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File #: 22-0975, Version: 1

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### REPORT TO COUNCIL

#### SUBJECT

Award of Contract to Walsh Construction Company II, LLC for the Water Pollution Control Plant Secondary Treatment and Thickening/Dewatering Project (PW22-17); Amend an Existing Contract with Carollo Engineers, Inc. for Engineering Services During Construction (F23-048); Amend an Existing Contract with Psomas for Construction Management Services (F23-049); Authorize the City Manager to Execute a Lease Agreement with Mobile Modular; and Approve Budget Modification No. 5 in the Amount of \$83,217,755.

#### REPORT IN BRIEF

Approval is requested for certain actions related to the Water Pollution Control Plant Secondary Treatment and Thickening/Dewatering Project (Project No. UY-21-07). Specifically, Council approval is recommended to:

- A. Authorize the City Manager to take the following actions:
- Award a construction contract in substantially the same form as Attachment 2 to the report in the amount of \$277,872,751 to Walsh Construction Company II, LLC, of Chicago, IL;
  - Authorize the City Manager to execute the construction contract when all necessary conditions have been met;
  - Approve a 7% construction contingency in the amount of \$19,451,093;
  - Approve a Third Amendment to a Consultant Services Agreement in substantially the same form as Attachment 3 to the report to increase the contract amount for Carollo Engineers Inc. of Walnut Creek by \$6,889,452.03, from \$19,598,797.78 to \$26,488,249.81;
  - Authorize the City Manager to execute the Third Amendment to the Consultant Services Agreement with Carollo Engineers Inc, when all necessary conditions have been met;
  - Approve a 10% contingency for consultant services for Carollo Engineers, Inc. in the amount of \$688,945;
  - Approve an Amendment to a Consultant Services Agreement in substantially the same form as Attachment 4 to the report to increase the contract amount for Psomas of Culver City by \$16,650,467, from \$13,316,082 to \$29,966,549;
  - Authorize the City Manager to execute an Amendment to a Consultant Services Agreement with Psomas, when all necessary conditions have been met;
  - Approve a 10% contingency for Psomas in the amount of \$1,665,047;
  - Authorize the City Manager to execute a Lease Agreement with Mobile Modular in the amount of \$368,582.88;
  - Accept the addendum to the previously certified Program Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan (SCH #2015062037) pursuant to California Environmental Quality Act Guidelines (CEQA) Section 15164;

and

- B. Approve Budget Modification No. 5 in the amount of \$83,217,755 to provide additional project funding.

## **BACKGROUND**

The City of Sunnyvale's Water Pollution Control Plant (WPCP) was initially built in the 1950s and, with additions over the years, it has grown to a tertiary treatment facility that receives an average dry weather flow of 12 million gallons per day. In 2007, due to the age of the facility, the City conducted an asset condition assessment which identified several plant structures as at-risk and in need of rehabilitation. As a result, the City initiated several projects such as the rehabilitation of the WPCP's four digesters, sediment removal from the oxidation ponds, and improvements to the four air flotation tanks. The City also hired Brown and Caldwell to complete a Strategic Infrastructure Plan (SIP) aimed at deciding whether the City should renovate the existing plant processes or invest in new treatment processes to fulfill the WPCP's needs over the next 30 years. After completion of the SIP, a peer review was conducted by CH2M-Hill and the outcomes were reviewed by City Council in May 2011 and further discussed during a February 2012 Strategic Planning Workshop. At the conclusion of the workshop, the direction was to forego the renovation option and proceed with developing a plan that includes reconstructing the plant with new treatment processes.

The first major project was the design and construction of a new headworks and primary treatment facility, which takes the raw sewage from the conveyance pipelines and removes solids and sediment before the secondary treatment process. In May 2013, the City hired Carollo Engineers to complete the design of this project as well as develop a Master Plan for the entire WPCP reconstruction (RTC No. 13-108). The primary treatment facility was designed to be constructed in two separate phases, or "bid packages." The first package, "Site Preparation", included demolition and all work required to prepare the site for the main headworks and primary treatment improvements. The second bid package, "Headworks and Primary Treatment - Package 2", included replacement of the existing headworks and primary treatment facilities with new headworks and primary treatment facilities, existing facility modification/demolition, installation of major process equipment, electrical/instrumentation and control system improvements, and related support systems and facilities. Package 2 for the headworks and primary treatment facilities is nearing completion and has moved to the final startup and commissioning phase.

