



BUSINESS OF THE CITY COUNCIL CITY OF SNOQUALMIE

AB22-144
October 10, 2022
Committee Report

AGENDA BILL INFORMATION

TITLE:	AB22-144: Temporary License Agreement with Girard Resources & Recycling	<input type="checkbox"/> Discussion Only
PROPOSED ACTION:	Move to approve the Temporary Revocable License Agreement with Girard Resources & Recycling, LLC and authorize the Mayor to sign.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

REVIEW:	Department Director/Peer	Mike Chambless	Click or tap to enter a date.
	Finance	n/a	Click or tap to enter a date.
	Legal	Bob Sterbank	Click or tap to enter a date.
	City Administrator	Mike Sauerwein	Click or tap to enter a date.

DEPARTMENT:	Parks & Public Works		
STAFF:	Jeff Hamlin, Bob Sterbank		
COMMITTEE:	Parks & Public Works	COMMITTEE DATE: October 4, 2022	
MEMBERS:	Bryan Holloway	Jo Johnson	Ethan Benson
EXHIBITS:	1. Temporary Revocable License Agreement 2. Conceptual Drawing of Drainage Improvements		

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUESTED	\$ n/a

SUMMARY

INTRODUCTION

This agenda bill would approve a Temporary License Agreement between the City of Snoqualmie and Girard Resources & Recycling, LLC ("Girard"). The Agreement would authorize Girard to make certain improvements to a portion of the property leased by Girard adjacent to the City's wastewater treatment plant, and to discharge stormwater runoff from the leased property to stormwater detention ponds located east of the wastewater treatment plant.

LEGISLATIVE HISTORY

Resolution No. 1366, adopted September 26, 2016. This resolution declared a portion of certain property (King County Parcel No. 3024089079) surplus to the City's current and future municipal utility needs for the reasonably foreseeable future, and that the portion of the property was not required for wastewater treatment or other municipal utility purposes and could instead be leased to third parties.

Res. 1366 also authorized the City to lease this surplus property to Girard Resources & Recycling, LLC (“Girard”).

BACKGROUND

A. Former Sewage Lagoons

Until the mid-1990s, the City’s wastewater treatment plant utilized open-air lagoons as part of the secondary wastewater treatment plan. By the early 1990s, it had been determined that the lagoons were unlined, leaking, and lacked capacity to serve additional development within the City. The City and its consultants identified necessary improvements for the wastewater plant, including construction of secondary clarifiers and sludge storage/treatment facilities to provide additional treatment capacity for the anticipated Snoqualmie Ridge developments, and to also allow for use of the lagoons to be discontinued. The City entered into various 1996 agreements with Weyerhaeuser Real Estate Company (“WRECO”), including a Developer Extension Agreement and an Easement and Agreement. The new wastewater facilities were constructed in 1997, and use of the lagoons discontinued.

In March 2006, the Washington Department of Ecology notified the City that even though the lagoons were no longer being actively used for controlled wastewater treatment, biosolids continued to be physically present in the lagoons. Ecology determined that this constituted “storage” of the biosolids, but that the storage had exceeded the 2-year limit allowed by applicable federal biosolids regulations. Ecology requested that the City prepare a plan for removal and disposal of the biosolids, and for handling of biosolids generated by future wastewater operations. Ecology also required that if the lagoons were to be used for future biosolid storage, they needed to be lined to prevent groundwater contamination, and biosolids had to be regularly removed to ensure that storage did not exceed the 2-year regulatory limitation. Ecology then issued a Notice of Violation for discharge of sewage sludge leachate from the lagoons to groundwater, and required the City to submit a report identifying what had been / was being done to stop the discharge to groundwater.

Thereafter, after preparation of the required plans and environmental review in 2010, the City entered into a letter agreement in 2011 to allow Girard to dispose of the biosolids and to place 150,000 cubic yards of clean, compactible fill in the lagoons, in exchange for Girard’s agreement to comply with the conditions of a geotechnical report and indemnify and hold the City harmless from damages, penalties, fees or fines resulting from Girard’s activities, or from any discharge by Girard of hazardous substances present in any fill deposited in the former lagoons. The letter agreement had a term of 4.5 years, which was extended twice, until August 1, 2016.

