



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nadine N. Nader

SUBJECT: SEE BELOW

DATE: September 25, 2007

Approved

Delma Fuha

Date

9/25/07

SUBJECT: DEVELOPMENT OF A LONG-TERM COOPERATIVE AGREEMENT WITH THE SANTA CLARA VALLEY WATER DISTRICT FOR THE SOUTH BAY WATER RECYCLING PROGRAM [Transportation and Environment Committee referral 9/17/07 – Item (i)(2)]

On September 17, 2007 staff presented a report on the Development of a long-term Cooperative Agreement with the Santa Clara Valley Water District for the South Bay Recycling Program to the Transportation and Environment Committee.

Councilmember Liccardo motioned to approve staff's recommendation and requested that the item be cross-referenced for full Council consideration, Councilmember Chirco seconded the motion. Attached is the report that was presented to the T&E Committee.

for

Nadine N. Nader
NADINE N. NADER
Agenda Services Manager

Attachment



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 08-31-07

Approved

Date 9/5/07

**SUBJECT: DEVELOPMENT OF A LONG-TERM COOPERATIVE AGREEMENT
WITH THE SANTA CLARA VALLEY WATER DISTRICT FOR THE
SOUTH BAY WATER RECYCLING PROGRAM**

RECOMMENDATION

1. Adopt the following principles as the basis for developing a long-term cooperative agreement on the South Bay Water Recycling program with the Santa Clara Valley Water District:
 - Principle 1. The Agreement should reflect the mutual interest of the City and the District in expanding the use of recycled water.
 - Principle 2. The Recycled Water Cooperative Agreement should support and enhance each agency's ability to carry out its mission.
 - Principle 3. In order to fully integrate recycled water into the countywide water supply portfolio, the Agreement should establish a framework for both agencies to meet regularly to discuss and participate in planning for development of new recycled water treatment and major distribution facilities and the future allocation and use of recycled water.
 - Principle 4. The Agreement should provide for equal cost sharing by both agencies in the cost of operating and maintaining the South Bay Water Recycling Program.
 - Principle 5. Cost sharing on future capital expansion will be negotiated on a project by project basis.
 - Principle 6. The Agreement should reflect the City and District interest in a long-term, stable, cooperative relationship.
 - Principle 7. The preferred location for environmental review and engineering design of an advanced water treatment facility should be Treatment Plant lands located near the SBWR Transmission Pumping, and the review and design should be for an advanced water treatment facility that is sized to provide treatment sufficient to meet future water quality goals and to support flexible operation of treatment plant processes.

2. Direct staff to negotiate a draft Recycled Water Cooperative Agreement based on the principles set forth herewith and agendize for approval by Council.
3. Adopt a resolution authorizing the City Manager to negotiate and execute a new "South Bay Water Recycling Reimbursement Agreement for Development and Utilization of Recycled Water Between the Santa Clara Valley Water District and the City of San José.", under which the District pays the City \$115 per acre foot of recycled water used, for a term of July 1, 2007 through July 15 2008 or until the Recycled Water Cooperative Agreement is approved by Council and the Board, whichever comes first.

OUTCOME

This memorandum presents the next step in expanding the recycled water collaboration with the Santa Clara Valley Water District (District). The principles discussed in this memorandum, if adopted by the Council and District Board of Directors (Board) will be used as the basis for negotiating a long-term cooperative agreement for operations, maintenance, and expansion of the South Bay Water Recycling program. That agreement will be brought back to the Council and Board for final approval at a future meeting. In the interim, it is proposed that the District continue its recycled water development incentive of \$115 per acre foot of recycled water used in the county.

A separate memo is being prepared to provide Council with a status report on South Bay Water Recycling related to funding mechanisms for annual operating costs and pipeline extension costs.

EXECUTIVE SUMMARY

In January 2002, Council and the Santa Clara Valley Water District Board of Directors agreed to engage in a series of collaborative efforts, recognizing that both agencies are responsible for providing services and programs that sometimes overlap. Two of those efforts were the "South Bay Water Recycling Collaborative of 2002" and the "South Bay Water Recycling Reimbursement Agreement for Development and Utilization of Recycled Water between the Santa Clara Valley Water District and the City of San José." The purpose of the Collaborative was to engage all of the relevant stakeholders (including the Treatment Plant tributary agencies and county water retailers) in discussions on ways to participate in the expansion of the South Bay Water Recycling system. The goal of the Reimbursement Agreement was to encourage the expansion of the recycled water system.

