

**SAN JOSE/SANTA CLARA TREATMENT PLANT ADVISORY COMMITTEE**

CHUCK REED, CHAIR  
BOB LIVENGOOD, VICE-CHAIR  
KEVIN MOORE, MEMBER  
PATRICIA MAHAN, MEMBER  
MADISON NGUYEN, MEMBER

KEN YEAGER, MEMBER  
JOHN GATTO, MEMBER  
ED SHIKADA, MEMBER  
NORA CAMPOS, MEMBER

**SPECIAL MEETING  
AGENDA**

**4:30 p.m.**

**February 25, 2010**

**Room T-1047**

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**1. ROLL CALL**

**2. MINUTES**

A. Minutes of January 14, 2010

**3. UNFINISHED BUSINESS**

A. McCarthy Property: Discussion of Committee questions concerning history of purchase of McCarthy Property interest, potential liability related discontinuance of solar drying operation, prioritization of discontinuance of solar drying operation, and potential for shifting costs associated with that project to the developer or either to the developer or the homeowners over time, for a portion of the costs, including use of an assessment district formed on the McCarthy property to provide a funding source for the costs.

**4. CORRESPONDENCE**

**5. REPORTS**

A. Open Purchase Orders Greater Than \$100,000  
The attached monthly Procurement and Contract Activity Report summarizes the purchase and contracting of goods with an estimated value between \$100,000 and \$1 million and of services between \$100,000 and \$250,000.

**6. AGREEMENTS**

A. Technical Committee Recommendation (Handout)

B. Action Item – TPAC Recommendation for Concurrence Requested

**The following items are scheduled to be heard by the San Jose City Council on March 2, 2010:**

1. Adopt a resolution approving the Santa Clara Valley Water District “Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)” and direction to City staff to implement the mitigation measures identified in the Mitigated Negative Declaration as applicable to City activities related to the AWTF.
2. Adopt a resolution authorizing the City Manager or designee to (1) award the “Contract for AWTF Early Earthworks” to the lowest responsive and responsible bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, not to exceed \$2 million; and (2) decide any timely protest(s), make the City’s final determinations to the lowest responsive and responsible bidder, or to reject all bids and rebid the project.
3. Approve “Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County” to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year.
4. Approve “Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility” for a term of forty years to allow the District to construct and operate an AWTF on approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant.

C. Action Item – TPAC Recommendation for Concurrence Requested

**The following items are scheduled to be heard by the San Jose City Council on March 2, 2010:**

1. Reject all bids for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project.
2. Adopt a resolution authorizing the City Manager or her designee to:
  - (a) Award the contract for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project to the lowest responsive and responsible bidder in an amount not to exceed \$300,000 and approval of a 10% construction contingency, subject to the concurrence of the Treatment Plant Advisory Committee; and

*This Item continues on the next page*

C. Action Item – TPAC Recommendation for Concurrence Requested

**The following items are scheduled to be heard by the San Jose City Council on March 2, 2010:**

- (b) Decide any timely bid protest(s), make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

D. Informational Item – TPAC Item Previously Recommended for Approval

**The following item was approved by the San Jose City Council on January 12, 2010.**

1. Adopt a resolution authorizing the City Manager to submit a grant proposal to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$10,000,000 for the development of a biomethane transportation fuel production facility on Water Pollution Control Plant lands, subject to the concurrence of the Treatment Plant Advisory Committee.

E. Informational Item – TPAC Item Previously Recommended for Approval

**The following items were approved by the San Jose City Council on January 26, 2010.**

Report on Request for Proposal (RFP) for security guard services at the Water Pollution Control Plant (WPCP) and adoption of a resolution authorizing the Director of Finance to:

1. Execute an agreement with First Alarm Security & Patrol, Inc. (Aptos, CA) for security guard services for an initial fourteen month term for the period February 1, 2010 to March 31, 2011, and a maximum compensation not to exceed \$225,139.
2. Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.
3. Exercise two, one-year options to extend the agreement subject to annual appropriation of funds.

7. MISCELLANEOUS

- A. The next TPAC meeting will be Thursday, March 11, 2010, at 4:30 p.m. City Hall, Environmental Services, 10<sup>th</sup> Floor, Room 1047.

8. OPEN FORUM

9. ADJOURNMENT

NOTE: If you have any changes or questions, please contact Monica Perras, Environmental Services, 408-975-2515.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call Monica Perras at (408) 975-2515 or (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting/event.

