



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 2-8-06

Approved

Date 2-9-06

**SUBJECT: APPROVE THE TRANSFER OF ONE MILLION GALLONS OF TREATMENT PLANT CAPACITY FROM WEST VALLEY SANITATION DISTRICT TO THE CITY OF MILPITAS**

## RECOMMENDATION

Approve Amendments to Agreements among cities of San Jose, Santa Clara, Milpitas and West Valley Sanitation District to reflect the transfer of one million gallons of capacity in the San Jose/Santa Clara Water Pollution Plant from West Valley Sanitation District to the City Of Milpitas.

## BACKGROUND

On December 15, 2005, West Valley Sanitation District notified San Jose staff that a recent engineering study had confirmed that its capacity rights in the San Jose/Santa Clara Water Pollution Plant exceeded its projected demand for new sewer connections over the next 25 years. In the notice to San Jose, West Valley also expressed an interest in selling one million gallons of its excess capacity to the City of Milpitas.

On January 11, 2006, the Board of Directors of the West Valley Sanitation District voted to designate one million gallons of the District's capacity as "excess pooled capacity," pursuant to the terms of the Master Agreements for Wastewater Treatment among the cities of San Jose, Santa Clara and West Valley Sanitation District. West Valley further requested approval of the sale of this excess pooled capacity to the City of Milpitas, which is permitted under the West Valley Master Agreement, subject to the approval of the cities of San Jose and Santa Clara. On January 17, 2006, the City of Milpitas Council authorized the purchase of one million gallons of excess pooled capacity from West Valley Sanitation District

## ANALYSIS

Under the Master Agreements or Wastewater Treatment among the cities of San Jose, Santa Clara and Milpitas and West Valley Sanitation s District, the District has 13.052 million gallons

per day of Treatment Plant capacity, and Milpitas has 12.5 million gallon per day of capacity. Both of these capacity allocations are based on the Treatment Plant's rated capacity of 167 million gallons per day average dry weather flow.

The City of Milpitas has determined that it needs to acquire additional wastewater treatment capacity in order to enhance its land development opportunities. West Valley Sanitation District has determined that it has excess capacity and has agreed to sell some of its excess capacity to Milpitas. In addition to transferring one million gallons of excess Plant capacity to Milpitas, West Valley and Milpitas are also proposing that their respective interests in Treatment Plant lands, which are based on the their contractual capacity rights, be adjusted to reflect the capacity transfer. West Valley and Milpitas staffs have mutually developed proposed terms, including price, for all interest being due to be transferred.

Although San Jose staff is reviewing the terms and conditions of the proposed transfer, under the terms of the Master Agreements, once an agency has determined that it has "excess pooled capacity," unless one of the Plant co-owners wants to purchase the excess capacity, negotiations of the terms and conditions of the sale is left up to the primary parties to the transaction. Based on review of projected development within San Jose, staff has determined that San Jose does not need to purchase the excess West Valley capacity at this time. San Jose and Santa Clara together share 130.524 million gallons in Plant capacity. The agency Master Agreements all contain provisions for proportionate spreading of any mandatory reductions in Plant flows. Under the 1959 joint powers agreement for operation of the Treatment Plant between San Jose and Santa Clara, the joint capacity is allocated on an annual basis in proportion to the ratio of joint owners respective average assessed property tax values. For 2005, San Jose's allocated capacity was 108.896 million gallon, while its 2005 Peak Week Flow for San Jose was 76.120 MGD on the corrected December TPAC capacity report. An expansion of the Plant for increased capacity will not be needed for fifteen to twenty years.

### **OUTCOME**

The outcome of the proposed action will be a redistribution of one million gallons of the total Water Pollution Control Plant treatment capacity from West Valley Sanitation District to the City of Milpitas. There is no direct impact on the City of San Jose's available capacity.

### **PUBLIC OUTREACH**

The City of Milpitas followed its normal procedure for public notification for actions scheduled to be taken by its Council.

HONORABLE MAYOR AND CITY COUNCIL

2-8-06

Subject: Transfer of One Million Gallons of WPCP Capacity from WV Sanitation to City of Milpitas

Page 3

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office. It is scheduled to be heard at the February 9, 2006 Treatment Plant Advisory Committee meeting.

**COST IMPLICATIONS**

There are no cost implications for the City of San Jose.

**BUDGET REFERENCE**

Not applicable

**CEQA**

Pending

  
JOHN STUFFLEBEAN  
Director, Environmental Services