

Santa Clara Valley Water District Recycled Water Committee Meeting

Headquarters Building Boardroom
5700 Almaden Expressway
San Jose, CA 95118

REGULAR MEETING AGENDA

Wednesday, May 9, 2018
12:00 PM

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

RECYCLED WATER COMMITTEE

Tony Estremera - District 6,
Committee Chair
Barbara Keegan - District 2,
Committee Vice Chair
Gary Kremen - District 7

All public records relating to an item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend Board of Directors' meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

HOSSEIN ASHKTORAB
Committee Liaison

MICHELLE MEREDITH
Deputy Clerk of the Board
Office/Clerk of the Board
(408) 265-2557
mmeredith@valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown

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**Santa Clara Valley Water District
Recycled Water Committee
REGULAR MEETING
AGENDA**

Wednesday, May 9, 2018

12:00 PM

Headquarters Building Boardroom

1. CALL TO ORDER:

1.1. Roll Call.

1.2. Time Open for Public Comment on any Item not on the Agenda.

Notice to the public: This item is reserved for persons desiring to address the Committee on any matter not on this agenda. Members of the public who wish to address the Committee on any item not listed on the agenda should complete a Speaker Card and present it to the Committee Clerk. The Committee Chair will call individuals in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Committee may take action on any item of business appearing on the posted agenda.

2. APPROVAL OF MINUTES:

2.1. Approval of Minutes.

[18-0218](#)

Recommendation: Approve the minutes of the March 21, 2018 meeting.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 032118 RWC Minutes](#)

3. ACTION ITEMS:

3.1. Expedited Purified Water Program Update.

[18-0272](#)

Recommendation: Receive information on and discuss the P3 Expanded Shortlist of Qualified Firms, the Draft P3 Term Sheet, and next steps for the P3 Procurement process.

Manager: Katherine Oven, 408-630-3126

Attachments: [\(Simple\) Attachment 1: Draft P3 Term Sheet](#)

[\(Simple\) Attachment 2: PowerPoint Presentation](#)

- 3.2. April 19, 2018 Joint Recycled Water Policy Advisory Committee (JRWPAC) Meeting Feedback, Follow Up, and Outcomes. [18-0295](#)
Recommendation: Receive information and discuss next steps.
Manager: Garth Hall, 408-630-2750
Attachments: [Attachment 1: PowerPoint](#)
- 3.3. Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan. [18-0281](#)
Recommendation: Receive information and discuss next steps on progress on the Water Reuse Master Plan baseline efforts.
Manager: Garth Hall, 408-630-2750
Attachments: [Attachment 1: PowerPoint](#)
- 3.4. Update on Reverse Osmosis Concentrate Management. [18-0283](#)
Recommendation: Receive information and discuss next steps on:
A. Status of the amendment and time extension to the consultant agreement between the Santa Clara Valley Water District and GHD Inc. - Agreement No. A4034G (“Agreement”);
B. Status of the grant agreement with the State Water Resources Control Board (SWRCB) for funding research studies; and
C. Outcomes from the most recent stakeholder meetings pertinent to Reverse Osmosis Concentrate Management (“ROCM”) options.
Manager: Garth Hall, 408-630-2750
Attachments: [Attachment 1: PowerPoint](#)
- 3.5. Update on District/City of Palo Alto/City of Mountain View and City of Sunnyvale Collaboration Efforts. [18-0285](#)
Recommendation: Receive information and discuss next steps on:
A. Northwest County Recycled Water Strategic Plan;
B. Comprehensive Agreement between District and City of Palo Alto; and
C. Comprehensive Agreement between District and City of Sunnyvale.
Manager: Garth Hall, 408-630-2750
Attachments: [Attachment 1: PowerPoint](#)

- 3.6. Update on District, San Francisco Public Utilities Commission (SFPUC), and Bay Area Water Supply and Conservation Agency (BAWSCA) Collaboration Efforts. [18-0286](#)

Recommendation: Receive information and discuss next steps on District/SFPUC/BAWSCA feasibility study.

Manager: Garth Hall, 408-630-2750

Attachments: [Attachment 1: PowerPoint](#)

- 3.7. Update on South County Recycled Water Projects and District, Producers, Wholesalers, and Retailers Agreements. [18-0287](#)

Recommendation: Receive information and discuss next steps on:
A. Status of South County Recycled Water Master Plan Implementation; and
B. Partnership Agreements

Manager: Garth Hall, 408-630-2750
Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Key Terms, Producer/Wholesaler/Retailer Agmt](#)
[Attachment 2: PowerPoint](#)

- 3.8. Review Recycled Water Committee Work Plan and Discuss 2018 Meeting Schedule. [18-0288](#)

Recommendation: Review and make necessary adjustments to the Committee Work Plan, and confirm next meeting time, date, and discussion subjects.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 2018 RWC Work Plan](#)

4. **ADJOURN:**

- 4.1. Clerk Review and Clarification of Board Requests.
This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.
- 4.2. Adjourn to Regular Meeting at 12:00 p.m., on August 9, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

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File No.: 18-0218

Agenda Date: 5/9/2018
Item No.: 2.1.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Approval of Minutes.

RECOMMENDATION:

Approve the minutes of the March 21, 2018 meeting.

SUMMARY:

In accordance with the Ralph M. Brown Act, a summary of Committee discussions, and details of all actions taken by the Committee, during all open and public Committee meetings, is transcribed and submitted to the Committee for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Committee's meetings.

ATTACHMENTS:

Attachment 1: 032118 RWC Minutes

UNCLASSIFIED MANAGER:

Michele King, 408-630-2711

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RECYCLED WATER COMMITTEE MEETING

MINUTES

**WEDNESDAY MARCH 21, 2018
2:00 PM**

(Paragraph numbers coincide with agenda item numbers)

A regular meeting of the Santa Clara Valley Water District (District) Recycled Water Committee (Committee) was called to order in the District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, at 2:00 p.m.

1. CALL TO ORDER/ROLL CALL

Committee members in attendance were District 2 Director Keegan, District 7 Director Kremen, and District 6 Director Estremera, Chairperson presiding, constituting a quorum of the Committee.

Staff members in attendance were N. Camacho, Chief Executive Officer, H. Ashktorab, P. Baltar, H. Barrientos, A. Fulcher, C. Hakes, G. Hall, L. Jaimes, M. Lugo, M. Meredith, M. Sinaki, and Diahann Soleno.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA

Chairperson Estremera declared time open for public comment on any subject not on the agenda. There was no one present who wished to speak.

3. APPROVAL OF MINUTES

The Committee considered the attached minutes of the February 8, 2018 meeting. It was moved by Director Keegan, seconded by Director Kremen, and unanimously carried that the minutes be approved as presented.

4. ACTION ITEMS

4.1 DISCUSS AGENDA ITEMS FOR THE UPCOMING JOINT RECYCLED WATER POLICY ADVISORY COMMITTEE (CITY OF SAN JOSE/SCVWD/CITY OF SANTA CLARA) MEETING SCHEDULED FOR APRIL 19, 2018.

Mr. Hossein Ashktorab, Recycled Water Unit Manager, and Mr. Medi Sinaki, Senior Engineer, reviewed the information on this item, per the attached Committee Agenda Memo, and corresponding presentation materials contained in Attachment 1.

Mr. Stan Williams, Poseidon Water, encouraged additional advertisement and outreach to provide stakeholders with notice of the April 19, 2018 RWPAC meeting.

The Committee made the following requests of staff:

- Come back with a Nonagenda item providing information on the Silicon Valley Advanced Water Purification Center budget, including proposed vs. adopted figures for Fiscal Year 2017, and utilization and cost ratios, per acre foot, for Fiscal Year 2018-19;
- Provide a briefing to City of San Jose staff on the subjects planned for discussion during the April 19, 2018 Recycled Water Policy Advisory Committee (RWPAC) meeting, including discussion on the City of San Jose's budget objectives, and an overview of District efforts towards Private/Public Partnership (P3) and how the City of San Jose fits into this; and
- Coordinate additional advertisement of the April 19, 2018 RWPAC meeting on the District's website.

The Committee noted the information, without formal action.

4.2 UPDATE ON DISTRICT RECYCLED AND PURIFIED WATER EFFORTS – REVERSE OSMOSIS CONCENTRATE MANAGEMENT:

Mr. Sinaki reviewed the information on this item, per the attached Committee Agenda Memo, and corresponding presentation materials contained in Attachment 1.

Director Keegan requested that staff prepare a technical publication or presentation that promotes awareness of the District's efforts in new reverse osmosis concentrate management technologies.

It was moved by Director Kremen, seconded by Director Keegan, and unanimously approved that the Committee recommend that the Board of Directors approve a \$452,000 budget adjustment and authorize the Chief Executive Officer (CEO) to negotiate and execute an amendment and time extension to the agreement with GHD, Inc., for the Reverse Osmosis Concentrate Management Project (Agreement No. A4034G), for an amount not to exceed \$842,000; and that the Board of Directors adopt a resolution to authorize the CEO to prepare and submit a grant application to the State water Resources Control Board Proposition 13 Grant Funding Opportunity, to partially fund the Reverse Osmosis Concentrate Management Project.

5. REVIEW AND DISCUSS 2017 COMMITTEE WORK PLAN

The Committee continued discussion of the 2018 Work Plan to the May 9, 2018, meeting.

6. CLERK'S REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS AND RECOMMENDATIONS:

Ms. Michelle Meredith, Deputy Clerk of the Board, read the new Committee Recommendations and Requests into the record, as follows:

- Staff is to come back with a Nonagenda item providing information on the Silicon Valley Advanced Water Purification Center budget, including proposed vs. adopted figures for Fiscal Year 2017, and utilization and cost ratios, per acre foot, for Fiscal Year 2018-19;
- Staff is to provide a briefing to City of San Jose staff on the subjects planned for discussion during the April 19, 2018 Recycled Water Policy Advisory Committee (RWPAC) meeting, including discussion on the City of San Jose's budget objectives, and an overview of District efforts towards P3 and how the City of San Jose fits into this;
- Staff is to coordinate additional advertisement of the April 19, 2018 RWPAC meeting on the District's website;
- Staff is to prepare a technical publication or presentation that promotes awareness of the District's efforts in new reverse osmosis concentrate management technologies; and
- The Committee recommends that the Board of Directors approve a \$452,000 budget adjustment and authorize the Chief Executive Officer (CEO) to negotiate and execute an amendment and time extension to the agreement with GHD, Inc., for the Reverse Osmosis Concentrate Management Project (Agreement No. A4034G), for an amount not to exceed \$842,000; and that the Board of Directors adopt a resolution to authorize the CEO to prepare and submit a grant application to the State water Resources Control Board Proposition 13 Grant Funding Opportunity, to partially fund the Reverse Osmosis Concentrate Management Project.

Chairperson Estremera requested that staff come back at the May 9, 2018 meeting with Draft Term Sheets for Expedited Recycled Water Program P3 Proposals.

7. **ADJOURN**

Chairperson Estremera adjourned the meeting at 2:50 p.m., to the next scheduled meeting at 12:00 p.m. on Wednesday May 9, 2018, in the District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Michelle Meredith
Deputy Clerk of the Board

Approved:

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File No.: 18-0272

Agenda Date: 5/9/2018

Item No.: 3.1.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Expedited Purified Water Program Update.

RECOMMENDATION:

Receive information on and discuss the P3 Expanded Shortlist of Qualified Firms, the Draft P3 Term Sheet, and next steps for the P3 Procurement process.

SUMMARY:

The Expedited Purified Water Program (Program) was initiated in 2015 as part of the District's strategy to respond to a multi-year drought and is consistent with Board direction to expand recycled water use in the county.

On October 10, 2017, the Board directed staff to pursue a Public-Private Partnership (P3) delivery method for the Program. At its December 12, 2017 meeting, the Board considered staff's recommendation to proceed with expansion of the Silicon Valley Advanced Water Purification Center (SVAWPC) for indirect potable reuse (IPR) at the Los Gatos Recharge Ponds. Two of the Board's directives to staff at this meeting were:

1. Issue another Request for Qualifications (RFQ) to expand the existing P3 shortlist; and
2. Initiate development of a P3 Request for Proposal (RFP) Process assuming up to 24,000 acre-feet per year (AFY) of purified water production at the expanded SVAWPC and conveyance of purified water to the Los Gatos Recharge Ponds.

2018 RFQ Process to Expand P3 Shortlist

Per Board direction in December 2017, staff published a Request for Qualifications (RFQ) on February 26, 2018. The two P3 firms that had been shortlisted in the 2016 RFQ process (Poseidon Water and Silicon Valley NEWater Partners) will remain on the shortlist for the Request for Proposal (RFP) process.

Statements of Qualification (SOQ) responding to the February 2018 solicitation were received from three additional P3 entities (AECOM-Veolia Partners; Santa Clara Water Partners; and Silicon Valley Water) on the due date of April 4, 2018. Based on the evaluation and scoring of these three SOQs, all three SOQ respondents were informed on April 24, 2018, that they qualified to be added to the P3 shortlist. The expanded P3 shortlist is presented in Table 1. The shortlisted entities are presented in alphabetical order.

Table 1. Purified Water Program - Public-Private Partnership (P3) Shortlist

	P3 Entity
1	AECOM-Veolia Partners: AECOM Capital, Inc. / Veolia North America, Inc. / AECOM Energy and Construction. Inc. / AECOM Energy and Construction. Inc. / AECOM Technical Services, Inc.
2	Poseidon Water LLC (Subsidiary of Brookfield Infrastructure Partners, L.P.) /Kiewit Infrastructure West Co. / Arcadis U.S. Inc. / SUEZ Water Environmental Services Inc. and Sacyr Environment USA LLC (Joint Venture)
3	Santa Clara Water Partners: a joint venture between Plenary Group USA Concessions Ltd.; EPCOR USA Inc.; and PCL Construction, Inc. /Garney Pacific, Inc.
4	Silicon Valley NEWater Partners: Table Rock Infrastructure Partners / CH2M HILL Engineers, Inc. /Jacobs / Ullico Infrastructure Fund, Meridiam
5	Silicon Valley Water LLC: Acciona Agua Corporation USA /J.R. Filanc Construction Company, Inc. / Steve P. Rados, Inc. / Tetra Tech, Inc

Request for Proposal Development - Draft P3 Term Sheet

In parallel with the above-described RFQ process, staff and the P3 Advisory Team have been preparing the documents that will be used in the next step of the P3 Procurement-the Request for Proposals (RFP) process. When completed, the RFP will be released to the above-listed pre-qualified P3 entities.

A key element of the RFP documents is a P3 Term Sheet. The Term Sheet communicates the District’s Purified Water Program’s Phase 1 Project’s specifications, preferences, and requirements to the shortlisted P3 Proposers. The Phase 1 Project is a water purification facility adjacent to the existing Silicon Valley Advanced Water Purification Center (SVAWPC) that would purify up to 24,000 acre-feet per year, and a pipeline to convey the purified water to the Los Gatos Recharge Ponds. Attachment 1 contains the Draft P3 Term Sheet. Attachment 2 provides a summary PowerPoint Presentation for the Draft P3 Term Sheet.

P3 Procurement - Next Steps

The planned next steps for the P3 Procurement are listed below. Staff and the P3 Advisory Team will:

1. Provide a more detailed form of the Draft P3 Term Sheet to the shortlisted P3 entities for their review - mid-May 2018;

2. Hold one-on-one meetings with each shortlisted P3 entity to solicit the P3 entity's comments and feedback on the Draft P3 Term Sheet - June/July 2018;
3. Present the P3 entities' feedback to the Recycled Water Committee for discussion/direction - July/August 2018;
4. Finalize the P3 Term Sheet and release the RFP to the shortlisted P3 entities - August/September 2018.

ATTACHMENTS:

Attachment 1: Draft P3 Term Sheet

Attachment 2: PowerPoint

UNCLASSIFIED MANAGER:

Katherine Oven, 408-630-3126

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DRAFT

P3 TERM SHEET

For a

PUBLIC-PRIVATE PARTNERSHIP

Between

Santa Clara Valley Water District

and

P3 Entity

DRAFT FOR PUBLIC RELEASE – April 19, 2018

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GENERAL TERMS

1. Purpose	The purpose of this Term Sheet is to set forth summary terms for a potential public-private partnership between the Santa Clara Valley Water District (the "District") and the P3 Entity with respect to the Expedited Purified Water Program (the "Project"), as hereinafter defined. It is a summary only and is not comprehensive or definitive. The parties understand that substantive terms and detailed provisions not noted or fully developed in this Term Sheet are expected to be included in any final Development Period Agreement and Water Services Agreement.
2. Not a Definitive Contract	<p>This Term Sheet is for discussion purposes only and is not a definitive contract. The proposed terms and conditions set forth herein do not bind the District in any manner, and in particular do not commit the District to enter into the Development Period Agreement or the Water Services Agreement.</p> <p>Any final and binding Development Period Agreement or Water Services Agreement will be subject to review and approval by the District's Board of Directors.</p> <p>This Term Sheet is a draft document. It is confidential and subject to modification by the District at any time, without notice.</p>
3. Project	<p>The Silicon Valley Advanced Water Purification Center Expansion, a separate facility to be constructed adjacent to the existing Silicon Valley Water Purification Center (the "Treatment Plant" or "Plant"), and the Purified Water Pipeline (the "Conveyance System" or "Pipeline") as further described herein. The Project may be expanded to include additional components that may be added at the District's discretion and the P3 Entity's reasonable acceptance.</p> <p>The Project shall be owned by the District. The Project does not include the existing Silicon Valley Advanced Water Purification Center, as the existing plant, part of South Bay Water Recycling, is exclusively used for reducing the salt levels in the water used for non-potable reuse.</p>
4. Water Services	The P3 Entity will use the Project for the sole purpose of providing Water Services to the District. Water Services shall include Water Treatment and Water Conveyance as further described in Section 47.
5. Proposer	Each corporation, limited liability company, partnership, joint venture, or other legal entity that is selected by the District to receive the RFP and that submits a Proposal in response to the RFP.
6. RFP	The District's Request for Proposals for a Public-Private Partnership between Proposer and the District with regards to the Project.

