

REPORT TO COUNCIL

SUBJECT

Approval of a Cost Sharing Agreement with the Santa Clara Valley Water District for Construction of the Wolfe Road Recycled Water Facilities, and Consideration of an Addendum to the Previously-Adopted Mitigated Negative Declaration for the Wolfe Road Recycled Water Project; Approval of an Agreement with the Santa Clara Valley Water District for Recycled Water Supply for Non-Potable Use; and Approval of the Framework for a Long-Term Integration Agreement with the Santa Clara Valley Water District to Supply Recycled Water from Sunnyvale's Wastewater Plant for Potable Water Reuse

BACKGROUND

On August 13, 2013, the City Council approved the Recycled Water Feasibility Study (RTC 13-181) outlining a strategy to expand recycled water for non-potable use. On September 24, 2013, the City Council approved a cost sharing agreement with Santa Clara Valley Water District (District) for design and engineering of the Wolfe Road Recycled Water project (RTC 13-226).

This Wolfe Road Project is one of two sub-projects that were the topic of the Council action on July 15, 2014 to apply for a \$4.0 million State grant. The second sub-project is the Continuous Recycled Water Production Project, which is being presented to Council in separate actions.

Over the last two years City staff has been negotiating with District staff on various agreements and projects to support the expansion of recycled water use for potable and non-potable applications. As a result, several action items shown in (Attachment 1) will be presented over the next year for Council consideration. Today this RTC requests Council action on the following three items:

- Draft Cost Sharing Agreement for the Construction of Wolfe Road Recycled Water Project (**Attachment 2**) as well as the associated addendum to the mitigated negative declaration (**Attachment 6**)
- Draft Recycled Water Supply Agreement (**Attachment 3**)
- Draft Framework of a Long-Term Integration Agreement to Supply Recycled Water (**Attachment 4**).

The Wolfe Road Recycled Water Project (**Attachment 5**) consists of constructing a new recycled water pipeline along Wolfe Road from Kifer Road to Homestead Road (approximately 13,500 linear feet) and performing improvements to the existing San Lucar Pump Station. The project would provide for the delivery of 0.74 million gallons a day of additional recycled water for uses within the City of Sunnyvale and adjacent communities. Potential future connections nearby include schools, parks, and the Sunken Garden Golf Course.

The project would also serve the Apple 2 Campus, which is located across Homestead Road in the

City of Cupertino. Improvements to the San Lucar Pump Station would be sized to accommodate anticipated future recycled water demands. The proposed 24 inch waterline is oversized so that it can accommodate other future applications for recycled water, such as groundwater recharge and potable reuse.

Highlights of the construction cost share agreement, as articulated in the agreement are:

- Leverages \$2.1M of Sunnyvale funds to build a \$16.25M project in Sunnyvale that benefits Sunnyvale.
- Caps the Sunnyvale contribution at \$2.1M and requires the District to cover any cost increases.
- Extends the non-potable recycled water system to the Wolfe Road corridor, allowing future connections to high demand customers such as Sunken Gardens Golf Course.
- Connects to a high profile customer (Apple) that will enhance the profile of recycled water.
- Provides a pipeline that can ultimately be used for delivery of recycled water for potable reuse.
- Establishes a partnership with the Water District that has the potential to allow repurposing of the Water Pollution Control Plant from a waste disposal facility to a resource recovery facility.
- Creates a very attractive project likely to receive State grant funding (and makes the critical continuous recycled water production project also likely to receive State grant funding).

The Recycled Water Supply Agreement (Attachment 3) describes institutional arrangements between Sunnyvale and the District for the production and supply of non-potable recycled water from the Wolfe Road recycled water facilities. It also sets criteria for water quality, quantity, and sharing revenues and operating costs.

Highlights of this water supply arrangement, as articulated in the agreement, are:

- Establishes the parameters for the operation of the Wolfe Road pipeline that are within the capabilities of the Sunnyvale system.
- Recognizes the operation of the Sunnyvale WPCP is of primary importance.
- Recognizes that the needs of existing Sunnyvale customers must be met.
- Provides for expansion to likely new Sunnyvale customers along the Wolfe Road corridor.
- Provides pricing that is beneficial to Sunnyvale by setting the price at a point that covers operational costs and allows annual rate increases.
- Establishes a clear mechanism for Sunnyvale to be reimbursed for its costs.
- Further establishes the partnership with the Water District that has the potential to allow repurposing of the WPCP from a waste disposal facility to a resource recovery facility.

The Long-Term Integration Agreement will set the stage for potential potable reuse in the future by providing options to secure recycled water for potable reuse, for discharge of brine, and to utilize land near the wastewater plant for future District water purification facilities.

