



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 16-1015, Version: 1

REPORT TO COUNCIL

SUBJECT

Authorize the City Manager to Negotiate Agreements for Subsequent Council Approval with the City of Milpitas and Other Jurisdictions Regarding SMaRT Station Processing of Recyclables, Yard Trimmings and Municipal Solid Waste

BACKGROUND

City of Milpitas

Consistent with prior Council direction to pursue uses for the excess capacity of the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station®), staff has been assessing the feasibility of providing SMaRT Station solid waste and recycling services to City of Milpitas (Milpitas) in response to a Request for Proposals (RFP) issued by Milpitas. This opportunity was made possible because the SMaRT Station has some excess processing capacity that can be marketed to serve the needs of other entities.

Adding materials from Milpitas to those already handled at the SMaRT Station would result in economies of scale that, with appropriate pricing and terms, would reduce costs and increase revenues for the existing partner agencies (cities of Mountain View, Palo Alto, and Sunnyvale). Milpitas would benefit by taking advantage of the SMaRT Station's advanced processing capabilities to reduce the amount of municipal solid waste (MSW) it disposes, thus increasing its diversion rate, which would likely have financial benefits to Milpitas in the future by reducing its future costs of compliance with State of California MSW diversion requirements.

Working within the framework of the RFP, staff indicated to Milpitas the City's interest in accepting MSW, recyclables and yard trimmings, including disposal at Kirby Canyon Landfill of unrecycled residues. Participating in the process did not bind Sunnyvale at that initial stage of the Milpitas procurement.

The Milpitas RFP process separated the procurement into two phases: (1) landfill disposal and (2) collection/processing. Milpitas awarded its landfill contract to Waste Management (WM) for disposal of garbage at the Guadalupe Landfill. Guadalupe Landfill is located in southern San Jose, with access from Camden Avenue and Guadalupe Mines Road. Following award of that contract, opponents of the contract award circulated petitions and gained enough signatures from Milpitas voters to place on the November general election ballot a referendum to overturn the award of the disposal contract. On November 8, 2016 a majority of Milpitas voters voted "Yes," thus affirming the award of the Guadalupe Landfill disposal contract to WM.

As Milpitas moved into the collection/processing phase of the RFP, its staff became very interested

how the processing capabilities of the SMaRT Station could help Milpitas divert more of its discarded material from disposal. The Milpitas City Council held a special meeting at the SMaRT Station on August 24, 2016, to hear a Sunnyvale staff presentation and tour the facility.

The Milpitas evaluation of franchised collection options narrowed the choices to two companies- Republic Services, the incumbent collector, and Garden Cities Sanitation (GCS). Republic indicated to Milpitas that if it retained the franchise the company would continue to process recyclables and yard trimmings at its own Newby Island facilities and was not interested in delivering materials to the SMaRT Station.

The initial GCS proposal in 2015 provided Milpitas with an option where the City could direct recyclables, yard trimmings and MSW to SMaRT, with City of Sunnyvale transferring unrecycled residues to Kirby Canyon Landfill for disposal under Sunnyvale's contract with WM. Kirby Canyon is located just east of Highway 101 at the southern end of San Jose, with access from the Coyote Creek Golf Drive freeway interchange.

On October 28, 2015, the City Manager sent a letter to Milpitas that expressed Sunnyvale's interest in providing service to Milpitas. The letter described the facility and its capabilities and discussed the potential benefits to Milpitas of entering into either a "merchant" or partner relationship with Sunnyvale. A copy of the letter is attached (Attachment 1).

Based on the steps and respective timeline outlined in the letter, Milpitas moved ahead with award of its franchise to GCS so that it could be assured of having a hauler under contract when the current franchise expires in September 2017. The critical path item is purchasing the refuse collection trucks, which typically takes at least six months. Since the GCS contract provides for the option of processing materials at the SMaRT station, Milpitas is interested in an agreement with Sunnyvale to process Milpitas' recyclables, yard trimmings and/or MSW at the SMaRT Station and disposal of unrecycled residues at Kirby Canyon Landfill.

EXISTING POLICY

Council adopted the Zero Waste Plan in April 2013. In so doing, the Council directed staff to, "market SMaRT Station capacity beyond the current tri-city consortium (Sunnyvale, Mountain View, and Palo Alto)" and to "create renewed partnerships that are centered on the SMaRT Station and take advantage of economies of scale, which are significant in waste processing facilities." Council specifically recommended that staff "continue to explore with other jurisdictions their interest in committing to a SMaRT Station-based Zero Waste goal as well as transfer and disposal services."

Council Goal 3.2F states the objective to, "Maintain sound financial strategies and practices that will enable the City to provide comprehensive solid waste management services to the community while keeping refuse rates at or below countywide averages for cities using cost of service pricing."