7. Proposal	The proposal submitted by a Proposer in response to the RFP.
8. P3 Entity	The Proposer that is selected by the District to enter the Development Period Agreement and, if so accepted by the District, the Water Services Agreement.
9. Development Period Agreement	The agreement between the P3 Entity and the District setting forth terms for the Development Period, the roles and responsibilities of the P3 Entity and the District during the Development Period, and the potential off-ramps if the District elects to terminate the Development Period or determines not to execute the Water Services Agreement.
10. Water Services Agreement	The agreement between the P3 Entity and the District under which the P3 Entity will finance, construct, operate and maintain the Project and deliver Water Treatment and Water Conveyance services to the District, and the District will pay for such services.
11. Relationship between the District and the City of San Jose	<p>The District is currently in negotiations with staff at the City of San Jose (the "City"), in their capacity as operator of the Regional Wastewater Facility ("RWF"), to (i) provide treated wastewater to the District ("Feed Water"), and (ii) provide the District with rights to the Site, which is owned by the City. District and City staff are also discussing the appropriate disposal procedures for reverse osmosis concentrate ("RO Concentrate") and other discharges produced by the Project.</p> <p>Arrangements with the City shall be provided for in one or more agreements between the City and the District on terms accepted by both parties. It is not expected that the P3 Entity shall be party to these agreements. All obligations of the District under these agreements shall remain obligations of the District and shall not be transferred to the P3 Entity without prior consent of the City.</p>
12. District Requirement for Transparency	<p>The District will require independent verification of all material representations and warranties provided by the P3 Entity; disclosure of all material subcontracts entered into by the P3 Entity, and full access to all documentation and procedures supporting material procurement activities of the P3 Entity. The P3 Entity agrees to cooperate fully with all due diligence, disclosure, and transparency requirements of the District.</p> <p>The P3 Entity shall additionally provide an overhead audit and all other disclosure and informational requirements satisfying Federal standards and grants.</p>
13. Communications with the Public	The P3 Entity shall not issue press releases, advertise, or otherwise communicate with the public regarding the Project, the Development Period Agreement, or the Water Services Agreement, without pre-

	approval by the District.
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QUALIFIED MANAGEMENT CONTRACT SAFE-HARBOR

<p>14. Water Services Agreement a Qualified Management Contract</p>	<p>The Water Services Agreement is intended to satisfy the safe harbor conditions under which a management contract does not result in private business use, as provided in Rev. Proc. 2017-13. These conditions are listed below, and, where appropriate, cross-referenced to the relevant section of this Term Sheet. This analysis is not intended as tax advice, or a definitive analysis of the safe harbor provisions and issues relevant to their application to the Project, but is rather provided to facilitate review.</p> <p style="margin-left: 40px;">A. <u>Rev. Proc. §5.02(1). General Requirements.</u> The payments to the service provider must be reasonable compensation for services rendered during the term of the contract.</p> <p style="margin-left: 80px;">How this is reflected in the P3 Term Sheet:</p> <p style="margin-left: 80px;">Reasonability is established through competitive procurement of P3 Entity. See Sections 25 of this P3 Term Sheet. There will be no payment for services prior to commercial operation date and delivery of specified services. See Section 52 herein.</p> <p style="margin-left: 40px;">B. <u>Rev. Proc. §5.02(2). No net profits arrangements.</u> The contract must not provide to the service provider a share of net profits from the operation of the managed property.</p> <p style="margin-left: 80px;">How this is reflected in the P3 Term Sheet:</p> <p style="margin-left: 80px;">Payment will be based on the volumes of Product Water available for delivery to the District, and the Water Unit Price. Payments shall not be based on, or take into account, net profits from the operation of the Project. See Sections 53, 54, 55, and 56 of this P3 Term Sheet.</p> <p style="margin-left: 40px;">C. <u>Rev. Proc. §5.02(3). No bearing of net losses of the managed property.</u> The contract must not impose upon the service provider the burden of bearing any share of net losses from the operation of the managed property.</p> <p style="margin-left: 80px;">How this is reflected in the P3 Term Sheet:</p> <p style="margin-left: 80px;">Payment will be based on the volumes of Product Water available for delivery to the District, and the Water Unit Price. Payments shall not be based on, or take into account, net losses from the operation of the Project. See Sections 53, 54, 55, and 56 of this P3 Term Sheet.</p> <p style="margin-left: 40px;">D. <u>Rev. Proc. §5.03. Term of the contract.</u> The term of the contract is</p>
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	<p>no greater than the lesser of 30 years or 80% of the weighted average reasonably expected economic life of the managed property.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The term of the Water Services Agreement shall not exceed 30 years, comprising approximately 3.25 years for financing and construction and 26.75 years of operations. The P3 Entity shall deliver an acceptable certification from a qualified appraiser that the weighted average reasonably expected economic life of the Project is not less than 33.5 years (26.75 years divided by 0.80). See Sections 25 and 34 of this P3 Term Sheet.</p> <p>E. <u>Rev. Proc. §5.04. Control over use of the managed property.</u> The qualified user must exercise a significant degree of control over the use of the managed property.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The District will exert significant operational control over the Project. For example, the District will determine the operating volume of the Project, and whether or not the Project is placed in long-term standby mode. See Section 49.</p> <p>The District will negotiate and approve the annual operating budget for the Project as set forth in Section 25, which shall subsequently escalate at an approved annual rate of escalation as set forth in Section 54. The District shall approve the capital budget and debt interest rates for the Project as set forth in Sections 39, 40, and 41.</p> <p>F. <u>Rev. Proc. §5.05. Risk of loss of the managed property.</u> The qualified user must bear the risk of loss upon damage or destruction of the managed property.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The District bears Force Majeure risk. See Section 55, 57, and 62.</p> <p>G. <u>Rev. Proc. §5.06. No inconsistent tax position.</u> The service provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the qualified user with respect to the managed property.</p>
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	<p>How this is reflected in the P3 Term Sheet:</p> <p>The Project is considered owned for tax purposes by the District and the P3 Entity may not claim tax benefits, such as depreciation, as an owner of the Project. See Sections 35, 36, and 73.</p> <p>H. <u>Rev. Proc. §5.07. No circumstances substantially limiting exercise of rights.</u> The service provider must not have any role or relationship with the qualified use that substantially limits the qualified user’s ability to exercise its rights under the contract.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The P3 Entity will be the Proposer selected by the District through the RFP process as an arms-length service provider. The P3 Entity will have no role or relationship with the District that limits the qualified user’s ability to exercise its rights under the Water Services Agreement.</p> <p>I. <u>Rev. Proc. §5.08. Functionally related and subordinate use.</u> A service provider’s use of a project that is functionally related and subordinate to the performance of its services under a management contract does not result in private business use.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The P3 Entity’s use of the Project is limited solely to fulfillment of its obligations under the Development Period Agreement and the Water Services Agreement. See Section 47.</p> <p>J. <u>Additional Consideration – Rev. Proc. §2.05. No lease or sublease.</u> This background section notes that the lease of financed property to a nongovernmental person is private business use of that property.</p> <p>How this is reflected in the P3 Term Sheet:</p> <p>The District shall grant the P3 Entity the right to access and use the Site as part of the Water Services Agreement. This right of access and use shall not take the form of a lease or sublease of the Site. See Section 45 of this P3 Term Sheet.</p>
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REQUEST FOR PROPOSALS

<p>15. RFP</p>	<p>The District’s Request for Proposals for a Public-Private Partnership between Proposer and the District with regards to the Project.</p>
<p>16. Shortlisted Respondents and the RFP</p>	<p>The District has used a request for qualifications (“RFQ”) process to establish a shortlist of qualified RFQ respondents (“Shortlisted Respondents”). The District is currently issuing a new RFQ to expand its pool of Shortlisted Respondents to at least three firms.</p> <p>Only Shortlisted Respondents shall be eligible to receive the RFP and be Proposers. The District may, in the future, issue further RFPs for other projects to the Shortlisted Respondents.</p> <p>The District shall be responsible for developing the RFP. It is expected that Shortlisted Respondents will be provided the opportunity to review and comment on the draft RFP, prior to its release. The District is under no obligation to accept Shortlisted Respondent comments, and may alter the RFP or discontinue the RFP process at its sole discretion at any time.</p>
<p>17. Contents of RFP</p>	<p>The RFP shall contain customary terms and conditions for District procurements. It shall additionally contain the following four principal attachments.</p> <p style="margin-left: 40px;">A. <u>RFP Body</u></p> <p style="margin-left: 80px;">The body of the RFP (“RFP Body”) will provide:</p> <ul style="list-style-type: none"> (i) Background information on the District and the Project, (ii) Current status of Project development, (iii) Description of RFP procurement process, (iv) Description of Proposal requirements, and (v) Proposal evaluation criteria <p style="margin-left: 40px;">B. <u>Development Period Agreement</u></p> <p style="margin-left: 80px;">Summary terms for the Development Period Agreement are set forth in this P3 Term Sheet. The District expects to include a fully-drafted Development Period Agreement as an attachment to the RFP.</p> <p style="margin-left: 40px;">C. <u>Water Services Agreement Term Sheet</u></p> <p style="margin-left: 80px;">Summary terms for the Water Services Agreement are set forth in this P3 Term Sheet. The District expects to include an expanded version of this Water Services Agreement Term Sheet as an attachment to the RFP.</p> <p style="margin-left: 40px;">D. <u>Appendix A – Performance Requirements</u></p>

	<p>Appendix A to this P3 Term Sheet contains certain performance requirements (“Performance Requirements”) that the P3 Entity and/or the Project is expected to satisfy. They are referenced in the summary of terms for the Development Period Agreement and the Water Services Agreement. These Performance Requirements will be included as attachments to the RFP.</p> <p>E. <u>Appendix B – Proposal Forms</u></p> <p>Appendix B to this P3 Term Sheet contains the proposal forms (“Proposal Forms”) that each Proposer is expected to submit in its Proposal. Many of the Proposal Forms are referenced in the summary of terms for the Development Period Agreement and the Water Services Agreement. These Proposal Forms will be included as attachments to the RFP.</p>
<p>18. Stipend</p>	<p>The District may consider providing a stipend as partial compensation to Proposers who submit a responsive proposal but are not selected by the District. Such stipend, if any, shall be payment for transfer of ownership to the District of all intellectual property, technical concepts, and other information as presented in the proposals.</p>
<p>19. Exceptions to Terms Proposed by the District</p>	<p>Each Proposer shall be required to identify any exceptions to the terms proposed by the District and set forth in the RFP, proposed Development Period Agreement, and proposed Water Services Agreement. Each Proposer shall be required to summarize material exceptions in Schedule B-15 to this P3 Term Sheet and may further elaborate exceptions in redline format to the Development Period Agreement and/or Water Services Agreement.</p>
<p>20. Proposed Amendments</p>	<p>Each Proposer will be invited to propose any amendments to the terms proposed by the District and set forth in the RFP, proposed Development Period Agreement, and proposed Water Services Agreement Term Sheet. Each Proposer proposing enhancements shall set forth such enhancement in Schedule B-16 to this P3 Term Sheet, together with an explanation of the benefit to the District of such enhancement. Wherever possible, the P3 Entity will quantify the benefit to the District. Proposers are encouraged to propose enhancements that will improve innovation for all aspects of the Project and reduce the final Water Unit Price.</p>
<p>21. Water Unit Price Ceiling</p>	<p>Each Proposer shall be required to propose a maximum Water Unit Price (the “Water Unit Price Ceiling”) in accordance with parameters to be specified in the RFP, and to set forth such Water Unit Price Ceiling in Schedule B-17 to this P3 Term Sheet.</p> <p>The actual Water Unit Price shall be determined in accordance with the terms of the Development Period Agreement and Water Services</p>

	<p>Agreement. However, in no instance shall the actual Water Unit Price exceed, in any year, the Water Unit Price Ceiling. The District may offer a bonus incentive to incentivize the P3 Entity to achieve an actual Water Unit Price that is lower than the Water Unit Price Ceiling.</p>
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DEVELOPMENT PERIOD AGREEMENT

<p>22. Development Period Agreement</p>	<p>The agreement between the P3 Entity and the District setting forth terms for the Development Period, the roles and responsibilities of the P3 Entity and the District during the Development Period, and the potential off-ramps if the District elects to terminate the Development Period or determines not to execute the Water Services Agreement.</p>
<p>23. Execution of Development Period Agreement</p>	<p>The Development Period Agreement shall be executed promptly following the District’s selection of the P3 Entity.</p>
<p>24. Development Period</p>	<p>The Development Period shall begin upon execution of the Development Period Agreement and end upon the earliest of the following:</p> <ul style="list-style-type: none"> A. The District’s decision to terminate the Development Period, B. The District and the P3 Entity’s execution of Water Services Agreement, or C. The District’s decision not to Execute the Water Services Agreement, such decision being a termination of the Development Period.
<p>25. Development Period Activities</p>	<p>Development of the Project is currently underway. Schedule A-6 to this P3 Term Sheet describes the District’s development activities During the Development Period, the P3 Entity shall perform the following activities:</p> <ul style="list-style-type: none"> A. <u>Permitting and Development Activities</u> The P3 Entity shall perform the permitting and development activities set forth in Schedule B-3 of this P3 Term Sheet. B. <u>Project Labor Agreement</u> The P3 Entity shall develop a Project Labor Agreement, binding upon construction and operation of the Project. The District shall have the right to review, direct changes, and approve the Project Labor Agreement. C. <u>Design-Build Agreement</u> The P3 Entity shall develop a guaranteed maximum price for the engineering, procurement and construction of the Project, and shall prepare a design-build agreement (the “Design-Build Agreement”) pursuant to which the design-builder entity within the P3 Team (the “Design-Builder”) shall engineer, procure, and construct the Project.

	<p>D. <u>O&M Agreement</u></p> <p>The P3 Entity shall develop scope and pricing for operation and maintenance of the Project, and shall prepare an operations and maintenance agreement (the "O&M Agreement") pursuant to which the operator entity within the P3 Team (the "Operator") shall operate and maintain the Project.</p> <p>To support the specification of the Water Unit Price as set forth in Section 54, the first-year annual budget shall have a fixed O&M component required to maintain the P3 Project in a standby, ready-to-produce mode, and a volumetric O&M component associated with the treatment and conveyance of Product Water.</p> <p>The P3 Entity shall also establish a discounted O&M budget for periods of Extended Curtailment. The District's rights to direct the Project to observe an Extended Curtailment, and the operational requirements associated therewith, are set forth in Schedule A-8.</p> <p>The first-year annual operating budget, once determined, shall escalate annually through the Term of the Water Services Agreement as set forth in Section 54.</p> <p>E. <u>Credit Ratings for Senior Bonds</u></p> <p>The P3 Entity may propose a financing plan that includes the issuance of senior, subordinate, or other financing instruments as determined by the P3 Entity. The District's preference is to secure credit ratings of not less than Baa3/BBB- from at least two rating agencies for the Senior Bonds. The District encourages innovations in the financing plan to reduce the WSA Unit Price, however, the proposed financing plan must comply with the Qualified Management Contract rules as set forth in Section 14. Specifically, the P3 Entity shall not have any ownership interest in the Project, the Water Services Agreement shall not provide any form of equity compensation, and the financing plan must receive District bond/tax counsel opinion that it is in compliance with IRS rules for a Qualified Management Contract.</p> <p>F. <u>Appraisal of the Project</u></p> <p>The District requires that the design and construction of the Project support an economically useful Project life of not less than 33.5 years. In support of the District's determination that the Water Services Agreement satisfies the Qualified Management Contract Safe-Harbor provisions described in Section 14 of this P3 Term Sheet, the P3 Entity shall deliver an acceptable certification</p>
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	<p>from a qualified appraiser that the weighted average reasonably expected economic life of the Project is not less than 33.5 years.</p> <p>G. <u>Other Activities</u></p> <p>The P3 Entity shall undertake such additional activities as are required to support the above.</p>
<p>26. Development Period Budget</p>	<p>Each Proposer shall complete Schedule B-9 to this P3 Term Sheet as part of its Proposal. In Schedule B-9, each Proposer shall propose a not-to-exceed budget for the Project Development Activities set forth above. These not-to-exceed amounts shall establish the maximum amount eligible for inclusion in the Accepted Capital Budget, as defined herein. The P3 Entity shall be entitled to include in the Accepted Capital Budget the lesser of such not-to-exceed amounts and the amounts it has actually expended.</p>
<p>27. Development Period Milestone Schedule</p>	<p>Each Proposer shall complete Schedule B-10 to this P3 Term Sheet as part of its Proposal. In Schedule B-10, each Proposer shall identify the key Development Period milestones, the proposed date on which each is expected to occur (the "Development Period Milestone Schedule"), and the proposed grace period ("Grace Period") for each. The Development Period Milestone Schedule and Grace Periods shall be used to determine the Break-Up Fee payable by the District in the event of a Development Period Termination as set forth herein.</p> <p>During the Development Period, the P3 Entity shall inform the District of</p> <ul style="list-style-type: none"> A. The actual achievement of each key development milestone; B. The due date for each key development milestone as set forth in the Development Period Milestone Schedule, in the event that such date occurs prior to actual achievement; and C. The lapsing of the Grace Period for each key development milestone as set forth in the Development Period Milestone Schedule, in the event that such date occurs prior to actual achievement.
<p>28. P3 Entity Material Adverse Credit Development</p>	<p>A P3 Entity Material Adverse Credit Development shall the occurrence of any of the following:</p> <ul style="list-style-type: none"> A. An insolvency or bankruptcy of the P3 Entity, the Subordinated Bond Investor, or any of the P3 Entity's principal contractors, unless such contractor is replaced with a new contractor approved by the District; B. A material credit rating downgrade (meaning a downgrade of at least two notches, such as from A+ to A- or from A- to BBB) of the

	<p>P3 Entity, the Subordinated Bond Investor, or any of the P3 Entity's principal contractors, unless such contractor is replaced with a new contractor approved by the District; or</p> <p>C. The acquisition of the P3 Entity, the Subordinated Bond Investor, or any of the P3 Entity's principal contractors without prior approval of the District, unless such contractor is replaced with a new contractor approved by the District.</p> <p>The P3 Entity shall promptly inform the District of any P3 Entity Material Adverse Credit Development that occurs during the Development Period. Such occurrence shall affect the District's obligation to pay a Break-Up Fee upon a Development Period Termination, as described herein.</p>
<p>29. Right to Terminate Development Period</p>	<p>The District may terminate the Development Period (such termination, a "Development Period Termination") at any time, at the District's sole discretion, by providing the P3 Entity with ten (10) business day's advance written notice, and by paying a Break-Up Fee to the P3 Entity to the extent required by the provisions of Section 30. Additionally, a determination by the District not to enter into the Water Services Agreement will constitute a Development Period Termination.</p>
<p>30. Break-Up Fee</p>	<p>Each Proposer shall complete Schedule B-11 to this P3 Term Sheet as part of its Proposal. In Schedule B-11, each Proposer shall propose a Break-Up Fee schedule for potential Development Period Termination by the District.</p> <p>In the event of a Development Period Termination, the District shall be obligated to pay a Break-Up Fee to the P3 Entity, except that:</p> <p>A. <u>Excessive Development Period Delay</u></p> <p>No Break-Up Fee shall be owed by the District if the achievement of any of the key dates in the Development Period Milestone Schedule is delayed beyond the Grace Period for such date.</p> <p>B. <u>P3 Entity Material Adverse Credit Development</u></p> <p>No Break-Up Fee shall be owed by the District if a P3 Entity Material Adverse Credit Development has occurred.</p> <p>C. <u>Unapproved Change in Key Personnel</u></p> <p>No Break-Up Fee shall be owed by the District if any of the key personnel proposed by the P3 Entity and accepted by the District are changed during the Development Period, unless such change is approved by the District.</p>

	<p>D. <u>P3 Entity failure to fund P3 Entity costs during the Development Period</u></p> <p>No Break-Up Fee shall be owed by the District if a P3 Entity fails to fund P3 Entity costs during the Development Period.</p> <p>E. <u>Failure to Achieve Water Unit Price Ceiling</u></p> <p>No Break-Up Fee shall be owed by the District if a P3 Entity fails to achieve a final Water Unit Price at or below the Water Unit Price Ceiling set forth in Schedule B-17.</p> <p>The parties acknowledge that the District has the right to terminate the Water Services Agreement for failure by the P3 Entity to achieve Financial Closing, as described in Section 38 of this P3 Term Sheet.</p>
<p>31. Right to Use or Assume Work in the Event of a Development Period Termination</p>	<p>Upon any such Development Period Termination and payment by the District of any Break-Up Fee owed to the P3 Entity, the District will have rights to (i) assume the contractual right to use, without further payment, the design work, permitting work, and any other work product completed to date with reasonable transition support from the Principal Engineering Firm or other relevant party and/or (ii) retain the Principal Engineering Firm through 100% design and have them become the Engineer of Record for the Project.</p>

WATER SERVICES AGREEMENT

32. Water Services Agreement	The agreement between the P3 Entity and the District under which the P3 Entity will finance, construct, operate and maintain the Project and deliver Water Treatment and Water Conveyance services to the District, and the District will pay for such services.
33. Execution of the Water Services Agreement	The District has no obligation to enter into the Water Services Agreement. The District will consider execution of the Water Services Agreement when all of the Development Period Activities identified in Section 25 have occurred.
34. Term	<p>The term of the Water Services Agreement will be thirty (30) years from the date of execution.</p> <p>The term of the Water Services Agreement is intended to meet the safe-harbor requirements for a Qualified Management Contract as discussed in Section 14 of this P3 Term Sheet.</p>
35. District Ownership of the Project	Notwithstanding the obligation of the P3 Entity to perform the activities set forth in the Water Services Agreement, the District shall be the owner of the Project.
36. Return of Project Facilities at End of Term	At the end of the Term of the Water Services Agreement, the P3 Entity shall cease to operate and maintain the Project and shall return the Project to the District in the return conditions set forth in Schedule A-8.
37. Financing	<p>The P3 Entity will finance the Accepted Capital Budget in the matter set forth in the financing plan proposed in Schedule B-5. While the District anticipates the issuance of Senior Bonds and Subordinated Bonds by the P3 Entity, innovation is encouraged to the extent such innovation lowers the Water Unit Price and conforms to the Qualified Management Contract Safe-Harbor provisions as determined in the District's sole discretion. Any costs or expenses of the P3 Entity that are not included in the Accepted Capital Budget shall not be financed through issuance of Senior Bonds and Subordinate Bonds.</p> <p>The District expects that debt service due on the Senior Bonds and Subordinate Bonds will be used to establish the Debt Service Charge component of the Water Unit Price, as set forth herein.</p>
38. Financial Closing	The P3 Entity will have 90 days from execution of the Water Services Agreement to issue its Senior Bonds and Subordinate Bonds and achieve financial closing ("Financial Closing"). Without bearing any responsibility or liability, the District will cooperate with the P3 Entity in achieving Financial Closing on this timeframe.