**Availability of Public Records.** All public records relating to an open session 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 San Jose City Hall, 200 East Santa Clara Street, 10<sup>th</sup> Floor, Environmental Services at the same time that the public records are distributed or made available to the legislative body.

**DRAFT**  
**MINUTES OF THE**  
**SAN JOSÉ/SANTA CLARA**  
**TREATMENT PLANT ADVISORY COMMITTEE**  
City Hall, Environmental Services, 10<sup>th</sup> Floor, Room 1047  
Thursday, January 14, 2010 at 4:30 p.m.

**1. ROLL CALL**

Minutes of the Treatment Plant Advisory Committee convened this date at 4:30 p.m. Roll call was then taken, with the following members in attendance:

Committee members: Chuck Reed (Chair), Bob Livengood (Vice Chair), Kevin Moore, Patricia Mahan, Madison Nguyen, Nora Campos, Ken Yeager.

Staff present: Monica Perras, Dale Ihrke, John Stufflebean, Mollie Dent, Kirsten Struve, Jo Zientek, Michele Young, Mark Giovannetti.

Others present: Kathleen Phalen (City of Milpitas), Bob Wilson, (City of Santa Clara), David Wall (San José City Resident).

**2. APPROVAL OF MINUTES**

Minutes of December 10, 2009.

Motion by Committee member Nguyen and second by Committee member Mahan to accept the minutes of December 10, 2009.

**3. UNFINISHED BUSINESS**

**4. CORRESPONDENCE**

**5. REPORTS**

- A. Open Purchase Orders Greater Than \$100,000  
The attached monthly Procurement and Contract Activity Report summarizes the purchase and contracting of goods with an estimated value between \$100,000 and \$1 million and of services between \$100,000 and \$250,000.

Item 5.A was approved unanimously.

**6. AGREEMENTS**

- A. Technical Committee Recommendation (Handout)

Item 6.A was approved unanimously.

- B. Agreements – TPAC Recommendation for Approval Requested

**The following item is scheduled to be approved by the San Jose City Council on January 12, 2010:**

1. Adopt a resolution authorizing the City Manager to submit a grant proposal to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$10,000,000 for the development of a biomethane transportation fuel production facility on Water Pollution Control Plant lands, subject to the concurrence of the Treatment Plant Advisory Committee.

Item 6.B.1 was approved unanimously.

David Wall submitted a speaker card against this item

C. Agreements – TPAC Recommendation for Approval Requested

**The following items are scheduled to be approved by the San Jose City Council on January 26, 2010:**

Report on Request for Proposal (RFP) for security guard services at the Water Pollution Control Plant (WPCP) and adoption of a resolution authorizing the Director of Finance to:

1. Execute an agreement with First Alarm Security & Patrol, Inc. (Aptos, CA) for security guard services for an initial fourteen month term for the period February 1, 2010 to March 31, 2011, and a maximum compensation not to exceed \$225,139.
2. Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.
3. Exercise two, one-year options to extend the agreement subject to annual appropriation of funds.

Item 6.C.1-3 was approved unanimously.

David Wall submitted a speaker card against this item.

D. Informational Items – TPAC Item Previously Recommended for Approval

**The following item was approved by the San Jose City Council on January 12, 2010:**

1. Progress report highlighting activities since March 2009 on the Master Plan for the San Jose/Santa Clara Water Pollution Control Plant (Plant).

Item 6.D.1 was approved unanimously.

E. Informational Item – TPAC Item Previously Recommended for Approval

**The following items were approved by the San Jose City Council on December 15, 2009.**

1. Installation of Potable and Non-Potable Water Services and Mains: 2009-2010 project:
    - (a). Reject all bids for the Installation of Potable and Non-Potable Water Services and Mains: 2009-2010 project.
    - (b). Adopt a resolution authorizing the Director of Public Works to:
      - (i) Award the contract for the Installation of Potable and Non-Potable Water Services and Mains: 2009-2010 project to the lowest responsive and responsible bidder in an amount not to exceed \$726,000; and
      - (ii) Decide any timely bid protest(s), make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.
  2. Approval of a Continuation Agreement with AEPC Group, LLC for consultant services for the preliminary design of the project entitled, "San José/Santa Clara Water Pollution Control Plant (Plant), Fiscal Year 2006-2007 Capital Improvement Program, Switchgear M5, Ring Bus, and Cable Replacement," to continue and extending the term of the agreement which expired on March 31, 2009 to June 30, 2010 at no additional cost to the City.
  3. Report on bids and award of contract for the MCC H1, MCC H2, MCC J1, and MCC J2 Replacement Project to the lowest responsive bidder, Dynalectric Company, in the amount of \$1,637,295; and approval of a budget contingency of 15% contract amount, in the amount of \$245,595.
- Item 6.E.1-3 was approved unanimously.

