

RESPONSE TO COUNCIL QUESTIONS RE: 1/11/22 AGENDA

Agenda Item 3E Action on Award of Contract for Construction of the South Loop Project to Hotline Construction, Inc. and Related Budget Amendment

Council Questions:

There is a 50% increase in the expense of constructing the South Loop Project which comes to \$6.1 million.

Q: Since the South Loop project is essentially for Data Center support, will the Data Centers cover this cost?

R: While other land uses could pay a portion of the project, most of the funding will be from data centers (the largest users).

“Project funding would come from previously collected Load Development Fee revenue (\$5.7 million) and anticipated Load Development Fee revenue for FY 2021/22 (\$6.1 million). SVP anticipates increased revenues from data center load growth allowed by Project implementation.”

Q: Is the “Load Development Fee” fully paid by the data centers on the loop?

R: The load development fee associated with load serving ability (LSA) projects are charged to all new customers connecting at 60kV or 12kV with dedicated substations, which historically has been mostly data centers. While other land uses could pay a portion of the project, most of the funding will be from data centers (the largest users).

Council Question:

Q: The approval requested is 50% (73% if we include 15% contingency) above the estimate we got from Electrical Consultants - this is huge difference, would like to see detailed comparison of Electrical Consultants estimate and Hotline bid.

R: Attached is the Engineering Estimate as well as the bid sheet from Hotline. The table below summarizes the differences between the engineering estimate and the bid. The table was created by summing the bid items relevant to each category to highlight differentials between engineers estimate and the bid.

Category	Engineers Estimate	Hotline Bid	% differential
Materials and Labor (pole installation and electric line work)	\$7,437,387	\$12,051,896	62% above
Mobilization, ROW, Safety, Environmental	\$1,216,930	\$2,912,000	139% above
Construction Project Management	\$659,830	N/A *imbedded in multiple bid items	N/A *imbedded in multiple bid items
Survey / ROW / Permitting / Testing	\$123,940	\$438,000.00	253% above
bid items not accounted for above (see estimate for breakdown)	\$2,743,938	\$3,070,872	11.9% above
Bonding	\$192,476	\$111,170	(42%) below
Total	\$12,374,501	\$18,583,938.00	50% above

The biggest discrepancy lies within the labor costs, which is understandable given the statewide demand for

electric line work. Staff had increased the engineers estimate before the initial bid in anticipation of increased labor costs due to market conditions; however, as we are all aware, the market conditions for this type of work have increased which has a resulting premium on labor costs. There is currently a tremendous demand for Transmission Line construction work due to the fire hardening work that is being performed by neighboring investor-owned utilities like PG&E. Last, the \$18.5 million South Loop project is very small in comparison to the billions of fire hardening work other utilities will be performing. Staff and consultants strive to develop engineering estimates (using historical data) that will align with bid prices, but with the current unprecedented situation it is difficult to fully set a price on these services when the the market for these projects continues to fluctuate due to a growing demand for these services.

It is worth noting that this is the second procurement process that the City has administered. The first received no bids and the second only one bid. As background, after receiving no bids at the first bid period staff received feedback from potential bidders that they were simply too busy and could not find additional workers. Due to the demand for electrical workers, contractors are paying double-time for all overtime and working 6- or 7-day work weeks to get people to work. Ultimately the engineers estimate is just an estimate to facilitate budgeting, but the real cost to build a project is determined based on market conditions at the time of procurement and reflected in the actual bid. Given the continued unchanged market conditions, and the experience with the two processes, there is no reason to believe that a third procurement process will yield better pricing.

Agenda Item 3G Update on Review and Monitoring of Transportation Demand Management Measures

Council Questions:

Q: Will the RFQ include the ability for developments to submit online and will this data go into a (SQL) database for easy reporting and data analysis?

R: Yes, the RFP will request that firms provide their best practices for tracking of TDM requirements. The RFP can explicitly request that firms let us know the method of tracking and if developments can provide compliance information online in formats that can be analyzed and queried.

Q: Will Council have any input into the templates being created for reporting?

R: The Council can provide input on information they consider useful in tracking TDM requirements that can be included in the RFP. Also, a sample template developed by the chosen consultant can be shared with the Council for feedback.

Q: It would be nice to do regular parking ratio counts at say 3 AM of multifamily housing developments to accumulate data for over or under parked developments.

R: Parking counts are occasionally part of TDM requirements required by the City. Nighttime hours are when the counts occur as that is when parking utilization is maximized.

Q: How will the fee for supporting annual reporting work?

R: The RFP process will provide data on the cost of service for 3rd party monitoring of TDM requirements. There will also be staff overhead to manage the consultant. Both costs will be combined to understand the total cost of TDM requirement tracking. This cost will be passed on through a new additional fee at the planning application and building permit submittal. The new fee(s) would be brought forward through the annual fee update or when the TDM consultant is selected.

Q: Is there any consideration for implementing penalties ?

R: Projects that do not comply with TDM requirements are subject to Code Enforcement violations and fees. Other penalties are not currently established through City policy/ordinance, thus consideration of penalties would take separate analysis and action by the City Council. TDM requirement tracking, and monitoring is the main purpose of the RFP process.