	<p>In the event that the P3 Entity fails to achieve Financial Closing within 90 days and/or fails to keep the final Water Unit Price below the Water Unit Price Ceiling specified in Section 21 of this P3 Term Sheet, the District shall have the option to terminate the Water Services Agreement without payment of the Break-Up Fee described in Section 30 of this P3 Term Sheet and without any other financial penalties or payments.</p>
<p>39. Accepted Capital Budget</p>	<p>The Accepted Capital Budget shall be the schedule of capital expenditures for the Project that is proposed by the P3 Entity and accepted by the District. The Accepted Capital Budget shall include the following line-items, which shall be established as described in this Section.</p> <p>A. <u>Direct Costs of Construction</u></p> <p>The direct payments to the builder who will engineer, procure and construct the Project. The direct costs of construction shall be developed by the P3 Entity during the Development Period as set forth in Section 25 of this P3 Term Sheet.</p> <p>B. <u>Accepted Development Period Expenses</u></p> <p>As described in Section 26 of this P3 Term Sheet, each Proposer shall propose a Development Period Budget and set forth its proposal in Schedule B-9 to this Term Sheet. Once accepted by the District, this Development Period Budget shall be the maximum amount eligible for inclusion in the Accepted Capital Budget. The amount to be included in the Accepted Capital Budget shall be the lesser of such not-to-exceed amounts and the amounts the P3 Entity has actually expended. Any expenses incurred by the P3 Entity during the Development Period that are excess to the Development Period Budget shall not be eligible for inclusion in the Accepted Capital Budget.</p> <p>C. <u>Construction Contingency Reserve</u></p> <p>Each Proposer shall propose the amount to be deposited into a construction contingency reserve account (the "Construction Contingency Reserve") and set forth its proposal in Schedule B-12 to this P3 Term Sheet. The proposed Construction Contingency Reserve shall be in addition to the Direct Costs of Construction and may be specified as a fixed dollar amount or a percentage of the Direct Costs of Construction.</p> <p>D. <u>Capitalized Interest</u></p> <p>To the extent that the Proposer's plan of finance requires the capitalization of interest during construction, the Proposer shall propose an amount of Capitalized Interest, and the calculation</p>

	<p>methodology, and set forth its proposal in Schedule B-12 to this P3 Term Sheet.</p> <p>E. <u>Other Reserves</u></p> <p>Each Proposer shall propose the amount and purpose of any reserves other than the Construction Contingency Reserve and set forth its proposal in Schedule B-12 to this P3 Term Sheet. Such Other Reserves and their respective amounts should reflect Proposer’s determination of reserve levels necessary to support investment-grade credit ratings on the Senior Bonds and prudent operations of the Project. Where applicable, such proposed reserves may be specified as a function of other factors, such as the Senior Bond amount and interest rate, that aren’t known by the Proposer at the time it submits its Proposal.</p> <p>F. <u>Capitalized P3 Entity Costs During Construction</u></p> <p>Each Proposer shall propose any construction period costs that it seeks to capitalize and include in the Accepted Capital Budget, and set forth its proposal in Schedule B-12 to this P3 Term Sheet.</p> <p>G. <u>Other Fees, Expenses, and Adjustments</u></p> <p>Each Proposer shall propose any other fees, expenses and adjustments to the Accepted Capital Budget, and set forth its proposal in Schedule B-12 to this P3 Term Sheet. Examples include fees associated with capital markets access that are not included in the Development Period Budget and interest earned during construction on unexpended bond proceeds.</p>
<p>40. Pay-As-You-Go Contributions by the District</p>	<p>The District shall have the right to fund up to 30% of the Accepted Capital Budget through cash contributions to the P3 Entity during construction (“Pay-As-You-Go Contribution”). Any such contributions may reduce the amount of financing to be issued by the P3 Entity, thereby reducing the Debt Service Charge component of the Water Unit Price, or may be applied as otherwise directed by the District.</p> <p>The District shall determine the amount of Pay-As-You-Go Contribution it elects to fund during the Construction Period, if any, prior to consideration of the Water Services Agreement by the District. The District, as owner of the Project, shall have the right to fund all or a portion of potential future Capital Modifications throughout the Term of the Water Services Agreement.</p>
<p>41. Capitalization</p>	<p>The capitalization parameters set forth in this section shall govern the debt issued to finance the Project, and the Debt Service Charge component of</p>

<p>Parameters</p>	<p>the Water Unit Price.</p> <p>A. <u>Debt Capitalization</u></p> <p>In support of the District’s determination that the Water Services Agreement satisfied the Qualified Management Contract Safe-Harbor provisions describe in Section 14 of this P3 Term Sheet, capitalization of the Project as provided for in the Water Services Agreement, and the Debt Service Charge component of the Water Unit Price, shall reflect debt instruments only, and not equity investment.</p> <p>The P3 Entity may propose a financing plan that includes the issuance of senior, subordinate, or other financing instruments as determined by the P3 Entity. The District’s preference is to secure credit ratings of not less than Baa3/BBB- from at least two rating agencies for the Senior Bonds. The District encourages innovations in the financing plan to reduce the WSA Unit Price, however, the proposed financing plan must comply with the Qualified Management Contract rules as set forth in Section 14. Specifically, the P3 Entity shall not have any ownership interest in the Project, the Water Services Agreement shall not provide any form of equity compensation, and the financing plan must receive District bond/tax counsel opinion that it is in compliance with IRS rules for a Qualified Management Contract.</p> <p>The P3 shall treat any proposed debt instruments as debt for all purposes, including federal income taxation purposes. Prior to Financial Closing, the P3 Entity shall provide independent certification, reasonably acceptable to the District, that repayment of debt from the P3 Entity’s receipts under the Water Services Agreement is a reasonable expectation.</p> <p>B. <u>Ratio of Financial Instruments</u></p> <p>Each Proposer shall propose the relative amount of Senior Bonds, Subordinated Bonds, and any other proposed financing instruments, in terms of percentages of the Accepted Capital Budget, and set forth its proposal in Schedule B-13 to this P3 Term Sheet.</p> <p>C. <u>Debt Financing</u></p> <p>Debt issued by the P3 Entity secured by Water Service Agreement revenues shall have a final maturity no longer than the Term of the Water Services Agreement.</p> <p>The interest rate on Senior Bonds may be established through</p>
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	<p>competitive sale or negotiated sale through the underwriting syndicate selected through the Competitive Procurement provisions set forth in Section 61 of this P3 Term Sheet. The District reserves the right to have approval over the selection of the underwriting team.</p> <p>D. <u>Subordinated Bond Terms</u></p> <p>The P3 Entity may structure subordinated Bonds with a final maturity no longer than the Term of the Water Services Agreement. The Subordinated Bonds may be privately placed with an institutional investor or investor group (the “Subordinated Bond Investor”). To the extent that Subordinated Bonds or other non-investment grade debt instruments are included in the Proposer’s plan of finance, the Proposer shall identify the Subordinated Bond Investor as part of its Proposal, and set forth such entity in Schedule B-13 to this P3 Term Sheet. Each Proposer shall propose the Subordinated Bond Interest rate and set forth such proposal in Schedule B-13 to this P3 Term Sheet. Once accepted by the District, the Subordinated Bond Interest rate shall be firm and fixed.</p> <p>In order to support the Early Termination rights of the District as set forth in Section 63 of this P3 Term Sheet, the Subordinated Bonds or other debt instruments shall be callable on or after the tenth anniversary of their issuance pursuant to a make-whole call provision using a discount rate set forth in Schedule B-13.</p>
<p>42. Security for Repayment of Bonds</p>	<p>The P3 Entity’s security for repayment of the Senior Bonds and Subordinated Bonds is expected to comprise:</p> <ul style="list-style-type: none"> A. Prior to Commercial Operations, the various guarantees, performance securities, and liquidated damages provisions set forth in the Design-Build Agreement; and B. During Commercial Operations, the P3 Entity’s rights to receive payments under the Water Services Agreement; C. The various reserve funds and credit facilities established and maintained by the P3 Entity; and D. Other security as proposed by the P3 Entity as part of its financial innovation to reduce the Water Unit Price. <p>The P3 Entity shall not secure any debt obligations with a mortgage or other security interest in the Project, which is owned by the District. The District shall not provide any guarantee or the P3 Entity’s debt repayment obligations.</p>

<p>43. Design and Construction</p>	<p>P3 Entity will design, construct, commission, start-up, and acceptance test the Project in conformity with applicable law, prudent industry practices, the requirements of the Water Services Agreement, and the District requirements as set forth in Schedule A-7 to this P3 Term Sheet.</p> <p>The P3 Entity will bear sole responsibility for completing design and construction on time and on budget, and for bringing the P3 Project into commercial operations in full compliance with the design and operational specifications set forth in the Water Services Agreement. The P3 Entity shall bear all economic consequences associated with this responsibility.</p> <p>The P3 Entity will be responsible for obtaining and maintaining all governmental approvals required for the P3 Project during financing, construction and acceptance testing (including the State Water Control Board drinking water permit) through the Commercial Operations Date. P3 Entity will bear the risk of the denial, delay in issuance of, or imposition of any term or condition in connection with any such governmental approval and of compliance with all such governmental approvals.</p> <p>The P3 Entity shall provide full visibility and transparency to the District regarding all aspects of construction and all associated reports, schedules, and related documentation. The District shall not generally receive approval rights over construction activities, so that the District does not hamper the P3 Entity’s ability to meet its obligations and responsibilities under the Water Services Agreement. However, any deficiencies in bringing the P3 Project into commercial operations in full compliance with the design and operational specifications of the Water Services Agreement will be treated as a breach of the Water Services Agreement.</p> <p>A. <u>Notice to Proceed</u></p> <p>The P3 Entity shall issue a notice to proceed with construction immediately following Financial Closing.</p> <p>B. <u>Construction Period</u></p> <p>The Construction Period begins on the date of the Notice to Proceed and ends on the Commercial Operations Date. The “Commercial Operations Date” will be the date on which the P3 Project has satisfied all acceptance testing and commences commercial operations in compliance with applicable law and the terms of the Water Services Agreement.</p> <p>C. <u>District Role in Construction of the Project</u></p> <p>The District shall have the rights and responsibilities during the Construction Period as are set forth in Schedule A-7 to this P3</p>
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	Term Sheet.
44. Project Facilities	<p>The Project facilities consist of the Treatment Plant and the Conveyance System.</p> <p>A. <u>Treatment Plant</u></p> <p>The Treatment Plant (or Plant) shall be a purified water processing facility located on the Plant Site that is capable of receiving Feed Water in the volumes proposed by the P3 Entity in Schedule B-6 to this P3 Term Sheet, producing Product Water in accordance with Schedule A-2 to this P3 Term Sheet, and disposing of Discharge Water in accordance with Schedule A-3 to this P3 Term Sheet.</p> <p>B. <u>Conveyance System</u></p> <p>The Conveyance System (or Pipeline) shall be a Product Water conveyance pipeline capable of conveying water from the Plant to the Point of Delivery in accordance with Schedule A-5 to this P3 Term Sheet.</p>
45. Plant Site	<p>The Plant Site is described in Schedule A-4 to this P3 Term Sheet. The District shall acquire rights to the Plant Site from the City of San Jose for the duration of the Development Period and the Term of the Water Services Agreement. The Development Period Agreement and Water Services Agreement will in turn provide access and use rights to the Plant Site to the P3 Entity.</p>
46. Point of Delivery	<p>The P3 Entity will deliver Product Water to a receiving station (the "Point of Delivery") located at the District's Los Gatos Recharge Ponds. Generally, the P3 Entity will bear responsibility for Water Treatment and Water Conveyance up to the Point of Delivery, and the District will bear responsibility for recharge and other activities beyond the Point of Delivery. The Point of Delivery and delivery requirements will be further developed during Stage One.</p> <p>Product Water will be metered at the Point of Delivery in order to establish the Product Water Volume for which Water Services have been performed by the P3 Entity.</p>
47. Water Services	<p>The P3 Entity will use the P3 Project for the sole purpose of providing Water Services to the District. Water Services will include Water Treatment and Water Conveyance as defined herein.</p> <p>A. <u>Water Treatment</u></p> <p>Water Treatment services will include (i) the receipt of treated</p>

	<p>wastewater (“Feed Water”) from the City of San Jose (the “City”) in the volumes proposed by the P3 Entity in Schedule B-6 as sufficient to support the P3 Entity’s obligations to deliver purified water (“Product Water”) meeting the Product Water quality and quantity requirements set forth in Schedule A-2 to this P3 Term Sheet, (ii) the production of Purified Water meeting the Product Water quality and quantity requirements set forth in Schedule A-2 to this P3 Term Sheet, and (iii) the disposal of RO Concentrate and other discharges as provided for in Schedule A-3 to this P3 Term Sheet. Water Treatment services will be in full compliance with all applicable local, state and federal laws and regulations and in accordance with the term of the Water Services Agreement.</p> <p>B. <u>Water Conveyance</u></p> <p>The conveyance of Product Water from the Treatment Plant to the Point of Delivery in full compliance with all applicable local, state and federal laws and regulations and in accordance with the terms of the Water Services Agreement.</p> <p>C. <u>Treatment and Conveyance Risk Borne by P3 Entity</u></p> <p>Provided that the volume of Feed Water meeting the P3 Entity’s Feed Water volume proposal set forth in Schedule B-6 to this P3 Term Sheet is made available to the P3 Entity, the P3 Entity shall bear responsibility for producing and conveyance Product Water to the District meeting the Product Water quality and quantity requirements set forth in Schedule A-2 to this P3 Term Sheet.</p> <p>D. <u>Feed Water Quality</u></p> <p>The District makes no representation regarding the quality of Feed Water to be provided to the P3 Entity for treatment. Feed Water quality may fluctuate, and such quality fluctuations do not relieve the P3 Entity of its obligation to deliver Product Water to the District. Schedule A-1 to the P3 Term Sheet includes historical information describing Feed Water quality, however such information is provided without any liability to the District.</p>
<p>48. Water Ownership</p>	<p>The District will own all tangible and intangible products of the Project, including, without limitation, Feed Water, Product Water, RO Concentrate and other discharges.</p>
<p>49. Project Operations</p>	<p>A. <u>P3 Entity’s Obligation to Operate the Plant</u></p> <p>Following the Commercial Operations Date (as defined in Section</p>

	<p>43), the P3 Entity will operate and maintain the P3 Project in accordance with prudent industry practices and applicable laws and regulations sufficient to meet the performance and regulatory requirements of the Water Services Agreement. The P3 Entity shall provide the District with such reporting, visibility and transparency into its operations as are reasonably required for the District to independently verify that the P3 Entity is fully satisfying the terms and conditions of the Water Services Agreement.</p> <p>B. <u>Operator</u></p> <p>P3 Entity will contract for the operation and maintenance of the Plant with the Operator. The Operator will not be replaced without the District’s approval.</p> <p>C. <u>Compliance with Schedule A-8</u></p> <p>The P3 Entity shall additionally comply with the operational parameters set forth in Schedule A-8 to this P3 Term Sheet.</p>
<p>50. Product Water Volume</p>	<p>A. <u>Guaranteed Volume</u></p> <p>The P3 Entity will commit to provide Water Treatment and Water Conveyance services sufficient to process and deliver the volume of Product Water (the “Guaranteed Volume”) set forth in Schedule A-2 of this P3 Term Sheet, provided that the District makes available or causes the City to make available the volume of Feed Water meeting the P3 Entity’s Feed Water volume proposal set forth in Schedule B-6 to this P3 Term Sheet . The Guaranteed Volume will apply for the Term of the Water Services Agreement and will be established and measured annually, monthly, and daily as set forth in the Water Services Agreement.</p> <p>B. <u>Delivery Schedule</u></p> <p>The schedule for processing and delivery of Product Water (daily, monthly, quarterly) will be mutually agreed to by the parties on an annual basis.</p> <p>C. <u>Product Water Pressure and Hydraulic Transients Guarantee</u></p> <p>P3 Entity will guarantee Product Water pressure, and guarantee against hydraulic transients damaging the District’s recharge facilities and other property, all in accordance with Schedule A-3 to this P3 Term Sheet.</p> <p>D. <u>Respective Cost Obligations of the Parties</u></p>

	<p>Unless as otherwise agreed, the P3 Entity will be responsible for all costs incurred in treating and conveying Product Water to the Delivery Point, and the District will be responsible for all costs incurred in receiving Product Water after the Delivery Point.</p>
<p>51. Product Water Quality</p>	<p>A. <u>Product Water Quality Requirements Generally</u></p> <p>Product Water delivered by the P3 Entity will meet all legal potable water quality requirements and not exceed regulatory or maximum contaminant levels established by the state, federal, and local agencies. Product Water shall additionally meet all such additional standards as set forth in Schedule A-2 of this P3 Term Sheet.</p> <p>B. <u>Claims Regarding Product Water Quality</u></p> <p>The P3 Entity will be solely liable for, and shall indemnify and defend the District from and against, all fines, penalties, claims, demands, costs (including legal and expert witness fees), losses, liabilities, or damages that arise out of or result from the P3 Entity's (or any P3 Team Members') negligent acts or omissions in failing to meet the Product Water quality requirements.</p> <p>C. <u>Limitation on the District's Obligation to Accept Product Water</u></p> <p>The District will not be obligated to accept or pay for Product Water that does not meet the Product Water quality requirements.</p>
<p>52. Payment for Services</p>	<p>In consideration of services provided by the P3 Entity, the District shall pay a monthly payment (the "Monthly Service Payment"), payable monthly in arrears, commencing on the Commercial Operations Date and continuing through the Term of the Water Services Agreement.</p> <p>The District will have no obligation to receive Water Services or make any payment whatsoever to P3 Entity prior to the Commercial Operations Date. If that date does not occur, the District will not have any payment obligations.</p>
<p>53. Monthly Service Payment</p> <p>When P3 Entity is delivering the Guaranteed Volume</p>	<p>In months in which the P3 Entity is delivering the Guaranteed Volume of Product Water to the District, the Monthly Service Payment shall equal the volume of Product Water delivered to the District for such month Multiplied by the Water Unit Price.</p> <p>When the P3 Entity is not delivering the Guaranteed Volume of Product Water to the District, the Monthly Service Payment shall be determined as set forth in Section 55.</p>