More specifically, Policy 3.2F.3 states: "Identify additional revenue sources and, where possible, increase revenues from solid waste programs, services, and **facilities** [emphasis added] without jeopardizing program goals and customer service quality."

ENVIRONMENTAL REVIEW

The City Council certified an Environmental Impact Report for the SMaRT Station in 1990 (SCH #89022812). The amount of material and the number of truck trips anticipated to arrive at SMaRT

from Milpitas do not exceed the amounts evaluated in the EIR. Staff anticipates that the proposed project will require an addendum to the 1990 EIR because Milpitas was not part of the defined service area. Staff has retained an environmental consultant to determine the necessary level of review under the California Environmental Quality Act (CEQA) and to prepare appropriate environmental documentation which will be provided to the City Council when staff returns for Council's consideration of approval of the project. CEQA requires that CEQA review be completed as early as feasible in the planning process yet late enough to provide meaningful information for environmental assessment. An agency may not formally make a decision to proceed with use of a site or facilities for a public project, or take any action that forecloses alternatives or mitigation measures, prior to completion of the required environmental review. (CEQA Guidelines Section 15004(b)). Therefore, the proposed action authorizing the City Manager to negotiate agreements does not constitute approval of any proposal to bring Milpitas waste and materials to the SMaRT Station. The City Council retains discretion to ultimately approve or disapprove the project.

DISCUSSION

Milpitas

On November 14, 2016 the Milpitas City Council awarded a new, 15-year refuse collection franchise to GCS, with services to begin in September 2017. The franchise agreement provides for GCS to deliver recyclables, yard trimmings and construction and demolition (C&D) wastes at various "approved" and "alternate approved" facilities. The SMaRT Station is listed as an "alternate approved facility."

Pursuant to Milpitas's contract with WM, GCS will deliver MSW to Guadalupe Landfill for disposal. However, the GCS franchise agreement allows Milpitas to direct the hauler to instead deliver MSW to the SMaRT Station if there is an agreement between Milpitas and Sunnyvale that allows use of the facility.

In light of the advanced sorting and diversion capabilities of the SMaRT Station, Milpitas is interested in potentially processing two or more material types at the SMaRT Station to improve its ability to meet regulatory requirements for diversion and to reduce its costs for landfill disposal. The anticipated annual amounts are approximately:

- MSW - 56,400 tons per year
- Recyclable Materials - 14,400 tons per year
- Yard Trimmings - 6,800 tons per year

Milpitas has indicated that it would like to take advantage of the SMaRT Station's unique services on a "merchant agreement" basis initially, with the option of considering becoming a long-term MOU partner along with Mountain View and Palo Alto. Milpitas has indicated that it may choose to initially only direct recyclables and yard trimmings to the SMaRT Station, and reserve an ability to also direct MSW there for processing when the additional diversion is needed to satisfy regulatory and/or policy requirements.

Key elements and preliminary dates for the items needed to negotiate and present an agreement for consideration to the city councils of Milpitas and Sunnyvale include:

- Approval of the proposal by the cities of Mountain View and Palo Alto (the three-city MOU only requires approval by one of the other Participating Agencies, but approval by both is preferable) (January 2017)
- Agreement among WM, Milpitas, and Sunnyvale that the SMaRT Station operator may transfer the unrecycled portion of Milpitas materials from SMaRT to Kirby Canyon Landfill for disposal, including the price and terms (January 2017)
- Completion of appropriate environmental review under CEQA. Sunnyvale anticipates that approval of the plan to receive waste and materials from Milpitas will require an addendum to the 1990 EIR for the SMaRT Station. (January 2017)
- Agreement, in the form of a memorandum of understanding, between Milpitas and Sunnyvale on the prices, key terms and other elements to be included in a final post-collection processing contract between the two cities. (January/February 2017)
- Approval by cities of Milpitas and Sunnyvale of a final post-collection processing contract - (July 2017)

The amount of material and the number of truck trips anticipated to arrive at SMaRT are well within the current limits of SMaRT's Solid Waste Facilities Permit, so no modification to that permit would be required.

There are no reasonably foreseeable limits on WM's ability to accept at Kirby Canyon Landfill the amount of Milpitas waste that would be delivered for disposal via the SMaRT Station. The Excess Quantity Disposal Fees in the disposal agreements with WM were removed as part of the 2013 Second Amendment approved by the three cities. The Kirby Canyon site itself has significant potential for expansion that would allow for disposal well beyond the current term of the agreements. A graph showing historic and reasonably anticipated future disposal amounts and tonnage commitments is attached (Attachment 2).

