



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper
Kerrie Romanow

**SUBJECT: CALIFORNIA WATER AND
WASTEWATER ARREARAGE
PAYMENT PROGRAM**

DATE: December 17, 2021

Approved

Date

12/17/21

COUNCIL DISTRICTS: 2, 4, 7, 8

RECOMMENDATION

- 1) Accept the staff report regarding the California Water and Wastewater Arrearage Payment Program (“Program”).
- 2) Adopt a resolution:
 - a. Ratifying the City of San José application for the Program, and authorizing the City Manager, Director of Finance or their designees to negotiate and execute the necessary agreements, including any amendments or revisions, and other actions, to execute the grant and fulfill the Program requirements, and
 - b. Accepting up to \$663,000, or the amount awarded, in Program funding; and
 - c. Authorizing the Director of Finance to waive late fees for any arrearage accounts whose approval exceeds the Director of Finance signature authority, for an estimated total of \$37,601, in compliance with Program requirements; and
 - d. Authorizing the City Manager, Director of Finance or their designees to apply for, negotiate and execute any documents, and take other actions necessary to receive Program funds for wastewater arrearages if future funding becomes available, including the waiver of interest or late and other fees.

OUTCOME

The proposed action allows the City of San José (“City”) to fully participate in the Program to provide customer relief for unpaid potable water bills and positions the City to take part in any future opportunities for wastewater arrearages and further authorizes the Director of Finance to waive late, interest, and other fees, as well as take any other action, as required for Program participation.

BACKGROUND

The San José Municipal Water System (“SJMWS”) is a rate-funded utility, intended to operate at full cost recovery, which provides water to approximately 26,000 customer accounts, serving a population of about 130,000 people in the North San José, Alviso, Evergreen, Edenvale, and Coyote Valley areas. Water customers are billed on a bimonthly basis and charged a flat service charge based on the size of the water meter, as well as a quantity charge per unit of water used.

The COVID-19 pandemic has led to job loss and other financial hardships for many San José residents and businesses. In early 2020, the State of California enacted a moratorium on utility disconnections for nonpayment, which remains in effect through at least December 31, 2021. In April 2020, Council approved an ordinance to allow for suspension of late payment charges for water bills with due dates ranging from March 17, 2020 through June 30, 2020. Pandemic-related economic hardship has continued for the public, leading to an increase in unpaid water bills. In December 2019, prior to the COVID-19 pandemic, water customers had a cumulative outstanding balance of approximately \$250,000; this balance has grown to approximately \$1.4 million as of June 2021.

The American Rescue Plan of 2021 (“ARPA”) was adopted by the federal government to provide support and relief for Americans affected by the pandemic. The State of California, via the State Water Resources Control Board (“SWRCB”), requested this ARPA funding to establish the Program¹ and intends to distribute funding to eligible water providers that have accrued residential and commercial arrearages during the relief period of March 2020 through June 2021 (“Relief Period”). In addition to distributing funding to cover customer arrearages, the Program also allows water providers to request an additional three (3) percent of funding for administrative expenses incurred in complying with Program requirements. Water providers that are approved for Program funding must provide bill credits to unpaid water charges accumulated during the relief period within 60 days of receiving State funds.

ANALYSIS

The SWRCB surveyed all potable water providers during August and September 2021 to determine statewide accrued residential and commercial arrearages. Finance and Environmental Services Department staff submitted an initial estimate for the SWRCB survey on September 10, 2021. On September 22, 2021 the State adopted final Program guidelines and requirements. On September 29, 2021 the State opened its application period, with a December 6, 2021 deadline, by which water providers must apply and provide supporting documentation for their arrearage funding request.

Potable water providers participating in the Program must comply with several requirements, including:

¹ California Water and Wastewater Arrearage Payment Program
https://www.waterboards.ca.gov/arrearage_payment_program/

- Allocate payments as bill credits to customer accounts within 60 days of receiving payment;
- Waive customer late fees for any arrearages accrued during the Relief Period;
- Notify customers of the amount credited, and offer to enroll customers with remaining debt into a payment plan;
- Not discontinue water service until the customer defaults on the payment plan or misses the deadline to enroll in the payment plan;
- Report on expenditures and customer credits.

On December 3, 2021, staff submitted a final application with a funding request of \$643,419 plus the estimated allowable 3% of administrative costs of \$19,303, for a combined total of approximately \$663,000 in requested Program funds. In addition, per Program requirements, a total of \$413,583 of late fee payments incurred between March 2020 and June 2021 will be waived. Of this amount, \$37,601 is above the Director of Finance’s authority² to waive and requires City Council approval. The table below categorizes these funds by account type. The State anticipates being able to disburse 100 percent of requested amounts to water providers.

California Water and Wastewater Arrearage Payment Program Potable Water			
Customer Type	Service Arrearages	Late Fees (To be Waived)	Total
Water Single Family	\$ 595,478	\$ 368,718	\$ 964,196
Water Commercial	47,941	44,865	92,806
Subtotal Arrearages	\$ 643,419	\$ 413,583	\$ 1,057,002
Estimated 3% Administrative Funding Allowed	19,303		
Total Funding Estimated	\$ 662,719		

In addition to the potable water funds, the State messaged that there may be similar funds available for wastewater arrearages, which, per SWRCB guidelines, will be established no later than February 1, 2022. It is anticipated that the same program condition of a waiver of late fees and charge will be required to participate in a wastewater program. Staff seeks authorization to apply for and execute any documents necessary for the City and its customers to receive this funding.

CONCLUSION

Staff will provide bill credits to eligible customer accounts within 60 days of receiving Program funding and will implement all other Program requirements, including customer notification, reporting, and waiving of late fees. Staff has identified five (5) customer accounts which have late fees that exceed the Director of Finance’s signature authority. Council’s approval is required to waive these late fees. In addition, this action will better position the City to participate in any wastewater arrearage program.

² Per San José Municipal Code §4.24.030, *Write-off of uncollectible accounts authorized when.*

EVALUATION AND FOLLOW-UP

Staff will continue to provide information to the State as necessary to facilitate participation in the Program and will bring back further actions related to this recommendation as necessary. Staff will also return to Council to respond to the referral from Councilmember Esparza, approved along with the adoption of the 2021-2022 Budget, to explore options to relieve debt incurred by residents during the pandemic through fees and fines issued by the City, with a focus on fees and fines that disproportionately affect low-income communities.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the January 11, 2022 Council Meeting.

COORDINATION

This item has been coordinated with the Office of the City Attorney and City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

The San José Municipal Water Rates Reduction Strategy Manager's Budget Addendum addressed a pathway to reducing San José Municipal Water rates. including reviewing strategies to utilize federal assistance to cover the costs incurred by the system due to families' inability to pay water bills.

COST SUMMARY/IMPLICATIONS

The recommended action will result in the City's Water Utility Fund receiving up to \$644,000. Once the final amount has been received and a reconciliation of payments is completed, the revenue will be recognized and appropriated to the Water Utility Fund ending fund balance as part of a future budget action. Similarly, approximately \$19,303 is estimated to be received in the General Fund to offset administrative costs, which will also be part of a future budget action. In addition, the City will waive late fees of approximately \$414,000 that would otherwise be payable by customers with unpaid bills.

CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

/s/

JULIA H. COOPER
Director of Finance

/s/

KERRIE ROMANOW
Director of Environmental Services

For questions, please contact John Kachmanian, Deputy Director of Finance – Revenue Management at john.kachmanian@sanjoseca.gov or (408) 535-7034 or Jeff Provenzano, Deputy Director of Environmental Services at jeff.provenzano@sanjoseca.gov or (408) 277-3671.