Since initiating the Collaborative, the City Council and District Board have met at least annually to review progress made on their collaborative projects and provide direction to staff on issues of mutual interest. In September 2006, the Board and Council met in a joint Study Session to discuss a range of Water Supply issues, including the role of recycled water as a reliable local

water supply and the importance of expanding the use of recycled water in Santa Clara County. This memorandum presents the next step in City/District cooperation on recycled water.

The first step to ensure that both agencies have similar expectations for a long-term agreement is to agree to the underlying principles. These principles will be presented for discussion and approval to the District Board on September 11, 2007, to the Treatment Plant Advisory Committee on September 13th, to the City Transportation and Environment Committee on September 17th, and to the City Council on September 25th. It is envisioned that, in this new agreement, the District will have a more effective and comprehensive role in recycled water operations, management, planning and expansion decisions and will be able to fully integrate recycled water into its overall water supply portfolio. This will better position each agency to meet future challenges. After the principles are adopted, staff from the agencies will negotiate a final cooperative agreement that will be brought to the Council and Board for approval. Adoption of the Cooperative Agreement will supersede the Reimbursement Agreement.

BACKGROUND

South Bay Water Recycling (SBWR) was developed by the City, as the administering agency for the San José/Santa Clara Water Pollution Control Plant (Plant), as a wastewater diversion project, but its value as a reliable local water supply was recognized soon after it became operational. Recycled water has now become a vital component of the county's overall water supply portfolio. As statewide population and competition for imported water increases, recycled water will become essential in keeping the San José / Silicon Valley economic engine thriving and sustainable.

In addition to meeting regularly as part of the Collaborative, the City and District have conducted a number of recycled water projects jointly, individually, and also in cooperation with other agencies and entities. Joint projects include the construction of the Silver Creek Pipeline and the recycled water reimbursement agreement under which the District has paid \$115/acre foot to support SBWR operations and to encourage expansion since the system became operational in 1997.

In 2005, the District and City began discussing design and construction of a five million gallon per day (mgd) Advanced Water Treatment (AWT) Plant. On September 26, 2006, the District Board authorized execution of a consultant agreement with Black & Veatch for \$2.78 million to provide engineering services to design the facility. Subsequently, the agencies were notified that a State Proposition 50 grant of almost \$3 million may be available to reimburse a portion of the construction costs of the proposed facility. In addition, both agencies are also cooperatively pursuing several other state and federal grants for construction funding.

ANALYSIS

As discussions on the advanced water treatment facility progressed, staff from both agencies came to agree that it was time to develop an overarching cooperative agreement that was originally envisioned some time ago by the South Bay Water Recycling Collaborative, rather than continuing to develop a myriad of smaller individual agreements. In order to develop such a cooperative agreement, staffs from both agencies are now requesting policy level adoption of principles that can be used as the basis for developing a new Cooperative Agreement.

Staff from both agencies have worked together to develop a set of principles to recommend as guidance for the development of a recycled water Cooperative agreement. These principles and the reasons they are recommended for adoption are as follows:

Principle 1. The Agreement should reflect the mutual interest of the City and the District in expanding the use of recycled water.

- Recycled water is an exceptionally reliable locally controlled all-weather supply, less susceptible to climate than most other water sources. The District is primarily interested in fully integrating recycled water into the District's overall portfolio and water supply system as reflected in District Board policies. The City is primarily interested in recycled water as a means for minimizing treated wastewater discharged to the Bay to protect the South Bay habitat. This was the basis for the investment of over \$225 Million for construction of the SBWR system by the San José/Santa Clara Water Pollution Control Plant and its tributary agencies. The City seeks to fully utilize this resource and increase its return on investment by expanding recycled water use.

Principle 2. The Recycled Water Cooperative Agreement should support and enhance each agency's ability to carry out its mission.