7. MISCELLANEOUS

- A. The next TPAC on February 11, 2010 was moved to Thursday, February 25, 2010, at 4:30 p.m. City Hall, Environmental Services, 10<sup>th</sup> Floor, Room 1047.

8. PUBLIC COMMENT

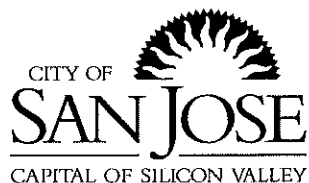
- David Wall commented on an audit of all WPCP operations and finances.

10. ADJOURNMENT

- A. The Treatment Plant Advisory Committee adjourned at 4:40 p.m.

Chuck Reed, Chair  
Treatment Plant Advisory Committee





# Memorandum

**TO:** TREATMENT PLANT  
ADVISORY COMMITTEE

**FROM:** John Stufflebean

**SUBJECT:** McCARTHY PROPERTY

**DATE:** 12-03-09

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Approved

Date

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This memorandum responds to the request made by the Treatment Plant Advisory Committee at its October 2009 meeting for information regarding the Plant's interests in the McCarthy Property in Milpitas. Specifically, the Committee asked staff and the City Attorney's Office to respond to the following questions:

1. What rights did the Plant purchase and what was the purchase price? What would the rights be worth now if the Plant were to agree to release the rights?
2. What is the potential for monetary liability to homeowners for damages if development is allowed to occur before the solar drying operation is discontinued?
3. What is the impact on the water recycling project that we are trying to get done, if we try to move forward now with discontinuing the solar drying operation at the same time? Does there need to be prioritization, or can we do both? What are the potential rate increases associated with doing these projects separately at the same time?
4. Could an assessment district be formed on the McCarthy property to provide a funding source for all or a portion of the costs associated with discontinuing the solar drying operation? Is there some way to shift costs associated with that project to the developer or either the developer or the homeowners over time, for a portion of the cost, or must all of the costs be paid for through rates?

Written answers to questions 1 and 3 are provided below. The City Attorney's Office will provide verbal response at the TPAC meeting on questions 2 and 4.

**Question 1.** What rights did the Plant purchase and what was the purchase price? What would the rights be worth now if the Plant were to agree to release the rights?

As a result of a settlement agreement in 1998 between the City of San Jose and the McCarthy property owners, the City purchased a 50-year deed restriction (through 2048) on 140 acres of McCarthy Ranch property, to exclude "odor sensitive uses" (residential, lodging, or other such overnight uses.) The City's purchase also included a 6 acre strip of land located along Coyote Creek, and within 500 feet of the Plant's biosolids drying beds, including a house located on that property. The purchase price for the entire transaction was \$6 million and required the house to be leased back to McCarthy for a term of five years at \$800 per year for use by farm laborers working on McCarthy lands. The \$6 million purchase price was budgeted and paid for out of

Treatment Plant funds. The house is currently planned for demolition at a cost of \$200K due to its unsafe and poor condition. The current property zoning with the deed restrictions, allows the development of uses such as commercial, retail or industrial uses.

The City has not obtained an appraisal of the fair market value of the deed restriction or the 6 acre strip of land. However, the value of the deed restriction to the Plant is more than just the original \$6 million paid, because any valuation must consider the cost impact to the Plant of allowing residential so close to the biosolids drying area, while it is still in operation. The deed restriction was purchased to prevent residential development in such close proximity to the current open air dewatering and drying operation and staff continues to believe that residential use of such property is incompatible with the Plant's interest, as long as the open air operation is in use.

