



City of Palo Alto City Council Staff Report

(ID # 10627)

Report Type: Action Items

Meeting Date: 11/18/2019

Summary Title: Water Reuse Agreement with Valley Water

Title: Approval of the Addendum to the 2015 Environmental Impact Report for the City of Palo Alto Recycled Water Program, and Approval of an Agreement Between the City of Palo Alto, City of Mountain View, and Santa Clara Valley Water District to Advance Resilient Water Reuse Programs in Santa Clara County, Including Funding for an Advanced Water Purification Facility in Palo Alto, a Long-Term Transfer of Effluent from the Regional Water Quality Control Plant to Valley Water, and Related Commitments

From: City Manager

Lead Department: Utilities

Recommendation

Staff recommends that Council take the following actions:

1. Consider and approve the Addendum, together with the 2015 Environmental Impact Report for the City of Palo Alto Recycled Water Program, certified and adopted by the Council on September 28, 2015 ([Council Staff Report #5962](#)), as adequate and complete under the California Environmental Quality Act (CEQA) for the project described below; and
2. Approve and authorize the City Manager to execute the Agreement Between and Among Palo Alto, Mountain View, and the Santa Clara Valley Water District to Advance Resilient Water Reuse Programs in Santa Clara County (Agreement) (Attachment A) with funding for an advanced purification recycled water plant at the Regional Water Quality Control Plant (RWQCP) and an option for a long-term transfer of RWQCP treated effluent to the Water District for a regional water re-use program, and making other related commitments.

Executive Summary

The Regional Water Quality Control Plant (RWQCP) treats wastewater from Palo Alto, Mountain View and four other service territories. A small fraction of the effluent from the RWQCP is further treated and then used for irrigation and toilet flushing.

Council has adopted a number of water-related sustainability goals and implementation plans. The proposed Agreement addresses multiple objectives including diverting treated wastewater discharge from the San Francisco Bay, increasing the use of treated wastewater from the RWQCP, and displacing potable imported water where appropriate and feasible.

The proposed Agreement with the Santa Clara Valley Water District (Valley Water) and the City of Mountain View (Mountain View) is comprised of three main elements:

1. Valley Water will contribute \$16 million, of approximately \$20 million total cost, to design and construct a small salt removal facility at the RWQCP in Palo Alto to improve the quality of non-potable recycled water used in Palo Alto and Mountain View. The improved water will be better for salt-sensitive plants and will, in the short-term, enable Mountain View to connect around 60 new customers to the distribution system;
2. About half the treated wastewater produced by the RWQCP will be transferred to Valley Water for use in the county south of Mountain View. Valley Water will pay \$1 million per year to be allocated between all the wastewater agencies that commit treated effluent to the transfer; and
3. Palo Alto and Mountain View will have a future option to request a new potable or non-potable water supply from Valley Water if needed. Any new water resource will be supplied by Valley Water at cost.

Background

Water is a scarce resource in California, and availability is affected by drought, will be impacted by climate change, and may be subject to changes to the state water system. The Regional Water Quality Control Plant (RWQCP) is a local source of drought-proof, sustainable water, only a small fraction of which is currently being used for irrigation and toilet flushing. Investments in pipeline expansions and additional treatment facilities are needed to increase the amount of water reused from the facility.

Council Policy

In November 2016 Council adopted the Sustainability and Climate Action Plan (S/CAP) Framework (Council Staff Report #[7304](#)) including four water-specific goals, all of which have implications for water reuse:

1. Utilize the right water supply for the right use;
2. Ensure sufficient water quantity and quality;
3. Protect the Bay, other surface waters, and groundwater; and
4. Lead in sustainable water management.

Two relevant strategies identified in the S/CAP are:

1. Verify ability to meet Palo Alto's long-term water needs; and
2. Investigate all potential uses of recycled water.

Palo Alto's Current Water Supply

Palo Alto receives 100% of its potable water (about 11,000 AF per year or approximately 10 million gallons per day (MGD)) from the City and County of San Francisco's Regional Water System, operated by the San Francisco Public Utilities Commission (SFPUC). About 85% of the supply is from the Tuolumne River with the other 15% sourced from local reservoirs. On August 20, 2018, Council voted unanimously that Palo Alto "express its support for the State Water Resources Control Board's (SWRCB) Bay Delta Plan to have 30% to 50% of unimpaired flow in the San Joaquin Valley enter the Delta from February to June and associated Southern Delta salinity objectives" (Council Staff Report [#9510](#)). Adoption of the Bay Delta Plan would reduce the amount of Tuolumne River water available to SFPUC customers, including Palo Alto, during dry years. The decision to support the Bay Delta Plan reaffirmed Council's commitment to reduce the City's dependence on imported water. Water reuse is one of a limited number of water supply alternatives to imported water.