As part of the Master Plan process, the City identified the need to replace the existing secondary treatment process to ensure continued reliable treatment and help meet pending changes in regulatory limits for nutrients (nitrogen). The Master Plan identified a conventional activated sludge (CAS) process to replace all existing secondary treatment facilities (including oxidation ponds, fixed growth reactors, and air floatation tanks). The City adopted a staged approach for the implementation of the CAS process, with the first stage referred to as "Split Flow." Under Split Flow CAS Stage 1, the City would build a smaller conventional activated sludge facility (smaller than what would be required to treat all anticipated flows to the WPCP) and continue to use the existing oxidation pond treatment system to treat a portion of the wastewater flow, splitting flow between the existing and new secondary treatment systems. CAS Stage 1 is anticipated to operate until 2035, by which time secondary treatment will be converted to full CAS, replacing the oxidation pond system as the main form of nitrogen removal and secondary treatment. The new dewatering facilities will process activated sludge from CAS Stage 1 and will replace the existing contract sludge handling and dewatering operation.

When the projects in the Cleanwater Program were first defined, it was envisioned that Site Preparation work would be divided among projects based on the area of each contractor's construction. However, the number of concurrent projects with physical and schedule interdependencies scheduled during 2021-2025 created an opportunity to consolidate site preparation work into a single construction contract. Therefore, Capital Project 833210 now includes two construction packages: the Site Preparation package (currently in construction) and this main package for Secondary Treatment and Dewatering. Implementing the work in this way will reduce site conflicts and lower the risk of differing site conditions on future construction packages.

### **EXISTING POLICY**

Pursuant to Chapter 2.09 of the Sunnyvale Municipal Code, City Council approval is required for construction contracts exceeding \$250,000.

Section 1309 of the City Charter requires construction contracts to be awarded to the lowest responsive and responsible bidder.

Pursuant to Chapter 2.08 of the Sunnyvale Municipal Code, City Council approval is required for the procurement of goods and/or services exceeding \$250,000 in any one transaction.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by affirmative votes of at least four members so as to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

### **ENVIRONMENTAL REVIEW**

On August 23, 2016, the City Council certified the Program Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan (SCH #2015062037) (Master Plan PEIR) (RTC No. 16-0663). Section 15164 of the CEQA Guidelines provides that an agency shall prepare an addendum to a previously certified EIR "if some changes are necessary" but none of the conditions described in Section 15162 or 15163 of the CEQA Guidelines have occurred that would require preparation of the subsequent or supplemental EIR. Under Section 15162, a subsequent EIR is required when there are substantial changes to the project or circumstances that require "major revisions" to the previous EIR due to the involvement of "new significant environmental effects or the substantial increase in the severity of previously identified significant effects.

As stated in the Addendum, the project, which involves demolition of existing piping, new split flow conventional activated sludge treatment facilities, new thickening and dewatering facility, expansion of new 12 kV electrical distribution system, digester supernatant pump station and drainage piping improvements and a new standby diesel powered generator and fuel tank would not result in new or more severe significant impacts than those attributable to the project described in the Master Plan PEIR. As a result, an addendum to the Master Plan EIR has been prepared that explains the reasons why a subsequent or supplemental EIR or MND is not required (Attachment 5 to this report).

Although Section 15164 of the CEQA Guidelines does not require an addendum to be circulated for public review, circulation is required by the State Revolving Fund (SRF) CEQA-Plus requirements. Therefore, the second addenda prepared for the Secondary Treatment and Dewatering Construction Package has been circulated to comply with CEQA Plus requirements related to the State Revolving Funds (SRF) and received no comments. The first addenda was also circulated and received no comments as part of the Site Preparation Package award (RTC 21-0756) to Ranger Pipelines.

## **DISCUSSION**

The current method of secondary treatment for the incoming wastewater stream is accomplished through the pond system which includes the oxidation ponds, fixed growth reactors and dissolved air floatation tanks. The incoming wastewater contains high levels of nitrogen, which must be treated to meet upcoming regulatory requirements before discharge into the Bay. The existing pond system cannot remove nitrogen to these standards. The pond system is also aging and becoming less reliable over time.

The Secondary Treatment and Thickening/Dewatering Project (Project No. UY-21-07) (Project) will provide new treatment facilities resulting in controllable and consistent treatment that will meet upcoming nutrient requirements. The elements of the project consist of several new treatment facilities containing primary effluent distribution structure, two aeration basins, side stream treatment system, blower building and aeration blowers, four secondary clarifiers, two combined return activated sludge/waste activated sludge pump stations, thickening and dewatering building and equipment, digested sludge storage tank, cake storage and truck loading facility, odor control system and polymer storage and feed systems. Additionally, the package includes replacing or repairing utilities, piping, electrical and other miscellaneous equipment.