<p>54. Water Unit Price</p>	<p>The Water Unit Price shall consist of the Debt Service Charge component, the Fixed O&M Charge component, and the Volumetric O&M Charge component. When the P3 Entity is delivering the Guaranteed Volume of Product Water to the District, the payment of the Water Unit Price by the District will result in the District paying all expenses of an owner of the Project, as described further herein.</p> <p>A. <u>Debt Service Charge</u></p> <p>The Debt Service Charge shall be the sum of annual debt service payments pursuant to the P3 Entity’s proposed financing plan, divided by the annual Guaranteed Volume of Product Water.</p> <p>Debt service eligible for inclusion in the Debt Service Charge shall be limited to such debt as is required to fund the Accepted Capital Budget.</p> <p>B. <u>Fixed O&M Charge</u></p> <p>The Fixed O&M Charge shall be the portion of annual operations and maintenance expenses required to maintain the Project in a standby, ready-to-produce state, divided by the Guaranteed Volume. The P3 Entity’s annual operations and maintenance budget for the first year of operations, and the Fixed O&M Charge Component, shall be determined as set forth in Section 25.</p> <p>The Fixed O&M Charge shall be further divided into a portion dependent upon the cost of electricity (the “Electricity Component”) and the portion that is not dependent upon the cost of electricity (the “Non-Electricity Component”). Following the first year of operations, the Electricity Component shall escalate at an annual escalation rate corresponding to the P3 Entity’s cost of electricity, and the Non-Electricity Component shall escalate with the consumer price index specific to the South Bay.</p> <p>C. <u>Volumetric O&M Charge</u></p> <p>The Volumetric O&M Charge shall be the portion of annual operations and maintenance expenses not included in the Fixed O&M Charge that is required to produce the Guaranteed Volume, divided by the Guaranteed Volume. The P3 Entity’s annual operations and maintenance budget for the first year of operations, and the Volumetric O&M Charge component, shall be determined as set forth in Section 25.</p> <p>The Volumetric O&M Charge shall be further divided into a portion dependent upon the cost of electricity (the “Electricity Component”) and the portion that is not dependent upon the cost</p>
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	<p>of electricity (the “Non-Electricity Component”). Following the first year of operations, the Electricity Component shall escalate at an annual escalation rate corresponding to the P3 Entity’s cost of electricity, and the Non-Electricity Component shall escalate with the consumer price index specific to the South Bay.</p>
<p>55. Monthly Service Payment During Shortfalls</p>	<p>During the Term of the Water Services Agreement, there may be months in which the P3 Entity delivers less than the Guaranteed Volume of Product Water (such amount, the “Shortfall Amount”). In the event of a shortfall, the Monthly Service Payment owed by the District will depend on the cause of the shortfall. A “Demand Shortfall” refers to the District requesting less than the Guaranteed Volume, while a “Supply Shortfall” refers to the P3 Entity failing to supply the Guaranteed Volume.</p> <p>For each month in which a shortfall occurs, the P3 Entity shall inform the District of the cause of the shortfall and shall determine the appropriate Monthly Service Payment with reference to the categories set forth in this section.</p> <p>A. <u>Unexcused Demand Shortfall</u></p> <p>A period of time during which the P3 Project is available to provide Water Services, but the District elects not to request the full Guaranteed Volume of Water Services for any reason other than a Force Majeure Event or an Uncontrollable Circumstance.</p> <p>The Monthly Payment owed by the District shall be the sum of:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District, if any; plus ii. The sum of the Debt Service Charge and Fixed O&M Charge components of the Water Unit price, multiplied by the Shortfall Amount. <p>B. <u>Extended Curtailment</u></p> <p>An extended Demand Shortfall of not less than [180 days] resulting from any reason other than a Force Majeure Event or an Uncontrollable Circumstance.</p> <p>The Monthly Payment owed by the District shall be the sum of:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District, if any. ii. The sum of the Debt Service Charge and the Discounted O&M Charge for Extended Curtailment components of the

	<p style="text-align: center;">Water Unit price, multiplied by the Shortfall Amount.</p> <p>The Discounted O&M Charge for Extended Curtailment shall be determined as set forth in Section 25.</p> <p>C. <u>Demand Shortfall Resulting from a Force Majeure Event</u></p> <p>A period of time during which the P3 Project is available to provide Water Services, but the District is unable to receive the full Guaranteed Volume of Water Services as a direct result of a Force Majeure Event.</p> <p>The Monthly Payment owed by the District shall be the sum of:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District, if any; plus ii. The sum of the Debt Service Charge and Fixed O&M Charge components of the Water Unit price, multiplied by the Shortfall Amount. <p>D. <u>Demand Shortfall Resulting from an Uncontrollable Circumstance</u></p> <p>A period of time during which the P3 Project is available to provide Water Services, but the District is unable to receive the full Guaranteed Volume of Water Services as a direct result of an Uncontrollable Circumstance.</p> <p>The Monthly Payment owed by the District shall be:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District. <p>No payment shall be owed by the District for the Shortfall Amount, provided, however, that the P3 Entity shall have the right to deliver the Shortfall Amount to the District at a future date during the Term of the Water Services Agreement.</p> <p>E. <u>Unexcused Supply Shortfall</u></p> <p>A period of time during which the P3 Project is unavailable to provide the full Guaranteed Volume of Water Services for any reason other than a Force Majeure event or Uncontrollable Circumstance.</p> <p>The Monthly Payment owed by the District shall be:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product
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	<p style="text-align: center;">Water actually delivered to the District.</p> <p>No payment shall be owed by the District for the Shortfall Amount, and the P3 Entity shall not have future delivery rights for the Shortfall Amount.</p> <p>F. <u>Supply Shortfall Resulting from a Force Majeure Event</u></p> <p>A period of time during which the P3 Project is unavailable to provide the full Guaranteed Volume of Water Services as a direct result of a Force Majeure event.</p> <p>The Monthly Payment owed by the District shall be the sum of:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District, if any; plus ii. The sum of the Debt Service Charge and Fixed O&M Charge components of the Water Unit price, multiplied by the Shortfall Amount. <p>G. <u>Supply Shortfall Resulting from an Uncontrollable Circumstance</u></p> <p>A period of time during which the P3 Project is unavailable to provide the full Guaranteed Volume of Water Services as a direct result of an Uncontrollable Circumstance.</p> <p>The Monthly Payment owed by the District shall be:</p> <ul style="list-style-type: none"> i. The Water Unit Price multiplied by the volume of Product Water actually delivered to the District. <p>No payment shall be owed by the District for the Shortfall Amount, provided, however, that the P3 Entity shall have the right to deliver the Shortfall Amount to the District at a future date during the Term of the Water Services Agreement.</p>
<p>56. Excess Product Water</p>	<p>If the District orders, and the P3 Entity provides, Water Services in excess of the Guaranteed Volume in any month (“Excess Product Water”), the District shall provide additional compensation to the P3 Entity equal to the Volumetric O&M Charge multiplied by the volume of such Excess Product Water.</p>
<p>57. Force Majeure</p>	<p>Force Majeure means events that are beyond a party’s reasonable control (after exercising diligence to prevent the occurrence and to mitigate the effect of the occurrence) that materially and adversely affect a party’s ability to comply with its obligations under the Development Period</p>

	<p>Agreement or Water Services Agreement, and are caused by one of the following:</p> <ul style="list-style-type: none"> A. Natural disasters (such as fires, named storms, earthquakes, tidal waves and floods); B. Acts of war, terrorism, civil insurrection, military activity, national emergency, or other hostilities; and C. Legal action such as qui tam actions, injunctions, or other court proceedings or orders prohibiting design, construction or operation of all, or a portion of, the facility. <p>The District shall bear Force Majeure risk, and may carry insurance against such risk at its sole discretion.</p>
<p>58. Uncontrollable Circumstances</p>	<p>Uncontrollable Circumstances are events that are beyond a party's reasonable control (after exercising diligence to prevent the occurrence and to mitigate the effect of the occurrence) and that materially and adversely affect a party's ability to comply with its obligations under the Development Period Agreement or Water Services Agreement, and are caused by one of the following events:</p> <ul style="list-style-type: none"> A. <u>Changes in Law</u> <p>With respect to the Development Period Agreement, a Change in Law is a substantive change in the laws, building, codes, or regulations that impact the design or construction of the facility post issuance of a permit for construction, that is not due to design errors or omissions and provided that the changes were not reasonably known or anticipated at the time of the submission of an application for a construction permit, and that generally applies to all comparable facilities under the jurisdiction of the governmental entity initiating such Change in Law.</p> <p>With respect to operations, a Change in Law is the enactment of a new law, or an amendment to an existing law, after the Water Services Agreement date applying generally to water treatment facilities, treated water quality, or wastewater discharge that materially delays completion of the Project or increases the cost of producing Product Water, because of new or different equipment, construction, or processes required to comply with the new or amended law. "Law" includes any federal, state or local laws, statutes, codes and regulations; and all governmental approvals, such as licenses, permits, consents and entitlements.</p> B. <u>Feedwater Shortfalls</u>

	<p>Shortfalls in the availability of Feed Water below the volumes proposed by the P3 Entity in Schedule B-6, and that are not a result of any negligent acts or omissions by the District or the P3 Entity.</p>
<p>59. Direct Potable Reuse</p>	<p>The parties acknowledge that direct potable reuse (“DPR”) may become an attractive option for the P3 Project over the Term of the Water Services Agreement. DPR may be a supplemental water service or may substitute for water services associated with indirect potable reuse.</p> <p>DPR may require coordination between the District and the City of San Jose to obtain an IRS private letter ruling to address any potential private activity issues. The District shall be responsible for any such coordination with the City of San Jose.</p> <p>The District will have the right to amend the Water Services Agreement to provide for DPR, provided that the P3 Entity receives equitable compensation for any additional costs it is required to incur.</p> <p>Upon a direction by the District to pursue DPR, the P3 Entity will have the obligation to minimize any costs increases arising from the associated capital and operational modifications.</p>
<p>60. Capital Modifications</p>	<p>Capital Modifications are material changes to the Project that do not constitute ordinary Project maintenance. Capital Modifications may require City of San Jose approval, in which case it shall be the District’s responsibility to obtain such approval. The District, as owner of the Project, shall have the right to fund all or a portion of Capital Modifications at its discretion.</p> <p>A. <u>Modifications Resulting from Uncontrollable Circumstances</u></p> <p>In the event that Capital Modifications are required in order to respond to Force Majeure event or Uncontrollable Circumstances, the P3 Entity will use all commercially reasonable efforts to implement responses at the lowest cost practicable, in accordance with the Competitive Procurement requirements set forth in Section 61, so as to continue the P3 Project’s continuous operational availability. The District will have the right to review and approve such response efforts. The P3 Entity will be entitled to recover the costs of Capital Modifications resulting from Force Majeure events or Uncontrollable Circumstances through adjustments to the Water Unit Price, subject to the caps described in Section 62.</p> <p>B. <u>Modifications Requiring District Approval</u></p> <p>Other than in response to Uncontrollable Circumstances, the P3</p>

	<p>Entity will not substantially change or modify the P3 Project, or expand the capacity of the P3 Project without the approval of the District, which may be withheld in its sole discretion.</p> <p>C. <u>District-Directed Capital Modifications</u></p> <p>The District will have the right to direct the expansion of the capacity of the P3 Project, or to modify the P3 Project for direct potable reuse, subject to mutual agreement between P3 Entity and the District as to terms and conditions.</p>
<p>61. Competitive Procurement</p>	<p>The P3 Entity will select the bond underwriter (senior manager and co-manager(s)) through Competitive Procurement. The P3 Entity will solicit competitive bids to the greatest extent practicable for Capital Modifications. The P3 Entity will comply with the District’s competitive process/best value contracting as reasonably directed by the District.</p> <p>The District may direct the P3 Entity to establish a local preference for contractors and subcontractors in accordance with applicable law. The P3 Entity shall follow any such direction.</p> <p>Where Competitive Procurement is required, the P3 Entity shall:</p> <ul style="list-style-type: none"> A. Provide the District with a draft solicitation package not less than 10 business days prior to its release, B. Provide the District with a draft distribution list for each solicitation not less than 10 business days prior to its release, C. Accept the District’s direction regarding any eliminations the District elects to make from the draft distribution list, D. Provide the District with copies of all responses received, E. Consult with the District regarding the P3 Entity’s selection of awardee not less than 5 business days prior to final selection.
<p>62. Cap on Increase in Water Unit Price</p>	<p>The P3 Entity shall be entitled to increase the various components of the Water Unit Price in response to Uncontrollable Circumstances, as described in Section 60. However, the overall cost increase to the District shall be subject to an annual cap and a cumulative cap. These caps shall be expressed as a percentage increase over and above what would have been the Water Unit Price had the Uncontrollable Circumstances not occurred.</p> <p>Each Proposer shall propose an annual cap and a cumulative cap on increases to the Water Unit Price and shall set forth its proposal in Schedule B-14 to this P3 Term Sheet.</p>

	<p>Potential future increases in the Water Unit Price resulting from Force Majeure events are not subject to a cap but are rather fully borne by the District.</p>
<p>63. Early Termination of the Water Services Agreement</p>	<p>A. <u>Termination Option During the Term</u></p> <p>The District will have the option to terminate the Water Services Agreement, and cause the P3 Entity to return the P3 Project to the District, at any time following the tenth anniversary of the Financial Closing Date. The termination price shall be proposed by the P3 Entity. This early termination option is subject to further review by District tax counsel for conformance with the Qualified Management Contract Safe-Harbor provisions.</p> <p>B. <u>Termination Option Upon P3 Entity Default</u></p> <p>Upon a P3 Entity Default, the District may terminate the Water Services Agreement without further payment to the P3 Entity, and require the P3 Entity to vacate the Site, cease operations and maintenance activities, and return the Project to the District.</p> <p>In the event of early termination of the Water Services Agreement as provided for in this section, the P3 Entity's rights of access to and use of the Project shall terminate, and the P3 Entity shall return the Project to the District in the return conditions set forth in Schedule A-9. The P3 Entity's shall provide the District with security in support of its return obligations as set forth in Section 70.</p>
<p>64. Extension of Term</p>	<p>The Water Services Agreement may be extended at the option of the District on any date on and after the 10th anniversary date of the Conforming Contract effective date; provided that any such extension must comply with the Service Contract Safe-Harbor in effect on the date of the extension.</p>
<p>65. Public Information and Outreach</p>	<p>A. <u>Public Outreach Regarding the Plant and Conveyance System</u></p> <p>After the Contract Date, the District will have the right to review and approve public communications regarding the P3 Project prepared by P3 Entity or its contractors or subcontractors, prior to the release of such communications.</p> <p>B. <u>Plant Tours</u></p> <p>The P3 Entity and its contractors or subcontractors will make the P3 Project available for and help conduct District tours during the construction period and after start of commercial operations, subject to reasonable notice by the District. Such tours will offer taste-testing and other promotional measures reasonably</p>

	<p>requested by the District.</p> <p>C. <u>Site Access</u></p> <p>District staff, consultants and contractors will be provided access to the site and all facilities owned or leased by P3 Entity during the construction period and after the start of commercial operations, subject to reasonable notice by the District.</p>
<p>66. Insurance</p>	<p>A. <u>P3 Entity Minimum Insurance Obligations</u></p> <p>The P3 Entity will obtain and maintain, in amounts to be agreed upon with the District, insurance as follows: commercial general liability insurance; all risk builder's risk insurance that will provide for the full replacement value of the Project; automobile liability insurance; workers compensation; business interruption insurance in an amount sufficient to cover a minimum of one year of fixed operating and financing costs and, as appropriate, pollution liability insurance, professional liability insurance, and property insurance.</p> <p>B. <u>Insurance Costs and Risks</u></p> <p>The P3 Entity will bear all costs associated with any insurance deductibles or self-insured retentions. The P3 Entity will also bear the risk of any insurance unavailability.</p> <p>C. <u>The District's Right to Obtain Insurance</u></p> <p>The District may purchase required insurance on behalf of P3 Entity, if P3 Entity fails to do so, and will be reimbursed by P3 Entity for any costs so incurred.</p>
<p>67. Events of Default and Termination</p>	<p>A. <u>Events of Default</u></p> <p>The Development Period Agreement and Water Services Agreement will include negotiated events of default.</p> <p>B. <u>Remedies</u></p> <p>Upon the occurrence of an event of default, the non-defaulting party may pursue any remedies available at law or in equity.</p> <p>C. <u>District Step-In Rights</u></p> <p>The District will have the right to terminate the Development Period Agreement or Water Services Agreement, and step in and cure defaults that are not cured by the P3 Entity or the P3 Entity's</p>

	<p>debt holders and pursue all available remedies.</p>
<p>68. Record Keeping, Reporting</p>	<p>A. <u>P3 Entity Maintenance and Retention of Records</u></p> <p>The P3 Entity will maintain records pertaining to its performance under the Water Services Agreement. The District will have the right to inspect such records during regular business hours (including audit rights for up to five years after each year of the Water Services Agreement, or as provided for under applicable law, whichever is longer), to verify performance, quantity, quality, delivery of Product Water to the Delivery Point and price.</p> <p>The P3 Entity shall also maintain all records relating to the Senior Bonds in accordance with the record retention requirements of the Internal Revenue Service.</p> <p>B. <u>P3 Entity Reporting Requirements</u></p> <p>The P3 Entity will provide monthly and annual reports to the District regarding P3 Project performance, including: Product Water quantities produced; Product Water quality (subject to additional water quality reporting requirements); maintenance and capital repairs and replacements performed; any operating problems encountered and corrective measures taken; regulatory and Water Services Agreement compliance.</p> <p>C. <u>Measurement Devices Inspection</u></p> <p>The District will have the right to inspect the P3 Entity’s measurement devices periodically during regular business hours to verify that calibration is accurate. The District will also have the right to conduct independent verification of calibration. If P3 Entity’s measurement devices are found to be in need of recalibration, P3 Entity will pay for and undertake such recalibration, and will also reimburse the District for all costs associated with the District inspection and testing.</p>
<p>69. Security for Performance by Project Contractors</p>	<p>A. <u>Construction Bond</u></p> <p>The P3 Entity will obtain and maintain or will cause the Design-Builder to obtain and maintain performance and payment bonds in an amount sufficient to obtain non-recourse financing (or as otherwise agreed to by the parties) for the construction of the P3 Project.</p> <p>B. <u>Operations Bond</u></p> <p>The P3 Entity will obtain and maintain or will cause the Operating</p>