Description of the RWQCP Water Resource

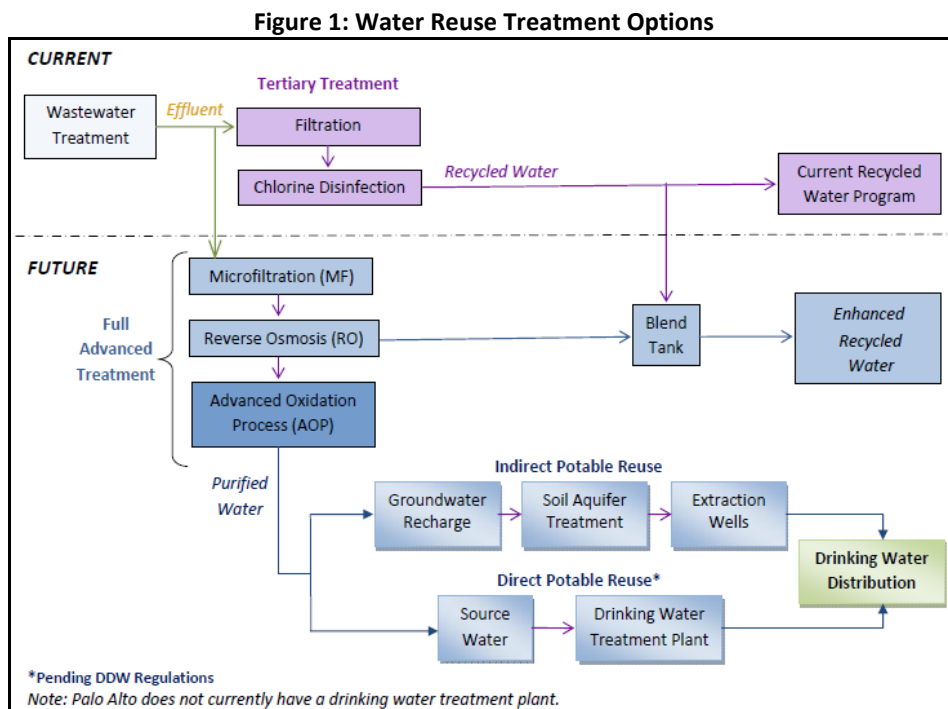
The RWQCP treats and discharges wastewater collected from the communities of Palo Alto, Mountain View, Stanford University, Los Altos, Los Altos Hills, and the East Palo Alto Sanitary District (Partners). In 2018, the RWQCP treated 19,447 AF of which 96% was discharged to the Lower South San Francisco Bay and 4% was treated further to produce recycled water for non-potable reuse in Palo Alto and Mountain View. The RWQCP currently has the treatment capacity to produce 5,040 AF per year (4.5 MGD) of non-potable reuse water, or 26% of the total wastewater treated in 2018. However, this water needs to be treated to a higher quality to attract more non-potable reuse customers; irrigators have expressed concern that the salinity of current recycled water produced has negative impacts for sensitive plants such as redwood trees. Council adopted a salinity reduction policy in 2010 (Council [Staff Report #111:10](#)). In addition, Council adopted an Environmental Impact Report that required mitigation efforts to reduce salinity prior to increasing the use of recycled water in the future (Council Staff Report [#5962](#)).

As a regional plant, only a portion of the total wastewater treated is owned and available for reuse by Palo Alto; this amount equals the volume of wastewater Palo Alto sent to the RWQCP for treatment. In 2018, this was approximately 38% of the total flow or approximately 7,600 AF (2,500 million gallons). More of this wastewater could be used as a local source of sustainable water for Palo Alto but would require investment in additional treatment and transmission infrastructure.

