



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jeff Provenzano

SUBJECT: See Below

DATE: April 22, 2025

Approved

Date:

5/8/2025

COUNCIL DISTRICT: Citywide

SUBJECT: Option Agreement for Amendment to Ground Lease and Property Use Agreement with Santa Clara Valley Water District

RECOMMENDATION

Adopt resolutions:

- (a) Declaring the City-owned property located on the east side of Zanker Road, north of State Route 237 in San José, consisting of 1 parcel of land totaling approximately 2 acres, further identified as Assessor's Parcel Number 015-31-063 as "exempt surplus land" pursuant to California Government Code § 54221(f)(1)(D) and in accordance with San José Municipal Code § 4.20.080(B)(2) as a transfer of surplus property to another local, state, or federal agency for that agency's use; and
- (b) Authorizing the City Manager or her designee to:
 - (1) Negotiate and execute the Option Agreement for First Amendment to Ground Lease and Property Use Agreement; and
 - (2) Negotiate and execute the First Amended Ground Lease and Property Use Agreement for the Advanced Water Treatment Facility between City of San José, City of Santa Clara and the Santa Clara Valley Water District, and the First Amended Recycled Water Facilities and Programs Integration Agreement, and the Amended and Restated Agreement for Operation and Maintenance of the Silicon Valley Advanced Water Purification Center between the City of San José and the Santa Clara Valley Water District, upon satisfaction of the conditions to exercise the option including the completion and approval of environmental review for the proposed direct potable reuse demonstration facility in compliance with California Environmental Quality Act.

SUMMARY AND OUTCOME

Approval of this recommendation will enable Santa Clara Valley Water District (Valley Water) to secure an option for an amendment to the Ground Lease and Property Use Agreement for the construction of a direct potable reuse demonstration facility following satisfaction of certain conditions including environmental review and execution of related amendments to agreements for cost sharing, and operation and maintenance.

BACKGROUND

The City of San José (City) and Valley Water have historically collaborated to expand recycled water and augment the local water supply in the county. The City and Valley Water partnered on the construction of the Silicon Valley Advanced Water Purification Center (SVAWPC), an advanced wastewater treatment facility producing up to eight million gallons per day of purified water that is blended with treated effluent from the San José/Santa Clara Regional Wastewater Facility (RWF) to enhance recycled water quality distributed by the South Bay Water Recycling (SBWR) program. The City and Santa Clara are co-owners of the land surrounding the RWF, and the City serves as the administering agency for the RWF.

On March 2, 2010, the City and Valley Water entered into a Ground Lease and Property Use Agreement and the Recycled Water Facilities and Programs Integration Agreement (Integration Agreement). The Ground Lease and Property Use Agreement provided for Valley Water to construct and operate the SVAWPC on RWF premises. The Integration Agreement established a cost-sharing methodology between the parties to offset the cost of operating the SVAWPC. On October 23, 2012, the City and Valley Water executed an Operation and Maintenance Agreement for the SVAWPC (O&M Agreement).

In 2023, the City and Valley Water executed a letter of intent to collaborate on the expansion of recycled and purified water in the county. Valley Water's Board of Directors and the City Council also confirmed, in 2023, their commitment to:

- Support a joint water reuse program to meet local water supply needs;
- Support the development of a feasibility study, demonstration facility, and institutional agreements, including lease and wastewater availability agreements; and
- Support a coordinated public outreach program.

In 2024, the City and Valley Water entered into a Master Funding Agreement to provide for funding of City staff and other resources to support implementation of Valley Water's projects, including negotiation of agreements related to a purified water demonstration

facility and visitors center, technical assistance, and regulatory coordination regarding reverse osmosis concentrate management and disposal.

Valley Water seeks to evaluate the feasibility of purifying treated municipal wastewater for direct potable reuse (DPR) as a strategy to combat future droughts that are expected to be intensive under a changing climate. Before Valley Water can build a larger permanent DPR facility, Valley Water would construct and operate a demonstration facility to inform the eventual design and operation of a larger, full-scale, permanent DPR facility to comply with state regulations. The proposed DPR demonstration facility would include a visitor learning center for tours, education, outreach, and to garner public support. The DPR project could help the region meet local water supply goals, including the goal to meet at least 10% of the water demand in Santa Clara County through recycled and purified water.

