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REPORT TO COUNCIL

SUBJECT

Adopt Three Financial Resolutions Enabling the City of Sunnyvale to Submit an Application to the State of California for up to \$216 million in Clean Water State Revolving Funds to Fund the City of Sunnyvale Secondary Treatment and Dewatering Facilities Project and Approve a Resolution to Adopt the Addendum to the Programmatic Environmental Impact Report Make the Findings Required by CEQA Re-Adopt the Mitigation Measures Identified in the Mitigation Monitoring and Reporting Program, and Re-affirm the Findings and Conclusions in the Statement of Overriding Considerations

BACKGROUND

The City has embarked on the most significant single public works program in its history, the rebuild of its aged Water Pollution Control Plant (WPCP), which is responsible for the treatment of sewage from all of Sunnyvale and a small area inside the Cities of Cupertino and San Jose. Named the “Sunnyvale Cleanwater Program” (the Program), current cost estimates for Phases 1-3 of the Program are approximately \$500 million over twenty years. The WPCP Master Plan was developed as a long-term guide for replacing facilities at the WPCP. The City adopted the Master Plan on August 23, 2016 (see RTC No.16-0663).

During Phase 1 of the Program, staff identified that favorable financing was available for the Headworks and Primary Treatment Project through the State of California Clean Water State Revolving Fund (CWSRF). By securing this financing, debt service for the City’s Wastewater Management Fund has been reduced by more than \$20 million, compared to the default assumption of standard utility revenue bond financing.

As we begin Phase 2 projects, the Program is in preliminary design for the Secondary Treatment and Dewatering Facilities Project (the Project), which will replace the City’s current secondary treatment process with conventional activated sludge (CAS) facilities and will include a thickening and dewatering facility, maintenance building, and support facilities.

This Project is also eligible for a CWSRF loan. To apply for this financing, Council must adopt three financial resolutions, which are further described below. The application also requires projects undergo appropriate environmental review. The City has completed California Environmental Quality Act (CEQA) documentation for the Project. The CWSRF application may be submitted without a project-specific CEQA document but certifying the Project’s CEQA documentation will increase the application’s priority during the CWSRF loan review process over other projects with incomplete documentation. The CEQA document certification resolution is described below.

EXISTING POLICY

Council Fiscal Policy 7.11 Enterprise Fund Policies, 1.1b.1 Capital improvements associated with the existing infrastructure of a utility should be primarily funded from two sources: rate revenue and debt financing.

Council Fiscal Policy 7.11 Enterprise Fund Policies, 1.1b.3 Local, state and federal funding sources, such as grants and contributions, should be pursued for utility-related capital improvement projects consistent with City priorities.

ENVIRONMENTAL REVIEW

The City prepared a Programmatic Environmental Impact Report (PEIR) for the WPCP Master Plan which was circulated for public comment in accordance with CEQA (State Clearinghouse #2015062037). On August 23, 2016, the City Council certified the PEIR, made the findings required by CEQA, adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program (MMRP), and approved the WPCP Master Plan (RTC No. 16-0663).

The Secondary Treatment and Dewatering Facilities Project (“the Project”) is one of the projects included in the PEIR. However, following the certification of the PEIR, the Project has undergone further refinement and development. The City has evaluated the environmental impacts of these modifications and determined that the modifications to the Project would result in impacts similar to, or less than, those attributable to the project described in the PEIR. Accordingly, the City has prepared an Addendum to the PEIR (Attachment 4, Exhibit A) pursuant to CEQA Guidelines Section 15164.

Section 15164 of the CEQA Guidelines authorizes a lead agency to prepare an addendum to a previously certified EIR “if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred” and if “[o]nly minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.” Under Section 15162 of the CEQA Guidelines, an agency must prepare a subsequent EIR when there are “substantial changes” to either the project or the circumstances under which the project is undertaken that will involve “new significant environmental effects or a substantial increase in the severity of previously identified significant effects”.

Under CEQA Guidelines Section 15164(c) and (d), an addendum does not have to be circulated for public comment. Moreover, the addendum does not have to be “certified” or “adopted”, but only needs to be “considered” by the decision-maker when the project is approved.

This Project, however, is subject to the environmental review process required by the State Water Resources Control Board, commonly referred to as “CEQA-Plus”. The CEQA-Plus process requires agencies to “adopt or certify” a project-specific CEQA document. Agencies may utilize an addendum to a previously-certified EIR where appropriate under Section 15164 of the CEQA Guidelines. However, the CEQA-Plus process goes a step beyond the CEQA Guidelines and requires that the agency circulate the addendum for public comment, similar to the process for a negative declaration.

In order to meet the heightened CEQA-Plus requirements that apply to use of CEQA addenda, a Notice of Completion for the PEIR Addendum was filed with the State Clearinghouse and the PEIR Addendum was advertised on the Cleanwater Program website for public review on September 6, 2018. During the 35-day review period that followed, members of the public and other agencies could submit written comments on the PEIR Addendum. The public review period and comment period closed on October 11, 2018. No public comments were received. The Addendum to the PEIR, which incorporates mitigation measures from the previously-adopted Mitigation Monitoring and Reporting Program, is presented today for Council adoption. Based on discussion with the consultant regarding

the CWSRF requirements, staff also recommends that the City Council re-affirm the findings and conclusions in the previously adopted Statement of Overriding Considerations, although this is not required by CEQA. By definition, an addendum does not involve any new significant unavoidable impacts (i.e., beyond those previously analyzed in the EIR) that would require the City Council to adopt a new Statement of Overriding Considerations.