Treatment Options

One of Palo Alto's water-specific goals as outlined in the S/CAP is to enable the use of the right water supply for the right purpose. Water from wastewater treatment plants can be used for various demands based on its level of treatment. Non-potable reuse, such as that for irrigation or toilet flushing, requires more treatment than wastewater that is treated for discharge to the Bay; similarly, potable reuse requires significantly more treatment than non-potable reuse to

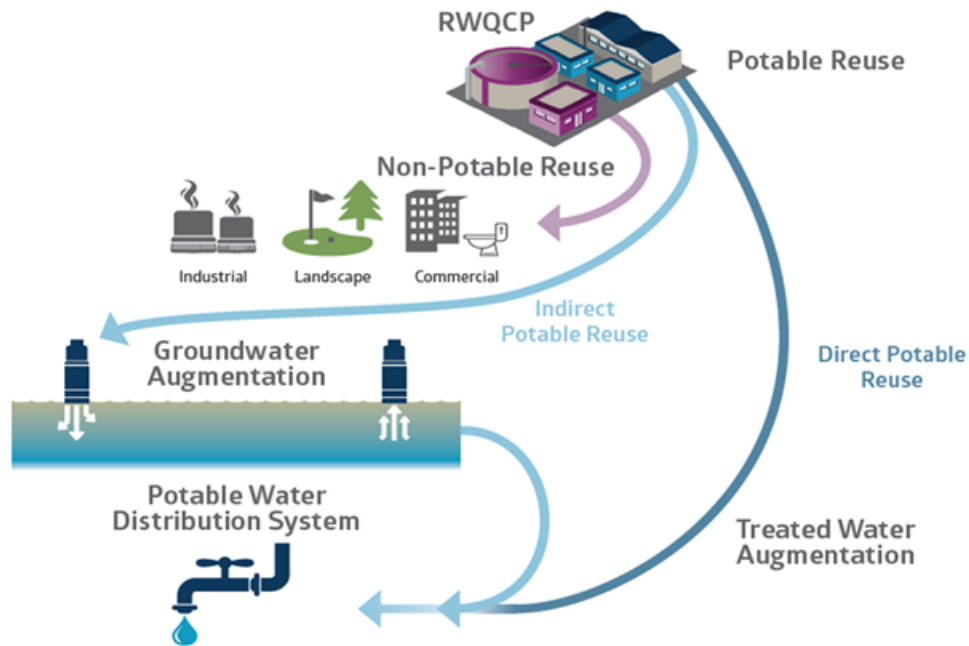
ensure public safety when ingesting the water. Figure 1 below shows the treatment required for various end uses.



There are different types of potable reuse including indirect and direct potable reuse. Indirect potable reuse involves purifying the water and introducing it to an environmental buffer, such as a groundwater basin, before sending it to the drinking water distribution system. There are several types of direct potable reuse including connecting purified recycled water to a potable water distribution system and adding purified water to raw water upstream of a water treatment plant. The regulations for direct potable reuse are currently being developed by Department of Drinking Water. Since Palo Alto does not have a water treatment plant, direct potable reuse in Palo Alto refers to the former.

Recent droughts and advances in treatment technologies have driven regulatory development and public support for potable reuse. While potable reuse is gaining momentum, the regulatory framework currently only exists for indirect potable reuse. Regulations to permit direct potable reuse are anticipated in 2023. For that reason, implementation of direct potable reuse in California is not expected for at least 10 years. The three main types of water reuse options are represented in Figure 2 below.

Figure 2: Non-Potable, Indirect Potable and Direct Potable Reuse



Water Reuse Planning Overview

In December 2016, Council approved a contract with RMC Water and Environment (now Woodard & Curran) for the development of the Northwest County Recycled Water Strategic Plan in collaboration with Valley Water (Council Staff Report #7024). City staff from the Public Works and Utilities Departments worked closely with the consulting team and Valley Water to evaluate the most effective water reuse options within Palo Alto as well as within the RWQCP service area. All of the work under the Strategic Plan evaluated how best to implement the water-related sustainability goals adopted by Palo Alto in the December 2017 Sustainability Implementation Plan (Council Staff Report #8487). The Strategic Plan identified a list of feasible projects in the three broad categories of non-potable, indirect potable reuse, and direct potable reuse. Capital and unit costs for water reuse within the RWQCP service territory are shown in 2018 dollars below. The unit costs shown, comprised of capital repayment and annual O&M costs, are comparable to the 2030 SFPUC project rates as most of the unit cost is from the capital repayment, which is fixed over the repayment term.