B. City Lease to Girard

On September 26, 2016, the City Council approved Res. No. 1366, which authorized a lease to Girard of the surplus property created by virtue of Girard’s activities filling the former lagoons. The lease authorized use of the property for Girard’s “earth materials use, sales and distribution”; in practical terms, Girard recycles concrete, asphalt and other fill materials, and dewateres and processes concrete slurry, then re-uses the resulting concrete, soil and earth products. This work involves a concrete crushing machine, and truck delivery and pickup of concrete, soil and compost materials. Girard’s lease requires it to be responsible for compliance with all applicable laws and regulations, and to obtain any necessary permits, licenses or approvals required by any governmental bodies or agencies.

C. Waste Action Project v. Girard

On April 2, 2021, a citizen's group known as Waste Action Project ("WAP") filed a citizen suit against Girard under the federal Clean Water Act ("CWA"). In its complaint, WAP alleged that Girard violates the CWA by discharging stormwater associated with industrial activity to the Snoqualmie River without authorization under a National Pollutant Discharge Elimination System ("NPDES") permit. While Girard's operation is authorized in part by a State Waste Discharge Permit, this permit governs the discharge of wastewater generated by the concrete slurry dewatering process to the City's Water Reclamation Facility. The Waste Discharge Permit does not authorize or regulate stormwater discharged from the property at the Girard lease site. WAP alleged that Girard was required to seek coverage under one of two possible NPDES Permits: the Industrial Stormwater General NPDES Permit or the Sand & Gravel General NPDES Permit.

To address the WAP lawsuit allegations, Girard proposes to make certain improvements to the leased property, so that it will direct stormwater generated on the site to two stormwater ponds located adjacent to the east of the City's wastewater plant. From the ponds, stormwater would then eventually discharge to a large, constructed wetland located east of the two ponds, from which it will eventually drain to the Snoqualmie River. The two ponds were originally constructed to accommodate drainage from the property while the wastewater plant improvements and the lagoon-filling work was performed. To accommodate this proposal, Girard has requested that the City authorize its access to the ponds by approving a temporary license agreement. Girard then plans to seek coverage under one of the two available general stormwater NPDES permits. WAP has indicated that such actions can facilitate resolution of the pending lawsuit.

ANALYSIS

The proposed Temporary License Agreement would authorize Girard to construct a stormwater conveyance system that would utilize an open-air ditch along the north boundary of the Girard lease site, to a pre-settling area, from which it would drain to two stormwater ponds. In addition, Girard would install a pump to send overflow stormwater drainage from a pond, located to the southwest of the Girard leased property through a force main to the open-air ditch, which would then drain to the two stormwater ponds along with other stormwater from the Girard leased property. The conveyance system will include an installation of a pump, pipe, and drainage ditch for the conveyance of stormwater. The Agreement functions to authorize Girard's use of two stormwater ponds, as well as to install a pump and the force main across other City property, to convey overflow drainage to the open-air ditch and then into the two stormwater ponds. The Temporary License Agreement does not require the City to bear the cost of any of the work or improvements authorized in the Agreement.

BUDGET IMPACTS

N/A at this time. Girard will bear the costs of constructing stormwater improvements authorized by the temporary license agreement, in order to address its pending litigation brought by Waste Action Project.

NEXT STEPS

Girard has requested that the City consider a new, longer term lease governing its use of the currently-leased property. Staff plan to present more information pertaining to Girard's request at future Committee meetings, following Girard's resolution of the pending litigation. If approved, a longer-term lease could supersede the temporary license agreement.

PROPOSED ACTION

Move to approve the Temporary Revocable License Agreement with Girard Resources & Recycling, LLC and authorize the Mayor to sign.