

Sent to Council:

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FEB 16 2010

by City Manager's Office  
*Memorandum*

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM: Nadine Nader**

**SUBJECT: Early Council Packet**

**DATE: February 16, 2010**

Approved

Date

2/16/10

**EARLY DISTRIBUTION COUNCIL PACKET FOR  
MARCH 2, 2010**

Please find attached the Early Distribution Council Packet for the March 2, 2010 Council Meeting.

**2.x Grant Application for San Carlos Multimodal Streetscape Improvements.**

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager, or designee to submit a grant application to the Metropolitan Transportation Commission (MTC) for the 2010 Regional Transportation Improvement Program (RTIP) grant, in the amount of \$1,369,000, with a local match of \$343,000; and negotiate and execute all documents necessary to effectuate the grant.
  - (b) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
    - (1) Establish an appropriation to the Department of Transportation for the San Carlos Multimodal Streetscape Improvements project by \$343,000; and
- CEQA: Re-use of the Downtown Strategy SEIR, Resolution No. 68839, File No. PP03-254. Council District 3. SNI: University. (Transportation)

**3.x Actions Related to Cardroom Ballot Measures.**

**Recommendation:**

- (a) Council discussion and consideration of a ballot measure for the June 8, 2010 election, and adoption of a resolution of the City Council calling and giving notice of, on its own motion, of a General Election ballot measure to be held on June 8, 2010, to submit to the electors of the City of San Jose a proposed measure regarding the City's Cardrooms.
- (b) Direct the City Manager and City Attorney to submit final ballot measure language to the City Clerk by March 12, 2010, for submission to the Registrar of Voters for the June 8, 2010 General Election ballot.

- (c) Council discussion and input on a community outreach strategy to provide information to the public regarding the proposal ballot measure.

(City Manager's Office)

**TO BE DISTRIBUTED SEPARATELY**

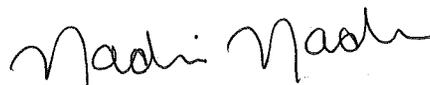
**7.x Various Agreements with the Santa Clara Valley Water District for Advanced Water Treatment Facility.**

**Recommendation:**

- (a) Adopt a resolution approving the Santa Clara Valley Water District "Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)" and direction to City staff to implement the mitigation measures identified in the Mitigated Negative Declaration as applicable to City activities related to the AWTF.
- (b) Adopt a resolution authorizing the City Manager or designee to award the "Contract for AWTF Early Earthworks" to the lowest responsive bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, of not to exceed \$2 million.
- (c) Approve "Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County" to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year.
- (d) Approve "Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility" for a term of forty years to allow the District to construct and operate an AWTF on approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant.

CEQA: Use, as a Responsible Agency under CEQA, of the lead agency's (Santa Clara Valley Water District's) "Mitigated Negative Declaration for Advanced Water Treatment Facility. (Environmental Services)

These items will also be included in the Council Agenda Packet with item numbers.



NADINE NADER  
Assistant to the City Manager



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** 02-08-10

Approved

Date

2/16/10

**COUNCIL DISTRICT:** 3  
**SNI AREA:** University

**SUBJECT: GRANT APPLICATION FOR SAN CARLOS MULTIMODAL  
STREETSCAPE IMPROVEMENTS AND ADOPTION OF  
APPROPRIATION ORDINANCE AMENDMENTS IN THE  
CONSTRUCTION EXCISE TAX FUND**

## RECOMMENDATION

1. Adoption of a resolution authorizing the City Manager, or designee to submit a grant application to the Metropolitan Transportation Commission (MTC) for the 2010 Regional Transportation Improvement Program (RTIP) grant, in the amount of \$1,369,000, with a local match of \$343,000; and negotiate and execute all documents necessary to effectuate the grant.
2. Adoption of the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
  - a. Establish an appropriation to the Department of Transportation for the San Carlos Multimodal Streetscape Improvements project by \$343,000; and
  - b. Decrease the Ending Fund Balance by \$343,000.

