

CC 05-07-2024

#8

HF&H Consultants, LLC  
Master Agreement

Desk Item



## PUBLIC WORKS DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
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### CITY COUNCIL STAFF REPORT

#### DESK ITEM

Meeting: May 7, 2024

#### Agenda Item #8

##### Subject

Approve a first amendment with HF&H Consultants, LLC, to provide solid waste consultant services for a not-to-exceed amount of \$430,000 and extend the contract date to August 31, 2026.

##### Recommended Action

1. Authorize the City Manager to execute a first amendment with HF&H Consultants, LLC, increasing the contract amount by \$80,000 for a new total not-to-exceed contract amount of \$430,000, and extending the term from August 31, 2025, to August 31, 2026.
2. Approve a Budget Adjustment in the amount of \$80,000 in the Resource Recovery Fund for HF&H Consultants, LLC (520-81-801 750-174).
3. Adopt Resolution No. 24-xxxx approving budget modification #2324-339, approving a Budget Adjustment in the amount of \$80,000 in the Resource Recovery Fund for HF&H Consultants, LLC (520-81-801 750-174).

##### Background:

Q5: The staff report states "Since the execution of the agreement, HF&H has completed the review of Recology's proposed cost-based rate adjustment for the fourth year of the franchise agreement and a review and audit of the hauler." It's been two years since HF&H's first contract. What has been done? Any work product to share? **(Chao)**

*Staff response: The rate schedule for Rate Year 4 for Recology was presented to and adopted by City Council on December 5, 2023. The materials presented for this item can be found in the agenda packet from that meeting. HF&H has also completed the review and audit of the hauler. This audit has verified that the hauler is in substantial compliance with the terms of the agreement.*

Q6: The staff report states "The City needs the support of HF&H to continue to negotiate and secure new post-collection services within the City as the task is multi-phased and multi-faceted and is expected to result in more than one negotiated agreement. Due to complexities in procurement, securing these services requires additional time and budget."

The request is to increase the contract amount by \$80,000. It's only been two years since HF&H's first contract. Why has the complexity to "negotiate and secure new post-collection services" changed in the past two years that was not expected back in May 2022? **(Chao)**

*Staff response: Procurement processes have been revised since the original contract was initiated. Additionally, due to the varied services being considered with the project, the procurement approach has been revised to limit the City's exposure to risk and liability. These efforts have required an extensive amount of work that was unanticipated.*

Q7: How much has been spent on the total amount of \$350,000 (original contract amount from May 2022)? What they have been spent on? **(Chao)**

*Staff response: As stated in the staff report, HF&H has completed the cost-based rate adjustment for the fourth year of the franchise agreement, as well as a review and audit of the hauler. Additionally, the consultant has spent time preparing and modifying the post-collection request for proposal (RFP) information. While the RFP document is not yet complete, the majority of this effort has been prepared, with public release of the RFP expected in June or July 2024. Upon successful completion of the RFP process, additional time is necessary to negotiate the various agreements, prepare information, and assess the necessary adjustments in costs.*

*Approximately \$44,000 is remaining of the \$350,000 in the original agreement. A breakdown of the expenditures can be found in Attachment B to the staff report. Each of the service orders listed is associated with the three efforts listed above.*

Attachments Provided with Original Staff Report:

- A - First Amendment to HF&H Master Agreement
- B – HF&H MSA for Solid Waste Consulting Services
- C – Draft Resolution

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HF&H Consultants, LLC  
Master Agreement

Supplemental Report



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**CITY COUNCIL STAFF REPORT  
SUPPLEMENTAL 1  
Meeting: May 7, 2024**

Agenda Item #8

Subject

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Recommended Action

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3. Adopt Resolution No. 24-xxxx approving budget modification #2324-339, approving a Budget Adjustment in the amount of \$80,000 in the Resource Recovery Fund for HF&H Consultants, LLC (520-81-801 750-174).

Background:

Q1: Why is there an increase in hourly in two years from the amount in the original contract? How much of the \$80,000 increase is due to the increased hourly fee?

From the May 2022 contract:

HF&H proposes the following billing rate schedule for the three-year qualification period. Specific hourly rates for the four core team members are: Rob Hilton - \$325, Peter Deibler - \$305, Danielle Derby - \$215, and Alison Griffith - \$215.

<u>Position</u>	<u>Rate</u>
Executive	\$310 - \$325
Senior Project Manager	\$295 - \$305
Project Manager	\$250 - \$260
Senior Associate	\$215 - \$230
Associate Analyst	\$165 - \$175
Assistant Analyst	\$140 - \$155
Administrative Staff	\$115 - \$125

**New rate:**

The following hourly rates shall be effective beginning September 1, 2025. Specific hourly rates for the four core team members are: Rob Hilton - \$335, Peter Deibler - \$315, Danielle Derby - \$225, and Alison Griffith - \$225.