The SMaRT Station operating agreement with Bay Counties Waste Services (BCWS) includes provisions for the City to require BCWS to receive and process materials from outside the three SMaRT Cities. The agreement also allows the City, without amending the agreement, to direct BCWS to perform additional services in exchange for an "equitable adjustment" to the contractor's compensation. Receiving and processing the materials from Milpitas will increase the cost for BCWS to carry out its work under this agreement. Staff has asked BCWS to provide detailed estimates of the changes to its costs and revenues if various quantities and combinations of Milpitas materials are received. Staff will use this information as it negotiates with Milpitas regarding proposed charges for accepting materials. The amount of the "equitable adjustment" made to BCWS's contract compensation will depend on the actual types and amounts of materials received and the resulting net cost changes.

Determining the prices that would be charged to Milpitas requires consideration of a number of factors, as described below.

Examples of Financial Elements to be Factored into Pricing

- Annual (Fixed) Operating Costs (annual payment to SMaRT operator, City administration, etc.)
- Variable Operating Costs (utilities, spare parts, hazardous waste disposal, fuel, etc.)
- Landfill Charges, Taxes, Fees
- Host Fee (to General Fund)

- SMaRT Station rent (to the General Fund)
- Capital Costs and Debt Service
- Revenues from Curbside Recycling
- Cost to Compost yard trimmings

Given the potential financial benefits to Sunnyvale and its Mountain View and Palo Alto partners, staff is recommending that Council delegate to the City Manager authority to negotiate with City of Milpitas over prices and terms for accepting the materials that would be collected by its franchised hauler. The goal would be to bring back to Council for approval in early 2017, following completion of required CEQA review, an agreement for the SMaRT Station to process, transfer and market or dispose Milpitas recyclables, yard trimmings and municipal solid waste, and for that agreement to provide significant financial benefits to the Participating Agencies.

Negotiation of Merchant Agreements with other Cities

The City of Cupertino has also approached City staff to express interest in making use of the SMaRT Station to increase diversion of portions of the material collected by its franchised hauler, Recology. ESD staff attended an October 18, 2016, Cupertino City Council Study Session on this topic. Staff discussions on options available to Cupertino are at a preliminary stage and will require additional information on the nature and quantities of the materials to be handled at SMaRT. Cupertino was part of the expanded service area analyzed in the 1990 EIR. However, staff will evaluate the appropriate level of CEQA review required for Cupertino's proposal.

Therefore, staff is also recommending that Council delegate to the City Manager similar authority to discuss SMaRT Station options with other cities such as City of Cupertino and, if appropriate, negotiate an agreement for Cupertino to direct materials to the SMaRT Station. Staff will inform Council how such discussions progress and any agreement would be brought back to Council for consideration and approval.

FISCAL IMPACT

Providing the recommended negotiation authority to the City Manager will, by itself, result in no significant changes to costs or revenues and thus has no fiscal impact. If negotiations are successful and staff returns with an RTC recommending Council approval of an agreement with Milpitas, that RTC will provide a projection of the fiscal benefits the agreement would provide to the City. The specific amounts of these benefits will depend on the outcome of negotiations, but staff anticipates an increase in General Fund revenues from a Host Fee (similar to the fee charged to the existing partner cities) and a reduction in cost to the Sunnyvale Solid Waste Fund as SMaRT Station costs are spread over materials received from an additional city.

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. Authorize the City Manager to negotiate and bring back to Council for approval an agreement with

City of Milpitas for the SMaRT Station to process, transfer and market or dispose recyclables, yard trimmings and municipal solid waste, following completion of required environmental review under the California Environmental Quality Act (CEQA).

2. Authorize the City Manager to discuss SMaRT Station options with other jurisdictions such as City of Cupertino and, if appropriate, negotiate and present to Council for approval an agreement to direct materials to the SMaRT Station, subject to completion of any required environmental review under the California Environmental Quality Act (CEQA).

3. Take no action.

STAFF RECOMMENDATION

Alternatives 1 and 2: 1) Authorize the City Manager to negotiate and bring back to Council for approval an agreement with City of Milpitas for the SMaRT Station to process, transfer and market or dispose recyclables, yard trimmings and municipal solid waste, following completion of required environmental review under the California Environmental Quality Act (CEQA); 2) Authorize the City Manager to discuss SMaRT Station options with other jurisdictions such as City of Cupertino and, if appropriate, negotiate and present to Council for approval an agreement to direct materials to the SMaRT Station, subject to completion of any required environmental review under CEQA.

Staff is recommending this course of action because the SMaRT Station has excess capacity. Increasing the amount of materials flowing through the SMaRT Station would put that capacity to work, with the potential for significant financial benefits to the ratepayers of all three Participating Agencies. This benefit would result from spreading fixed costs at the SMaRT station over a larger base, resulting in lower unit costs for handling the larger amount of materials.

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Reviewed by: John Stufflebean, Director, Environmental Services Department

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. October 28, 2015 Letter to Mr. Tom Williams, City Manager, City of Milpitas
2. Historic and Projected Disposal Quantities, Kirby Canyon Landfill