- Non-Potable Reuse
 - \$6M - \$85M for infrastructure
 - \$2,100 – 4,600/AF
- Indirect Potable Reuse (IPR)
 - \$92M - \$198M for infrastructure
 - \$3,300 - \$4,400/AF
- Direct Potable Reuse (DPR)
 - \$105M for infrastructure
 - \$2,500/AF

In parallel, Valley Water is developing a Countywide Water Reuse Master Plan. The proposed Agreement which includes a transfer of treated effluent from the RWQCP will enable Valley Water to make progress toward their Board-approved goal of securing new water reuse resources.

Commission and Council Review

At its August 2018 meeting the Utilities Advisory Commission (UAC) discussed a business plan for expansion of Palo Alto's non-potable reuse irrigation network. In October and November 2018, the UAC and Council (Council Staff Report #9731), respectively, held individual study sessions on high-level wastewater reuse expansion opportunities that included non-potable and potable water reuse opportunities in Palo Alto and a potential water reuse agreement with Valley Water.

At its September 4, 2019 meeting, the UAC was briefed on the results of the Strategic Plan and the tentative terms of the agreement with Valley Water. Many clarifying questions were answered, and two of the seven commissioners expressed cautious support of the Agreement. On the following day, September 5, 2019, Valley Water staff briefed the Joint Recycled Water Committee, comprised of representatives from Valley Water, Mountain View, Palo Alto and East Palo Alto, on the draft term sheet. Council Members DuBois and Cormack are Palo Alto's representatives on the Joint Committee; elected officials of all four agencies expressed optimism and general support of the draft terms of the Agreement.

On September 23, Council held a Study Session on both the Strategic Plan and the draft term sheet for the Agreement. Several members of the public spoke, some expressing skepticism about the environmental benefits of the Agreement. Council generally expressed support for the Agreement and the regional approach that is at its core.

Discussion

Agreement: Tenets

The proposed Agreement with Valley Water and Mountain View consists of three main parts.

1. Small Salt-Removal Plant at the RWQCP

The first part of the proposed Agreement concerns the funding of a relatively small salt-removal plant at the RWQCP to upgrade the quality of the RWQCP's current recycled water, used principally for irrigation in Mountain View and Palo Alto. The treated water would also enable Palo Alto to expand its non-potable distribution system and/or provide a first step toward small-scale potable water production for direct or indirect potable reuse in Palo Alto. The facility is estimated to cost \$20 million of which Valley Water will contribute \$16 million. Mountain View and Palo Alto will share the remaining cost at a level of 75% and 25% respectively. Palo Alto's share, estimated to be \$1 million, will be funded by the water and wastewater utilities. Because the project would likely be financed with a low-interest loan from the Clean Water State Revolving Fund

(SRF), the rate impact is expected to be minimal (for example, a 0.15% water rate increase if all funding came from the water utility). Resolutions needed to complete the application for the SRF loan are included in Staff Report #10734 for Council consideration at the November 18, 2019 Council meeting. Under the draft Agreement, Palo Alto would have up to 13 years to construct and commence operation of the facility. If it is decided not to proceed with the Salt-Removal Plant, the \$16 million from Valley Water may be used for other water reuse and related programs.

2. Transfer of Treated Effluent to Valley Water for Use South of Mountain View

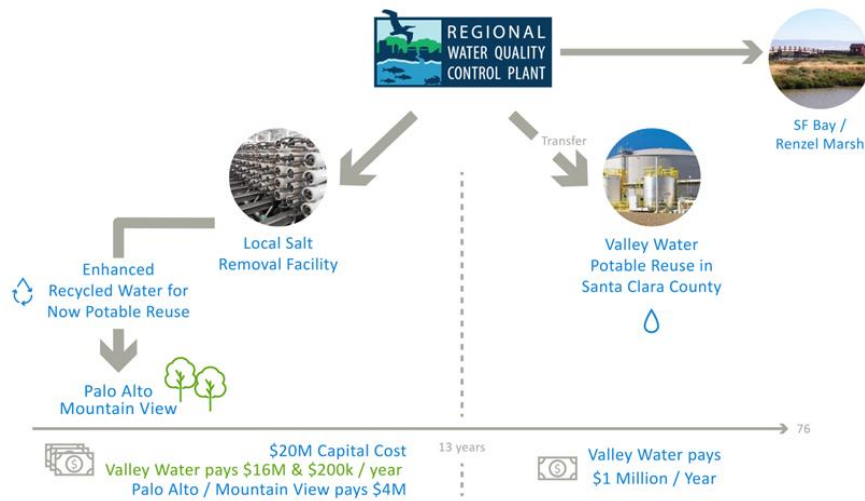
The second part of the Agreement is a transfer of approximately half of the RWQCP's treated effluent to Valley Water for reuse south of Mountain View. Valley Water will likely purify the water and use it for groundwater recharge (IPR). Eventually, the purified water could be injected directly into Valley Water's treated water system (DPR). The 9 million gallons (MGD) per day to be transferred would come from Palo Alto, Mountain View and other RWQCP partner agencies that later commit to the transfer.

