$M)	Purpose
1	5/6/1997	3/4/1997	6.e.(2)	67178	\$0	Modified the original agreement to utilize cost savings for provision of retrofit engineering, construction services, and grant administration by Santa Clara. This amendment did not affect the maximum amount of compensation.
2	3/24/1998	3/24/1998	9.a	69422	\$3.40	Authorized additional services by Santa Clara, including construction of transmission pipelines and service connections. This amendment increased the maximum amount of compensation to \$16,000,000.
3	2/29/2000	2/24/2000	9.c.(1)	N/A	\$8.90	Authorized Santa Clara to implement a private property retrofit bid program to augment the grant program previously authorized. This amendment also authorized Santa Clara to design and construct two infill pipe segments, SC-1 and SC-3, and added three segments, SC-2, SC-4, and SC-5, subject to future appropriation of funds. This amendment increased the maximum amount of compensation to \$24,900,000.
4	10/21/2003	10/21/2003	7.1	N/A	\$2.70	Substituted a previously approved project, SC-3, with a new pipeline, SC-6. This amendment authorized the construction of a reliability connector, SC-5, and added an additional project, Juliette Lane, to serve irrigation customers. This amendment increased the maximum amount of compensation to \$27,600,000.
5	3/18/2008	3/18/2008	2.4	N/A	\$0	Extended the contract period to June 30, 2010 and eliminated the Juliette Lane project. This amendment did not affect the maximum amount of compensation.
6	11/17/2009	11/17/2009	7.1	75176	\$3.00	Revised the approved project list and outlined appropriations for the construction of three SBWR American Recovery and Reinvestment Act of 2009 projects as well as funding for design of a fourth project that had not yet been certified as compliant with CEQA. This amendment increased the maximum amount of compensation to \$30,600,000.
7	4/20/2010	4/20/2010	7.1	75349	\$3.05	Revised the approved project list to add construction of the Santa Clara Industrial 3A extension project to be built in Santa Clara. This amendment increased the maximum amount of compensation to \$33,650,000.
				Total	\$33.65	

## ANALYSIS

As described in the ARRA grant application submitted to the USBR in April 2009, the Santa Clara Industrial 3B project was designed by the City of Santa Clara to include 8,300 linear feet of 12-inch diameter pipe to serve a number of industrial sites in Santa Clara. This project was deleted from the final Phase 1C construction program in order to maximize the federal contribution to the SBWR program, but City Council allocated an additional \$250,000 for the design of Industrial 3B in the 6<sup>th</sup> Amendment in November 2009. The present project (Industrial 3B—Package 1) will include the construction of approximately 2,250 linear feet of 12-inch diameter pipe along Space Park Drive and Raymond Street. The remaining construction of Santa Clara Industrial 3B will be subject to cost savings or future appropriations. Facilities adjacent to the Industrial 3B—Package 1 pipeline segment include a number of commercial and industrial cooling towers. The City of Santa Clara certified the project as compliant with CEQA regulations in November 2010 and the City of San Jose Public Project exemption application is scheduled to be complete by December 2010. The project is scheduled to be certified as compliant with the National Environmental Policy Act in December 2010.

Industrial 3B—Package 1 construction is estimated to cost \$1.3 million which will be funded by the recommended appropriation action and cost savings from existing projects. USBR awarded the City \$1.0 million for reimbursement of Phase 1B projects in a grant agreement executed on September 30, 2010. Of this \$1.0 million grant, \$500,000 was recognized as part of the 2010-2011 Adopted Capital Budget and allocated as part of Ending Fund Balance. This memorandum recommends increasing the estimate for Earned Revenue for the U.S. Bureau of Reclamation Grant by \$511,000 and decrease the Ending Fund Balance (\$500,000) to fully allocate U.S. Bureau of Reclamation grant revenues to the Industrial 3B—Package 1 project.