**Ranges by Position:**

Executive \$320 - \$335  
Senior Project Manager \$305 - \$315  
Project Manager \$260 - \$270  
Senior Associate \$225 - \$240  
Associate Analyst \$175 - \$185  
Assistant Analyst \$150 - \$165  
Administrative Staff \$125 - \$135

**(Chao)**

*Staff response: Consultant rates have increased in all sectors due to adjustments in consumer price indices (CPI). The previous hourly rates were from 2022, and the new rate adjustments have been implemented to partially address CPI changes in costs. Bay Area CPI has increased by approximately 7.7% since 2022. The adjusted hourly rates are being increased by approximately 3.5%, which is modest compared to overall increases in costs. The adjusted hour rates would result in approximately 3.5% of the amended contract increase.*

**Q2:** Why is there a need to change this paragraph of the contract? I did not see a redlined contract for comparison. What's changed?

1. Paragraph 3.1 of the Agreement is modified to read as follows: Term. This Agreement begins on the Effective Date and ends on August 31, 2026 ("Contract Time"), unless terminated earlier as provided herein. Contractor's Services shall begin on the effective date and shall be completed by August 31, 2026. The City's appropriate department head or City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City's purchasing policy.

**(Chao)**

*Staff response: The modification of this paragraph provides an extension to the term of the agreement until August 31, 2026, to enable the City to complete the project scope. The original agreement is set to expire on August 31, 2025.*

**Q3:** The resident has questioned about whether the Recology fees should be considered tax: "The franchise fee that we are charging to Recology are looking like a tax and we need to ensure that there is a nexus". Has any response been provided to them? Please forward them to me. **(Chao)**

*Staff response: This question is outside of the scope of the agenda item.*

**Q4:** The resident has questioned whether the Recology fee for Cupertino is much higher than other cities: "Our effective rate without the \$2.01 per month subsidy is \$44.20, making Cupertino higher than Campbell, Gilroy, Morgan Hill, and Mountain

View. The table below provides more data than the staff report. Recology serves Gilroy and Morgan Hill which cost less "Has any response been provided to them? Please forward them to me. **(Chao)**

*Staff response: This question is outside of the scope of the agenda item.*

Attachments Provided with Original Staff Report:

- A. *First Amendment to HF&H Master Agreement*
- B. *HF&H MSA for Solid Waste Consulting Services*
- C. *Draft Resolution*

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#10

2024 Legislative Update

Supplemental Report





## CITY MANAGER'S OFFICE

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### CITY COUNCIL STAFF REPORT SUPPLEMENTAL 1 Meeting: May 7, 2024

#### Agenda Item #10

#### Subject

2024 Legislative Update

#### Recommended Action

Receive an overview of pending legislation and direct staff to prepare and send letters taking positions on the following:

- 1) Bay Area Affordable Housing Measure (BAHFA) - Affordable Housing
- 2) Assembly Bill (AB) 1779 (Irwin) – Public Safety
- 3) Senate Bill (SB) 1143 (Allen) – Environmental – Waste Management

#### Background:

**Staff's responses to questions received from councilmember are shown in italics.**

Q1: Does the City and its lobbyist Gonsalves follow any adopted legislative platform when recommendation bills to watch or take positions? The very general Council goals are not sufficient guidelines. **(Councilmember Chao)**

*Staff response: The legislative priorities, which stem from the Council adopted goals, guide City staff and the lobbyist when researching and tracking bills. These priorities are listed in the staff report and in the January informational memorandum. In addition to working with our lobbyist, staff coordinates with various organizations like Cal Cities and the County Office of Strategic and Intergovernmental Affairs to review legislation. Staff also considers bills sent by Council and works internally with the City Attorney's Office and all departments to identify bills of interest.*

Q2: With the lack of adopted Council direction, as previously outline in the Legislative Platform, what is the process the City and its lobbyist Gonsalves to screen thousands of proposed bills and then decide which ones to bring to the attention of the Council for the May 7 Council agenda? **(Councilmember Chao)**

*Staff response: See response to Q1.*

Q3: I would like to double check if there had been any other legislative updates made available either to the entire Council or any individual Councilmembers since January

2024 so that I could be more informed about legislative issues. (**Councilmember Chao**)

*Staff response: None since January.*

Q4: Based on the timeline given in the Jan 17 memo, I suppose there should have been another memo with "an overview of upcoming legislation and potential activities as they align with Council priorities", since the Jan. 17 memo basically gave an overview of last year's activities with no information on "upcoming legislation and potential activities".