Highlights of this framework arrangement, as articulated in the agreement, are:

- Provides a bridge from the Wolfe Road Construction Cost Sharing Agreement and Water Supply Agreement to the potential potable recycled water reuse agreement.

- Sets the stage for the negotiations between Sunnyvale and the District on the more important potable reuse agreements.
- Identifies the major issues to be negotiated between Sunnyvale and the District relative to potable reuse agreements.
- Allows the Council (and District Board) the opportunity to hear from staff on the proposed direction of potable reuse negotiations.
- Allows the Council (and District Board) the opportunity to provide guidance on the direction of potable reuse negotiations.
- The initial term of the Agreement is 10 years

EXISTING POLICY

General Plan Policy EM-1.2: Maximize recycled water use for all approved purposes both within and in areas adjacent to the City, where feasible.

ENVIRONMENTAL REVIEW

On September 24, 2013, the City adopted a Mitigated Negative Declaration (MND) for the Wolfe Road Recycled Water project (RTC 13-226). An Addendum to the MND has been prepared by staff (**Attachment 6**) and is presented today for Council consideration. The Addendum addresses groundwater monitoring and the impacts of the operation and maintenance of the pump station improvements. Staff has determined that these minor technical changes or additions to the MND do not involve new significant environmental impacts, or increase the severity of previously identified environmental impacts, and therefore are appropriately included in an Addendum to the MND pursuant to CEQA Guideline 15164.

DISCUSSION

Construction Cost Sharing Agreement

The purpose of the Cost Sharing agreement (Attachment 2) is to secure the District's and City's commitments to contribute to the construction of the Wolfe Road Recycled Water Project, and to set roles and responsibilities for the two agencies after the project is completed.

The construction cost of the project is estimated at \$16.25 million, with funding commitments totaling \$6.3 million (\$1.5 million from Cal Water and \$4.8 million from Apple Corporation). The City and District jointly applied for grant funding from the State Water Revolving Fund for up to \$2.5 million for this project. (The total grant application was for \$4.0 million which includes \$2.5 million for this project and \$1.5 million for a complementary project that would allow more efficient "continuous" production of recycled water at the Sunnyvale Water Pollution Control Facility.) Sunnyvale's share of the Wolfe Road Project, including design and construction, is capped at \$2.1 million with the District covering any additional costs. The previous agreement for design obligated Sunnyvale for up to \$625,000; therefore, the construction agreement has a cap of \$1,475,000 for Sunnyvale. The construction cost share agreement is contingent on the District executing funding agreements with Apple and Cal Water.

In addition to serving customers with non-potable recycled water along the Wolfe Road alignment, construction of the Wolfe Road facilities help establish a framework for potential potable reuse, including indirect potable reuse (IPR) projects in Sunnyvale and the west side of Santa Clara County. IPR is defined as reuse that has an environmental barrier, such as soil, between the wastewater

discharge and the water supply, as opposed to direct potable reuse (DPR) where there is no such barrier. The new Wolfe Road facilities will be owned by the District, and all associated operating costs will be borne by the District but carried out by Sunnyvale staff.

This project will have a traffic impact on Wolfe Road, between Central Expressway and Homestead Road which will require robust community notification and monitoring. The pre-design analysis concluded that there are no other economically feasible routes for the pipeline. All reasonable efforts will be made to minimize the impact on traffic and neighborhoods. For example, the pipeline will be placed where possible towards the center of Wolfe Road to allow at least one lane of traffic on each side. As this is one of the most heavily traveled corridors in Sunnyvale, it is expected that drivers, residents, and businesses along the way will be inconvenienced during construction. Every effort will be made to minimize any inconvenience by informing the community as early as possible before construction starts and as construction continues. The winning contractor will also be required to submit a traffic plan for City approval before commencing work.

Water Supply Agreement

The Water Supply Agreement (Attachment 3) calls for Sunnyvale to be the recycled water producer while the District, as the owner of the pipeline and pumping facilities, will take on the role of a wholesaler. The District can retail recycled water to Cal Water, Sunnyvale, and other retail water agencies. The agreement also sets the following criteria:

- Recognizes that operation of the Water Pollution Control Facility (WPCP) is a priority
- Requires Sunnyvale to maintain the Regulatory Permit
- Establishes protocols for water pressure, quality, quantity, and measurement of flows
- Establishes the operating revenue split of 60% for Sunnyvale to 40% for the District with a fixed minimum revenue for Sunnyvale and a provision that the rate charged by Sunnyvale will increase by 60% of the dollar amount the District increases groundwater charges in Sunnyvale.
- Recognizes the need to meet the recycled water demands of potential Sunnyvale recycled water customers, as envisioned in the Sunnyvale Recycled Water Feasibility Study.
- Establishes the mechanism for the District to reimburse Sunnyvale for all costs associated with operating and maintaining the new Wolfe Road facilities.
- The term of the Agreement is ten (10) years, after which it can be automatically renewed every five (5) years, unless either party provides a notice of its desire to not renew the Agreement.