## EVALUATION AND FOLLOW-UP

Upon City Council adoption of the proposed resolutions, the City Manager will negotiate and execute an amendment to the Agreement with the City of Santa Clara to increase funding by \$1,011,000 and add the Industrial 3B-Package 1 project to the specified recycled water system improvements. As these facilities are completed, City of San José staff will certify compliance of all customer connections with local and state regulations. The increased demand for recycled water will be noted in SBWR performance reports, in updates to the City's Green Vision Plan and reflected in annual revenues.

## PUBLIC OUTREACH/INTEREST

- 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 currently attend monthly meetings to review South Bay Water Recycling planning and operations.

### **COORDINATION**

This memo has been coordinated with the City's Attorney's office, Risk Management, and the City of Santa Clara. This memo is scheduled to be heard at the December 9, 2010, Treatment Plant Advisory Committee (TPAC) meeting.

### **COST IMPLICATIONS**

- |                              |                     |
|------------------------------|---------------------|
| 1. AMOUNT OF RECOMMENDATION: | <b>\$1,011,000</b>  |
| Project Delivery             | \$31,000            |
| Construction                 | \$980,000           |
| Total Current Year Costs     | <b>\$1,011,000</b>  |
| Prior Year Expenditures      | \$33,650,000        |
| <b>Total</b>                 | <b>\$34,661,000</b> |
2. SOURCE OF FUNDING: 512 – San José/Santa Clara Treatment Plant Capital Fund
3. OPERATING COST:

Delivery of an additional 250 acre-feet of recycled water per year amounts will amount to a negligible increase in operating costs (primarily for operating additional pumping capacity), and return approximately \$50,000 per year in revenues starting in 2013. Since new pressure-tested pipelines do not normally require much maintenance, and construction of the proposed Santa Clara extensions will increase the total length of the pipeline network by less than 1% the project is not expected to noticeably increase South Bay Water Recycling's annual operating costs.

In accordance with the Mayor's prescribed budget strategy, the tasks under this agreement will focus on the protection of a vital core service, emphasizing expenditures that improve reliability

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of the South Bay Water Recycling system and increasing the “recycling and beneficial reuse of wastewater.”

### **BUDGET REFERENCE**

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

Fund	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	2010-2011 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
<b>Total Amendment</b>					<b>\$1,011,000</b>		
<b>Current Funding Available</b>							
512	6589	Revised SBAP-SBWR Extension	062873	\$8,717,000*	\$511,000	V-174	10/19/2010, Ord. No. 28829
512	8999	Ending Fund Balance		\$500,000*	\$500,000	V-156	10/19/2010, Ord. No. 28829
<b>Total Current Funding Available</b>					<b>\$1,011,000</b>		

\* An additional \$511,000 is recommended to be received from the United States Bureau of Reclamation Grant and appropriated to the Revised South Bay Action Plan –South Bay Water Recycling Extension appropriation. In addition, \$500,000 of grant revenues were and allocated to Ending Fund Balance as part of the 2010-2011 Adopted Capital Budget. A decrease to Ending Fund Balance from \$17,485,730 to \$16,985,730 is recommended to fully allocate grant revenues and fund the Agreement amendment recommended in this memorandum.

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**CEQA**

CEQA done by City of San Jose for City of San Jose Actions (8th Amendment to Agreement and Funding Sources Resolution amendments):

Addendum to an EIR Resolution 64667, File No. PP10-184

CEQA done by City of Santa Clara for City of Santa Clara Actions:

Santa Clara Industrial 3B: CEQ2010-01113

/s/

JOHN STUFFLEBEAN

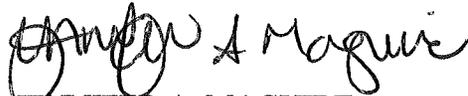
Director, Environmental Services



JENNIFER A. MAGUIRE

Budget Director

I hereby certify that there will be available for appropriation in the San José/Santa Clara Treatment Plant Capital Fund in the Fiscal Year 2010-2011 moneys in excess of those heretofore appropriated there from, said excess being at least \$511,000.



JENNIFER A. MAGUIRE

Budget Director

For questions please contact Mansour Nasser, Deputy Director, at (408) 277-2558.