	<p>Contractor to obtain and maintain an operations performance bond in an amount sufficient to obtain non-recourse financing (or as otherwise agreed to by the parties) for the operation and maintenance of the Plant.</p>
<p>70. Security for Performance by P3 Entity</p>	<p>On the financial close date, the P3 Entity will provide to the District an evergreen standby letter of credit from an investment grade bank acceptable to the District in an amount to be negotiated as security for the performance of its obligations to the District under the Water Services Agreement. Should event(s) of default occur that result in draw(s) against the letter of credit, the P3 Entity shall reimburse and reestablish the full value of the letter of credit as a condition precedent to the resolution of the default.</p> <p>The District will additionally require financial support from the P3 Entity extending beyond any termination or expiration of the Water Services Agreement, as a form of warranty supporting the Return Conditions specified in the Water Services Agreement.</p> <p>The P3 Entity’s financial obligations to the District under the Water Services Agreement may exceed the value of the letter of credit. Draws against the letter of credit do not negate the full extent of the financial obligations of the P3 Entity to the District.</p> <p>The P3 Entity is encouraged to propose alternatives to providing security for performance other than what is outlined above in Schedule B-5.</p>
<p>71. General Indemnity and Defense</p>	<p>The P3 Entity will indemnify and defend the District to the fullest extent permitted by law from all claims, demands, causes of action, liability, costs (including legal and expert witness fees), losses and damages arising out of or resulting from P3 Entity’s, or any of its designer’s, contractor’s, or operator’s misrepresentations, negligent acts or omissions, or breach of an obligation contained in either the Development Period Agreement or Water Services Agreement.</p> <p>The P3 Entity will also indemnify and defend the District from and against third party litigation: 1) of the kind typically initiated by opponents of projects similar to the Project seeking to prevent project construction and operation; and 2) involving environmental reviews, permits, and legal entitlements. This obligation to indemnify from litigation does not include third party lawsuits challenging the District’s power or authority to enter into the Development Period Agreement or Water Services Agreement, or third party lawsuits resulting from a District breach of the Development Period Agreement or Water Services Agreement.</p> <p>The P3 Entity may also be required to name the City of San Jose as additional insured party for site access and damage to City of San Jose facilities.</p>

72. Representations and Warranties	The Development Period Service Agreement and Water Services Agreement will include customary representations and warranties regarding: proper licensing of all entities included on the P3 Team; legal standing in California to do business with the full right, power, and authority to perform the P3 Entity's obligations under the Development Period Agreement and Water Service Agreement; legal authority to enter into the Development Period Agreement and Water Services Agreement; absence of material adverse litigation or legal conditions; no conflict with other agreements or commitments; proper approvals of Water Services Agreement; no written notice of any action, lawsuit, or proceeding pending or threatened against P3 Entity for which an unfavorable decision could have a material or adverse impact on P3 Entity's execution or delivery under either the Development Period Agreement or Water Service Agreement.
73. Tax Ownership	The District shall be the owner of the P3 Project for Federal income tax purposes. The P3 Entity shall not claim ownership of the P3 Project in its tax filings.
74. Tax Risk	The P3 Entity will bear the risk of (and pay) all taxes applicable as a contractor to the District. The P3 Entity shall provide a customary tax indemnification to the District in this regard. The District will bear taxes imposed on an owner of the Project, as applicable, including, but not limited to, real property taxes, as applicable.
75. Assignment by P3 Entity	The P3 Entity will not assign the Development Period Agreement or the Water Services Agreement without the prior written approval of the District, which approval may be given or withheld in its sole discretion. Notwithstanding the foregoing, the P3 Entity will have the right to collaterally assign the Water Services Agreement to its lenders, and the District will reasonably consent to such assignment.
76. P3 Entity's Contractors and Subcontractors	The Development Period Agreement and Water Services Agreement will specify minimum financial, technical and experience qualifications, standards and requirements for any entity that the P3 Entity engages to perform a portion of the work or services under either the Development Period Agreement or Water Services agreement, including without limitation the Design-Builder and the Operator, and for any party it may engage to replace or substitute for such contractors and subcontractors. The P3 Entity will provide adequate information to the District regarding the qualifications of any proposed initial or substitute contractors and subcontractors. Notwithstanding the above, P3 Entity may not replace or substitute the Design-Builder, Operator or other P3 Team member, without the District's approval, which will not be unreasonably withheld.
77. Governing Law	California

APPENDIX A – PERFORMANCE REQUIREMENTS

SCHEDULE A-1 – FEED WATER QUALITY PARAMETERS

This schedule is referenced in Section 47 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate historical data regarding feed water quality.

SCHEDULE A-2 – PRODUCT WATER QUALITY AND QUANTITY PARAMETERS

This schedule is referenced in Section 44, Section 47, and Section 50 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate its requirements and expectations for the Product Water quality and quantity parameters.

SCHEDULE A-3 – RO CONCENTRATE / OTHER DISCHARGES PARAMETERS

This schedule is referenced in Section 44 and Section 47 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate information regarding RO Concentrate and Other Discharge Parameters.

SCHEDULE A-4 – PLANT SITE

This schedule is referenced in Section 45 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate relevant characteristics of the Plant Site.

SCHEDULE A-5 – CONVEYANCE PIPELINE

This schedule is referenced in Section 44 of this P3 Term Sheet. The District will prepare this schedule and use it to provide information regarding potential Conveyance Pipeline alignment alternatives and to indicate its requirements and expectations for the Conveyance Pipeline.

SCHEDULE A-6 – DISTRICT DEVELOPMENT ACTIVITIES

This schedule is referenced in Section 25 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate its development activities with respect to the Project.

SCHEDULE A-7 – DESIGN AND CONSTRUCTION OF THE PROJECT

This schedule is referenced in Section 43 of this P3 Term Sheet. The District will prepare this schedule and use it to communicate the District's requirements and preferences for the P3 Entity's design and construction of the project.

SCHEDULE A-8 – PROJECT OPERATIONS

This schedule is referenced in Section 49 and Section 25 of this P3 Term Sheet. The District will prepare this schedule and use it to describe the District's preferences and requirements for operations and maintenance of the Project.

SCHEDULE A-9 – RETURN CONDITIONS

This Schedule is referenced in Sections 36, 63, and 70 of this P3 Term Sheet. The District will prepare this schedule to describe its requirements for return conditions of the Project at end-of-term or in the event the District exercises its early termination option.

APPENDIX B – PROPOSAL FORMS

SCHEDULE B-1 – P3 TEAM AND KEY PERSONNEL

Each Proposer shall prepare and submit this schedule as part of its Proposal, describing changes and/or updates to the proposed P3 Team and Key Personnel.

SCHEDULE B-2 – P3 ENTITY’S APPROACH

Each Proposer shall prepare and submit this schedule as part of its Proposal, describing the P3 Entity’s approach to the Project and responding to questions provided by the District.

SCHEDULE B-3 – DEVELOPMENT-PERIOD SERVICES

Each Proposer shall prepare and submit this schedule as part of its Proposal. This Schedule will set forth a draft scope of work. Proposers will be asked to identify any exceptions to the draft.

SCHEDULE B-4 – DEVELOPMENT PERIOD FINANCIAL ACTIVITIES

Each Proposer shall prepare and submit this schedule as part of its Proposal, describing the process for developing and executing the plan of finance described in Schedule B-13.

SCHEDULE B-5 – DESIGN AND CONSTRUCTION SERVICES

Each Proposer shall prepare and submit this schedule as part of its Proposal, responding to questions regarding the Proposer's approach to design and construction as well as the approach to finalizing the Design-Build Agreement.

SCHEDULE B-6 – OPERATIONS AND MAINTENANCE SERVICES

Each Proposer shall prepare and submit this schedule as part of its Proposal, responding to questions regarding the Proposer's approach to operations and maintenance as well as the approach to finalizing the O&M Agreement.

SCHEDULE B-7 – RISK TRANSFER AND MANAGEMENT

Each Proposer shall prepare and submit the schedule as part of its Proposal. In the P3 Term Sheet, the District proposes certain key elements of the risk allocation between the P3 Entity and the District. In this schedule, the Proposer shall respond to additional questions regarding Project risks and risk management strategy.

SCHEDULE B-8 – INNOVATION

Each Proposer shall prepare and submit this schedule as part of its Proposal, summarizing the innovations contained in its Proposal with respect to the development, design, financing, construction, operations and maintenance of the Project. Each Proposer shall describe how these innovations benefit the District and shall quantify each benefit where possible.

SCHEDULE B-9 – DEVELOPMENT PERIOD BUDGET

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Development Period Budget is described in Section 26 of this P3 Term Sheet. The Development Period Budget shall be proposed by each Proposer as not-to-exceed amounts for the Development Period Activities described in Section 25 of this P3 Term Sheet. The Accepted Capital Budget shall include the lesser of such not-to-exceed amounts and the amounts the P3 Entity has actually expended, as set forth in Section 39 of this P3 Term Sheet.

SCHEDULE B-10 – DEVELOPMENT PERIOD MILESTONE SCHEDULE

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Development Period Milestone Schedule is described in Section 27 of this P3 Term Sheet. The Development Period Milestone Schedule shall be proposed by each Proposer together with a Grace Period for each key date. The actual progress of development in relationship to the Development Period Milestone Schedule and Grace Periods shall be used to determine whether a Break-Up Fee is owed by the District in the event of a Development Period Termination in accordance with Section 30 of this P3 Term Sheet.

SCHEDULE B-11 – BREAK-UP FEE

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Break-Up Fee is described in Section 30 of this P3 Term Sheet. The Break-Up Fee schedule may be related to or derived from the Development Period Budget proposed in Schedule B-9.

SCHEDULE B-12 – SELECTED CAPITAL BUDGET LINE-ITEMS

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Proposed Capital Budget line-items are described in Section 39 of this P3 Term Sheet. In this schedule, the Proposer shall set forth its proposal for line-items C through G, as follows:

- Section 39(c) Construction Contingency Reserve
- Section 39(d) Capitalized Interest
- Section 39(e) Other Reserves
- Section 39(f) Capitalized P3 Entity's Costs During Construction
- Section 39(g) Other Fees, Expenses, and Adjustments

SCHEDULE B-13 – P3 ENTITY FINANCING PLAN

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Financing Plan relates to the financing of the Accepted Capital Budget by the P3 Entity as described in Section 39 and the issuance of capital instruments by the P3 Entity as described in Section 41 of this P3 Term Sheet. The Financing Plan is subject to further review by District tax counsel for conformance with the Qualified Management Contract Safe-Harbor provisions.

SCHEDULE B-14 – CAP ON INCREASES TO THE WATER UNIT PRICE

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Cap on Increases to the Water Unit Price is described in Section 62 of this P3 Term Sheet. The cap shall include the following:

- An annual cap specified as a percentage of the annual Water Unit Price
- A cumulative cap specified as a fixed dollar amount per year

SCHEDULE B-15 – EXCEPTIONS TO TERMS PROPOSED BY DISTRICT

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Proposer's requirements for completing this schedule are set forth in Section 19 of this P3 Term Sheet.

SCHEDULE B-16 – PROPOSED AMENDMENTS

Each Proposer shall prepare and submit this schedule as part of its Proposal. The Proposer's requirements for completing this schedule are set forth in Section 20 of this P3 Term Sheet.

SCHEDULE B-17 – WATER UNIT PRICE CEILING

Each Proposer shall prepare and submit this schedule as part of its Proposal. The procedures for specifying the Water Unit Price Ceiling, and the use of the Water Unit Price Ceiling as a ceiling for the actual Water Unit Price determined in accordance the Development Period Agreement and Water Services Agreement, are described in Section 21.

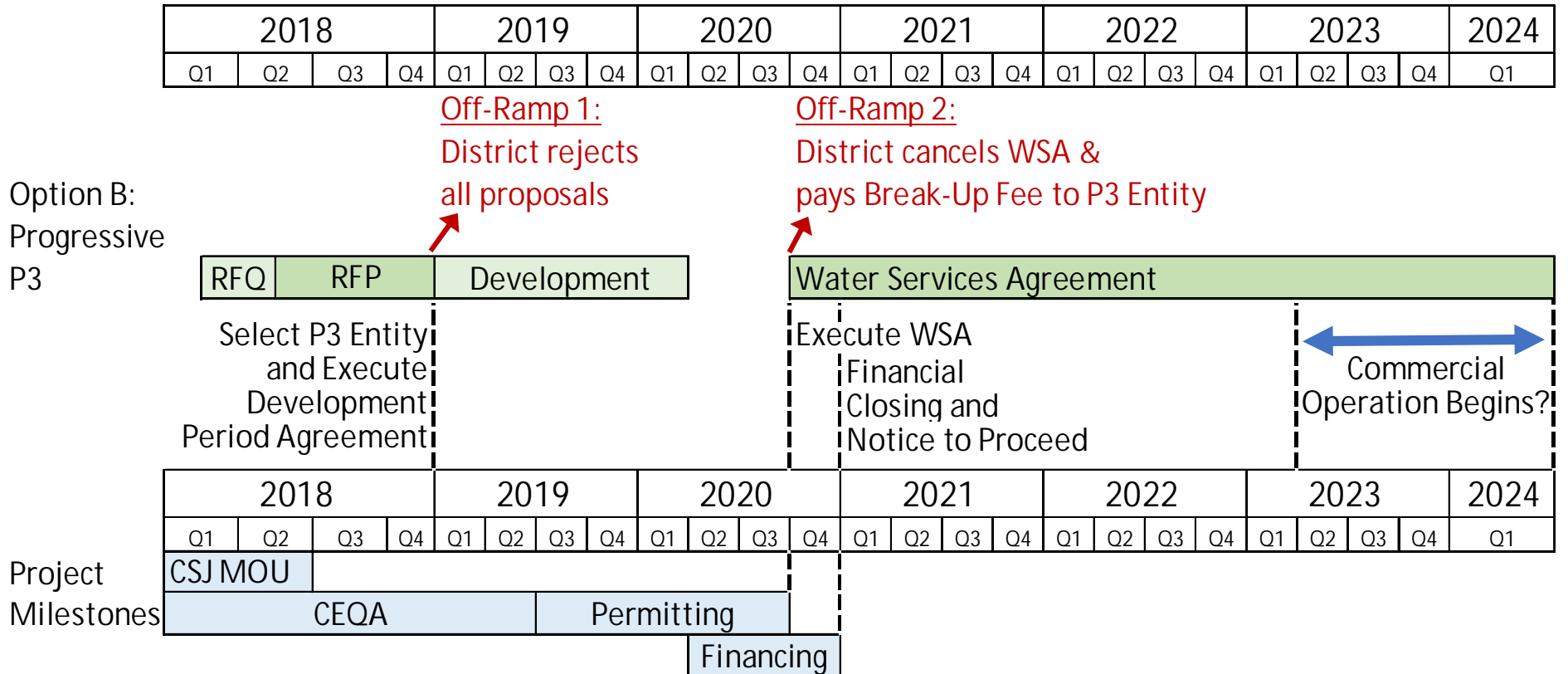
The Water Unit Price Ceiling shall include a breakdown of the pricing components associated with each of the Water Unit Price components.

Expedited Purified Water Program

Draft P3 Term Sheet Review

May 9, 2018

Progressive P3 Procurement



Draft P3 Term Sheet - Purpose

- Communicates District's specifications, preferences and requirements to Proposers (Appendix A)
- Specifies IRS requirements for a qualified management contract to protect District and CSJ tax-exempt status
- Key document for the Request for Proposals:
 - Defines proposal parameters (quality, quantity, performance standards, pricing, etc.)
 - Basis for Development Period Agreement and Water Services Agreement
 - Identifies risk sharing components
 - Opportunity for Proposers to identify exceptions and propose alternatives.

Draft P3 Term Sheet - Contents

1. General Terms (sections 1 – 13)
2. Qualified Management Contract Safe-Harbor (section 14)
3. Request for Proposals (sections 15 – 21)
4. Development Period Agreement (sections 16 – 31)
5. Water Services Agreement (sections 32 – 78)
6. Appendix A – Performance Requirements
7. Appendix B – Proposal Forms

Qualified Management Contract Safe-Harbor (Section 14)

- IRS Revenue Procedure 2017-13 legal requirements:
 - Reasonable compensation for services.
 - No net profits or net loss sharing with service provider.
 - Term of the contract limited to lesser of 30 years or 80% of economic life.
 - District must retain operational control over the Project.
 - District bears risk of loss upon damage or destruction (force majeure risk).
 - District retains ownership; service provider not entitled to tax benefits
 - Project financed with debt, grants, and/or District funds; no private equity

Request for Proposals (RFP)

(sections 15 – 21)

- Outlines process and contents of the RFP
- Stipend
- Exceptions
- Amendments
- Water Unit Price Ceiling

Development Period Agreement

(sections 16 – 31)

- Development period activities: permitting, project development, project labor agreement, design-build agreement, operations and maintenance agreement, credit ratings, etc.
- Right to terminate with 10 business days' notice
- RFP will seek proposals for:
 - (1) Development Period budget/milestones/schedule
 - (2) Break-up fee if District off-ramps prior to financial closing with the following exceptions where District would not pay :
 - a) Excessive development period delay
 - b) Material adverse credit development and key personnel/organization changes
 - c) Failure to achieve financial closing or fund costs during development period
 - d) Failure to achieve water unit price ceiling.

Water Services Agreement

(sections 32 – 78)

- Term of 30 years from date of execution
- District retains ownership of the Project and output
- RFP will seek proposals for various terms outlined in Appendix B schedules B-1 through B-17, including but not limited to pricing and financing approach, project delivery approach, risk management strategies, innovation and various other terms.

Next Steps

- May 9, 2018: Present draft P3 Term Sheet to RWC and receive directions/comments;
- Mid-May 2018: Distribute updated draft P3 Term Sheet to P3 Proposers;
- June/July 2018: Schedule one-on-one meetings with P3 Proposers to discuss comments/feedback;
- July/August 2018: Present Proposers' feedback to RWC and receive directions/comments;
- August/September 2018: Publish RFP with final P3 Term Sheet.

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File No.: 18-0295

Agenda Date: 5/9/2018

Item No.: 3.2.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

April 19, 2018 Joint Recycled Water Policy Advisory Committee (JRWPAC) Meeting Feedback, Follow Up, and Outcomes.

RECOMMENDATION:

Receive information and discuss next steps.

SUMMARY:

The Joint Recycled Water Policy Advisory Committee (JRWPAC) met on April 19, 2018 at San José City Hall for a regularly scheduled meeting.

BACKGROUND:

The City of San José (City) and the Santa Clara Valley Water District (District) share a history of working together since 1990 in developing recycled water supplies. Building on the 2010 Recycled Water Facilities and Programs Integration Agreement, the two agencies, along with the City of Santa Clara, continue to collaborate on recycled water and, more recently, in planning for expansion of purified water facilities.

On March 2, 2010, the Recycled Water Facilities and Programs Integration Agreement (Integration Agreement) was executed between the City and the District. This Agreement outlines issues related to the Silicon Valley Advanced Water Purification Center (SVAWPC) and the South Bay Water Recycling system (SBWR).

In 2015, the Board directed staff to explore expedited development of purified water, which could supplement groundwater recharge and/or blend with imported raw water for further treatment and distribution to in-County retailers. The Board's objective in this regard is to enhance water supply reliability in the County and, importantly, to avert groundwater depletion that could result in permanent ground surface subsidence.

The JRWPAC advises the District's Board of Directors and the City Council of San José with respect to policy matters relating to the production, distribution and use of recycled water from facilities under administration by these agencies.

APRIL 19, 2018 JRWPAC MEETING:

The key items discussed at the April 19 meeting included:

Countywide Water Reuse (Recycled and Purified Water) Master Plan

The District is in the process of developing a comprehensive Countywide Water Reuse Master Plan (Master Plan) to facilitate the integration and expansion of recycled water as well as the development of purified water systems in Santa Clara County. It will guide the strategic investment of public funds on recycled and purified water projects over the next 20 years as a local, reliable, environmentally adaptive, and drought-proof water supply.

In calendar year 2018, the project team will be developing various work products which will result in a draft Master Plan by December 2018. These include baseline/gap analysis, hydraulic modeling, development of conceptual alternatives, and rating criteria. These activities will be guided by feedback received from the stakeholder engagement process. Completion of the final Master Plan is planned for July 2019.