Plant Master Plan work to date indicates that the earliest timeframe for permanently changing the biosolids drying process is 10 to 12 years. Until that time, the Plant would continue to use open air drying for its biosolids and reuse the material as Alternate Daily Cover at the nearby Newby Island Landfill, where the Plant has a contract for reuse for the next 10 years, and it is anticipated that, subject to renegotiation with Newby Island, the Plant could continue with landfill disposal until the landfill closes or regulatory changes prevent use for biosolids as Alternate Daily Cover. It should be noted that if the deed restriction remains in place, the Plant would not need to begin planning to change the biosolids process due to concern with conflicting residential uses for many years.

Current dewatering, drying and disposal of biosolids cost the Plant \$3.5 million/year. The Plant Master Plan project has assumed that open air drying will be phased out over the next 30 years. In response to the request from TPAC members on what it would cost to accommodate the request to release property restrictions sooner than the Master Plan time frame, staff has worked with the Plant Master Plan consultants to develop an alternative approach to discontinue open air dewatering and drying operations in a shorter, three to four year, time frame. This approach, which consists of contracting out the solids dewatering operation, is estimated to cost the Plant \$13 million per year for a period of 10 to 12 years. This approach represents a \$9.5 million per year increase in biosolids processing and reuse. The cost to the Tributary agencies would be in proportion to their O&M cost share agreement. It should also be noted that this would be an interim solution that has a life expectancy of 12 years. The Plant Master Plan consultants have given initial estimates of over \$500 million in capital costs alone to convert to a permanent alternative biosolids processing and disposal technology, with the earliest time frame for completing such conversion being 10 to 12 years.

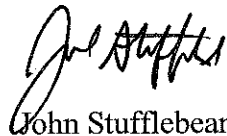
**Question 3:** What is the impact on the water recycling project that we are trying to get done, if we try to move forward now with discontinuing the solar drying operation at the same time? Does there need to be prioritization, or can we do both? What are the potential rate increases associated with doing these projects separately at the same time?

As indicated above, the Plant Master Plan project has assumed that open air drying will be phased out over the next 30 years. Given that biosolids technologies are still evolving and many

treatment plants in the Bay area and nation are facing significant and costly decisions regarding biosolids treatment and reuse options, a final cost analysis is not yet available for what future technologies may be needed. The current estimate for discontinuing open air solar drying is over \$500 million in capital costs alone with significant increases in operating costs. Pilot testing will be needed in order to determine the most efficient and cost-effective treatment technologies. Based on the current operations (4 year cycle in the drying beds), need for environmental review of alternatives, need for pilot testing and the significant cost, it will take a minimum of 10 to 12 years to discontinue solar drying. Acceleration of the project would incur the costs described above to accomplish discontinuation of the open air drying operation sooner and therefore result in higher operations and maintenance costs sooner.

The funding for the Plant's share of the Advanced Water Treatment Project of \$11 million has been allocated in the Plant's existing 5-year CIP. A new project to discontinue open air drying sooner than completion of the Plant Master Plan would need to be prioritized within the ongoing needs. Although San Jose does not set the sewer rates for the tributary agencies, the potential rate impact of the new project on San Jose rate payers would be significant and it is assumed the same would be true for the tributary agencies.

Staff will be prepared to respond to questions and concerns at the TPAC meeting on December 10, 2009. The City's Attorney Office will be verbally answering the legal questions on which the Committee requested information. For further information, please contact Dale Ihrke, Deputy Director, at 945-5198.



John Stufflebean  
Director, Environmental Services

**City Manager's Contract Approval Summary**  
**For Procurement and Contract Activity between \$100,000 and \$1 Million for Goods and \$100,000 and \$250,000 for Services**

December 22, 2009 - January 27, 2010

Description of Contract Activity <sup>1</sup>	Fiscal Year	Req#/ RFP#	PO#	Vendor/Consultant	Original \$ Amount	Start Date	End Date	Additional \$ Amount	Total \$ Amount
APPROX 400 TONS ALUM INUM SULFATE	FY09-10	11600	00000	General Chemical Corp	\$180,000	6/3/10			
HYDROGEN PEROXID E	FY09-10	11607	00000	US Peroxide LLC	\$340,000	3/1/10			
OEA 11237, FOR THE CLEANING OF DIGESTERS	FY09-10	11612	00000	North American Digester	\$250,000	2/1/10			

<sup>1</sup> This report captures in process contract activity (Requisition Number or RFP Number) and completed contract activity (Purchase Order Number, Contract Term, and Contract Amount)