## OUTCOME

Grant funding will provide enhanced pedestrian accessibility to public transit including Santa Clara Valley Transportation Authority (VTA) light rail and bus system that will link San José State University (SJSU) and Downtown San José and supports the City goal to provide viable transportation choices.

## **BACKGROUND**

The Metropolitan Transportation Commission (MTC), as the Metropolitan Planning Organization (MPO) for the nine counties of the San Francisco Bay region, provides discretionary federal and state transportation funds such as the Regional Transportation Improvement Program (RTIP) for qualifying programs through the VTA. One such program is the Community Design and Transportation (CDT) Capital Program. This is a reimbursable grant program. The CDT Capital Program supports transportation projects that provide connections with transit facilities, employ innovative and high-quality design, improve the pedestrian environment, enhance economic vitality, make better use of the land, infrastructure, and resources, and improve community connectivity, livability, sustainability, and sense-of-place.

Based on these conditions, the City and the San Jose Redevelopment Agency jointly submitted the San Carlos Multimodal Streetscape Improvements grant proposal for the south side of the street from Second Street to Fourth Street (Project). A map of the Project location is attached. A primary goal of the Project is to encourage pedestrian mobility by providing accessible connections between transit, bike facilities, businesses, SJSU, housing and downtown. The proposed improvements will create a safer pedestrian route and provide a more pedestrian-friendly environment between public transportation and SJSU. This Project is also part of an overall plan to make pedestrian improvements in downtown San José.

The Project encompasses pedestrian-oriented improvements along the south side of San Carlos Street between Second Street and Fourth Street to enhance pedestrian accessibility to public transit including VTA's light rail and bus system that will link SJSU to the SoFA District and the Downtown Core. The scope of the Project includes narrowing the roadway width, widening the sidewalk, enhanced crosswalks, upgrades of wheelchair ramps to ADA compliance, street level lighting, in-fill street trees, drainage facilities, asphalt & concrete work, traffic signal relocation, site furniture, bus stop enhancements, directional/destination signage and striping. The total cost of the project is estimated at \$1,712,000.

## **ANALYSIS**

The City received notice from VTA that the San Carlos Multimodal Streetscape Improvements Project from Second Street to Fourth Street is qualified to receive \$1,369,000 of CDT funding. Therefore, VTA will submit this recommendation for grant funds administered by the MTC.

If awarded by MTC, the total grant amount of \$1.369 million would come to the City through the 2010 RTIP funding source. The RTIP grant requires a \$343,000 local share of funds. The grant application was submitted jointly by the City and the San Jose Redevelopment Agency (SJRA), with the SJRA funding the local match. However, with the current fiscal condition of the SJRA, they have determined that they are no longer able to fund the local match. In order to leverage this grant funding, the local match requirement will now be funded from the Construction Excise Tax Fund. Since this is a reimbursable grant, the Traffic Capital Program will also provide the necessary funds to bid and award the construction contract for the project. However, it should be

noted that with the recent decline in revenue collections in this program, it may be necessary to reprioritize the projects in the out years of this program in order to fund this project. Staff will invoice MTC on a monthly basis to receive reimbursement payments from MTC.

At this time, to formally accept grant applications from the City, MTC needs the City Council to adopt the recommended resolution authorizing the City Manager, or designee, to execute and submit the grant applications and negotiate and execute all grant documents necessary to effectuate the grants. Upon receiving the City Council's resolution and the City's grant application, MTC can obligate the funds through the Transportation Improvement Program (TIP) amendment. Attachment 2 to this memorandum is the sample resolution required by MTC.

### **EVALUATION AND FOLLOW-UP**

This project will provide enhanced pedestrian accessibility to public transit including VTA's light rail and bus system that will link SJSU and Downtown San José and supports the City goal to provide viable transportation choices.

No additional follow-up actions with the Council are expected at this time. The Project will be designed and bid documents prepared in 2010 with the local matching funds. The grant funds will be used for construction of the improvements. Staff will report back to Council when the project will be awarded for construction in the Spring of 2011.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this item does not meet any of the criteria, this memorandum will be posted on the City's website for the March 2, 2010 Council agenda.

**COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office, the Department of Planning, Building and Code Enforcement, and the San Jose Redevelopment Agency.

**FISCAL/POLICY ALIGNMENT**

The recommended action aligns with the Transportation and Aviation Services CSA Outcome related to providing viable transportation choices.

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: \$1,712,000
  
2. COST OF PROJECT:

Project Delivery	\$489,000
Construction	\$1,019,000
Contingency	<u>\$204,000</u>
<b>TOTAL PROJECTS COSTS</b>	<b>\$1,712,000</b>
  
3. SOURCES OF FUNDING:
  - 465 – Construction Excise Tax Fund (local match)
  - 429 – Building and Structure Construction Tax Fund (project and grant funding)
  
4. FISCAL IMPACT: The proposed operating and maintenance costs of this project have been reviewed and will have no significant impact on the General Fund operating budget.

The recommendations in this memo would initiate the process required for the MTC to release the grant funds to the City of San José in the amount of \$1,369,000. Also, appropriation actions are recommended in this memo to fund the local match as required for the grant in the amount of \$343,000 which will be funded from the ending fund balance in the Construction Excise Tax Fund. Additional recommendations to appropriate and recognize the grant funding will be brought forward for Council approval as part of the 2011-2015 Proposed Traffic Capital Improvement Program.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the local match recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn.	Amt. for Project	2009-2010 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
Recommended Budget Action						
465	8999	Ending Fund Balance	\$343,000*	\$343,000	N/A	10/20/09, Ord. No. 28653

\* \$343,000 of the \$1,845,300 in the Ending Fund Balance would be allocated to this project.

**CEQA**

Re-use of the Downtown Strategy SEIR, Resolution No. 68839, File No. PP03-254

  
HANS F. LARSEN  
Acting Director of Transportation

  
JENNIFER A. MAGUIRE  
Budget Director

For questions please contact MANUEL PINEDA, ACTING DEPUTY DIRECTOR, at 975-3295.

Attachments





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 02-08-10

Approved

Date

2-16-10

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: AGREEMENTS BETWEEN THE CITY OF SAN JOSÉ AND THE SANTA CLARA VALLEY WATER DISTRICT AND AUTHORIZATION TO PERFORM EARTHWORK ON A SITE AT THE SAN JOSÉ/SANTA CLARA WATER POLLUTION CONTROL PLANT**

## RECOMMENDATION

- (a) Adopt a resolution approving the Santa Clara Valley Water District “Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)” and direction to City staff to implement the mitigation measures identified in the Mitigated Negative Declaration as applicable to City activities related to the AWTF.
- (b) Adopt a resolution authorizing the City Manager or designee to award the “Contract for AWTF Early Earthworks” to the lowest responsive bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, of not to exceed \$2 million.
- (c) Approve “Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County” to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year.
- (d) Approve “Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility” for a term of forty years to allow the District to construct and operate an AWTF on approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant.

## **OUTCOME**

The recommended actions will enable the City of San José as administering agency for the San José/Santa Clara Water Pollution Control Plant to work cooperatively with the Santa Clara Valley Water District in order to support the production and use of recycled water and will allow the City and District to proceed with construction of an AWTF in a timeframe that will meet the grant funding requirements of the 2009 American Recovery and Reinvestment Act.