Addendum to the PEIR

The purpose of the Addendum is to provide objective information regarding the environmental consequences of the proposed project to the public and decision-makers. The Addendum is one element of the CWSRF application package for the Project.

Through extensive analysis and review, the environmental sub-consultant, Environmental Science Associates, determined that the following topics were sufficiently addressed in the PEIR and required no additional analysis because either the nature, scale, and timing of the Project has not changed in ways relevant to the topic or there has not been a substantial change in the circumstances involving the topic on the project site, nor in the local environment surrounding the site:

- Agriculture and Forestry Resources,
- Biological Resources,
- Cultural Resources,
- Energy Conservation,
- Geology, Soils, Seismicity, and Mineral Resources,
- Hazards and Hazardous Materials,
- Land Use and Recreation,
- Noise and Vibration,
- Population and Housing,
- Public Services and Facilities, and
- Utilities and Service Systems.

The Addendum to the PEIR includes changes and additions to the PEIR discussions of the following topics: Transportation, Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Aesthetics, and Mandatory Findings of Significance. These additions do not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The Addendum identifies mitigation measures which were previously adopted as part of the Mitigation Monitoring and Reporting Program (MMRP) for the Master Plan. These mitigation measures will reduce environmental impacts related to: native plant species, Congdon's tarplant, special-status species, burrowing owls, nesting birds, and trees; cultural resources; water quality and soil and groundwater contamination; hazardous materials management and worker health and safety; and construction traffic and dust/exhaust emissions. Most of the environmental effects would be reduced to a less than significant level with the mitigation measures; however, as previously identified in the PEIR, some construction emissions related to the Project cannot be fully mitigated to a less than significant level.

No permits or approvals from other agencies were identified beyond those already disclosed in the PEIR.

During the public comment period, staff received no comments from the public or state, regional, or local agencies.

Construction activities discussed in the Project Addendum will have significant unavoidable impacts on air quality which cannot be mitigated to a less-than-significant level. These impacts were anticipated in the PEIR and mitigation measures were identified and adopted at that time. The City Council adopted a Statement of Overriding Considerations for these air quality impacts in conjunction with the certification of the PEIR (Exhibit B to Attachment 4).

DISCUSSION

Application for State of California Clean Water State Revolving Fund Loan

The State Division of Financial Assistance administers the implementation of the State Water Board's financial assistance programs, which include loan and grant funding for construction of municipal sewage and water recycling facilities. The CWSRF Program provides low-interest loans (approximately 2%) for a term of 30 years for water quality improvement projects. In 2016, the City applied for and received a CWSRF loan for the Program's first phase, the Headworks and Primary Treatment Project. Additional projects in the Sunnyvale Cleanwater Program are eligible for planning/design and construction CWSRF funding.

The City is currently preparing to submit a detailed Financial Application Package for the Secondary Treatment and Dewatering Facilities Project. If selected, the CWSRF loan could finance permitting, design, and construction for Project 833210-SCWP Secondary Treatment Improvements-Split Flow CAS Stage 1, as well as some soft costs budgeted under Projects 833110-SCWP Oversight, 831470-SCWP Construction Management, and 830240-SCWP Program Management. The total eligible cost is estimated to be approximately \$215 million. For application purposes, staff is proposing to apply for a maximum of \$216 million to ensure that all eligible costs are fully covered.

As part of the application package, the City must submit three resolutions adopted by the City Council. They are the Reimbursement Resolution, the Authorizing Resolution, and the Pledged Revenues and Funds Resolution.

Reimbursement Resolution

This resolution allows for the City to request reimbursement for funds advanced for the project prior to the issuance of the revolving fund loan. This allows the project to move forward without delay, while still receiving the benefits of the low interest financing.

Authorizing Resolution

In order to submit the various packages of the application and complete the administrative process of obtaining funds, the City Council must authorize a designee to act on its behalf. This resolution delegates that authority to the City Manager or his designee.

Pledged Revenues and Fund Resolution

This resolution identifies the funding source that will be pledged to pay the ongoing obligations established through a financing agreement with the State. In this case, the funding source is revenues from the Wastewater Management Fund as defined in the resolution.

It is also important to note that the City issued bonds for improvements to the wastewater system in 2010, which were refunded in 2017. As part of that issuance, future state loans were contemplated

and can be issued on parity (meaning the new debt will not be senior to the old) with the City's 2017 Wastewater Revenue Refunding Bonds.

FISCAL IMPACT

There is no fiscal impact from adopting these resolutions. Budget for the project is included in the Wastewater Management Fund long-term financial plan. It is anticipated that in the current favorable rate environment, the very low rates obtained through CWSRF have the potential to save the City's rate payers up to 59 million dollars over the life of the loan when compared to a traditional public market financing. Taking this approach is the lowest cost option for financing this project. Additionally, as the program has become more tightly defined through validation, the projected cost has been adjusted upwards. Use of this cheaper financing alternative will help to mitigate the impact on rate payers.

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.

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STAFF RECOMMENDATION

Adopt Three Financial Resolutions Enabling the City of Sunnyvale to Submit an Application to the State of California for up to \$216 million in Clean Water State Revolving Funds to Fund the Secondary Treatment and Dewatering Facilities Project and Approve the Resolution to Adopt the Addendum to the Programmatic Environmental Impact Report, Make the Findings Required by CEQA, Re-Adopt the Mitigation Measures Identified in the Mitigation Monitoring and Reporting Program, and Re-affirm the Findings and Conclusions in the Statement of Overriding Considerations.

Prepared 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. Reimbursement Resolution
2. Authorizing Resolution
3. Pledged Revenues and Fund Resolution
4. CEQA Resolution