- The District will continue to perform and control all functions stated in the District Act. The District is empowered under the Santa Clara Valley Water District Act (Act) to develop, store, manage, recycle, distribute, sell, and deliver water for domestic, industrial and agricultural uses in Santa Clara County; and the Act empowers the District to acquire water and water rights within the state; protect and manage the groundwater basin; develop, store and transport water, provide, sell and deliver water at wholesale for domestic, industrial and agricultural purposes; set the rates for its water; and acquire, construct, operate and maintain any facilities, improvements and property necessary for this function. In order to achieve greater water supply certainty, the District is interested in long term local relationships. By this agreement, the District seeks to more effectively integrate recycled

water into the overall long-term water supply portfolio and thus into the water supply system.

- The City, operating as the Administering Agency of the South Bay Water Recycling Program and the San José/Santa Clara Water Pollution Control Plant, has obtained approval to distribute recycled water for approved purposes from the California Regional Water Quality Control Board, San Francisco Region, pursuant to order No. 95-117, and any orders supplementary or amendatory thereof. By this agreement, the City seeks to increase the utilization of SBWR water as a water resource and increase its return on investment by expanding recycled water use.
- The Recycled Water Cooperative Agreement should facilitate the management and utilization of recycled water for the maximum good of the community. This can best be achieved through ongoing communication and coordination between the two agencies. The City is responsible for the operations of the Water Pollution Control Plant, of which SBWR is a component. The District is responsible for water supply management for the County. The Cooperative Agreement should not infringe or run counter to either agency's procedures, policies, other obligations, constraints or agreements.

Principle 3. In order to fully integrate recycled water into the Countywide water supply portfolio, the Agreement should establish a framework for both agencies to meet regularly to discuss and participate in planning for development of new recycled water treatment and major distribution facilities and the future allocation and use of recycled water.

- Both agencies commit to regular and ongoing staff level discussions to optimize the management of the recycled water supply.
- A suitable framework, such as a steering committee, may be recommended for assuring full participation by both agencies in policy level decisions.
- The framework will recognize that ultimate policy level authority, including funding and budget decisions, will remain City Council and/or District Board approval.
- The City will consult with the District on recycled water pricing, including the establishment of additional rate categories and rates appropriate for each use.

Principle 4. The Agreement should provide for equal cost sharing by both agencies in the cost of operating and maintaining the South Bay Water Recycling Program.

- For the purposes of this agreement, the operation and maintenance costs means the management and administration of South Bay Water Recycling, customer service and support, and operation and maintenance of existing

facilities, as well as those under design or construction (including the proposed AWT at the Plant), as of the day that the Cooperative Agreement is executed. The FY 2007-08 budget for the entire South Bay Water Recycling Program, as defined above, is approximately \$5.2 Million. The program components that make up "operations and maintenance" will be specifically defined in the Agreement.

- Each party will contribute one half of the operations and maintenance cost of the South Bay Water Recycling Program.
 - The 50-50 cost split on operations and maintenance will continue until revenue from the sale of recycled water equals the actual cost of operations and maintenance.
 - Both agencies recognize the need to establish a sinking fund to put aside money for future infrastructure asset replacement needs.
 - As revenue approaches the cost of operations and maintenance, the City and District will meet to evaluate options and contribution rates necessary to build an appropriate SBWR sinking fund. If the parties agree to establish a sinking fund, the District agrees to contribute one-half of the funding for the sinking fund on an annual basis, provided that the City matches that contribution.
- Cost sharing for operations and maintenance of future expansion will be negotiated on a case by case basis.

Principle 5. Cost sharing on future capital expansion will be negotiated on a project by project basis.

- Both agencies recognize the need to fund future capital expansion of the recycled water system.
- Each agency's participation will be negotiated based on the overall value of the project, the identified benefit to each agency, and the availability of other funding sources including grants, developers, and other partners and beneficiaries.
- As much as possible, other participants, water retailers, customers, and beneficiaries will contribute proportional to the benefit that they receive and other state and federal funding will be sought.

Principle 6. The Agreement should reflect the City and District interest a long-term, stable, cooperative relationship.

- Both agencies demonstrate their commitment in long-term operations, management, and expansion of recycled water and truly integrate recycled water into the overall water supply.

- The Agreement should have a stated minimum term of at least 25 years, although the Agreement will need to have termination provisions that reflect other legal obligations and constraints of the parties.