In an effort to control and level project costs, the City pre-negotiated the price of six pieces of major equipment with the product vendors. Six memoranda of understanding between the City and vendors were developed and issued as part of the bidding documents to establish the agreed upon scope of supply and price for each equipment item. Each contractor bidding on the project would have the same pricing in their bids for each of these six major pieces of equipment.

The construction project was advertised on April 29, 2022 for competitive bidding. It was posted on the City's DemandStar public procurement network, distributed to the Bay Area Builders Exchange, provided directly to multiple construction companies and published on the City's website. One hundred thirty-seven (137) contractors requested bid documents and sealed bids were publicly opened on August 24, 2022, with three bids received.

Walsh Construction Company II, LLC submitted the lowest responsive and responsible bid in the amount of \$277,872,751 (Attachment 1, Bid Summary). The bid is 13.4% above the engineer's estimate of \$240,000,000. A 7% change order construction contingency is requested in the amount of \$19,451,093. This is consistent with contingencies allocated for other large construction projects within the City.

### Engineering Contract Amendment

The design agreement with Carollo Engineers, Inc. (Carollo) included \$4,697,502 in fees for engineering services during construction on a project which was estimated at the time to have a construction value of approximately \$158,000,000. As previously presented (RTC No. 18-0687, RTC No. 20-0052, and RTC No. 21-0049), due to the scale and complexity of this design, the total estimated construction value has increased by approximately 80% since Carollo's agreement was executed in 2017. Additionally, informal benchmarking recently determined that engineering services during construction for complex treatment plant projects typically average 4-6% of the construction cost. Initial fees allocated for engineering services during construction are inadequate for services needed to project completion. Staff believes that the additional \$6,889,452.03 requested for the consultant contract is reasonable considering the magnitude and complexity of the project. In addition, a 10% contingency is requested in the amount of \$688,945.

### Construction Management Contract Amendment

Council approved the award of a five-year contract to Psomas (previously The Covello Group, Inc.) on May 5, 2015 (RTC No. 15-0431) for construction management services for the Primary Treatment and Headworks Facility. The engagement of a construction management firm is anticipated to be required through the duration of the Cleanwater Program. As successive projects are designed, the effort to manage construction is progressively defined and negotiated.

Approval is now requested to amend an existing contract with Psomas to add funds for award of Construction Management Services for the Secondary Treatment and Thickening/Dewatering Project. The additional contract increase of \$16,650,467 will increase the current not to exceed amount from \$13,316,082 to \$29,966,549. Approval is also requested for a 10% contingency for these increased services in the amount of \$1,665,047.

### Site Preparation Lease Agreement

Council awarded the Site Preparation Project to Ranger Pipelines for construction services (RTC No. 21-0756). Part of the Site Preparation Project had the contractor coordinate and secure leases for a temporary trailer for City staff. The delivery and set-up of the trailers is covered under a bid item of the Site Preparation Project. The temporary trailer would be located on top of the demolished existing Primary Sedimentation Tanks to replace a meeting room and offices on top of the influent pumps that will be demolished. Because the term of the lease needed exceeded the term of the secondary treatment (?) construction contract, the City would take over the lease of the trailer. The contractor provided two trailer companies, Mobile Modular and Wilscott, for the City to review the terms and conditions. The City reviewed and negotiated the terms and conditions with the trailer companies and found that Mobile Modular had terms and conditions most suitable for the City.

Approval is now requested to allow the City Manager or his designee to execute the lease agreement with Mobile Modular for a monthly cost of \$6,848.47 per month for 48 months. The start date of the lease would be June 30, 2023

### **FISCAL IMPACT**

In order to fund this phase of the SCWP, the City has applied for and obtained two significant low interest loans, \$220,600,000 from the Environmental Protection Agency's Water Infrastructure Financing and Innovation Act (WIFIA) at 1.56% and \$302,100,000 from California Clean Water State Revolving Fund (SRF). The SRF loan provides sufficient funding for the increased costs from this

project; however, the project budgets within the program need to be adjusted accordingly. Additionally, it is important to note that while the loan was obtained, it was for a higher total amount than originally anticipated. This will impact the City's rates for wastewater due to the increased costs associated with servicing the loan. Furthermore, staff anticipates needing to further adjust the various projects associated with the Program for cost escalation that is higher than planned, and to update them based on the most recent engineering estimates. Currently, projected rates range from 3%-4% per year. It is anticipated that the rate impact will be an additional 2%-6% per year for the next 3-6 years in order to establish the revenue base needed to fund the debt and address escalating costs, after which rates will return to more moderate levels. Staff will bring these adjustments with the FY 2023/24 Recommended Budget.

