## STAFF REPORT

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| **Agenda Item:** | 5 and 6 | **Name:** | Mary BourguignonTerra Rose |
| **Proposed No**.: | 2017-03242017-0325 | **Date:** | October 18, 2017 |

**SUBJECT**

**PO 2017-0324** would approve a **construction agreement** between King County and the City of Algona for the proposed South County Recycling and Transfer Station.

**PO 2017-0325** would approve a **land transfer agreement** between King County and the City of Algona for the proposed South County Recycling and Transfer Station.

**SUMMARY**

Ordinance 15979 called for the development of a new transfer station in South County. In response, the Solid Waste Division (SWD) evaluated potential locations, purchased a preferred site adjacent to the existing transfer station on West Valley Highway S in the City of Algona, and completed a Final Environmental Impact Statement (FEIS).

In October 2016, the City of Algona appealed the County’s transfer station FEIS. The two proposed agreements, which the Algona City Council has already approved, would outline the conditions through which Algona would drop its appeal. Both agreements must be approved for the project to move forward.

The proposed **construction agreement** (PO 2017-0324) would:

* Set parameters and a timeline for the construction of the new transfer station;
* Outline permitting and mitigation requirements;
* Set the terms for the City to vacate street right-of-way on the new site; and
* Identify mitigation the County must complete on the West Valley Highway.

The proposed **land transfer agreement** (PO 2017-0325) would:

* Outline the County’s responsibilities for “deconstructing” the existing transfer station site and performing environmental cleanup;
* Require the County to transfer the existing transfer station site to the City; and
* Agree to a boundary adjustment for the City to control the right-of-way on West Valley Highway adjacent to the existing transfer station site.

**BACKGROUND**

**History and Algona Agreements.** The existing Algona Transfer Station is located at 35315 West Valley Highway S in Algona. The property is a total of 191,664 square feet and came into County ownership in stages between 1930 and 1962. The existing transfer station was constructed on this property in the mid-1960s. (See Attachment 8, Area Map)

In December 2007, the Council approved the *Solid Waste Transfer and Waste Management Plan*, which recommended that King County modernize the regional solid waste transfer system to accommodate a growing population and to provide efficient and cost-effective services to customers. Specifically, the plan called for the construction of four new transfer stations, including a new South County Recycling and Transfer Station to be built on a new site at a location to be determined.[[1]](#footnote-1)

SWD proceeded with a process to identify a location for a new South County transfer station and purchased a property at 35101 West Valley Highway in Algona (directly north of the existing transfer station) in 2012. The new property consists of several parcels totaling just over 325,000 square feet.

The 2014 Transfer Plan Review Final Report[[2]](#footnote-2) reiterated the recommendation for a new South County Recycling and Transfer Station at a new location, noting that:

“A new South County Recycling and Transfer Station to replace the nearly 50-year-old Algona Transfer Station is critical to providing adequate services to the south county. Without a the new facility, south county residents and commercial haulers would primarily use the Bow Lake Recycling and Transfer Station, resulting in longer driving distances and higher costs.”[[3]](#footnote-3)

Following that report, SWD completed an environmental review process for the proposed new transfer station, evaluating two “action alternatives” at 901 C Street SW in Auburn and at 35101 West Valley Highway S in Algona, as well as a “no action alternative” that would retain the existing transfer station at 35315 West Valley Highway S in Algona. SWD published a Final Environmental Impact Statement (FEIS) on September 20, 2016.

In October 2016, the City of Algona appealed the County’s FEIS.

In February 2017, the County identified the new Algona property at 35101 West Valley Highway S as the proposed site for the new South County transfer station.

SWD and the City of Algona entered into negotiations to identify the conditions under which the proposed new transfer station would be acceptable to the City of Algona. These negotiations led to the development of two agreements: a construction agreement and a land transfer agreement.

On June 28, 2017, the Algona City Council passed legislation[[4]](#footnote-4) approving the construction agreement and the land transfer agreement. In August 2017, the two agreements, as approved by Algona, were transmitted to the County Council (PO 2017-0324 and PO 2017-0325). Both agreements must be approved for the project to move forward.

On July 26, 2017, the site of the existing transfer station, at 35315 West Valley Highway S, was declared surplus to the County’s needs. Due to its C-3, Heavy Commercial zoning, it was determined to be inappropriate for use for housing. The property would be transferred to the City of Algona as part of the proposed land transfer agreement.

**Report on Procurement Methods.** In October 2012, as SWD was in the process of scoping requirements for the proposed new South County transfer station, the County Council approved an ordinance[[5]](#footnote-5) requiring that, prior to design work on any new transfer stations following the Factoria Recycling and Transfer Station, SWD must prepare and transmit a report on alternative contracting methods.