Principle 7. The preferred location for environmental review and engineering design of an AWT facility should be Treatment Plant lands located near the SBWR Transmission Pumping, and the review and design should be for an AWT facility that is sized to provide treatment sufficient to meet future water quality goals and to support flexible operation of treatment plant processes.

- The District is interested in expanding the storage reserves of its groundwater basins, which provide 40-50% of drinking water in this County, while continuing its policy of aggressively protecting groundwater quality.
- The City is interested in adding added filter capacity while avoiding the cost of building additional conventional filters.
- The South Bay Water Recycling Collaborative Effort of 2002 recognized that some future uses of recycled water may be enhanced by a higher level of water quality.
- Upsizing the proposed advanced water treatment facility to 10 MGD (double its initial 5 MGD capacity) will ensure that there is sufficient capacity to meet the water quality objectives and provide sufficient filter capacity through 2015.
- Both agencies agree that, for maximum efficiency and benefit, the advanced water treatment facility should be located at the San José/Santa Clara Water Pollution Control Plant. This location also facilitates removal of brine added by any future downstream facility.
- The capital cost of the advanced water treatment facility will be shared by the City and District as follows:
 - City will contribute \$11 million in cash and the Plant land (valued at approximate \$2 million) to locate the facility.
 - District will initially fund the balance. The District contribution will be offset in part by any grants that may be received for the purpose of funding the AWT.
- Consistent with Principle #4, the operations and maintenance costs for this 10 MGD advanced treatment facility will be shared equally by both parties.
- Consistent with Principles #4 and #5, cost sharing for capital, operations, and maintenance expenses for other advanced water treatment facilities will be negotiated on a case by case basis.

EVALUATION AND FOLLOW-UP

Following approval of these recommendations, staff and legal counsel for both agencies will negotiate the agreements discussed above. The long-term Recycled Water Cooperative Agreement will be brought back for recommendation by the Treatment Plant Advisory Committee and approval by the Council and District Board. The Recycled Water Reimbursement Interim Agreement will be executed by the City Manager and implemented immediately thereafter.

PUBLIC OUTREACH/INTEREST

Public outreach on the important role of recycled water in our water supply has been part of both agencies' outreach at public events, public education, school outreach, etc. Stakeholder and public outreach has also been a part of the SBWR Collaborative effort of 2002 also included participation from all of the key stakeholders including the Tributary agencies, all of the water retailers, and representatives of the business and environment community. Expansion of the recycled water system was also a primary topic at the Joint Study Session on Water Supply in September 2006, which was televised, and to which all of the stakeholders were invited and many attended. In the future, there will more joint agency recycled water outreach on the importance of the water as well public outreach and coordination for the Advanced Water Treatment Facility CEQA process.

COORDINATION

This memo was developed and coordinated with the City Attorney's Office and the Santa Clara Valley Water District and is scheduled to be considered at the September 13, 2007 meeting of the Treatment Plant Advisory Committee.

COST IMPLICATIONS

Adoption of the principles does not have any cost implications. The \$11 Million City contribution toward construction of the AWT facility is part of the 5 year CIP budget in Fund 512, the Treatment Plant Capital Fund. It will be brought forward for approval with the 2008-09 Budget and the recommendation for approval of the Recycled Water Cooperative Agreement. The current annual operations and maintenance costs for the South Bay Water Recycling Program, including management and administration, customer service and support, and operation and maintenance of existing facilities, as well as those under design or construction is estimated at \$5.2 million. The District contributed just over \$1 million toward Program costs under the FY2006-07 Recycled Water Reimbursement Agreement.

TRANSPORTATION AND ENVIRONMENT COMMITTEE

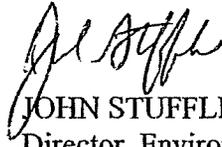
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CEQA

Adoption of these principles is not a project. The Advanced Water Treatment Facility will require CEQA clearance. The final Cooperative Agreement will not be brought back to Council and the Board until CEQA is complete.



JOHN STUFFLEBEAN
Director, Environmental Services

For questions, please contact Mary Ellen Dick, Assistant to the Director, Environmental Services Department, (408) 535-8555