



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Authorize the City Manager to Execute a Settlement Agreement in the Amount of \$800,000 with the the City of San José Related to a Claim Regarding the Rancho Rinconada Sewer Service Area in San José and Approve Budget Modification No. 12 in the Amount of \$800,000

BACKGROUND

In the mid-1950s, an area known as Rancho Rinconada was being developed as a mostly single-family residential area. At the time, this area was in a pocket of the County that had no direct access to a sewer collection system. The City of Sunnyvale entered into a series of agreements with the developers that allowed the Rancho Rinconada sewer system to be tied into a 15-inch City sewer main that was extended 1.7 miles for that purpose. The agreements required developers to construct sewers that met the City's standards and allowed the City to collect fees from the homeowners and businesses to reimburse the City for the costs of providing on-going sewer service. There are 1,881 primarily residential parcels located outside the city limits that are currently serviced by the City's wastewater collection and treatment system. A map of the service area outside the City is provided as Attachment 1.

In January 2021, the City reached out to the City of San José (CSJ) to investigate a change that was made to the City of Sunnyvale's sanitary sewer main crossing at Bollinger Road west of Lawrence Expressway. The pipe segment in question carried sewage from Sunnyvale's main on Kimberly Street into the main on Newsom Avenue. During routine flushing of Sunnyvale's system in December of 2020, the City's sewer crews discovered that a new manhole had been constructed downstream of the City's manhole on the east bound side of Bollinger Road in the area between the right vehicle lane and the bike lane. Sunnyvale's pipeline was plugged, and a new sewer pipe was constructed diverting the flow to the east into the CSJ sewer system. This diversion of sanitary sewer flow from Sunnyvale's system to the City of San José's system affected approximately 150 single-family properties (circled in Attachment 1). To initiate the process for resolution, Sunnyvale filed a claim with the City of San José on April 21, 2021. Settlement discussion began approximately one year later.

EXISTING POLICY

Municipal Code Section 2.04.030 (c) Claims against the City authorizes the City Manager to settle claims up to \$50,000. Claims in excess of \$50,000 must be approved by City Council. City staff represented the terms for settlement of this matter to the City Council during a closed session on December 6, 2022.

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 a motion adopted by affirmative votes of at least four members to authorize the transfer of unused balances appropriated for one purpose or another, or to appropriate available revenue included in the budget.

ENVIRONMENTAL REVIEW

This action is exempt from review under the California Environmental Act (CEQA) in that it involves fiscal and administrative activities that will not result in direct or indirect changes to the environment, and which do not commit the City to any specific project that may result in a potentially significant impact on the environment. (CEQA Guidelines Section 15378(b)(4) and (b)(5).)

DISCUSSION

After several meetings, the parties came to an agreement that stipulates that the City of San José will pay the City of Sunnyvale \$800,000 for the system, which is based on the approximate cost to return the system to its previous condition. The Settlement Agreement also addresses two commercial properties (also circled in Attachment 1) that are also located in the City of San José, but were not affected by the claim directly. Upon investigation, San José found (and Sunnyvale confirmed) that one of these properties was also already being served by San José. Upon redevelopment of the second property, that will also be connected to the San José's system. Until then the City of Sunnyvale will continue to service and bill that property.

The Settlement Agreement also places no fault on either party and releases San José from all liability for the Claim. The Settlement Agreement is provided as Attachment 2, and has been approved the San José City Council.

The change in systems will also require the abandonment of a small section of Sunnyvale's line that was on the south side of the new manhole. Staff is also recommending approval of Budget Modification No. 12 to appropriate \$25,000 to properly abandon the remaining section and the remaining \$775,000 to the Rate Stabilization Fund of the Wastewater Management Fund.

FISCAL IMPACT

The City of Sunnyvale currently collects the costs for providing service to these parcels through wastewater rates charged directly to the customers, placed on their annual property tax roll as part of the City's annual rate setting process. This service area yielded \$120,000 annually, for a twenty-year total of approximately \$3 million over twenty years. Offsetting this revenue loss are the savings associated with operating and maintaining the system, as well as avoided future infrastructure costs for replacement or rehabilitation of the system. The transfer of these parcels will also free up collection and treatment capacity (albeit a small increment) that can be used to accommodate new housing with Sunnyvale's city limits.

Budget Modification No. 12 has been prepared to recognize the settlement revenue and appropriate \$25,000 to a new project to abandon the remaining sewer line segment. The remaining funds will be deposited into the Rate Stabilization Reserve of the Wastewater Enterprise Fund for consideration with the FY 2023/24 Recommended Budget.

**Budget Modification No. 12
FY 2022/23**

	Current	Increase/ (Decrease)	Revised
<u>Wastewater Management</u>			
<u>Fund</u>			
<u>Revenues</u>			
Settlement of Claims	\$ 0	\$ 800,000	\$ 800,000
<u>Expenditures</u>			
New Project -	\$ 0	\$ 25,000	\$ 25,000
Abandonment of Rancho Rinconada Sewer Segment			
<u>Reserves</u>			
Rate Stabilization Fund	\$ 59,021,463	\$ 775,000	\$ 59,796,463

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.

RECOMMENDATION

Authorize the City Manager to Execute a Settlement Agreement in the Amount of \$800,000 with the the City of San Jose Related to a Claim Regarding the Rancho Rinconada Sewer Service Area in San Jose and Approve Budget Modification No. 12 in the Amount of \$25,000

Prepared by: Tim Kirby, Director of Finance
Reviewed by: Jaqui Guzmán, Deputy City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Map of Wastewater Service Area Outside City Limits
2. Settlement Agreement