



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: March 15, 2021

Approved

Date

3/16/21

**SUBJECT: SANTA CLARA VALLEY WATER DISTRICT'S EFFORT TO DEVELOP
PURIFIED WATER PROJECTS IN SANTA CLARA COUNTY**

RECOMMENDATION

Accept the report regarding the status of the Santa Clara Valley Water District's (Valley Water) Purified Water Project in Santa Clara County.

OUTCOME

Provide general information and background on the status of Valley Water's Purified Water projects.

BACKGROUND

Over the past two decades, the City of San José (City) and Valley Water continually collaborated in supporting the use of recycled water, thereby augmenting local water supply in San José. Beginning in the mid-1990's and to satisfy regulatory requirements in its NPDES discharge permit and maintain health of the South Bay, the Regional Wastewater Facility (RWF) created South Bay Water Recycling (SBWR), a regional recycled water distribution system serving the Cities of San José, Santa Clara, and Milpitas.

In 2002, the City and Valley Water agreed to partner on additional recycled water infrastructure projects, including the expansion of recycled water in South San José. In 2010, the City and Valley Water entered into the Recycled Water Facilities and Programs Integration Agreement to construct and fund the Silicon Valley Advanced Purification Center (SVAWPC), an advanced wastewater effluent treatment facility producing up to 8 million gallons per day (MGD) of purified water. The SVAWPC is part of the RWF treatment process, and the purified water is blended with RWF effluent, creating a high-quality recycled water, to be distributed by SBWR. Currently, SBWR delivers approximately 13,000 acre feet per year (AFY) of water, reaching peak summer delivers of about 35 MGD.

Valley Water intends to pursue the expansion of the potable water supply for Santa Clara County through the treatment of wastewater, as evaluated during the 2014 SBWR Strategic and Master Planning process. In anticipation of Valley Water's interest, the 2013 RWF Plant Master Plan proactively reserved 23 acres of land adjacent to the SVAWPC for the purpose of a new purified water facility or additional recycled water facilities. To support this effort, in August 2017, Valley Water agreed to fund City staff and resources to evaluate the feasibility of another purified water project.

In December 2019, Valley Water and the cities of Palo Alto and Mountain View partnered on the development of a potential purified water project. If Valley Water exercises its option under that Palo Alto/Mountain View agreement, it will treat the wastewater effluent from a wastewater treatment facility located in Palo Alto (Regional Water Quality Control Plant) for potable reuse to augment the County's water supply. While the agreement includes an option for Valley Water to purchase a minimum 9 MGD of treated wastewater for up to 76 years, it also includes several beneficial terms, such as a \$16 million payment to the wastewater treatment facility and payments of \$1.0 million per year upon exercising the option. Not included in this agreement are terms regarding responsibility for managing Reverse Osmosis Concentrate (a by-product of a purified water facility) and land availability.

In January 2020, Valley Water approached San José and Santa Clara staff to express an interest in negotiating an agreement modeled after their Palo Alto/Mountain View agreement. Two subsequent meetings were held in February and March 2020, with all parties recognizing the significant time commitment and resources required to negotiate a similar agreement, and with acknowledgement that a Palo Alto/Mountain View style agreement could be possible, with further discussion.

On June 16, 2020, Valley Water's Board received an update on concepts to further develop purified water in Santa Clara County. Valley Water's Board directed staff to explore, within 90 days, a similar agreement with San José and Santa Clara, and the expansion of the SVAWPC to increase production of purified water for potable reuse. Similarly, on September 1, 2020, Council directed the City Manager to prioritize the pursuit of expanded recycled water use with Valley Water to increase a local, drought-resilient water supply and reduce reliance on imported water. On October 13, 2020, the Santa Clara City Council also authorized staff to negotiate a Palo Alto/Mountain View style agreement with San José and Valley Water, supporting the expansion of recycled water and potable reuse.