Staff provided a Master Plan project update. Members of the JRWPAC representing the cities of San Jose and Santa Clara expressed interest in reviewing the list of external stakeholders and potentially suggesting additional stakeholders.

Committee members requested information on the cost and rate impact of the Expedited Water Purification facility in comparison with other water supply alternatives. In response, Chair Estremera proposed a special water supply workshop for the JRWPAC as well as other joint District-city recycled water committees -- to receive information on these topics.

RO Concentrate Management

The overall objective of the Reverse Osmosis Concentrate Management (ROCM) Project is to evaluate viable alternatives for managing reverse osmosis concentrate (ROC) generated from advanced water purification facilities (AWPFs) potentially to be built throughout the County (e.g., San José, Sunnyvale, Palo Alto, Gilroy, and Morgan Hill). The project includes an Engineered Treatment Cells (ETC) pilot plant, with tests conducted in collaboration with University of California at Berkeley, Stanford University and San Francisco Estuary Institute. This pilot project is of interest because it will demonstrate one method that may be helpful in management of the concentrated stream with high salt content generated by the process of water purification using advanced technologies.

Staff presented an update on the past, current, and future efforts on ROCM to the Committee. Council Members from the Cities of Santa Clara and San Jose raised questions about the environmental implications and cost associated with the treatment and management of ROC. Staff addressed their questions and concerns and provided additional information. Committee Members expressed an interest in learning more about the cost of technology deployed in the Silicon Valley Advanced Water Purification Center and expressed interest in a tour of that facility.

Staff described the forthcoming ROCM project deliverables including a preliminary draft final report in December 2018; a pilot engineered-treatment system draft technical memorandum and feasible

alternatives report in August 2019; and a final ROC management plan report in December 2019.

In addition, staff informed the Committee that the District will be conducting two more workshops (No. 3 and No. 4) to present the further progress and latest results of collaborative studies with the University of California at Berkeley and Stanford University. The workshops will be focusing on the economic and technical feasibility of ROC treatment by ETC, as well as a final project report with detailed alternatives review and preferred management options per site. The cities of Santa Clara and San Jose Council Members also expressed their interest in having their respective representatives attend the workshops - (the cities had staff participation in workshops #1 and #2).

Memorandum of Understanding between City of San José and Santa Clara Valley Water District

District and City of San José staff are negotiating a memorandum of understanding (MOU) for various planning studies related to the development of the proposed Expedited Purified Water facility adjacent to the Regional Wastewater Facility.

Chair Estremera asked about status of the MOU, since the negotiations have taken a long time and agreements between the District and the City are needed to support P3 procurement for the purification facility. The major issues to be addressed include treated wastewater (supply) flows, RO concentrate management, and private activity analysis. Staff from the District and the City indicated that conclusion of the MOU negotiations was close at hand.

Review of the proposed budgets FY 18-19 for SVAWPC and SBWR

The Integration Agreement also specifically requires that on an annual basis, before May 1 of each year, that the parties review the budgets of SBWR and SVAWPC and make recommendations to the Board of Directors of the Santa Clara Valley Water District and the City Council of the City of San José on their respective proposed budgets for the ensuing fiscal year for the maintenance, expansion, replacement, improvement, and operation of the SBWR and the SVAWPC (Article 3.G.3 of Integration Agreement).

Committee members requested that future budgets show a reserve line item for SBWR maintenance. The proposed fiscal year 18-19 budget for SBWR is \$10,758,381 and for the SVAWPC it is \$3,994,679. The JRWPAC voted to recommend the respective governing bodies adopt the proposed facility budgets.

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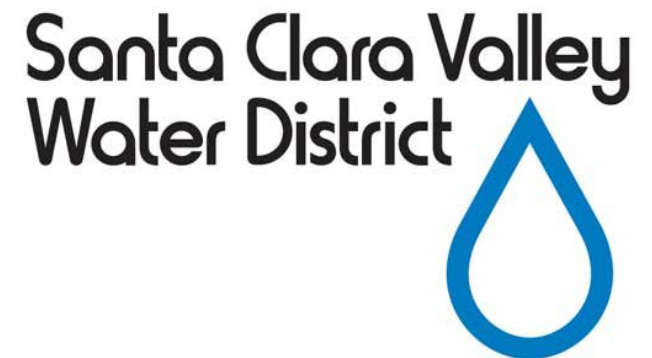
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3.2 April 19, 2018 Joint Recycled Water Policy Advisory Committee (JRWPAC) Meeting Feedback, Follow Up, and Outcomes



3.2 April 2018 JRWPAC Meeting Outcomes

The key items discussed at the April 19 meeting included:

1. Countywide Water Reuse (Recycled and Purified Water) Master Plan
 - The Committee Chair proposed a workshop be held in the near future for Committee members to receive information on the Expedited Purified Water project estimated costs, rate impacts and environmental impacts relative to other supply alternatives.
2. RO Concentrate Management
3. Memorandum of Understanding between City of San José and Santa Clara Valley Water District
4. Review of the proposed FY 18-19 budgets for SVAWPC and SBWR

File No.: 18-0281

Agenda Date: 5/9/2018
Item No.: 3.3.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan.

RECOMMENDATION:

Receive information and discuss next steps on progress on the Water Reuse Master Plan baseline efforts.

SUMMARY:

Since the last update to the Recycled Water Committee in March 21, 2018, the project team has begun development of the Baseline Analysis as shown in Attachment 1, page 2. This includes gathering technical data from recycled water producers and retailers to build and update various hydraulic modeling efforts. As part of the Executive level outreach, the District met with their City of San José counterparts on April 5, 2018. Additional Executive level meetings with the other three recycled water producers (Palo Alto, Sunnyvale and South County Regional Wastewater Authority) have been scheduled.

The District is in the process of developing a comprehensive Countywide Water Reuse Master Plan (Master Plan) to facilitate the integration and expansion of recycled water as well as the development of purified water systems in Santa Clara County. It will guide the strategic investment of public funds on recycled and purified water projects over the next 20 years as a local, reliable, environmentally adaptive, and drought-proof water supply.

The Master Plan will identify how much treated wastewater will be available for potential potable reuse and non-potable reuse expansion, system integration options, recommendations for potable reuse projects and building upon non-potable reuse projects, and recommendations for governance model alternatives. Development of the Master Plan includes an extensive stakeholder outreach component including recycled water producers, wholesalers, retailers, users, environmental and non-governmental organizations, business interests, regulatory agencies, community groups, and other opinion leaders.

The project team will be developing various work products which staff estimates will result in a draft preliminary master plan by December 2018. These include baseline analysis, hydraulic modeling, development of conceptual alternatives, and rating criteria. These activities will be guided by feedback received from the stakeholder engagement process. Completion of the final master plan is planned for July 2019.

File No.: 18-0281

Agenda Date: 5/9/2018
Item No.: 3.3.

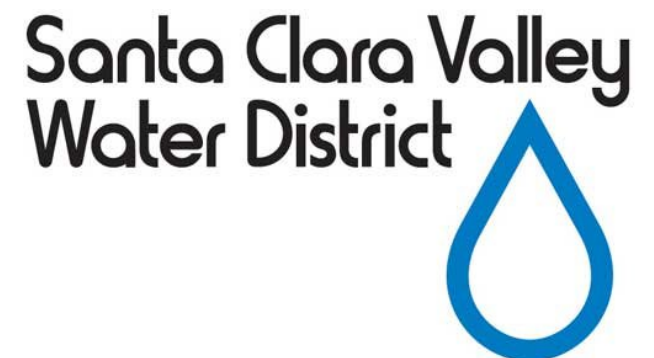
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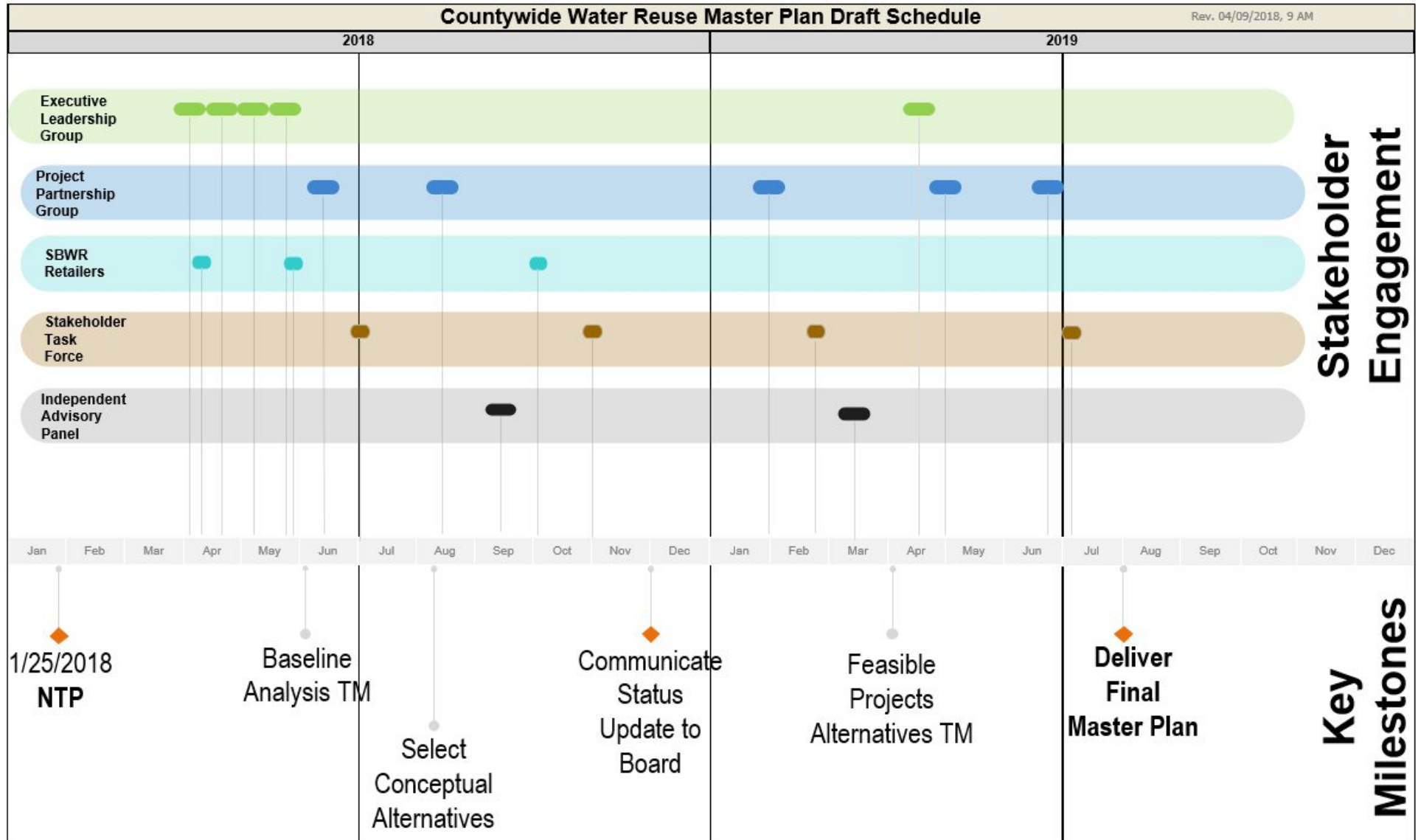
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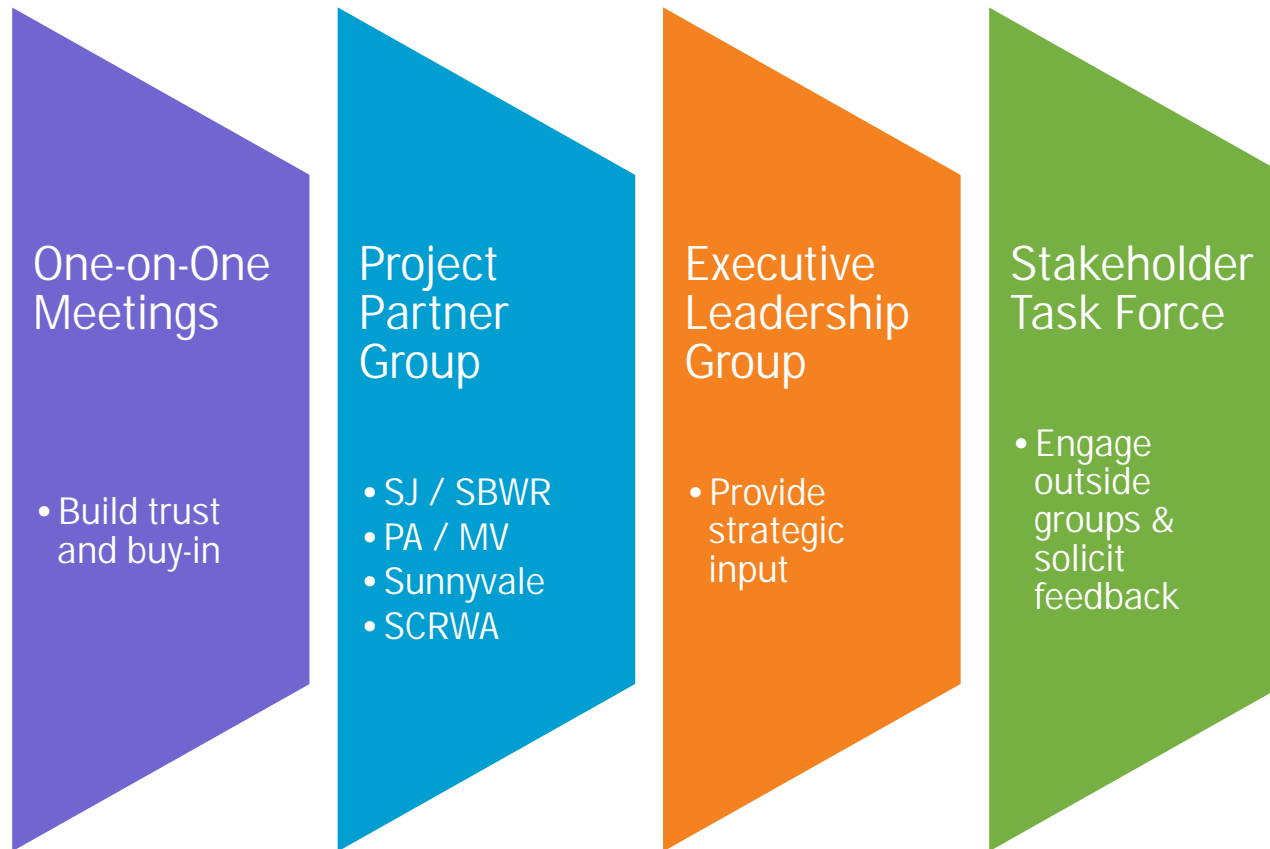
3.3 Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan



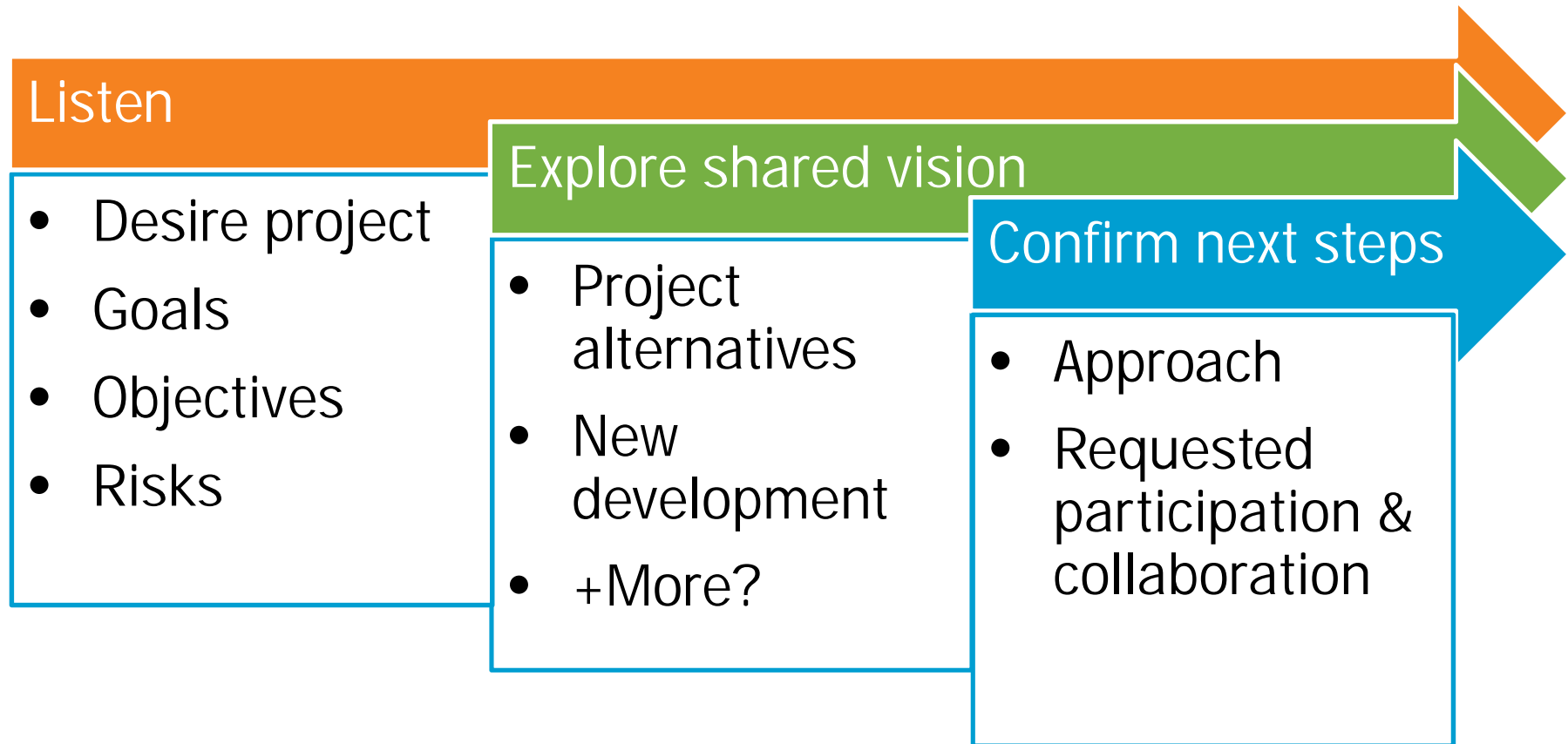
3.3 Stakeholder Engagement & Key Milestones



Stakeholder Engagement & Collaboration



Executive Leadership Meetings



File No.: 18-0283

Agenda Date: 5/9/2018
Item No.: 3.4.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Update on Reverse Osmosis Concentrate Management.

RECOMMENDATION:

Receive information and discuss next steps on:

- A. Status of the amendment and time extension to the consultant agreement between the Santa Clara Valley Water District and GHD Inc. - Agreement No. A4034G ("Agreement");
- B. Status of the grant agreement with the State Water Resources Control Board (SWRCB) for funding research studies; and
- C. Outcomes from the most recent stakeholder meetings pertinent to Reverse Osmosis Concentrate Management ("ROCM") options.

SUMMARY:

The Committee receives updates on countywide water reuse (recycled and purified water) efforts as standing items on all regular Recycled Water Committee meeting agendas. The following information provides an update on ROCM items since the last Committee meeting, held on March 21, 2018:

- A. Status of the amendment and time extension to the Agreement

On October 25, 2016, the Board approved the Agreement for reverse osmosis concentrate management studies to investigate feasible alternatives for handling treatment residuals from purified water production. On March 21, 2018 the Committee recommended that the Board authorize the Chief Executive Officer (CEO) to negotiate and execute an amendment to extend the term of the Agreement, which will provide up to \$842,000 for additional ROCM evaluation ("Amendment"), resulting in a total Agreement not-to-exceed amount of \$2,308,524.50. This \$842,000 amount will be funded through the FY2018 budget, Recycled and Purified Water Program, Project 91101004.