## **EXECUTIVE SUMMARY**

The City of San José (City) as administering agency for the San José/Santa Clara Water Pollution Control Plant (Plant) and the Santa Clara Valley Water District (District) share common goals related to the development of recycled water as a means of protecting the South Bay environment and providing an alternative water supply. Since 1998 the City and District have worked together in various ways to increase the amount of recycled water available for use in Santa Clara County. In August 2008 the City and District formed the "Recycled Water Liaison Committee" to develop an agreement that would promote their mutually beneficial collaboration on the management and operation of their respective recycled water facilities. As a result, the present memorandum recommends the approval of two agreements that would establish a framework for future collaboration between the City and the District and allow the City to contribute up to \$11 million towards the construction of the District's AWTF to be located on Plant lands. The proposed agreements would also allow the City and District to share operating costs of SBWR and AWTF facilities, provided that the City's share does not exceed \$2 million per year. The memorandum also recommends adoption of resolutions that would allow the City to accept the District's environmental assessment and award a contract for earthwork on the site of the proposed AWTF in an amount not to exceed \$2 million, which amount will be deducted from the City's contribution to the AWTF. The proposed actions are also supportive of the City's Green Vision, Goal #6, "Recycle or beneficially reuse 100 percent of our wastewater (100 million gallons per day)."

## **BACKGROUND**

In 1989 the California State Water Resources Control Board (State Board) determined that flow of fresh water from the San José/Santa Clara Water Pollution Control Plant (Plant) into San Francisco Bay during the summer months contributed to the conversion of salt marsh to brackish or freshwater marsh, reducing the habitat of two endangered species, the salt marsh harvest mouse and the California clapper rail. In 1990 State Board Order WQ 90-5 directed the San Francisco Bay Regional Water Quality Control Board to limit the amount of treated effluent discharged by the Plant to 120 million gallons per day (mgd), reducing the 167 mgd design capacity of the Plant by nearly 30% and threatening a moratorium on new sewer connections. The Plant is jointly owned by the cities of San José and Santa Clara and operated by the City of San José through a joint powers authority that also provides wastewater treatment services to

Milpitas and the Burbank Sanitary District, Cupertino Sanitation District, Sunol Sanitary District, West Valley Sanitation District and County Sanitation District No. 2-3.

As administering agency for the Plant, the City of San José adopted a three-part program to address the Board's order: (1) water conservation to reduce flow into the Plant; (2) marsh mitigation to increase local salt marsh habitat and (3) water recycling to reduce flow out of the Plant. In 1993, Council authorized construction of facilities to divert 15 mgd of recycled water during the summer or up to 9,000 acre feet of water per year (AFY) by providing nonpotable recycled water to major water users in Milpitas, Santa Clara and San José. The first phase of South Bay Water Recycling was completed in 1998 at a cost of \$140 million; in June 2000, the Council approved an additional \$100 million for the "Revised South Bay Action Plan," including \$82.5 million in the 2001-2005 Capital Budget to expand the SBWR system and increase its reliability.

Currently, SBWR delivers about 10,000 acre-feet of water per year to over 600 landscape and industrial customers, reducing summer discharge to the Bay by up to 15 mgd and providing an alternative water supply equivalent to the amount used by as many as 100,000 people. About two-thirds of the recycled water is used for irrigation by landscape customers in San José, Santa Clara and Milpitas, including Great America, the San Francisco 49ers Training Field, San José Municipal Stadium, Silver Creek Golf Course and dozens of local parks and schools. The remaining third is used for manufacturing by industrial customers including California Paperboard and in cooling towers operated by San José State University, Silicon Valley Power and Metcalf Energy Center, among others. Recycled water also is used by the Plant for both irrigation and industrial purposes. Since the Plant currently treats an average of 100 mgd of wastewater and the SBWR system has the capacity to distribute a daily average of 35 mgd, there is significant potential to increase recycled water deliveries to additional customers through SBWR pipeline.

The District is the primary water management agency for Santa Clara County, providing wholesale water supply, groundwater management, and flood management to the county. In 1998, City and District entered into an Agreement entitled "South Bay Water Recycling Reimbursement Agreement For Development And Utilization Of Non-potable Recycled Water Between The Santa Clara Valley Water District And City of San José", providing for payment by District to City for water produced and distributed by SBWR that offsets District supplies (the "1998 Reimbursement Agreement"). The 1998 Reimbursement Agreement, which most recently provided payments to the City of over \$900,000 per year, expired on June 30, 2009.

