



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 19

Section Name: {{section.name}}

File ID: {{item.tracking_number}}

TO: City Council

FROM: Drew Corbett, City Manager

PREPARED BY: Public Works

MEETING DATE: June 03, 2019

SUBJECT:

Wastewater Treatment Plant Upgrade and Expansion Project Owner-Controlled Insurance Program - Resolution and Agreements

RECOMMENDATION:

Adopt a Resolution to join the California State Association of Counties - Excess Insurance Authority (CSAC-EIA), to approve the Joint Powers Agreement and Memorandum of Understanding Master Rolling Owner Controlled Insurance Program with CSAC-EIA, and to designate the City Manager to serve as City's representative for all matters relating the City's obligations as a member public entity of CSAC-EIA; approve an agreement with Old Republic General Insurance Corporation in an amount not to exceed \$9.5 million; authorize the City Manager to execute the agreements in substantially the form presented.

BACKGROUND:

The City of San Mateo is currently under a Regional Water Quality Control Board Cease and Desist Order requiring improvements to its collection system and Wastewater Treatment Plant (WWTP) to eliminate sanitary sewer overflows and unauthorized discharges of untreated or partially treated wastewater to San Francisco Bay. The Clean Water Program (CWP) includes several capital improvement projects that are currently under design and are intended to comply with the Cease and Desist Order.

Specifically, the WWTP Nutrient Removal and Wet Weather Flow Management Upgrade and Expansion Project (WWTP Project) consists of new facilities, including headworks, primary clarifiers, secondary clarifiers, secondary treatment basins, membrane filtration, and a dedicated wet weather treatment train. The City Council awarded the contract for the first phase of the WWTP Project on May 6, 2019.

Insurance is a significant cost and risk management component of every Public Works construction project. Typically, the City specifies its certain insurance requirements in the construction contract, and the general contractor/subcontractors are responsible for obtaining insurance policies consistent with those requirements. Contractors' insurance premiums are considered part of the cost of the work and are therefore borne by the City.

For the WWTP Project, Clean Water Program staff (in coordination with the City Attorney's Office and Alliant Insurance Services, the City's insurance broker) is opting for an Owner-Controlled Insurance Program (OCIP). Under an OCIP, the City assumes direct responsibility for purchasing the various insurance policies to cover the contractor/subcontractors' activities, such as commercial general liability, excess liability, and worker's compensation. The OCIP also includes builder's risk/property coverage insurance.

Given the WWTP Project's lengthy construction schedule and the relatively large number of subcontractors who will be working on project, an OCIP provides a number of advantages over the typical insurance structure described above. First,

the OCIP reduces the administrative burden of negotiating and reviewing insurance policies with subcontractors during the procurement process. Second, it provides the City with a much higher degree of control over the policies covering the project. Under the traditional approach, a project is covered by a patchwork of insurance policies purchased by the contractor and subcontractors. The OCIP eliminates the risk associated with coverage gaps in the different insurance policies. Although the City's has the ability to specify insurance coverage requirements in each contract, thoroughly analyzing every subcontractor's policies and exclusions to eliminate coverage gaps would be impracticable. Third, the OCIP will streamline the claims process. In the traditional approach, the City is named as an "additional insured" under the contractor or subcontractor's policy. In the event of a claim, the insurance carriers for the various contractors will invariably attempt to shift or spread responsibility to other contractors on the project. The OCIP allows for administration of all claims through a single program, instead of multiple contractor/subcontractor's insurance policies.

The proposed OCIP is offered through the California State Association of Counties - Excess Insurance Authority (CSAC), a joint powers authority established for the purpose of developing and administering insurance and self-insurance programs, including OCIPs, for its member entities throughout California. To purchase the proposed OCIP, the City will need to adopt a resolution to join CSAC-EIA (see Attachment 1). There are no costs associated with becoming a member of CSAC-EIA beyond the costs of the specific insurance program(s) implemented by member entities. The City may withdraw from the CSAC-EIA upon completion of the WWTP Project, or at the end of a given program year, if it decides to terminate the OCIP in favor a different form of insurance for the WWTP Project.

BUDGET IMPACT:

The total cost of the proposed OCIP is approximately \$9.5 million. This amount reflects the premiums for the various insurance policies covering all three construction phases of the WWTP Project, as well as a \$3.3M loss fund. Funding for the OCIP will come from Project No. 46T003, which contains sufficient funds.

ENVIRONMENTAL DETERMINATION:

This item is not a project subject to CEQA, because it is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines Section 15378(b)(4).)

For the WWTP Project, the City prepared a Final Programmatic Environmental Impact Report (Final PEIR) in accordance with the California Environmental Quality Act (CEQA) (SCH No. 2015032006). The PEIR was certified by Council on June 6, 2016. In accordance with CEQA, the Final PEIR serves as the primary environmental compliance document for implementation of the CWP. The City prepared Addenda to the Final PEIR that were approved on July 16, 2018 (Addendum 1) and April 15, 2019 (Addendum 2).

NOTICE PROVIDED

All meeting noticing requirements were met.

ATTACHMENTS

Att 1 - Proposed Resolution

Att 2 - Joint Powers Agreement

Att 3 - Memorandum of Understanding Master Rolling Owner Controlled Insurance Program

Att 4 - Form of Program Agreement Endorsement with Old Republic General Insurance Corporation

STAFF CONTACT

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