At the time this agenda memorandum was drafted, Staff intends to recommend during the May 8, 2018 Board meeting that the Board delegate authority to the CEO to negotiate and execute the Amendment. Staff is finalizing the terms of the Amendment and anticipates it will be executed by the end of this fiscal year.

- B. Status of the grant agreement with the SWRCB for funding ROCM research studies

Staff has been working with the SWRCB and the San Francisco Bay Regional Water Quality Control

Board (“RWQCB”) on a grant funding opportunity to offset the District’s costs associated with extending the ROCM pilot study program. On March 21, 2018, the Committee recommended that the District Board adopt a resolution to authorize the CEO to prepare and submit a grant application to the SWRCB for grant funding to partially fund the ROCM study.

The proposed grant resolution was included on the Board’s May 8, 2018 consent calendar. Working in collaboration with the San Francisco Estuary Institute (SFEI), Stanford University and the University of California (Berkeley), staff has developed and submitted a draft research proposal to extend pilot system testing and is finalizing the grant application. Staff will seek the CEO’s authorization to negotiate and execute the grant funding agreement if the Board adopts the proposed grant resolution. It is anticipated that up to \$363,000 of grant funding would be received through this process. Staff estimates the funding agreement will be completed by the end of this fiscal year.

C. Outcomes from February 2018 discussions on ROCM with the regional stakeholders

During the week of February 25, 2018, District staff met with staff from all four County recycled water producer agencies-City of Gilroy, City of Palo Alto, City of San Jose, and City of Sunnyvale. Common themes during the discussions included:

- ROCM is a key component of future potable reuse;
- Sharing discharge permits between the District and the producers will be evaluated while other long-term solutions are being considered; and
- District and producers will continue to assess site-specific land and water quality requirements.

Staff will continue to coordinate with the producers, including drafts of ROCM plans.

ATTACHMENTS:

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3.4 Update on Reverse Osmosis Concentrate Management



3.4 Reverse Osmosis Concentrate Management

1. Status of the amendment and time extension to the consultant agreement with GHD, Inc.
2. Status of the grant agreement with the State Water Resources Control Board for funding research studies
3. Outcomes from February 2018 stakeholder discussions about ROCM options

File No.: 18-0285

Agenda Date: 5/9/2018

Item No.: 3.5.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Update on District/City of Palo Alto/City of Mountain View and City of Sunnyvale Collaboration Efforts.

RECOMMENDATION:

Receive information and discuss next steps on:

- A. Northwest County Recycled Water Strategic Plan;
- B. Comprehensive Agreement between District and City of Palo Alto; and
- C. Comprehensive Agreement between District and City of Sunnyvale.

SUMMARY:

A. Palo Alto Northwest County Recycled Water Strategic Plan

The Northwest County Recycled Water Strategic Plan (Strategic Plan) includes recycled water preliminary planning studies for the expansion of recycled water to Stanford Research Park, and customers in Los Altos, Los Altos Hills, Mountain View, East Palo Alto, and Menlo Park.

The Strategic Plan also includes a groundwater assessment in Northwest County to better understand groundwater conditions and the potential for potable reuse in the area.

On March 13, 2018, the District, Palo Alto and project consultant held a visioning workshop. During the facilitated workshop, the stakeholders, including Stanford University, East Palo Alto, Los Altos and Mountain View, explored the group's interest in expanding recycled water (potable and non-potable) in their service area and subsequently selected the top eight options for further consideration.

The next step is to refine and evaluate the selected options. The groundwater assessment portion of the project is currently underway and includes an evaluation of several modeling scenarios to determine groundwater pumping thresholds and indirect potable reuse options. District staff continues to work effectively with Palo Alto and expect to finalize the Strategic Plan by March 2019.

B. Comprehensive Agreement between District and City of Palo Alto

Based on direction from the Committee to expedite development of a long-term agreement between the District, and cities of Palo Alto and Mountain View, staff from the three agencies have met several times (most recently on April 18, 2018) to discuss next steps to complete a Comprehensive Agreement in 2018. The April 18th meeting focused on the development of Guiding Principles which will serve as the basis for the Comprehensive Agreement. Key drivers include the District's desire for a defined volume of treated wastewater available, land, and RO concentrate management

assistance; and Palo Alto/Mountain View's desire for the District to fund a portion of the 1-2 MGD Advanced Water Purification System (or RO Facility). The potential 1-2 MGD facility would improve the quality of the recycled water produced by Palo Alto's Regional Water Quality Control Plant, which would in turn benefit all its existing users, including Mountain View, and help expand the number of users as well as better protect groundwater quality. These discussions are ongoing between Palo Alto and District staff to ascertain how to achieve interests of both parties.

C. Comprehensive Agreement between District and City of Sunnyvale

Since 2014, District staff has been evaluating water reuse options in collaboration with Sunnyvale to produce purified water for potential potable reuse projects on the northwest portion of the County. Working towards a comprehensive agreement for purified water, the District and Sunnyvale developed a Memorandum of Understanding (MOU). On March 28, 2017, the District Board of Directors (Board) approved execution of the MOU. Sunnyvale City Council subsequently approved the MOU on May 23, 2017. Sunnyvale staff and District staff have initiated coordination efforts in preparation for feasibility studies defined in the MOU.

The MOU describes the parties' commitments to identify the requirements, issues, activities, resources, costs, and funding necessary to implement potable and non-potable water reuse options. The terms of the MOU cover important assumptions and considerations such as source water availability, permitting, reverse osmosis concentrate management, land requirements, and governance.

Attachment 1 summarizes the anticipated work plan for implementation of the MOU. The MOU outlines activities such as feasibility studies, permitting plans, monitoring plans, and governance coordination. A majority of the MOU work will be performed under the District's Countywide Recycled and Purified Water Master Plan. Additional MOU activities will be covered by the District's Reverse Osmosis Concentrate Management Plan.

The information gathered through the MOU and associated studies will be incorporated into negotiations for the comprehensive agreement.

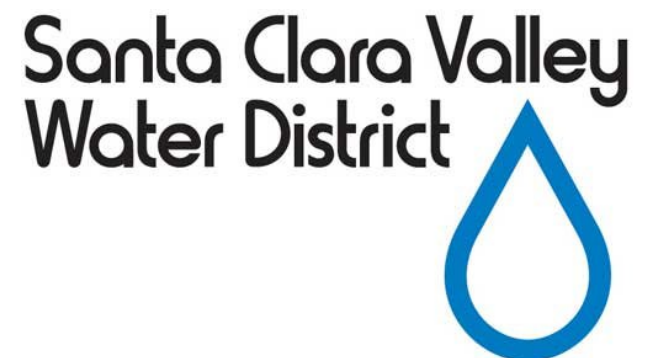
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UNCLASSIFIED MANAGER:

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3.5 Update on District/City of Palo Alto/City of Mountain View and City of Sunnyvale Collaboration Efforts



3.5a Northwest County Recycled and Purified Water Efforts

Northwest County Recycled Water Strategic Plan

Item	Date
Business Plan and Preliminary Design Report for Phase III	April 2018
Groundwater Assessment Report and IPR Evaluation	October 2018
Funding for 1.125 to 6+ MGD AWPS Title XVI Cross Walk Memo submitted	March 2018

3.5b Coordination Efforts with Palo Alto and Mountain View

Comprehensive Agreement Guiding Principles

The District, City of Palo Alto, and the City of Mountain View defined the following set of guiding principles:

- Palo Alto's interest to secure funding support for the design (and in a subsequent year construction) of the 1-2 MGD AWPf.
- Comprehensive Agreement duration through 2060
- District seeks a minimum guarantee of treated wastewater for potable reuse project
- Palo Alto will represent all RWQCP partner agencies
- Final effluent available will be based on the recommendations from Countywide Water Reuse Master Plan (which includes consideration for environmental needs and potential transfer of water from RWQCP partner agencies)
- Unused water currently allocated to Palo Alto and Mountain View may be available for potable reuse until such time that Palo Alto and/or Mountain View need it.

3.5c Coordination Efforts with Sunnyvale

MOU Status

Item	Schedule/ Milestones
MOU Approval Status	<ul style="list-style-type: none">• District Board approved MOU on March 28, 2017• Sunnyvale Council approved MOU on May 23, 2017
MOU Coordination	<ul style="list-style-type: none">• Kickoff meeting with Sunnyvale staff on April 18, 2017• Staff coordination meetings
MOU Activities and Studies	<ul style="list-style-type: none">• Draft results December 2018

3.5c Coordination Efforts with Sunnyvale

MOU Implementation Plan

MOU Activity	Planned Work
1. Feasibility Studies	<ul style="list-style-type: none">• Specific tasks in Countywide Recycled and Purified Water Master Plan• Sunnyvale elements in Reverse Osmosis Concentrate Management Plan• Additional studies
2. Permitting Plans	<ul style="list-style-type: none">• Specific tasks in Countywide Recycled and Purified Water Master Plan• Additional studies
3. Monitoring Plans	<ul style="list-style-type: none">• Future studies
4. Governance	<ul style="list-style-type: none">• Incorporated in Countywide Recycled and Purified Water Master Plan• Future negotiations for Comprehensive Agreement

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File No.: 18-0286

Agenda Date: 5/9/2018

Item No.: 3.6.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Update on District, San Francisco Public Utilities Commission (SFPUC), and Bay Area Water Supply and Conservation Agency (BAWSCA) Collaboration Efforts.

RECOMMENDATION:

Receive information and discuss next steps on District/SFPUC/BAWSCA feasibility study.

SUMMARY:

Since the last report to the Recycled Water Committee on March 21, 2018, District staff has begun evaluating both the long-term impacts to District's water supplies (modeling) and the District infrastructure needed to accommodate some of the short-listed potential alternatives.

Next steps in the project include development of a technical memorandum to summarize the findings of this initial evaluation phase and present recommendations on whether to amend the MOU to continue with a more detailed evaluation for the short-listed viable alternatives.

Background

The District, SFPUC and BAWSCA entered into a Memorandum of Understanding (MOU) to evaluate options for SFPUC and BAWSCA to participate in the District's Expedited Purified Water Program. The objective of the evaluation is to provide SFPUC and BAWSCA with a given annual amount of purified water from the District's program (considering that operational/storage factors may potentially limit the full utilization of the projected purified water supply under various hydrologic scenarios) in exchange for their financial participation in the District's Expedited Purified Water Program.

During the past year, District staff has worked closely with SFPUC and BAWSCA to define principles of participation, conduct a constraints analysis, develop rating criteria, and identify conceptual alternatives as part of the feasibility study.

ATTACHMENTS:

Attachment 1: PowerPoint

UNCLASSIFIED MANAGER:

File No.: 18-0286

Agenda Date: 5/9/2018
Item No.: 3.6.

Garth Hall, 408-630-2750

3.6 UPDATE ON DISTRICT, SFPUC/BAWSCA COLLABORATION EFFORTS

May 9, 2018

SCVWD/SFPUC/BAWSCA MOU

- Conduct feasibility study to evaluate alternatives for SFPUC/BAWSCA participation in District's Purified Water Program
 - Phase 1 – Initial screening planned by May 2018
 - Projected amount: 5-15 MGD in excess of District's needs
 - Define principles of participation
 - Conduct constraints analysis
 - Identify conceptual alternatives – building blocks
 - Develop viable alternatives technical memorandum
 - Develop work plan for Phase II
 - Phase 2 – Develop detailed cost estimates for viable projects
 - It will required an amendment to the existing MOU

Project Drivers

- Board priority for financial efficiency
- Regional cooperation efforts
- Reliable water supply option

Two Major Categories – Surplus or Added Capacity

Purified Water Amount and Timing

Surplus capacity

- **12,000 AFY on average**
- **No direct dry year deliveries**
- **Banking and delivery options**

Added capacity

- **Subject to treated wastewater availability**
- **Includes dry year deliveries**

Identified Alternatives

1. Real-Time, Direct Delivery (DPR) via Bay Division Pipe Line
2. Real-Time, Indirect Delivery via Milpitas Intertie
3. In Lieu Exchange and Indirect Delivery (Local Storage)
4. In Lieu Exchange and Indirect Delivery (Regional Storage)
5. In Lieu Exchange and Indirect Delivery (AVEK Banking)

Banking Alternatives

In-County

~~Galero~~

~~Anderson~~

Pacheco

Out of County

GW: ~~AVEK & Semitropic~~

SW: San Luis, LVE,
San Antonio

Short list of feasible projects

1. New connection to Bay Division Pipeline (DPR)
2. Real-time treated water transfer via Milpitas intertie
3. In lieu exchange and indirect delivery (AVEK)

Next Steps

1. Perform additional model runs to estimate District impacts related to committing annual supplies to SFPUC/BAWSCA
2. Develop high level cost estimate for new connection
3. Prepare Technical Memorandum regarding findings from Phase 1 evaluation

File No.: 18-0287

Agenda Date: 5/9/2018

Item No.: 3.7.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Update on South County Recycled Water Projects and District, Producers, Wholesalers, and Retailers Agreements.

RECOMMENDATION:

Receive information and discuss next steps on:

- A. Status of South County Recycled Water Master Plan Implementation; and
- B. Partnership Agreements

SUMMARY:

The Santa Clara Valley Water District (District), in partnership with the South County Regional Wastewater Authority, and cities of Gilroy and Morgan Hill continue to increase reliability and expand service of recycled water in the southern portion of Santa Clara County. An update on the status of the South County Recycled Water Master Plan (Master Plan) and partnership agreements are as follows:

A. South County Recycled Water Master Plan Implementation

On April 4, 2018, the South County Regional Wastewater Authority (SCRWA) Board approved award of a \$2.6 million contract to Monterey Peninsula Engineering for Construction of Recycled Water Pump Station Improvements, SCRWA Project No. 18-PW-245. This project contains treatment facility improvements, and will increase capacity of the pump station, improve water supply reliability, and master metering for the recycled water system located in southern Santa Clara County. This project is consistent with capital improvement recommendations in the South County Recycled Water Master Plan, updated in 2015. This project is funded entirely by SCRWA.

The Committee will recall that in 2016 and 2017, the District received a combined award of up to \$5.7 million in federal grant funding for the South County Recycled Water Pipeline, Phase 1B and 2A project (Pipeline Project). Recall also that U.S. Bureau of Reclamation (Reclamation) required additional documentation to be produced for compliance with the National Environmental Protection Act (NEPA) and Section 106 of the National Historic of the Preservation Act (NHPA) prior to release of funds.

- As part of the development of its draft Environmental Assessment for NEPA, Reclamation reviewed the Phase I archeological survey and in December 2017 required additional

exploratory steps be taken.

- A work plan specifying the steps to complete Phase II and possibly Phase III archeological explorations was approved by Reclamation in February 2018.
- Staff estimates a Phase II and Phase III archeological requirements could delay construction of the Pipeline Project by up to three years. (Phase II ground truthing surveys require test excavations, and if cultural evidence is found additional specialized studies would be needed to determine the significance and geographical extent of a site.)
- Reclamation's NEPA requirements must be fulfilled to be eligible for grant funding.

B. Partnership Agreements

In October 2019, the existing Wholesaler-Retailer partnership agreement between the District and cities of Gilroy and Morgan Hill will reach its term, and will automatically renew and extend by one year, year after year, unless terminated in accordance with the provisions of the agreement. Staff recommends the District, in partnership with the cities, develop an amendment to extend the existing agreements in alignment with projected recommendations from the 2015 Master Plan and the District's Countywide Water Reuse Master Plan that is under development. The negotiations for such an amendment could be set once the latter plan is completed.

Background to Partnership Agreements with SCRWA, Gilroy and Morgan Hill

In 1999, the District entered into Producer-Wholesaler-Retailer partnership agreements with the South County Regional Wastewater Authority (SCRWA) and the cities of Gilroy and Morgan Hill to develop a marketable recycled water program, which included expansion of the SCRWA Wastewater Treatment and Reclamation Plant (WWTP), located in Gilroy, and the recycled water distribution system.

According to these Producer-Wholesaler-Retailer agreements:

1. SCRWA is the recycled water producer;
2. The District is the wholesaler; and
3. The cities of Gilroy and Morgan Hill are the retailers.

The responsibilities and costs associated with the construction, operation, and maintenance of the facilities associated with recycled water are:

1. SCRWA: treatment facilities;
2. District: distribution facilities; and
3. Cities of Gilroy and Morgan Hill: the meters within their respective jurisdictions.

A brief overview of the key terms of the Producer-Wholesaler-Retailer Agreements is presented in Attachment 1.

In 2006, the Producer-Wholesaler Agreement between the District and SCRWA was amended. The most significant amendments to the Agreement included adding provisions for: a cost

share on the South Pipeline, a dual use emergency discharge pipeline to Pajaro River for the WWTP and recycled water distribution; allowing the District to contract with SCRWA for operations and maintenance services on District recycled water facilities; replacement of preset delivery quantities with a clause to allow the District first right of refusal to all recycled water that SCRWA produces for sale; scheduled review and updates of the South County Recycled Water Master Plan (Master Plan); and a reliability study to be performed under the first Master Plan update.