In 2003 the City and the District convened a stakeholder-based process called the Recycled Water Collaborative, the goal of which was to develop and recommend the form and content of a partnership that would allow the City and District to work together to increase the use of recycled water in Santa Clara County. Also in 2003 the District completed an Integrated Water Resources Plan (IWRP) that led to its adoption in 2005 of a policy goal of including up to 40,000 acre-feet per year (AFY) of recycled water in its water supply portfolio to comprise 10% of its annual water supply by 2030. Since that time, the District has also continued to explore more active ways than financial reimbursement to participate directly in the development of recycled water resources.

In August 2008 the City and District formed the Recycled Water Liaison Committee to develop key terms of an agreement to promote mutually beneficial collaboration on the management and operation of their respective recycled water facilities. The Committee was comprised City of San José Council members Kansan Chu and Pierluigi Oliverio; Santa Clara Mayor Patricia Mahan; and District Board members Rosemary Kamei, Tony Estremera and Patrick Kwok. The two agreements referenced in the present memorandum are proposed to implement the direction approved by the Recycled Water Liaison Committee at their December 2009 meeting, and the referenced resolution authorizing award of the "Contract for AWTF Early Earthworks" is an example of the cooperation envisioned by the Committee.

## **ANALYSIS**

### ***Integration Agreement***

The proposed "Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County" is a long-term agreement to promote cooperation between City and District related to the management and operation of their respective recycled water facilities. Under this agreement the City will contribute \$11 million to the District for the construction of an Advanced Recycled Water Treatment Facility, and the District and the City will both contribute toward the costs associate with the operation and maintenance of both the AWTF and the South Bay Water Recycling system, with the net cost to the City not to exceed the current level of support for the SBWR of \$2 million per year. The Agreement also provides for the formation of a joint Recycled Water Policy Advisory Committee to make recommendations to the City Council and District Board on matters related to the production and use of recycled water. Specific business terms related to this agreement are identified in Attachment A, "Key Business Terms of the Integration Agreement."

### ***Site Lease Agreement***

The proposed "Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility" between the City and the District will provide the District with the long-term use of approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant for the purpose of constructing and operating an AWTF and will allow the District to use other Plant property as necessary to connect the AWTF to the Plant. The AWTF will receive up to 12 mgd from the San José/Santa Clara Water Pollution Control Plant secondary treatment process and produce 10 mgd of recycled water meeting Title 22 standards through microfiltration treatment and ultraviolet disinfection or 8 mgd of highly purified water through reverse osmosis treatment. While the District is responsible for all costs related to the operation and maintenance of the AWTF except as stipulated in the Integration Agreement (Attachment A), it may choose to contract the operation of the facility to a third party, including the City of San José, subject to the City's approval. Specific business terms related to this agreement are identified in Attachment B, "Key Business Terms of the Site Lease Agreement."

***CEQA Clearance***

The District served as Lead Agency for environmental review of the Advanced Recycled Water Treatment Facility. The District prepared an Initial Study (IS) and Mitigated Negative Declaration (MND), which was published and received public comment according to the provisions of the California Environmental Quality Act. The IS/MND was approved by the District on February 23, 2010.

***Contract for AWTF Early Earthworks***

Adoption of a resolution authorizing the City Manager or designee to award the "Contract for AWTF Early Earthworks" contract to the lowest responsive bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, of not to exceed \$2 million will allow the City to prepare the site designated for the AWTF and will help maintain the project eligibility for federal grant funding through the 2009 American Recovery and Reinvestment Act (ARRA). The engineer's estimate for this project is \$1,512,505.00, and the City Council Policy provides for a standard contingency of ten percent on utility improvement projects for a total project estimated cost of \$1,813,755.00 the standard contingency is appropriate for this project. The actual cost of this project, including construction management and administrative costs, will be counted as in-kind contribution towards the City's proposed \$11 million cash contribution to the construction of the AWTF. The earthwork is scheduled to begin in April 2010 with groundbreaking for the AWTF anticipated in May 2010.

**PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Concepts, principles and various terms related to the "Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County" and "Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility" were discussed in detail at public meetings of the Recycled Water Liaison Committee which were noticed to the public in accordance with the Brown Act and the customary procedures of the City of San José and the Santa Clara Valley Water District. In addition, public comment was solicited at the beginning of each Liaison Committee Meeting.

The potential use of Plant lands for the AWTF were disclosed and evaluated in the Initial Study and Mitigated Negative Declaration for the AWTF. Those environmental documents were also circulated for public review according to the provisions of the California Environmental Quality Act.

To solicit contractors, the "Contract for AWTF Early Earthworks" will be listed on the City's Internet Bid Line and advertised in the San José Post Record. Bid packages for all Department of Public Works construction projects are provided to various contractor organizations and builder's exchanges.

**COORDINATION**

This memo has been coordinated with the City's Attorney's Office, the Budget Office, Risk Management, Department of Planning, Building and Code Enforcement, and the Department of Public Works. This memo was heard at a special February 25, 2010 meeting of the Treatment Plant Advisory Committee (TPAC).

**COST IMPLICATIONS**

AMOUNT OF RECOMMENDATION:	\$11,000,000
Total Current Year Costs	\$11,000,000
Prior Year Expenditures	0
Total Project Costs	\$11,000,000
Total Current Year Funding Available	0
Additional Funding Recommended	\$11,000,000
<b>Total</b>	<b>\$11,000,000</b>

1. SOURCE OF FUNDING: 512 – San José/Santa Clara Treatment Plant Capital Fund
2. OPERATING COST: \$2,000,000
3. SOURCE OF FUNDING: 513 – San José/Santa Clara Treatment Plant Operating Fund

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn	Amt. of Recommendation	Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Total Recommendation</b>				<b>\$11,000,000</b>		
512	6589	Revised SBAP – SBWR Extension	\$17,642,000	\$5,000,000	V-138	11/17/2009, Ord. No. 28669
512	6508	SBWR Reservoir Facility	\$6,000,000	\$6,000,000	V-137	06/23/2009, Ord. No. 28593
<b>Total Funding Available</b>			<b>\$23,642,000</b>			

**CEQA**

Use, as a Responsible Agency under CEQA, of the lead agency's (Santa Clara Valley Water District's) "Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)."

/s/  
JOHN STUFFLEBEAN  
Director, Environmental Services

Attachments

A- Key Business Terms of the Integration Agreement

B- Key Business Terms of the Site Lease Agreement

For questions please contact Mansour Nasser, Deputy Director, at (408) 277-2558

**Attachment A**  
**Key Business Terms of the Integration Agreement**

***Purpose***

The City and the District desire to financially support the production and use of recycled water in Santa Clara County consistent with each Party's separate and distinct obligation for wastewater treatment and disposal and water supply, and to coordinate and cooperate to achieve the most cost effective, environmentally beneficial utilization of recycled water to meet both water supply and wastewater treatment and disposal needs.

***Recycled Water Policy Advisory Committee***

**Committee Membership and Appointment**

- Six-member Recycled Water Policy Advisory Committee will meet at least once a year to offer advice to the City Council and District Board on issues related to the production, distribution and use of recycled water.
- The Board will consist of three members of the District Board as appointed by that Board and three members to be appointed by the San José City Council, from among the governing bodies of the cities or agencies with voting membership on the San José/Santa Clara Treatment Plant Advisory Committee (TPAC), at least two of whom shall be members of the governing bodies of the Plant co-owners (the cities of San José and Santa Clara).
- Chairmanship will rotate annually between District- and City-appointed members.