This requirement for a report was imposed following the completion of a 2011 audit by the County Auditor, *Performance Audit of Solid Waste Transfer Station Capital Projects,* that recommended that during the process of updating the transfer system network, “SWD should provide county policy-makers and regional partners systematic analysis of the incremental cost impacts of the number and capacities of the transfer stations, the functionalities of the stations, and an assessment of which project financing and delivery method is most likely to result in lower capital costs” *[[6]](#footnote-6)*

The report required by Ordinance 17437 focused on project delivery methods and required SWD to provide:

* A review of major procurement methods following site selection and environmental assessment, but before proceeding with site or facility design;
* Analysis of at a range of potential contracting methods, including at least: Competitive Negotiated Procurement,[[7]](#footnote-7) Traditional Public Works Bidding, Developer-Delivered,[[8]](#footnote-8) and Design-Build; and
* For each potential procurement method, and analysis of projected costs, benefits, schedule, project features, and overall ratepayer value for design and construction.

SWD transmitted the report, *Analysis of Alternative Procurement Methods for the Design and Construction of New Solid Waste Recycling and Transfer Station Projects* on September 21, 2017.[[9]](#footnote-9) The report notes that the South County Recycling and Transfer Station would be designed for an approximately 50-year life span and include:

* An enclosed transfer building of approximately 60,000 square feet (with up to 10,000 square feet of expansion potential) to allow for high-volume waste handling and compacting;
* Dedicated recycling areas;
* A scale house and areas for on-site queuing;
* LEED[[10]](#footnote-10) Platinum certification (with the potential to seek Living Building Challenge certification); and
* Support facilities including administrative areas, a fueling station, trailer parking, stormwater management, an area for an optional moderate risk waste collection facility, and perimeter fencing.

The report concludes that, based on its evaluation, SWD recommends using **traditional public works bidding** as the procurement method for the South County Recycling and Transfer Station. The report concludes that this method would provide the best overall ratepayer value in terms of balancing schedule, cost, quality, and risk performance, and would also provide SWD the most control during the design and permitting process. Please note that although SWD’s report recommends this procurement method, the choice of procurement method for the South County transfer station would not be finalized until the “Project Decision Date” of September 30, 2019 that is identified in the proposed construction agreement as the County’s deadline to select a procurement method, notify the City of Algona, and begin steps toward construction. Because the new South County transfer station has been identified as a high risk capital project that requires mandatory phased appropriation, the Council will be asked to review and approve appropriations for each phase of design and construction. There is a more detailed discussion of budgeting later in this staff report.

**ANALYSIS**

As noted above, the City of Algona City Council has approved both agreements. County Council approval is needed before the project can move forward.

**Construction Agreement (PO 2017-0324).** The proposed construction agreement would, “provide for regulatory certainty and mitigation” to allow the County to construct the new station and then close the existing one.[[11]](#footnote-11) Specifically, it would require that:

* **Procurement method to be identified.** By September 30, 2019 (the “Project Decision Date”), the County must select a procurement method, notify the City, and take the first major step toward construction[[12]](#footnote-12) (§1.3).
* **City and County agree to mitigation and permitting.** The City and County would agree to a number of conditions that would govern the permitting and construction processes, including:
	+ The County must comply with the City’s development standards (§2.2 and Exhibit A), must pay for the cost of needed permits (up to $300,000) (§1.4), and must obtain a Conditional Use Permit (City may condition but not deny) (§2.10);
	+ The City would agree the mitigation included in the FEIS is adequate and the County must complete it prior to receiving a certificate of occupancy (§2.5);
	+ The County would be responsible for new or modified utilities needed to serve the new station (with a latecomers’ agreement to be developed) (§2.4);
	+ The County and City agree to use the Mitigation Reserves Program for in lieu fee mitigation to address wetlands on commercially zoned properties in the City (§2.8).
* **The County must complete initial and ongoing mitigation on West Valley Highway.** The County would agree to undertake a number of improvements and maintenance activities along the West Valley Highway to mitigate the impact of traffic to the new transfer station, including:
	+ The County would agree to repair, grind and provide asphalt overlay on specific areas (Segments 2A, 2C and 2D) on the West Valley Highway (Exhibit B) and do repair, frontage, and turn lane improvements to another area (Segment B3) (§3.1);
	+ The County would reimburse the City for up to $100,000 of City local matching funds for improvements and mitigation to Segment 2A (§3.4);
	+ On an ongoing basis, the County SWD must pay a proportionate share for spot repairs and asphalt overlay for Segments 2A, 2B, 2C, and 2D (§3.2).
* **County and City agree on street vacation process.** The County would agree that the City owns the street right-of-way within the boundaries of the new project property (Exhibit D), which the City would agree to vacate prior to the County receiving a building permit, with the County to pay for appraisals and the full value of the right-of-way (§5).
* **County and City agree to dispute resolution process.** The agreement outlines the terms for dispute resolution and, if necessary, selection of an arbitrator (§12).