Normally, a budget modification would only encompass the current year's budget; however, given the multi-year spending needs, Budget Modification No. 5 has been prepared to increase the project budgets from inception to the twentieth year for two projects in support of this contract award. Accordingly, the total budget modification is \$83,217,755.

**Budget Modification No. 5  
FY 2022/23**

	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<b>Wastewater Management Enterprise Fund</b>			
<u>Expenditures</u>			
Project 833210 - Secondary Treatment & Thickening/Dewatering - CAS Stage 1	\$274,259,178	\$64,902,241	\$339,161,419
831470 - SCWP Construction Management	\$35,566,001	\$18,315,514	\$53,881,515

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

**ALTERNATIVES**

1. A. Authorize the City Manager to take the following actions:
  - Award a construction contract in substantially the same form as Attachment 2 to the report in the amount of \$277,872,751 to Walsh Construction Company II, LLC;
  - Authorize the City Manager to execute the construction contract when all necessary conditions have been met;
  - Approve a 7% construction contingency in the amount of \$19,451,093;

- Approve a Third Amendment to a Consultant Services Agreement in substantially the same form as Attachment 3 to the report to increase the contract amount by \$6,889,452.03, from \$19,598,797.78 to \$26,528,249.81 for Carollo Engineers Inc.;
  - Authorize the City Manager to execute the Third Amendment to the Consultant Services Agreement with Carollo Engineers Inc., when all necessary conditions have been met;
  - Approve a 10% contingency for consultant services with Carollo Engineers Inc. in the amount of \$688,945;
  - Approve an Amendment to a Consultant Services Agreement in substantially the same form as Attachment 4 to the report in the amount of \$16,650,467 to Psomas;
  - Authorize the City Manager to execute an Amendment to a Consultant Services Agreement with Psomas, when all necessary conditions have been met;
  - Approve a 10% contingency for consultant services with Psomas in the amount of \$1,665,047;
  - Authorize the City Manager to execute a Lease Agreement with Mobile Modular in the amount of \$328,726.56;
  - Accept the addendum to the previously certified Program Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan (SCH #2015062037) pursuant to California Environmental Quality Act Guidelines (CEQA) Section 15164; and
- B. Approve Budget Modification No. 5 in the amount of \$83,217,755 to provide additional funding.
2. Do not award the construction contract and other actions stated in Alternative 1.
3. Take other action as determined by Council.

## **STAFF RECOMMENDATION**

### Alternative 1:

- A. Authorize the City Manager to take the following actions:
- Award a construction contract in substantially the same form as Attachment 2 to the report in the amount of \$277,872,751 to Walsh Construction Company II, LLC;
  - Authorize the City Manager to execute the construction contract when all necessary conditions have been met;
  - Approve a 7% construction contingency in the amount of \$19,451,093;
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  - Authorize the City Manager to execute the Third Amendment to the Consultant Services Agreement with Carollo Engineers Inc., when all necessary conditions have been met;
  - Approve a 10% contingency for consultant services with Carollo Engineers Inc. in the amount of \$688,945;
  - Approve an Amendment to a Consultant Services Agreement in substantially the same form as Attachment 4 to the report in the amount of \$16,650,467 to Psomas;
  - Authorize the City Manager to execute an Amendment to a Consultant Services Agreement with Psomas, when all necessary conditions have been met;
  - Approve a 10% contingency for consultant services with Psomas in the amount of \$1,665,047;
  - Authorize the City Manager to execute a Lease Agreement with Mobile Modular in the amount of \$328,726.56;

- Accept the addendum to the previously certified Program Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan (SCH #2015062037) pursuant to California Environmental Quality Act Guidelines (CEQA) Section 15164; and

B. Approve Budget Modification No. 5 in the amount of \$83,217,755 to provide additional funding.

Prepared by: Gregory S. Card, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Chip Taylor, Director of Public Works

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. Bid Summary
2. Draft General Construction Contract
3. Draft Amendment to Consultant Services Agreement with Carollo Engineers Inc.
4. Draft Amendment to Consultant Services Agreement with Psomas
5. Addendum to the Master Plan PEIR
6. Lease Modular Agreement