Long-Term Integration Agreement Framework

The long-term recycled water integration agreement framework (Attachment 4) sets the stage for Sunnyvale to partner with the District to cost-share on the upgrade of the WPCP and develop an option to use most of the recycled water produced by Sunnyvale as a result of the upgrades (approximately 10 million gallons per day) for future potable reuse. The integration agreement would address elements of a potential future potable reuse project, including use of land, recycled water, and management of brine (which is a by-product of advanced treatment processes). The framework terms are presented as Attachment 4, which also shows terms of similar District agreements for comparison. The framework is not binding, but rather is put forth as the current concept parameters of the negotiating team, and to offer the Council and Board an opportunity to provide guidance if desired on the direction of the negotiations.

FISCAL IMPACT

The total construction cost of the Wolfe Road pipeline project is estimated at \$16,250,000, including a 15% contingency. Sunnyvale's share of the cost is up to \$2,100,000, which includes the cost of design and construction of the project. Funds are available in Capital Project 829450 - Recycled Water Interconnect.

Approving the Recycled Water Supply Agreement will make the City a wholesale recycled water provider to the District. However the agreement also limits the authority of the City Council to set wholesale recycled water rates. The agreement limits the rates in FY 2014-15 to 60% of what the district charges Cal Water or \$500.40 per acre foot, whichever is higher. To ensure that Sunnyvale continues to recover its costs of producing recycled water, starting in FY 2015-16 and every fiscal year thereafter, the wholesale rate Sunnyvale charges the District shall increase by 60% of the dollar amount the District increases its groundwater charges in the Sunnyvale service area. This arrangement will tie the increase in wholesale water costs to potable water increases. Staff anticipates that this will cover the incremental costs associated with producing recycled water for resale to the District.

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 Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Find that the Addendum to the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project makes minor technical changes or additions to the Mitigated Negative Declaration that will not involve new significant environmental impacts or increase the severity of previously identified environmental impacts and that no further environmental review is required.
2. Authorize the City Manager to execute the Cost Sharing Agreement with the Santa Clara Valley Water, in substantially the same form as set forth in Attachment 2, for Construction of the Wolfe Road Recycled Water Facilities.
3. Authorize the City Manager to execute an Agreement with the Santa Clara Valley Water District for Recycled Water Supply for Non-Potable Use, in substantially the same form as set forth in Attachment 3.
4. Approve the Framework for a Long Term Recycled Water Integration Agreement with the Santa Clara Valley Water District, presented as Attachment 4, to Supply Recycled Water from Sunnyvale's Wastewater Plant for Potable Water Reuse.
5. Provide other direction to staff.

RECOMMENDATION

Alternatives 1, 2, 3 and 4: 1) Find that the Addendum to the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project makes minor technical changes or additions to the Mitigated Negative Declaration that will not involve new significant environmental impacts or increase the severity of previously identified environmental impacts, and that no further environmental review is required; 2) Authorize the City Manager to execute the Cost Sharing Agreement with the Santa Clara Valley Water, in substantially the same form as set forth in Attachment 2, for Construction of the Wolfe Road Recycled Water Facilities; 3) Authorize the City Manager to execute an Agreement with the Santa Clara Valley Water District for Recycled Water Supply for Non-Potable Use, in substantially the same form as set forth in Attachment 3; and 4) Approve the Framework for a Long Term

Agreement with the Santa Clara Valley Water District, presented as Attachment 4, to Supply Recycled Water from Sunnyvale's Wastewater Plant for Potable Water Reuse.

Prepared by: Mansour Nasser, Water & Sewer Systems Division Manager

Reviewed by: John Stufflebean, Director of Environmental Services

Reviewed by: Kent Steffens, Director of Public Works

Reviewed by: Grace K. Leung, Director of Finance

Reviewed by: Robert A. Walker, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Council Recycled Water Actions
2. Agreement for Construction of Wolfe Road Recycled Water Project
3. Agreement for Recycled Water Supply for Non-Potable Use
4. Framework of the Long-Term Agreement to Supply Recycled Water from Sunnyvale's Wastewater Plant for Potable Water Reuse
5. Map of Wolfe Road recycled Water Project
6. Addendum to Mitigated Negative Declaration