ANALYSIS

The proposed Option Agreement for an Amendment to the Ground Lease (Option Agreement) would only be exercised, in part, upon the completion of environmental review and approval of CEQA determinations. The City of Santa Clara, as co-owner of the RWF, would also need to review and approve the proposed Option Agreement. The Option Agreement allows mutual ability to delay the exercise of the option as a result of the planning process or environmental review for the project.

The proposed Ground Lease and Property Use Agreement amendment will update the footprint of Valley Water's SVAWPC lease to account for the construction and operation of the DPR demonstration facility. Concurrently, a future Microsoft development may require expansion of the North Access Road, which would require a portion of the land currently included in Valley Water's footprint for the SVAWPC. Valley Water and Microsoft Corporation are negotiating the terms for relocation of the SVAWPC Visitor Center and related utilities as consideration for Valley Water's agreement to amend the footprint. The proposed Ground Lease and Property Use Agreement will allow for modification of the footprint to either keep the SVAWPC Visitor Center in its current location, or an alternative footprint to allow for expansion of the North Access Road and relocation.

In addition, the exercise of the option is conditioned on execution of the proposed amendments to the O&M Agreement and Integration Agreement. The proposed amended and restated O&M Agreement would update the operational obligations of the City and Valley Water to account for the production and treatment of the direct potable reuse water. Valley Water would treat up to 0.5 million gallons per day of its allotted 12 million gallons per day of secondary effluent that Valley Water currently receives from the RWF for processing into potable water. Valley Water may reserve up to 10% of the treated direct potable reuse water for bottling, education, and outreach purposes; and

the remainder will be blended with tertiary effluent for South Bay Water Recycling distribution. Finally, this amendment adds the DPR Demonstration Facility onto all existing operation and maintenance procedures for the SVAWPC, to ensure any wastewater discharge, sampling and monitoring, and documenting and reporting obligations apply to both facilities.

The proposed Integration Agreement amendment would reset the cost-sharing methodology between the City and Valley Water to account for a projected increase in future revenues from the sale of recycled water due to an increase in wholesale water rates. When the Integration Agreement was first contemplated, the methodology for cost-sharing was intended to offset the cost to operate the SVAWPC. With the increase in potential recycled water revenues, the City and Valley Water will be able to fully offset the cost of operation on or about 2030 through a formula that will distribute the net revenues in a manner equitable to each agency's respective investment in the South Bay Water Recycling system. All amendments would extend the original term from 2050 to 2065.

Climate Smart San José Analysis

Recycled water currently makes up approximately 5% of the City's water supply. These recommended authorizations enable the City to align its efforts with the Climate Smart San José water use milestones by increasing the percentage of demand met by water recycling.

EVALUATION AND FOLLOW-UP

The property will be declared "exempt surplus land" and leased as surplus property for the Valley Water's "agency use" pursuant to California Government Code § 54221(f)(1)(D), upon approval from the State of California's Department of Housing and Community Development, and in accordance with San José Municipal Code § 4.20.080(B)(2).

Staff will return to City Council for consideration of the environmental review under CEQA. Updates will be provided to City Council at major project milestones via informational memoranda or through other appropriate means.

Future updates will be provided to Recycled Water Policy Advisory Committee in spring 2026.

COST SUMMARY/IMPLICATIONS

Potential amendments to Ground Lease Agreement, O&M Agreement, and Integration Agreement present no additional costs to the City.

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COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 10, 2025 City Council meeting, as well as for the June 10, 2025 Valley Water Board of Directors meeting and the City of Santa Clara City Council in June 2025.

COMMISSION RECOMMENDATION AND INPUT

This item will be heard at the Treatment Plant Advisory Committee on May 15, 2025, and San José City Council on June 10, 2025. A supplemental memorandum with the Committee's recommendation will be included in the amended June 10, 2025, City Council meeting agenda.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Jeff Provenzano

Director, Environmental Services

For questions, please contact Eric Dunlavey, Deputy Director, Environmental Services, at eric.dunlavey@sanjoseca.gov or (408) 635-4017.