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 02-08-10

Approved

Date

2-18-10

**COUNCIL DISTRICT:** City-Wide

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

## RECOMMENDATION

- (a) Adopt a resolution approving the Santa Clara Valley Water District "Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)" and direction to City staff to implement the mitigation measures identified in the Mitigated Negative Declaration as applicable to City activities related to the AWTF.
- (b) Adopt a resolution authorizing the City Manager or designee to (1) award the "Contract for AWTF Early Earthworks" to the lowest responsive and responsible bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, not to exceed \$2 million; and (2) decide any timely protest(s), make the City's final determinations to the lowest responsive and responsible bidder, or to reject all bids and rebid the project.
- (c) Approve "Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County" to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year.
- (d) Approve "Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility" for a term of forty years to allow the District to construct and operate an AWTF on

approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant.

## **OUTCOME**

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

## **EXECUTIVE SUMMARY**

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

## **BACKGROUND**

In 1989 the California State Water Resources Control Board (State Board) determined that flow of fresh water from the San José/Santa Clara Water Pollution Control Plant (Plant) into San Francisco Bay during the summer months contributed to the conversion of salt marsh to brackish or freshwater marsh, reducing the habitat of two endangered species, the salt marsh harvest mouse and the California clapper rail. In 1990 State Board Order WQ 90-5 directed the San Francisco Bay Regional Water Quality Control Board to limit the amount of treated effluent discharged by the Plant to 120 million gallons per day (mgd), reducing the 167 mgd design

capacity of the Plant by nearly 30% and threatening a moratorium on new sewer connections. The Plant is jointly owned by the cities of San José and Santa Clara and operated by the City of San José through a joint powers authority that also provides wastewater treatment services to Milpitas and the Burbank Sanitary District, Cupertino Sanitation District, Sunol Sanitary District, West Valley Sanitation District and County Sanitation District No. 2-3.

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

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

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

In 2003 the City and the District convened a stakeholder-based process called the Recycled Water Collaborative, the goal of which was to develop and recommend the form and content of a partnership that would allow the City and District to work together to increase the use of recycled water in Santa Clara County. Also in 2003 the District completed an Integrated Water Resources Plan (IWRP) that led to its adoption in 2005 of a policy goal of including up to 40,000 acre-feet per year (AFY) of recycled water in its water supply portfolio to comprise 10% of its

annual water supply by 2030. Since that time, the District has also continued to explore more active ways than financial reimbursement to participate directly in the development of recycled water resources.

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

## **ANALYSIS**

### ***Integration Agreement***

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

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

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



City's approval. Specific business terms related to this agreement are identified in Attachment B, "Key Business Terms of the Site Lease Agreement."

### ***CEQA Clearance***

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

### ***Contract for AWTF Early Earthworks***

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

### **PUBLIC OUTREACH/INTEREST**

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

Concepts, principles and various terms related to the "Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County" and "Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility" were discussed in detail at public meetings of the Recycled Water Liaison

Committee which were noticed to the public in accordance with the Brown Act and the customary procedures of the City of San José and the Santa Clara Valley Water District. In addition, public comment was solicited at the beginning of each Liaison Committee Meeting.