**Land Transfer Agreement (PO 2017-0325).** The proposed land transfer agreement would cover the County’s deconstruction, clean up, and transfer to the City of the existing transfer station property, as well as the ownership, maintenance, and operation of the West Valley Highway between Fifth Ave S and First Ave N (§1.1). Specifically, it would require that:

* **County to test, deconstruct and transfer existing station property to City.** The County would agree to transfer the existing transfer station to the City after completing environmental cleanup, including:
	+ Completing additional hazardous substance testing in addition to Phase 1 Environmental Site Assessment, which has already been completed (§2.1);
	+ Deconstructing the existing station by removing all of the facility except the gabion wall, stormwater facilities, and sewer/water lines within 18 months of station closure (§5, 6, 7, 8);
	+ Cleaning the property to State standards for industrial properties and indemnifying the City (§2.1, §9);[[13]](#footnote-13) and
	+ Conveying the existing property to the City (§3 and Exhibit C).[[14]](#footnote-14)
* **City boundary to be adjusted on West Valley Highway between Fifth Avenue S and First Avenue N.** Because the right-of-way on West Valley Highway between Fifth Avenue S and First Avenue N[[15]](#footnote-15) is split between the City and County, the agreement would commit the parties to enact the necessary ordinances at the time of transfer (Exhibit E) to revise the corporate boundary of City to include the full width of West Valley Highway and for the County to convey its right-of-way to the City (§ 4).

**Fiscal Impacts.** The fiscal note for PO 2017-0324, the construction agreement, estimates a total of $400,000 in costs to the County over the 2017-2018 and 2019-2020 biennia: $100,000 in 2017 to reimburse the City of Algona for its share of a grant for road pavement overlay; and $300,000 to reimburse the City for the cost of needed permits and the permit review process.

In terms of the construction of the proposed new transfer station and the clean-up and deconstruction of the existing station, the 2017-2018 budget[[16]](#footnote-16) estimated the total budget for the project as $113 million. The project has been identified as high-risk and is subject to mandatory phased appropriation.[[17]](#footnote-17) As such, project review occurs at each phase, and appropriations are made on a phase-by-phase basis. The project currently has $8.8 million appropriated for planning and design. Executive staff indicate that additional funding for design, as well as the first phase of funding for implementation (for an estimated total of $40 million) will be sought as part of the 2019-2020 budget. Construction is anticipated to begin in 2020, with the new transfer station opening in 2022.

The proposed agreements represent concurrence between the Executive and the City of Algona; they have been approved by the Algona City Council (see Attachment 7 for Algona Resolution 1167-17). Legal counsel and policy staff have reviewed the proposed agreements. Proposed Ordinance 2017-0325 requires public notice prior to action at full Council. It is tentatively scheduled for a hearing at Council on Monday, November 13, 2017.

**ATTACHMENTS**

1. Proposed Ordinance 2017-0324 and its attachment
2. Proposed Ordinance 2017-0325 and its attachment
3. Transmittal Letter
4. Fiscal Note for Proposed Ordinance 2017-0324
5. Fiscal Note for Proposed Ordinance 2017-0325
6. Property Summary
7. City of Algona Resolution No. 1167-17
8. Area Map

**INVITED**

1. Pat McLaughlin, Director, Solid Waste Division
1. Ordinance 15979, Attachment A, Proposed Recommendations, Solid Waste Transfer and Waste Export System Plan, p. 15. [↑](#footnote-ref-1)
2. Motion 14145 [↑](#footnote-ref-2)
3. Motion 14145, Attachment A, Transfer Plan Review Final Report, p. 2. [↑](#footnote-ref-3)
4. City of Algona Resolution No. 1167-17 [↑](#footnote-ref-4)
5. Ordinance 17437 [↑](#footnote-ref-5)
6. King County Auditor Report No. 2011-03, King County Council Briefing 2011-B0142 [↑](#footnote-ref-6)
7. RCW 36.58 [↑](#footnote-ref-7)
8. With and without private financing [↑](#footnote-ref-8)
9. 2017-RPT0127 [↑](#footnote-ref-9)
10. Leadership in Energy and Environmental Design [↑](#footnote-ref-10)
11. There are two typographical errors in the construction agreement. In Recital F (p. 2), the RCW citation should be RCW 36.58.080. In the introductory paragraph to Section 1.3, Ordinance 187434 should be correctly noted as Ordinance 17437. As these are minor errors, they can be corrected by Executive staff when the agreement is prepared for execution. [↑](#footnote-ref-11)
12. As noted above, SWD has indicated its intention to proceed with traditional public works bidding [↑](#footnote-ref-12)
13. It should be noted that the County’s indemnification of the City would extend past the transfer of the property, such that is there is a release of hazardous substances on or under the existing station that is not discovered until after the property is transferred to the City, the County would be obligated to defend and indemnify the City. [↑](#footnote-ref-13)
14. Prior to the property conveyance, the City must certify that the deconstruction work has been completed satisfactorily (§5). The agreement does not specify the form this certification would take. Executive staff may wish to work with their counterparts at the City to agree in advance on the method (letter, email, etc.) in which this certification would be communicated, as the point of certification triggers a number of actions related to the property conveyance. [↑](#footnote-ref-14)
15. The affected area is south of the area of the existing and proposed transfer stations, in an area in which West Valley Highway S marks the boundary between the City and unincorporated King County. [↑](#footnote-ref-15)
16. Ordinance 18409 [↑](#footnote-ref-16)
17. K.C.C. 4A.130 [↑](#footnote-ref-17)