**Committee Powers and Duties**

- The Recycled Water Policy Advisory Committee will review and make recommendations to the District Board and the San José City Council on their respective proposed budgets for the ensuing fiscal year for the maintenance, expansion, replacement, improvement and operation of the SBWR and the AWTF. The first budget review will occur in May 2010. To facilitate the budget recommendation, each agency shall provide a draft budget containing a complete financial plan for the operation, maintenance, repair, replacement, improvement and expansion of their respective facilities to the corresponding agency by April 1 of each calendar year beginning April 1, 2010. Should either governing body adopt a budget for the ensuing fiscal year that is materially different than the budget presented or that fails to materially implement its budget recommendation, that body shall provide the Advisory Committee with a statement of the reasons for such action.
- Other matters that may be considered by the Recycled Water Policy Advisory Committee for recommendation to the District Board and San José City Council include:
  - Cost sharing for special studies, technical investigation and recycled water master planning.
  - Pursuit of future grant funding for Parties' recycled water projects.
  - Terms and conditions for wholesale recycled water distribution including amendment of agreements with water retailers, new water retailer agreements and proposed changes in wholesale recycled water rates.
  - Expansion of the non-potable system and/or AWT expansion (with the exception of developer-funded pipeline extensions, extensions for which funding has been approved prior to the effective date of the Agreement and onsite retrofit work).

### ***Staff Coordination***

The City Manager of City and the District CEO (or their designee) shall designate at least two members of their respective staffs (by name or title) to attend quarterly joint staff meetings on a standing basis. Staff members may invite other staff members as they deem necessary to discuss work related to recycled water that is begin done at a staff level, and to identify matters that should be tendered for review to the Recycled Water Committee. Examples of matters that may be discussed in the quarterly staff meeting include but are not limited to efforts to identify and control salinity in Plant influent and identification of areas for appropriate expansion of the use of recycled water.

### ***Advanced Water Treatment Facility***

The City will complete the work described in the "Contract for AWTF Early Earthworks" by July 1, 2010 and the District will construct the Advanced Water Treatment Facility. As stipulated in the terms of the "Ground Lease and Property Use Agreement" (see Attachment B), that Facility will provide a reliable supply of up to 10 mgd of recycled water by microfiltration treatment and ultraviolet disinfection or up to 8 mgd of highly treated water which will be blended with water produced for distribution in the South Bay Water Recycling system to improve its overall quality by reducing the salinity of recycled water.

### ***City Cash Contribution to AWTF Construction Costs***

City will contribute up to \$11 million toward the cost of constructing the AWTF minus such costs as are incurred by City for design and completion of the AWTF, or one-third of the District's cost of construction, after consideration of all grants and other third party funds committed to construction of the AWTF, whichever is less. Examples of costs incurred by the City for design and completion of the AWTF include the proposed AWTF Early Earthwork Contract and the City's conduct of laboratory testing during the design phase of the project.

### ***Financial Support for Costs of Producing and Distributing Recycled Water***

- District shall pay City \$1 million per year until AWTF becomes operational to support t expanding the usage of water produced by the South Bay Recycled Water System, and City agrees to use the funds provided by District solely to support expanding the usage of SBWR recycled water.
- Beginning in 2012 (or the first full fiscal year after the AWTF becomes operational) the City and District will review the net costs of operating South Bay Water Recycling (SBWR) and the AWTF and one party will pay to the other the amount required to equalize the amounts paid by each towards the total net operating cost. However, the City's contribution to the District shall never result in a net cost exceeding \$2 million (its current net cost of operating SBWR). In the event that the City's operation of SBWR results in a net revenue, the City's payment to the District will equal one half of its net revenue up to the District's net cost of operating the AWTF, plus a fraction of additional revenues proportional to the District's total capital investment in the combined SBWR an AWTF facilities.

### ***Matters Requiring Joint Approval of District Board and San José City council***

Export of Water Outside Santa Clara County -neither Party will export secondary treated wastewater or recycled water out of County without the consent of the governing body of the other Party before July 1, 2020. After July 1, 2020, each Party agrees to provide 180 days advance notice before it begins engaging in negotiations for out of county export of secondary treated wastewater or recycled water.

Use of Plant lands adjacent to AWTF site – the City will not lease to a third party or construct permanent improvement on approximately 15 acres of Plant lands immediately south of the AWTF without the District’s consent before July 1, 2020.

Material changes to the operational parameters of the AWTF - This would include any use by the District of Plant secondary water in any facility other than the AWTF, expansion of the AWTF, and reduction in the volume of treated water to be provided from the AWTF to the City.