Item 3H Action to Adopt a Resolution approving the Water Supply Assessment for the Proposed Office Complex at 2901 Tasman Drive

Council Question:

The packet says:

Santa Clara City Code, Chapter 13.15, Article IV - Regulation of Recycled Water Service and Use, Section 13.15.160 states that "it is the purpose and intent of the City Council to prohibit the use of potable water for landscape irrigation where recycled water is made available and meets all applicable standards." It also states that "it is also the purpose and intent of the City Council to require the use of recycled water for all other non-potable uses where recycled water is made available, meets all applicable standards for those uses and is determined to be suitable and economically feasible therefor."

Q: My question is whether this requires office buildings to dual plumb to support recycled water for toilets.

R: Based on Santa Clara City Code Section 13.15.160, Purpose and Intent of regulation of recycled water service and use, staff encourages the use of recycled water in all new developments. Certainly, if there is a recycled water main near a new development, staff will require connection to the system. Additionally, however, staff requires developers to extend recycled water main to allow them to connect.

Q: Figure 3-4 shows the existing purple pipe network map. What is the plan to extend this network especially to the Santa Clara Train station?

R: While the extension of the recycled water main to the Train Station is not within the scope of this project, staff is working to expand the recycled water system to major facilities in Santa Clara through development permitting process and water supply planning process.

Q: Why does Table 7-3B not show demand going down when we have multiple dry years?

R: As a common practice in Water Supply Assessments, demand is modeled to remain constant to be conservative. It is true the multiple dry-years would impact supplies but to balance that out, the City would expect demand to decrease based on education, outreach, enforcement efforts that would lead to additional conservation measures taken during times of drought.

Q: In table 8, what is the main use of water in office buildings. It shows 117K gallons/day?

R: For Water Supply Assessments, water demand is calculated using a standard water use factor and applied to the proposed square footage of the office building. Water is used in toilets, urinals, cooling towers, irrigation etc.

Q: Why does Table 10 show all zeros for citywide demand for other projects? What about Tasman East, Kylli and Patrick Henry?

R: Projects such as Tasman East, Kylli and Patrick Henry would normally be included in the growth projections in the last two Council approved updates to the City's Urban Water Management Plan (UWMP). Table 10 includes water demand only for projects that were not specifically included in the projections in the UWMP. This is the first development that is being assessed since 2020 UWMP plan adoption in June 2021. Both

Tasman East and Patrick Henry Specific Plans were assessed in the 2015 UWMP. A formal assessment was not yet completed for Kylli as the project has been paused for quite some time. If an assessment needs to be completed, it will be completed using the assumptions contained in the 2020 UWMP.

Item 3I Approval of a Fraud, Waste and Abuse Policy; Authorization of a Whistleblower Hotline; Delegation of Signature Authority to City Auditor for Vendor Agreements Related to the Whistleblower Hotline

Council Question:

Q: I'm all for reducing waste, fraud and abuse and believe strongly in whistleblower protections. I'm more concerned about the cost of chasing down many reports of abuse than the \$10K over 3 years. What is the history of abuse in Santa Clara?

R: We know of 2 complaints from the past few years. One was investigated by Linh Lam when she was in the auditor's office prior to her moving to the operations role in Finance. There hasn't been a defined mechanism in the past to report, so a complete history is difficult to ascertain. What we have learned over the past years, is that the City engaged in some high risk administrative practices that opened the City up to being vulnerable to abuse, fraud, etc. Through this effort to put measure in place that protect the organization, we have been able to reduce the risk in the workplace, which is the key goal. Staff made various presentations about high risk practices in the workplace in 2017-2019 in support of this work.

Q: How is the cost of investigations handled?

R: The cost will be covered through the City Auditor's budget with staff investigating claims when possible. Should there be a need to have a third party to investigate a particular claim, there is budget available in the Auditor's contract services account that can be allocated to that investigation.

Q: Do we have any data as to how well the hotlines are working in other cities? Why don't neighboring small cities like Sunnyvale, Palo Alto or Mt View have this hotline?

R: We don't have data on hotlines in other cities in terms of how well they work necessarily. The public information of other cities' hotlines show data surrounding number of and types of claims. We don't know why the other neighboring cities do not hotlines.

When it comes to preventing or detecting fraud, whistleblower hotlines can be viewed as a best practice. They can also be an important tool for internal auditors to assess fraud risk and provide information that can increase the quality of audits and should be assessed on a regular basis. Additionally, "the Association of Certified Fraud Examiners (ACFE) reported that tips from whistleblower hotlines were the most common way, by a wide margin, that occupational fraud is initially detected. And tips have remained one of the most common sources of detection since ACFE began publishing the report in 2010. In the same report, ACFE noted that fraud losses were 50 percent lower at organizations with hotlines than at those without them."

The hotline that the Auditor's Office is looking to implement will provide an efficient means of logging and tracking any claims that are made and provides a dashboard type reporting module so we can report all types of calls as well as use that data to assess where other audits may be needed.

Q: I would like to see regular reports to the Audit Committee so council can track the effectiveness of the program.

R: Absolutely. The audit committee typically meets at least three times a year where we would review hotline data and how we are handling the allegations.