Thus, I wonder if I missed something. (**Councilmember Chao**)

*Staff response: The January informational memorandum outlined the process for this year and included an overview of the 2023 legislative session. The bill introduction deadline for new bills was in late February, so information on new bills was not available at that time. The timing of this overview is strategic as the activity in Sacramento is dynamic, with bill language changing often and the status of bills changing (e.g. bills being suspended) as well.*

Attachments Provided with Original Staff Report:

- A. *Legislative Update*
- B. *2024 State Legislative Bills of Interest*

CC 05-07-2024

# 11

Councilmember Reports  
Revised Attachment B

Desk Item



## CITY COUNCILMEMBER REPORT

Meeting: May 7, 2024

Reporting Councilmember: Vice Mayor J.R. Fruen

Report Dates: 4/9/24 to 4/29/24

Event Date, Title, and Description:

Event 1. April 10, 2024 – **Staff Briefing Regarding 6<sup>th</sup> RHNA Cycle Housing Element** – I met staff to discuss the state of the Housing Element. The timing proved auspicious as the California Department of Housing and Community Development (HCD) had just issued a letter finding the city’s draft Housing Element compliant contingent on adoption and rezoning. The meeting was a useful predicate for my April 15 meeting with our reviewer from HCD.

Event 2. April 11, 2024 – **Cities Association of Santa Clara County JPA Legislative Action Committee Meeting** – I attended this meeting in my capacity as Cupertino’s representative to the CASCC LAC. We discussed multiple positions on four specific bills and forwarded recommendations along to the Board for their consideration. The LAC will continue its deliberation on bill positions at its May 9 meeting. The LAC also received an update from Senator Josh Becker.

Event 3. April 13, 2024 – **San Jose Westgate Transportation Planning Focus Group** – The SJSU Department of Urban and Regional Planning, in coordination with the office of San Jose Vice Mayor Rosemary Kamei hosted a focus group session for local electeds and staff to examine challenges posed in a roughly one mile radius centered on the intersection of Prospect Road and Lawrence Expressway. Participants included San Jose Vice Mayor Rosemary Kamei, Campbell Union High School District Trustee James Kim, Campbell City Councilmember Anne Bybee, Saratoga Mayor Yan Zhao, Saratoga Vice Mayor Belal Aftab, Cupertino Councilmember Hung Wei, myself, and representatives of public works or transportation departments (or their equivalent) from San Jose, Cupertino, and the County of Santa Clara.

Event 4. April 14, 2024 – **Meeting with Advocates Opposed to Artificial Turf** – I met with Andrea Wald and resident Steven Hill about the environmental dangers created by artificial turf with specific emphasis on PFAS contamination. The meeting was productive and illuminating.

Event 5. April 15, 2024 – **Meeting with California Department of Housing and Community Development** – At my request, our Housing Element reviewer, Jose Juaregui, and his supervisor, Melinda Coy, met with me to discuss the city’s most recent Housing Element iteration. Among other items, they emphasized that the document should not be changed unless such changes make it “more ambitious” and that Strategy HE 1-3-6 would require Cupertino to revisit and loosen its R-2 zoning standards.

Event 6. April 20, 2024 – **Cupertino Earth & Arbor Day** – Along with the rest of the City Council, I participated in our Earth and Arbor Day activities at Library Field. In addition to honoring our tree maintenance staff, we also helped to plant a new oak tree in Wilson Park. Overall, the event was very well attended. This year’s food trucks were better positioned and helped support collective reuse of cups.

Event 7. April 20, 2024 – **Citizens for Better Community Gala** – TI attended this annual charity event in Fremont as a guest. CBC supports a variety of good works in the East and South Bay. At this year’s gala, they awarded numerous grants in support of organizations like Youth4Good.

Event 8. April 22, 2024 – **Reception of Student Delegation from Cupertino Sister City** – Together with the entire City Council, I joined the city’s welcome reception for a delegation of students from our oldest sister city, Cupertino, Italy. The visit included a presentation and tour from the city manager and staff for which I helped interpret.

Event 9. April 23, 2024 – **Induction Cooking Demonstration with Chef Martin Yan** – Together with Mayor Mohan, and Councilmembers Wei and Moore, I attended a demonstration of induction cooktop food preparation presented by celebrity chef Martin Yan. The event was put together by Silicon Valley Clean Energy and San Jose Clean Energy. The presentation was well-attended and well-received.

Event 10. April 26, 2024 – **Meeting with BSA Scout Regarding School Enrollment** – I met with BSA Scout Thejas who asked questions about school enrollment and how the city and school district can stem school enrollment declines.

Event 11. April 26, 2024 – **Silicon Valley Chinese School 50<sup>th</sup> Anniversary Celebration** – Along with a number of elected and appointed officials in the West Valley, I joined the Silicon

Valley Chinese School for its celebration of its 50<sup>th</sup> Anniversary at the campus of Lynbrook High School. On behalf of Mayor Mohan and the City Council, I presented them with a Certificate of Recognition in honor of the occasion.

Event 21. April 27, 2024 – **Cupertino Cherry Blossom Festival** – Together with Mayor Mohan, and Councilmembers Moore, I attended the ceremonial opening of the Cupertino Cherry Blossom Festival. The ceremony included comments from the Consul General of Japan, awards to Virgil and Trish Klein for their years of volunteerism in support of the Cupertino-Toyokawa Sister City Association (the organizer of the event), in addition to comments offered by the Mayor, and representatives of Congressman Ro Khanna’s office and Assemblymember Evan Low’s office, among others. Overall, it was a joyful and well-attended event.