



# SUPPLEMENTAL

COUNCIL AGENDA: 10-02-07  
ITEM: 7.3

## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 9-27-07

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Approved *Kim Wales* Date *9.28.07*  
*Acting City Manager*

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**COUNCIL DISTRICT:** City-Wide  
**SNI AREA:**

### SUPPLEMENTAL

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

### REASON FOR SUPPLEMENTAL

The Santa Clara Valley Water District (District) Board has requested that Recommendations #1 and 2 be deferred until they have time to review other options for greater control of the recycled water, including potentially offering to purchase the entire South Bay Water Recycling system, purchasing tertiary treated water from the San Jose/Santa Clara Water Pollution Control Plant, or proposing creation of a new Joint Powers Authority to manage the recycled water program. Since the District Board's deliberation may take several weeks or months, staff is recommending that these two elements be dropped until a proposal is ready for Council discussion. The Board approved Recommendation 3 and directed its General Manager to extend the existing Recycled Water Reimbursement Agreement to provide continued support for development and expansion of South Bay Water Recycling until a final agreement on the system is reached.

### RECOMMENDATION

1. Drop 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. Drop Recommendation 2: Direct staff to negotiate a draft Recycled Water Cooperative Agreement based on the principles set forth herewith and amend 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 a long-term agreement on the operation of the Recycled Water program is approved by Council and the Board, whichever comes first.

## **OUTCOME**

At its meeting on September 25, 2007, the Santa Clara Valley Water District expressed its continued commitment to long-term expansion of the use of recycled water as a key part of the county's water supply. Their discussion was focused on how they could more fully integrate recycled water into their overall water supply portfolio. They have asked for additional time to fully discuss all of their options and intend to bring a final proposal forward for Council and Treatment Plant Advisory Committee approval in the next few months. Staff from both agencies will continue to meet regularly to support the District Board discussion and City staff will bring Council updates as progress is made.

## **BACKGROUND**

In 2002, as part of the South Bay Water Recycling Collaborative stakeholder process, representatives from the water retailers, business and environmental communities, and the tributary agencies, led by City and District staff, held a series of meetings to develop recommendations for long term operations and management of the South Bay Water Recycling program. That group spent a significant amount of time analyzing the pros and cons of eight alternatives including:

- 1) District purchase of the South Bay Water Recycling infrastructure.
- 2) District owns and builds all new extensions to the South Bay Water Recycling system.
- 3) District buys recycled water from the Treatment Plant and treats and resells it.
- 4) Establishment of a new, independent Joint Powers Authority that would own and operate the South Bay Water Recycling system.
- 5) Development of a long-term comprehensive agreement between the Treatment Plant Joint Powers Authority (JPA) and the District related to operation of the South Bay Water Recycling system.

The analysis and recommendations of the Collaborative group were presented to joint meeting of the Council and Board in January 2003. After a lot of discussion, the Board and Council directed staff to work on the long term plan for enhancing water quality and developing a long-term comprehensive agreement for operations and maintenance of the South Bay Water Recycling system. That discussion was the basis of the collaborative work on recycled water since then. Each subsequent joint memo to the Council and Board has included a status of progress to date and discussion of next steps.

### ANALYSIS

The District Board's proposed delay in adopting principals as the basis for a long-term agreement on the operations and maintenance of the South Bay Water Recycling program does not denote their reluctance to expand their use of recycled water. Rather, the focus of Board discussion was on how the District, as the agency responsible for water supply for the county, could better manage the overall water portfolio by having complete control of the recycled water. They discussed their goals and preferred outcomes and asked staff to present information on the following three options for discussion at their next meeting:

- 1) District purchase of the South Bay Water Recycling infrastructure.
- 2) District buys recycled water from the Treatment Plant and treats and resells it.
- 3) Establishment of a new, independent Joint Powers Authority that would own and operate the South Bay Water Recycling system.

At the same time, the Board realized that they had not yet formally adopted a policy allowing recycled water to be used for groundwater recharge and directed that such a policy be brought back for their consideration at the next meeting. Their General Manager reminded them that adoption of such a policy will take several meetings so it could not be accomplished by October 9<sup>th</sup>, 2007.

The Board recognized the importance of continuing to support the recycled water program during this interim period and voted to authorize the District General Manager to renew 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.", under which the District pays the City \$115 per acre foot of recycled water used, for a term of July 1,

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2007 through July 15, 2008 or until a long-term agreement on the operation of the Recycled Water program is approved by Council and the Board, whichever comes first. They also commented that, if an agreement was not in place by July 15, 2008, they would renew the Reimbursement Agreement again until an agreement was reached as long as the Reimbursement Agreement was not an impediment to concluding a long-term agreement.

**COORDINATION**

This memo has been coordinated with the City Attorney's Office.

**BUDGET REFERENCE**

This addendum does not change the cost analysis in the original memo.

**CEQA**

This addendum does not change the CEQA analysis in the original memo.

  
JOHN STUFFLEBEAN  
Director, Environmental Services

For questions please contact MaryEllen Dick, Assistant to the Director, at (408) 535-8555.