ATTACHMENTS:

Attachment 1: Key Terms, Producer-Wholesaler-Retailer Agreements

Attachment 2: PowerPoint

UNCLASSIFIED MANAGER:

Garth Hall, 408-630-2750

Katherine Oven, 408-630-3126

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**Key Terms of Producer-Wholesaler-Retailer Agreements
South Santa Clara County Recycled Water System**

No.	Item	SCRWA	DISTRICT	GILROY/MORGAN HILL
1	Agency Role	Producer	Wholesaler	Retailer
2	Recycled Water System Ownership	<u>Recycled Water Treatment/Production Facilities:</u> - Tertiary treatment and disinfection - Finish water pump station(s) - Master meter - Pipeline to Wholesaler Point of Connection - South Pipeline (Pajaro River Emergency Discharge)	<u>Distribution System and Facilities:</u> Located between the Wholesaler Point of Connection and End User Point of Connection - Pipeline and appurtenances - Booster pump station(s) - Finish water reservoir(s)/storage tanks - End User Meter (Only outside Retailer service area(s))	End User Meter (End User Point of Connection)
3	Operation & Mainenance	- WWTP - Distribution System: At Wholesaler's request and reimbursement	- Distribution System - Option to request and reimburse SCRWA to perform O&M	End User Meter
4	Permits	Lead Agency	Compliance	Compliance
5	Water Quality	CA Title 22: Disinfected tertiary treated recycled water	CA Title 22: Disinfected tertiary treated recycled water	CA Title 22: Disinfected tertiary treated recycled water
6	Water Supply Quantity	Water supply for WWTP Operations	First right of refusal for up to 100% water supply available from Producer for sale (or other valuable consideration)	- Water supply available from Producer to Wholesaler for sale (or other valuable consideration) - Annual delivery quantity
7	Delivery Pressure	Range: 80 to 110 psig at Wholesaler Point of Connection	---	---
8	Water Supply Rate	Annual Rate Schedule: 2017 Rate = \$0	Annual Rate Schedule: 2017 Rate(s) M&I = \$398, Ag = \$48.88	Annual Rate Schedule: 2017 Rate = Wholesale Rate plus \$0 Retail
9	Master Plan	50% Consultant Cost	50% Consultant Cost	---
10	Environmental Impact Report (EIR)	50% Master Plan Programmatic-level EIR Cost 100% WWTP EIR Cost	50% Master Plan Programmatic-level EIR Cost 100% Master Plan Project-level EIR Cost	---
11	Term and Renewal	20 years, automatic 1 year renewal intervals	20 years, automatic 1 year renewal intervals	20 years, automatic 1 year renewal intervals
12	Executed	October 1999, Amended December 2006	October 1999	October 1999

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3.7 Update on South County Recycled Water Projects and District, Producers, Wholesalers, and Retailers Agreements



3.6.A. South County Recycled Water Master Plan Implementation

Recycled Water Pump Station Improvements, by SCRWA

- \$2.6 million construction contract awarded April 4, 2018
- Contractor: Monterey Peninsula Engineering

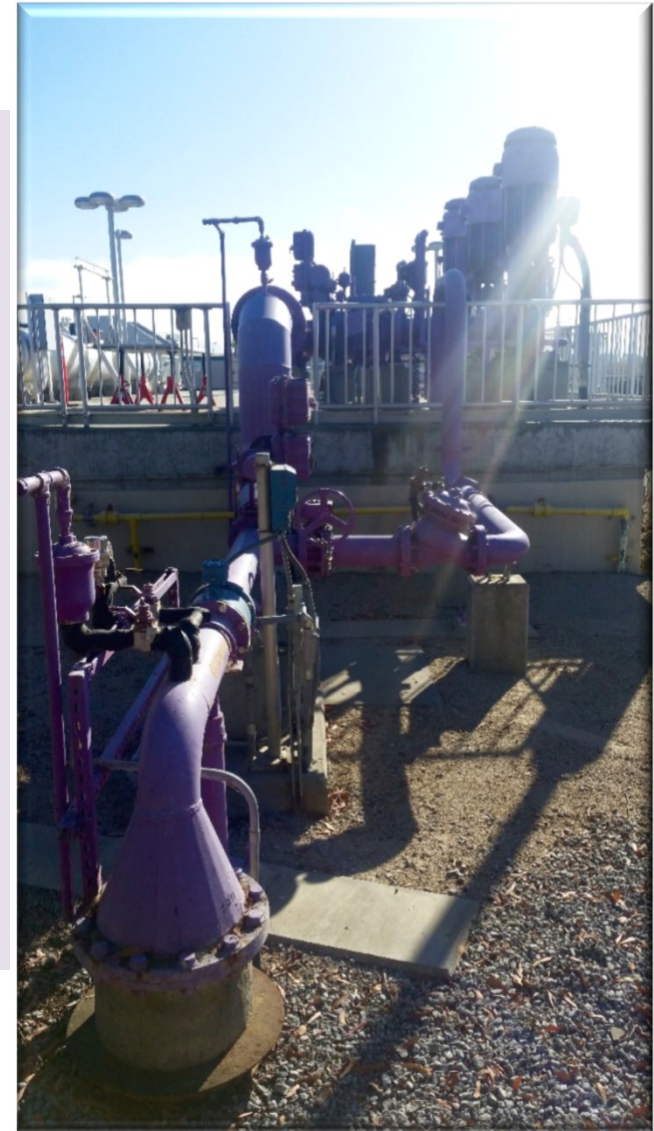
Status: South Santa Clara County Recycled Water Project, Phase 1B and 2A, by District

- \$5.7 federal grant awarded 2016 and 2017 (combined total)
- NEPA update on-going, Phase II archeological survey requested
- NEPA, Phase II Impact: Additional delay of construction up to 3 years (estimated)

KEY:

District = Santa Clara Valley Water District

SCRWA = South County Regional Wastewater Authority



3.6.B. Partnership Agreements

Preparation for Planned Amendment Negotiations:

Wholesaler-Retailer Agreement(s) for Supply of Recycled Water between District and cities of Gilroy and Morgan Hill

- Executed: October 5, 1999
- Term: 20-years (2019) 
- Renewal: Following Term, automatic renewal extended one year, year after year, unless terminated

Producer-Wholesaler Agreement for Supply of Recycled Water between SCRWA and District

- Executed: October 5, 1999
- Amended: December 12, 2006
- Term: 20-years (2026)
- Renewal: Following Term, automatic renewal extended one year, year after year, unless terminated

KEY:

District = Santa Clara Valley Water District

SCRWA = South County Regional Wastewater Authority

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File No.: 18-0288

Agenda Date: 5/9/2018

Item No.: 3.8.

COMMITTEE AGENDA MEMORANDUM

Recycled Water Committee

SUBJECT:

Review Recycled Water Committee Work Plan and Discuss 2018 Meeting Schedule.

RECOMMENDATION:

Review and make necessary adjustments to the Committee Work Plan, and confirm next meeting time, date, and discussion subjects.

SUMMARY:

Under direction of the Clerk, Work Plans are used by all Board Committees to increase Committee efficiency, provide increased public notice of intended Committee discussions, and enable improved follow-up by staff. Work Plans are dynamic documents managed by Committee Chairs, and are subject to change. Committee Work Plans also serve as Annual Committee Accomplishments Reports.

The 2018 Recycled Water Committee Work Plan is contained in Attachment 1. Information on this document was populated by staff as follows:

Schedule for Presentation of Materials:

Discussion topics have been populated on the proposed 2018 Work Plan from the following sources:

- Items referred to the Committee by the Board;
- Items requested by the Committee to be brought back by staff;
- Items scheduled for presentation to the full Board of Directors; and
- Items identified by staff.

ATTACHMENTS:

Attachment 1: 2018 RWC Work Plan

UNCLASSIFIED MANAGER:

Michele King, 408-630-2711

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RECYCLED WATER COMMITTEE

Updated: 5/3/18

PURPOSE AND GUIDANCE

The Recycled Water Ad Hoc Committee was enacted by the Board of Directors on January 12, 2016. The Committee’s purpose is to develop a long-term proposal for how the District can work together with other local agencies on recycled water opportunities within the district boundaries, to establish a collaborative process to facilitate policy discussion and sharing of technical information on recycled water issues. It is the role of the Recycled Water Committee to meet with the other entities (Sunnyvale, Palo Alto, CSJ SC/TPAC) in individual meetings as required and/or necessary. The Recycled Water Committee can also meet with new entities if the need arises.

The Board of Directors identified the following Issues, Challenges, Strategies and Opportunities related to Recycled Water during their October 4, 2016 Priorities and Strategic Directions Work/Study Session. As such, the Recycled Water Ad Hoc Committee, while doing its work, should seek out opportunities to address the Board’s identified issues and challenges, and support the Board’s identified strategies and opportunities, as follows:

Issues/Challenges	Strategies/Opportunities
<ul style="list-style-type: none"> • Public perception • Governmental Relations/Water Rights • Funding/Delivery Method 	<ul style="list-style-type: none"> • Expedite Purified Water Program partnering with San Jose/Santa Clara, plus look at potential opportunity with South Bay Recycled Facilities • Develop Partnerships with Sunnyvale, Palo Alto, Mountain View for new recycled/purified water • Expand South County Recycled Water partnering with SCRWA

This annual work plan establishes a framework for committee discussion and action during the annual meeting schedule. The committee work plan is a dynamic document, subject to change as external and internal issues impacting the District occur and are recommended for committee discussion. Subsequently, an annual committee accomplishments report is developed based on the work plan and presented to the District Board of Directors.

RECYCLED WATER COMMITTEE

Updated: 5/3/18

PARKING LOT

The Parking Lot contains unscheduled items referred to the Committee by the Board of Directors, or requested to by the Committee to be brought back by staff.

Date Requested	Requesting Body	Assigned Staff	Discussion Subject	Intended Outcome(s)
05/30/17	RWC	K. Oven	Staff to bring back information on impacts associated with sudden staff resource expansion, including number of staff needed and input from HR.	Receive information and discuss next steps.
05/30/17	RWC	C. Sun	Staff is to continue providing updates until IRS letter is complete.	
12/19/17	Board of Directors	G. Hall	Consider the Conceptual Recycled Water Exchange Project with Contra Costa Water District and Central Contra Costa Sanitary District presented to the Board at the December 19, 2017 Board Meeting, Agenda Item 2.7, and come back to the Board with recommended next steps.	Receive information and discuss and develop a recommendation to the Board of Directors on next steps.
2/13/18	Board of Directors	G. Hall	Staff to continue monitoring and strategy development of Advanced Recycled and Purified Water Efforts with City of San Jose and other agencies.	Receive information and discuss next steps.

RECYCLED WATER COMMITTEE

Updated: 5/3/18

2018 WORK PLAN

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
05/09/18 12:00 pm	Approval of Minutes	Committee	Approve Minutes	
	Expedited Purified Water Program Update.	K. Oven	Receive information on and discuss the P3 Expanded Shortlist of Qualified Firms, the Draft P3 Term Sheet, and next steps for the P3 Procurement process.	
	April 19, 2018 Joint Recycled Water Policy Advisory Committee (JRWPAC) Meeting Feedback, Follow Up, and Outcomes.	G. Hall	Receive information and discuss next steps.	
	Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan.	G. Hall	Receive information and discuss next steps on progress on the Master Plan baseline efforts.	
	Update on Reverse Osmosis Concentrate Management.	G. Hall	Receive information and discuss next steps on: A. Status of the amendment and time extension to the consultant agreement with GHD, Inc; B. Status of the grant agreement with the State Water Resources Control Board for funding research studies; and C. Outcomes from the February 2018 stakeholder discussions about ROCM options.	
	Update on District/City of Palo Alto/City of Mountain View and City of Sunnyvale Collaboration Efforts.	G. Hall	Receive information and discuss next steps on: A. Northwest County Recycled Water Strategic Plan; B. Comprehensive Agreement between District and City of Palo Alto; and C. Comprehensive Agreement between District and City of Sunnyvale	

RECYCLED WATER COMMITTEE

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
05/09/18 12:00 pm (Cont'd)	Update on District/SFPUC/BAWSCA Collaboration Efforts.	G. Hall	Receive information and discuss next steps on District/SFPUC/BAWSCA Feasibility Study.	
	Update on South County Recycled Water Projects and District, Producers, Wholesalers, and Retailers Agreements.	G. Hall/K. Oven	Receive information and discuss next steps on: A. Status of South County Recycled Water Master Plan Implementation; and B. Partnership Agreements.	
	Review Committee Work Plan and Discuss 2018 Meeting Schedule.	Committee	Review and make necessary adjustments to Committee Work Plan, confirm next meeting discussion subjects, and confirm next meeting date and time.	

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
08/09/18 12:00 pm	Approval of Minutes	Committee	Approve Minutes	
	Expedited Purified Water Program Update	K. Oven/G. Hall	Receive information and discuss next steps: A. Discussion of October 2018 Special Joint RWPAC Meeting and Opportunity for Direction to Staff.	
	Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan.	G. Hall	Receive information and discuss next steps on: A. Status of December 2018 Planned Completion of Draft Countywide Water Reuse Master Plan	
	Update on Reverse Osmosis Concentrate Management.	G. Hall	Receive information and discuss next steps on: A. Status of August 2018 Planned Completion of Pilot Engineered-Treatment System Final Technical Memorandum and Feasibility Alternatives Report; and B. Status of December 2018 Planned Completion of Final Reverse Osmosis Concentrate Management Plan Report.	
	Direct Potable Reuse Analysis Efforts Update.	G. Hall	Receive information and discuss next steps on: A. TBD	
	Update on District/City of Sunnyvale Collaboration Efforts.	G. Hall	Receive information and discuss next steps on: A. TBD	
	Update on District/City of Palo Alto/City of Mountain View Collaboration Efforts.	G. Hall	Receive information and discuss next steps on: A. Status of Northwest County Recycled Water Strategic Plan.	
	Update on District/SFPUC/BAWSCA Collaboration Efforts and Feasibility Study.	G. Hall	Receive information and discuss next steps on: A. TBD	

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
08/09/18 12:00 pm (Cont'd)	Update on South County Efforts and the District/City of Gilroy Agreements for Expansion of Recycled Water.	G. Hall/K. Oven	Receive information and discuss next steps.	
	Update on Joint Efforts with Central Contra Costa Sanitary District and Contra Costa Water District to Study Purified Water Development/Supply in Exchange for Raw Water Supply.	G. Hall	Receive information and discuss next steps.	
	Public Outreach for Recycled and Purified Water - Expanding taste tests and bottling options of advanced purified water.	R. Callender	Receive information on current activities and discuss expanding taste test opportunities, including bottling of purified water for marketing purposes.	
	Water Research Foundation's Request to Support the Advancing Potable Reuse Initiative.	G. Hall	Recommend that the Board authorize the CEO to provide \$100,000 funding to the Water Research Foundation, to support efforts to raise matching funds for a \$4.5 million grant from the State Water Resources Control Board to conduct research that will fill major knowledge gaps related to the development of regulatory criteria for Direct Potable Reuse.	
	Review Committee Work Plan and discuss 2018 meeting schedule.	Committee	Review and make necessary adjustments to Committee Work Plan, and confirm next meeting discussion subjects, and confirm next meeting time and date.	

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
11/15/18 12:00 pm	Approval of Minutes	Committee	Approve Minutes	
	Expedited Purified Water Program Update	K. Oven/G. Hall	Receive information and discuss next steps: A. *Tentative* Discussion of October 2018 Special Joint RWPAC Meeting Feedback, Follow Up, and Outcomes.	
	Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan.	G. Hall	Receive information and discuss next steps on: A. Status of December 2018 Planned Completion of Draft Countywide Water Reuse Master Plan; and B. Status of June 2019 Planned Completion of Countywide Water Reuse Master Plan.	
	Update on Reverse Osmosis Concentrate Management.	G. Hall	Receive information and discuss next steps on: A. Status of December 2018 Planned Completion of Final Reverse Osmosis Concentrate Management Plan Report.	
11/15/18 12:00 pm (Cont'd)	Direct Potable Reuse Analysis Efforts Update.	G. Hall	Receive information and discuss next steps on: A. TBD	
	Update on District/City of Sunnyvale Collaboration Efforts.	G. Hall	Receive information and discuss next steps on: A. TBD	
	Update on District/City of Palo Alto/City of Mountain View Collaboration Efforts.	G. Hall	Receive information and discuss next steps on: A. Status of Northwest County Recycled Water Strategic Plan.	
	Update on District/SFPUC/BAWSCA Collaboration Efforts and Feasibility Study.	G. Hall	Receive information and discuss next steps on: A. TBD	

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
	Update on South County Efforts and the District/City of Gilroy Agreements for Expansion of Recycled Water.	G. Hall/K. Oven	Receive information and discuss next steps on: A. Status of South County Recycled Water Pipeline Short-Term Phase 1B/2A Project i. Plans, Specifications, and Authorization to Advertise for Bids; and ii. Consultant Agmt w/Mott MacDonald for Construction Mgmt Services	
	Review Committee Work Plan and discuss 2018 meeting schedule.	Committee	Review and make necessary adjustments to Committee Work Plan, and confirm next meeting discussion subjects, and confirm next meeting time and date.	

2018 ACCOMPLISHMENTS REPORT

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
01/23/18 1:00 pm	Workshop to Receive Information from Public-Private Partnership (P3) Entities Interested in the District's Expedited Purified Water Program	K. Oven	Receive Information and Discuss Next Steps.	Continued to 02/08/18.
02/08/18 2:00 pm	Election of 2018 Chair, Vice Chair	Committee	Consider the nomination and approve the election of 2018 Committee Chair and Vice Chair	Director Estremera elected Chair. Director Keegan elected Vice Chair.

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
	Approval of Minutes	Committee	Approve Minutes	Approved 11/15/17 and 01/23/18 Minutes.
	Update on Countywide Water Reuse (Recycled and Purified Water) Master Plan.	G. Hall	Receive information and discuss next steps and Recommend the following to the Board: i. Approve a \$395,000 Budget Adjustment and Authorize the CEO to Execute an Amendment to Agreement with GHD, Inc., for Reverse Osmosis Concentrate Mgmt Project; and ii. Adopt a Resolution to authorize the CEO to prepare and submit a grant application to State Water Resources Control Board Proposition 13 Grant Funding Opportunity, to partially fund the Reverse Osmosis Concentrate Mgmt Project.	Noted.
	Expedited Purified Water Program Update	K. Oven/G. Hall	Receive information and discuss next steps on: A. Summary of 01/23/18 RWC P3 Workshop; and B. P3 procurement Options.	Recommend Options B and C to the board, with the following modifications included: project labor agreement language; a stipend; a hybrid procurement process for discussion; and that there is a full team (designer/builder/operator/financer) in place from the beginning of the process (02/13/18 Item 4.3)
	Update on Public Outreach for Recycled and Purified Water, 2017 Potable Reuse Telephone Survey.	R. Callender	Receive information and discuss next steps.	Noted
	Update on the Contra Costa Water District/Central Contra Costa Sanitary District Recycled Water Exchange Project	G. Hall	Receive information and discuss next steps.	Noted
	Review Committee Work Plan and discuss 2018 meeting schedule (Continued from 11/15/17).	Committee	Review and make necessary adjustments to 2018 Committee Work Plan, and confirm regular meeting schedule for 2018.	Next Meeting March 21, 2018..
03/21/18 2:00 pm	Approval of Minutes	Committee	Approve the Minutes	Approved Minutes of 02/08/18.

RECYCLED WATER COMMITTEE

Updated: 5/3/18

MEETING DATE	WORK PLAN ITEM, BOARD POLICY, & POLICY CATEGORY	ASSIGNED STAFF	INTENDED OUTCOME(S)	ACCOMPLISHMENT DATE AND OUTCOME
03/21/18 2:00 pm (Cont'd)	Discuss agenda items for the upcoming Joint Recycled Water Policy Advisory Committee (City of San Jose/SCVWD/City Of Santa Clara) meeting scheduled for April 19, 2018.	H. Ashktorab	Receive information and discuss next steps.	<p>Committee made the following requests and noted without formal action:</p> <ul style="list-style-type: none"> • Come back via Nonagenda w/info on SVAWC FY 17 budget projections vs actuals, and FY18-19 utilization/cost ratio, per acre foot; • Brief SJ staff on subjects planned for 04/19/18 RWPAC, including City SJ budget objectives, and overview of P3 and how City fits into this; and • Coordinate additional advertisement of the April 19, 2018 RWPAC meeting on the District's website.
	Update on District Recycled And Purified Water Efforts – Reverse Osmosis Concentrate Management:	M. Sinaki	Receive information and discuss next steps, and recommend that the Board approve a \$452,000 budget adjustment and authorize the Chief Executive Officer (CEO) to negotiate and execute an amendment and time extension to the agreement with GHD, Inc., for the Reverse Osmosis Concentrate Management Project (Agreement No. A4034G), for an amount not to exceed \$842,000; and that the Board of Directors adopt a resolution to authorize the CEO to prepare and submit a grant application to the State water Resources Control Board Proposition 13 Grant Funding Opportunity, to partially fund the Reverse Osmosis Concentrate Management Project.	The Committee recommends that the Board approve a \$452,000 budget adjustment and authorize the Chief Executive Officer (CEO) to negotiate and execute an amendment and time extension to the agreement with GHD, Inc., for the Reverse Osmosis Concentrate Management Project (Agreement No. A4034G), for an amount not to exceed \$842,000; and that the Board of Directors adopt a resolution to authorize the CEO to prepare and submit a grant application to the State water Resources Control Board Proposition 13 Grant Funding Opportunity, to partially fund the Reverse Osmosis Concentrate Management Project.
	Review Committee Work Plan	Committee	Review and make necessary adjustments to 2018 Committee Work Plan, and confirm regular meeting schedule for 2018.	Staff is to add discussion of P3 Term Sheets to 05/09/18 Agenda. Remainder of Work Plan continued to next meeting.