ANALYSIS

Per Council direction (see hyperlink below) on September 1, 2020 staff proceeded to negotiate a Palo Alto/Mountain View-style agreement with Valley Water, and prioritize solutions consistent with the following principles:

- To not incur additional liabilities or other adverse financial impacts on the Regional Wastewater Facility and sanitary sewer collection system;
- To not increase the discharge of nutrients and other pollutants to the Bay;
- Minimize or reduce greenhouse gas emissions;
- Support a vibrant and adaptive ecosystem in the Lower South San Francisco Bay;
- Minimize the drinking water rate impact on our residents;
- Ensure long-term viable water supplies for San José.

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=4624806&GUID=A6AC381F-CF43-4246-B51B-D69F4EF79832&Options=&Search=>),

City staff has met regularly with the Valley Water negotiation team to maintain pace with Valley Water's expedited schedule and desire to complete negotiations by June 2021. In this expeditious intent and to remain consistent with Council direction, staff initially committed to solely focus on negotiating an agreement based on the Palo Alto/Mountain View-style agreement to reserve 9 MGD of wastewater effluent, along with similar financial terms. Although discussions occurred regarding feasibility of additional topics beyond that of a Palo Alto/Mountain View style agreement, on January 13, 2021, Valley Water requested to expand the scope to renegotiate or enter into new agreements to address the following three issues:

1. Long term ground lease of RWF lands adjacent to the SVAWPC
2. Responsibility for treatment of the reverse osmosis concentrate waste that would be generated by the expansion of the SVAWPC
3. Revisions to the 2010 Integration Agreement

While the negotiation has progressed in identifying draft terms for the expanded scope, the three new issues have added complexities that require further in-depth analysis and significant time. Additional analysis includes, but is not limited to, an evaluation of the treatment and management of reverse osmosis to fully vet cost and potential impacts to ensure no consequential impacts to either RWF Operations or the RWF Capital Improvement Program, an evaluation of construction impacts to recycled water supply and availability, and further legal analysis of potential private activity restrictions. Any potential arrangements would require close coordination with the Santa Clara City Council, and consideration by the Treatment Plant Advisory Committee (TPAC).

Once impacts have been fully evaluated and considered by TPAC, and the San José and Santa Clara City Councils, the expanded project would require three new or revised agreements, including a real estate transaction agreement, a revised operations agreement, and an amendment or replacement to the 2010 Integration Agreement. It is estimated that it will require an additional two years to fully complete.

Due to the expanded agreement scope, including full risk evaluation, it is not feasible to expect that negotiations and corresponding agreements will be completed by Valley Water's deadline of

June 2021. To meet that aggressive timeline, or to not unnecessarily delay Valley Water's progress, two options are available:

Option #1 – Focus solely on a Palo Alto/Mountain View style agreement

In order to maintain pace with Valley Water's expedited schedule and desire to complete negotiations by June 2021, staff will solely focus upon negotiation of an agreement consistent with that offered to Palo Alto/Mountain View to reserve 9 MGD of wastewater effluent for Valley Water's future use.

Option #2 – Defer negotiations and recommend Valley Water proceed with a Palo Alto/Mountain View project.

Due to the considerable staff time and resources required to fully evaluate potential consequences, and renegotiate or enter into new agreements, defer negotiations and encourage Valley Water to pursue their Palo Alto/Mountain View project. This option will allow Valley Water to maintain a June 2021 deadline for selecting a project.

In the meantime, RWF will continue to focus on the Capital Improvement Program, biosolids transition, and support the Shoreline Levy project. The City and Valley Water have a long history of collaboration and partnership on the expansion and use of recycled water; staff looks forward to continuing this collaboration.

CONCLUSION

The additional three topics effectively expand the scope and complexity of negotiations; and will require significantly more resources than currently available. This added scope is beyond what was contemplated in a Palo Alto/Mountain View style agreement and what City staff committed to negotiate. Although City staff remains committed to support a purified water project, it is not feasible to responsibly complete negotiations any sooner than June 2023.

EVALUATION AND FOLLOW-UP

No follow up is anticipated at this time.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

HONORABLE MAYOR AND CITY COUNCIL

March 15, 2021

Subject: Santa Clara Valley Water District's Effort to Develop Purified Water Projects in Santa Clara County

Page 5

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the March 19, 2021 Joint City Council / Santa Clara Valley Water District Board Special Meeting.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions, please contact Jeff Provenzano, Deputy Director, at (408) 277-3671.