



DATE: September 4, 2018

CATEGORY: Consent

DEPT.: Public Works

TITLE: **Increase Appropriation for SMaRT® Station New Capital Project**

RECOMMENDATION

Increase appropriations in the Public Works Department by \$199,325 from the Solid Waste Fund for the stormwater diversion capital improvement project at the SMaRT® Station. (Five votes required)

BACKGROUND

In 2013, San Francisco Baykeeper filed a lawsuit claiming the City of Sunnyvale had failed to comply with the Industrial Permit requirements of the Federal Clean Water Act regarding stormwater runoff at the Sunnyvale Materials and Recovery Transfer (SMaRT) Station and various locations on the closed Sunnyvale landfill. A settlement was negotiated in December 2013 which required Sunnyvale to develop a different system for managing stormwater at the SMaRT Station.

In May 2015, following a feasibility study to identify options, Baykeeper approved the implementation of a system to divert the industrial portion of the stormwater from the SMaRT Station to the adjacent Sunnyvale Water Pollution Control Plant. Sunnyvale issued an invitation to bid on the stormwater diversion project in May 2017. Only one bid was received in the amount of \$2.17 million, which was 83 percent higher than the Engineer's Estimate. Sunnyvale staff attributed the meager response and high price to a thriving building climate and timing of the bid release. Sunnyvale City Council rejected the bid on the assumption that a better response and price could be obtained. The project plans and specifications were reviewed and updated and the invitation to bid was released again in April 2018. Only one bid in the amount of \$2.35 million was received.

Per Section III.5 of the SMaRT Station MOU, capital costs are shared proportionally by the cities of Sunnyvale, Palo Alto, and Mountain View based on each City's reserved disposal capacity at Kirby Canyon, as shown in the table below. Sunnyvale maintains a

Capital Equipment Replacement Schedule and the annual SMaRT operating budget includes a contribution to a capital fund to cover the projected costs identified on the schedule.

ANALYSIS

Sunnyvale staff evaluated the Engineer’s Estimate of \$1.19 million against the bid of \$2.35 million received on June 13, 2018, and attributed the higher cost to the continued high demand for contractors. Given the history of bidding the project and the regulatory and possible legal risks of further delay, Sunnyvale staff plans to recommend that their City Council accept the current bid and award a \$2.59 million construction contract (\$2.35 million bid plus a 10 percent contingency) at the September 11, 2018, council meeting.

The SMaRT Capital Equipment Replacement Schedule includes \$1.3 million for this project (based on the engineer’s original estimate plus a 10 percent contingency). Additional fund reserves of \$437,500 are also available, leaving a balance of \$850,000 needed in the current fiscal year. This cost is to be shared among the SMaRT Partner cities based on the Capital Expense Allocation percentage set by the MOU as follows:

	Capital Allocation	Amount
Mountain View	23.45%	\$199,325
Palo Alto	21.27%	180,795
Sunnyvale	55.28%	<u>469,880</u>
		<u>\$850,000</u>

Mountain View’s SMaRT Station expense for Fiscal Year 2018-19 was approved by Council as part of the Solid Waste Fund in the Adopted Budget. The additional capital fund contribution was unknown at that time and not included in the budget. The recommended action would increase appropriations in the amount of \$199,325 to cover Mountain View’s share of the project.

Without adequate funding in place to complete the project as designed, the SMaRT Station would be out of compliance with the Industrial General Stormwater Permit issued by the Regional Water Quality Control Board and at risk for another citizen lawsuit.

FISCAL IMPACT

The Solid Waste Fund has a projected available balance of \$7.0 million for Fiscal Year 2018-19. An appropriation of \$199,325 from the Solid Waste Fund will increase the SMaRT Station Fiscal Year 2018-19 budget from \$7,181,877 to \$7,381,202 and reduce the projected available balance to \$6.8 million. Should Sunnyvale not approve or proceed with the project, the \$199,325 would be returned to the Solid Waste Fund.

ALTERNATIVES

1. Do not approve the additional appropriation to the SMaRT Station Fiscal Year 2018-19 budget.
2. Provide other direction to staff.

PUBLIC NOTICING – Agenda posting.

Prepared by:

Lori Topley
Solid Waste Program Manager

Reviewed by:

Dawn Cameron
Assistant Public Works Director

Approved by:

Michael A. Fuller
Public Works Director

Audrey Seymour Ramberg
Assistant City Manager

LT/TS/7/CAM
944-09-04-18CR-1