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

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

### **COORDINATION**

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

### **COST IMPLICATIONS**

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

1. SOURCE OF FUNDING: 512 – San José/Santa Clara Treatment Plant Capital Fund

2. OPERATING COST: \$2,000,000

3. SOURCE OF FUNDING: 513 – San José/Santa Clara Treatment Plant Operating Fund

**BUDGET REFERENCE**

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

**CEQA**

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

/s/  
JOHN STUFFLEBEAN  
Director, Environmental Services

Attachments

A- Key Business Terms of the Integration Agreement

B- Key Business Terms of the Site Lease Agreement

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

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

***Purpose***

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

***Recycled Water Policy Advisory Committee***

**Committee Membership and Appointment**

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

**Committee Powers and Duties**

- The Recycled Water Policy Advisory Committee will review and make recommendations to the District Board and the San José City Council on their respective proposed budgets for the ensuing fiscal year for the maintenance, expansion, replacement, improvement and operation of the SBWR and the AWTf. The first budget review will occur in May 2011. To facilitate the budget recommendation, each agency shall provide a draft budget containing a complete financial plan for the operation, maintenance, repair, replacement, improvement and expansion of their respective facilities to the corresponding agency by April 1 of each calendar year beginning April 1, 2011. Should either governing body adopt a budget for the ensuing fiscal year that is materially different than the budget presented or that fails to materially implement its budget recommendation, that body shall provide the Advisory Committee with a statement of the reasons for such action.
- Other matters that may be considered by the Recycled Water Policy Advisory Committee for recommendation to the District Board and San José City Council include:
  - Cost sharing for special studies, technical investigation and recycled water master planning
  - Pursuit of future grant funding for Parties' recycled water projects.
  - Terms and conditions for wholesale recycled water distribution including amendment of agreements with water retailers, new water retailer agreements and proposed changes in wholesale recycled water rates.
  - Expansion of the non-potable system and/or AWT expansion (with the exception of developer-funded pipeline extensions, extensions for which funding has been approved prior to the effective date of the Agreement and onsite retrofit work).

### ***Staff Coordination***

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

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

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

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

City will contribute up to \$11 million toward the cost of constructing the AWTF minus such costs as are incurred by City for design and completion of the AWTF. Examples of costs incurred by the City for design and completion of the AWTF include the proposed AWTF Early Earthwork Contract and the City's conduct of laboratory testing during the design phase of the project.

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

- District shall pay City \$1 million per year until AWTF becomes operational to support expanding the usage of water produced by the South Bay Recycled Water System, and City agrees to use the funds provided by District solely to support expanding the usage of SBWR recycled water.
- Beginning in 2012 (or the first full fiscal year after the AWTF becomes operational) the City and District will review the net costs of operating South Bay Water Recycling (SBWR) and the AWTF and one party will pay to the other the amount required to equalize the amounts paid by each towards the total net operating cost. However, the City's contribution to the District shall never result in a net cost exceeding \$2 million (its current net cost of operating SBWR). In the event that the City's operation of SBWR results in a net revenue, the City's payment to the District will equal one half of its net revenue up to the District's net cost of operating the AWTF, plus a fraction of additional revenues proportional to the District's total capital investment in the combined SBWR and AWTF facilities.

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

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

Use of Plant Lands Adjacent to AWTF Site. The City will not lease to a third party or construct permanent improvement on approximately 15 acres of Plant lands immediately south of the AWTF without the District's consent before July 1, 2020.

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

***Term and Termination***

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

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

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

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

***Purpose***

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

***Use of Premises***

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

***Operation of AWTF***

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

***Utility Services***

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

***Right to Enter***

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

***Term and Termination***

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

- District has not awarded a contract for construction of the AWTF by September 30, 2010.

- The Integration Agreement (Attachment A) is terminated.
- District's inability to operate the Advanced Recycled Water Treatment Facility.

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

***Construction Standards***

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

***No Right to Demolish***

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



## High Performing Transparent Government Program Priority Levels

Ranked No	Program	Score	Quartile
30	Information Technology - IT Planning & Policy Development	94.6	1
14	Information Technology - IT Management/ Administrative and Analytical Support	100.0	1
81	Information Technology - Department of Public Works Citywide Capital System Program Database	64.2	2
80	Information Technology - General Services Technical Support	66.9	2
79	Information Technology - Financial Management System (FMS)	66.9	2
78	Information Technology - Automated Budget System Maintenance and Programming	66.9	2
71	Information Technology - Information Security	71.6	2
69	Information Technology - Management of Enterprise Business Systems	71.8	2
61	Information Technology - IT Financial Management/ Contract Administration	72.9	2
51	Information Technology - Integrated Billing System Management	73.4	2
50	Information Technology - Functional Support for Integrated Billing	73.4	2
35	Information Technology - Human Resources/ Payroll System Management	76.8	2
36	Information Technology - Human Resources/ Payroll System Management	76.8	2
34	Information Technology - Technology Helpdesk	79.3	2
33	Information Technology - Desktop Support	84.2	2
142	Information Technology - Telecommunications - Voice over Internet Protocol	44.6	3
122	Information Technology - Customer Contact Center	51.8	3
121	Information Technology - Management of Specialized Software	52.0	3
118	Information Technology - Technical Support of Integrated Development Tracking System (IDTS)	54.6	3
117	Information Technology - Management of Library Technology Systems	54.6	3
113	Information Technology - Housing Department Technology Systems	56.7	3
112	Information Technology - Geographic Information Systems (GIS)	57.3	3
109	Information Technology - Police Department Technology Systems	59.3	3
108	Information Technology - Fire Department Technology Systems	59.3	3
93	Information Technology - Enterprise Technology Infrastructure Management	61.6	3