***Term and Termination***

The term of the Agreement will be for forty (40) years, beginning on July 1, 2010 and ending on June 30, 2050. However, there are various circumstances by which the Agreement may terminate before the end its term, including the following:

- District has not commenced timely construction of the AWTF.
- The Site Lease Agreement (Attachment B) is terminated.
- Beginning June 30, 2020, either party elects to terminate the Agreement, after due consideration of amendment to the Agreement in lieu of termination.
- Either party breaches the Agreement, after reasonable attempts to cure such breach.

In the event of early termination, the City will have the option to require the demolition of the AWTF by the District or to take over full ownership and operation of the AWTF.

**Attachment B**  
**Key Business Terms of the Site Lease Agreement**

***Purpose***

City and District both desire that the be integrated into operation of the San José/Santa Clara Water Pollution Control Plant in order to improve the quality of recycled water produced by South Bay Water Recycling and to demonstrate the production of highly purified water from secondary treated wastewater in Santa Clara County.

***Use of Premises***

The proposed Site Lease Agreement allows the District use of the land for the AWTF for a term of forty (40) years, subject to the terms and conditions of the lease, as well as nonexclusive use of roadways providing access to the site. A nominal rent is charged (\$10 per year), and the City reserves the right to make regular inspections of the premises to ensure proper maintenance. District shall not post any signs without written consent of the City.

***Operation of AWTF***

Occupancy of the site is contingent upon the operation of the AWTF so as to provide a reliable supply of up to 10 mgd of recycled water by microfiltration treatment and ultraviolet disinfection or up to 8 mgd of highly treated water which will be blended with water produced for distribution in the South Bay Water Recycling system to improve its overall quality by reducing the salinity of recycled water. District will not dispose of any hazardous materials on the site. District must get written permission from City to make any material change in the operation of the AWTF including changes in the size or number of filtration units or the ability of the AWTF to meet operational goals, and City shall approve all plans for alteration or improvement of the AWTF prior to their implementation,

***Utility Services***

District shall arrange for any and all utilities required, except that City may provide electrical services to District through existing SBWR transmission pump station meter, in which case District will be responsible for paying all costs associated with providing service as well as its rated share of electrical bills, and the AWTF brine will, be discharged into the plant's serpentine tanks (subject to regulatory approval) while the AWTF microfiltration reject water will be directly discharged to the Plant .

***Right to Enter***

City may enter the premises at any time during regular business hours to determine District's compliance with the terms of the Lease Agreement, and should any deficiencies be noted District will prepare a plan to remedy such problems. City shall have reasonable access to the site at normal construction hours during any construction period, and shall have the right to conduct reasonable testing, monitoring, sampling, digging, drilling, and analysis to determine if hazardous materials are present. City reserves the right to enter the site to install, replace or use any public utilities on, above or below the premises.

***Term and Termination***

The term of the lease is for forty years, beginning on July 1, 2010 and ending on June 30, 2050. However, there are various circumstances by which the lease may terminate before the end its term, including the following:

- District has not commenced construction of the AWTF by September 30, 2010.
- The Integration Agreement (Attachment A) is terminated.
- District's inability to operate the Advanced Recycled Water Treatment Facility.

Upon termination of the Agreement the District shall perform an environmental assessment of the site, performing any remedial work required, and remove any improvements unless the City wishes to retain the Advanced Recycled Water Treatment Facility, in which case it shall remain and become the property of the City.

### ***Construction Standards***

District shall construct ARWT facilities in compliance with approved plans and specifications as well as all applicable local, state and federal laws and regulations. District shall not use any asbestos-containing materials nor install any underground storage tanks unless specifically approved in advance by the City. District shall also have sole responsibility for implementing all necessary safeguards for the protection of workers and the public.

### ***No Right to Demolish***

District shall have no right to demolish any portion of the Advanced Recycled Water Treatment Facility without City's written consent. In the event of a breach of the agreement, title to the AWTF shall revert to the City.