**High Performing Transparent Government  
Program Priority Levels**

Ranked

No	Program	Score	Quartile
92	Information Technology - Enterprise Servers	61.6	3
91	Information Technology - Email Administration	61.6	3
90	Information Technology - Database Administration	61.6	3
176	Information Technology - Support of legacy phone systems	26.6	4
163	Information Technology - Department of Transportation Traffic Systems	37.2	4



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SEE BELOW

**DATE:** 02-08-10

Approved

Date

2/17/10

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: ACTIONS RELATED TO BIDS FOR THE SAN JOSÉ/SANTA CLARA WATER POLLUTION CONTROL PLANT, FILTER REHABILITATION, FY 2009/2010 PROJECT**

## RECOMMENDATION

- (a) Reject all bids for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project.
- (b) Adopt a resolution authorizing the City Manager or her designee to:
  - 1. Award the contract for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project to the lowest responsive and responsible bidder in an amount not to exceed \$300,000 and approval of a 10% construction contingency, subject to the concurrence of the Treatment Plant Advisory Committee; and
  - 2. Decide any timely bid protest(s), make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

## OUTCOME

Rejecting all bids will enable staff to revise the Project Specifications to clarify experience requirements for the San José/Santa Clara Water Pollution Control Plant (Plant), Filter Rehabilitation, FY 2009/2010 project in order to ensure that bidders have the technical experience necessary to successfully complete the project. Authorizing the City Manager or her designee to award the project to the lowest responsive and responsible bidder and to decide any timely bid protest(s), to make the City's final determination as to the lowest responsive bidder, or to reject

all bids and re-bid the project, will enable staff to timely re-bid the project and award the contract.

## **BACKGROUND**

The Plant has a total of 16 filters which remove residual suspended solids from the biological nutrient removal (BNR) process. The filters provide a safety measure that protects the National Pollutant Discharge Elimination System (NPDES) permit for Bay discharge in case there is an upset in the BNR process. Each filter has two cells and consists of 22" specified depth of anthracite coal at the top, 12" of silica sand in the middle, and 12" of supporting gravels at the bottom as filtration media to trap solids. The filter influent is introduced into each filter and flows to both cells with sufficient hydraulic head to cause the influent to flow by gravity through the filters at the normal filter head loss less than 10 feet. Under normal operation when an individual filter exceeds the 10 feet of head loss, the filter is backwashed to remove filtered debris. A surface wash system and a backwash system are provided to restore "in service" filters to normal head loss. Anthracite coal and silica sand are continuously washed out in the backwash cycle. Anthracite coal is also gradually broken down to smaller size than specified size due to the backwash process.

Of the 16 filters, one filter is designated for research purposes to improve filtration process using new technology. The effluent from 11 filters discharges directly into the South Bay and has to meet the NPDES permit related to suspended solids. As a result of the backwash cycle, a significant amount of anthracite coal and silica sand has been lost in the past ten years and the performance of these filters is deteriorating. In addition, 10% to 15 % of filtered water is treated and recycled for backwashing the filters. That is twice the generally accepted target for good performing filters. Because of the poor performance of the filters, they don't backwash as well as they should, which takes additional energy, chemicals, and operating time for them to perform.

Four filters currently supply all of the recycled water to the South Bay Water Recycling System, and the effluent from these filters has to meet the State's Title 22 requirements as stipulated in the NPDES permit which regulates recycled water quality for reuse. Due to the loss of anthracite coal and silica sand and the wearing down of anthracite coal during backwash, performance of the four filters has deteriorated in the past ten years. As a result, the filters have to run at a lower hydraulic loading rate per filter than design rate because of deteriorating filter media. The deteriorating filters may not be able to meet rapidly increasing demand for recycled water in a hot summer. The concern for poor filter performance is even more significant because the filters must be in service to deliver recycled water. A loss of these filters or limiting of the capacity will cripple the recycled water system, which is a significant part of the water supply matrix for the Santa Clara Valley.

**ANALYSIS**

Bids were opened on December 22, 2009, with the following results:

<b><u>Contractor</u></b>	<b><u>Bid Amount</u></b>	<b><u>Variance Over/(Under)</u></b>	<b><u>% Over / (Under)</u></b>
Cowan and Thompson Construction, Inc.	\$146,290	(\$153,710)	(51)
ERS Industrial Services	\$152,777	(\$147,223)	(49)
Anderson Pacific Engineering Construction, Inc.	\$222,220	\$77,800	(26)
<b>Engineer's Estimate</b>	<b>\$300,000</b>	-----	-----
D.W. Nicholson Corporation	\$919,000	\$619,000	206

Analysis of the bids revealed that the apparent low bidder, Cowan and Thompson, Inc., does not have the requisite three years of experience in filter rehabilitation projects. The Project Specifications for the project requires that contractors shall have a minimum of three years of experience in rehabilitation of filters including repairs and replacements of under-drain tiles for water treatment or wastewater treatment plants. Staff reviewed the remaining bids and found that the bidders submitted different information to demonstrate that they met the requisite experience. Because of inconsistencies in the bids, staff determined that the three years experience requirement needed to be clarified in order to: (1) ensure that the bidders understand what is being requested of them; and (2) ensure that the City obtains bids from qualified contractors who have previously performed filter rehabilitation projects. As a result, staff is recommending that all bids be rejected so that revisions can be made to the Project Specifications that will illicit the bidders' experience with filtration rehabilitation projects.

The portion of the project that will rehabilitate the four filters, which provide recycled water to the South Bay Water Recycling System, has to be completed by contractor the end of April 2010 in order to meet high demand for recycled water in the summer. To ensure that a contractor has been retained and is ready to proceed with the work, it is recommended that Council authorize the City Manager or her designee to award the project to the lowest responsive and responsible bidder and to decide any timely bid protest(s), to make the City's final determination as to the lowest responsive bidder, or to reject all bids and re-bid the project.

**EVALUATION AND FOLLOW-UP**

The project is currently within budget. In order to remain on schedule, expedited execution of the contract is necessary, by way of authorizing the City Manager or her designee to take each of the above-referenced actions as necessary.

### **POLICY ALTERNATIVES**

**Alternative #1:** Award to apparent lowest bidder, Cowan and Thompson Construction, Inc., based on the as-bid project specifications and bidding instructions.

**Pros:** Awarding the contract will eliminate the potential for delay of contract implementation.

**Cons:** Awarding the contract with ambiguities in the Project Specifications could result in a protest and delay the award of the contract.

**Reason for not recommending:** Clarifying the Project Specifications and re-bidding the contract will ensure a fair bidding process for all interested contractors.

**Alternative #2:** Award to second lowest bidder, ERS Industrial Services, based on the as-bid project specifications and bidding instructions.

**Pros:** Awarding the contract will eliminate the potential for delay of contract implementation.

**Cons:** Awarding the contract with ambiguities in the Project Specifications could result in a protest and delay the award of the contract.

**Reason for not recommending:** Clarifying the Project Specifications and re-bidding the contract will ensure a fair bidding process for all interested contractors.

### **PUBLIC OUTREACH/INTEREST**

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

This item does not meet any of the above criteria. To solicit contractors, this project was advertised in the *San José Post Record*, as well as on the Public Works Bid Hotline and Environmental Services Department Request for Proposal bids list.

### **COORDINATION**

This project has been coordinated with Risk Management, Equality Assurance, the City Manager's Budget Office, Department of Public Works, and the City Attorney's Office. This item is scheduled to be heard at the February 25, 2010 meeting of the Treatment Plant Advisory Committee (TPAC).

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: **\$330,000\***
2. COST OF PROJECT:
 

Construction	\$300,000
Contingency	<u>\$30,000</u>
<b>TOTAL PROJECT</b>	<b>\$330,000</b>
3. SOURCE OF FUNDING: 513 - San José/Santa Clara Treatment Plant Operations and Maintenance Fund
4. FISCAL IMPACT: Existing funds are available for this project. No additional appropriation action is required.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Estimated Amount for Contract	2009-2010 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>							
Current Funding Available							
513	0762	ESD Non-Personal Equipment	924300	\$36,207,625	\$330,000.00	XI-78	6/23/2009, 28593
<b>Total Current Funding Available</b>				<b>\$36,207,625</b>			
<b>Additional Funding Recommended</b>							
<b>Total Funding for Remaining Project Costs</b>				<b>\$36,207,625</b>			

**CEQA**

Exempt, File No. PP09-185

/S/  
 JOHN STUFFLEBEAN  
 Director, Environmental Services

For questions, please contact Jon Newby, Division Manager, Maintenance Mechanical Division, at (408) 945-5160.