There are several relevant milestones including that Valley Water has 13 years to exercise its option to receive the treated effluent and enable its transfer. During the option period, Valley Water will provide \$100 thousand annually to be shared between Palo Alto and Mountain View and \$100 thousand annually to be shared among the other RWQCP partner agencies that commit to provide effluent for Valley Water. Once the effluent transfer commences, Valley Water will compensate the RWQCP Partners \$1 million per year to be divided proportionally among the Partners based on the amount of effluent committed by each Partner. Delivery of effluent to Valley Water will be for a term of 63 years, long enough to economically justify the large capital investment and meet Valley Water's long-term water supply planning objectives.

Palo Alto and Valley Water are assessing the feasibility of constructing a large purification facility in Palo Alto. If Valley Water determines that Palo Alto is the best location for a regional purified water facility, Palo Alto will support and cooperate with those efforts at the local, state, and federal levels, subject to environmental review and absent new extenuating circumstances. Nothing in the Agreement constitutes a commitment to site a regional facility in Palo Alto. Siting and regional connections are being evaluated further under the Valley Water Countywide Water Reuse Master Plan project currently in progress.

The first two Agreement elements are depicted in Figure 3 below.

Figure 3: Proposed Agreement Overview



3. Water Supply Option

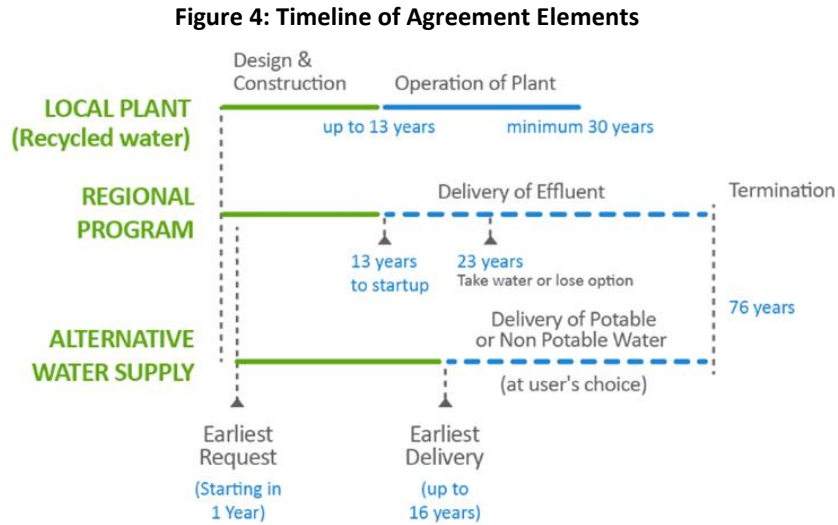
The Agreement includes a unique water supply option for Palo Alto and Mountain View. Beginning one year after execution of the Agreement, Palo Alto and/or Mountain View may notify Valley Water that additional water is needed. Valley Water will then have four years to respond with a proposal. The cost of the water to be paid by the requesting city will include facility costs, commodity costs, any wheeling fees, and the incremental costs incurred by Valley Water to develop the proposal. Palo Alto and/or Mountain View will then have one year to accept or decline the offer. If accepted, Valley Water will have 10 years to deliver the water. If declined, Palo Alto and/or Mountain View will be able to make another request for water 5 years later. The water supply may be purified water from a regional plant or water from some other project.

Palo Alto is not limited to this alternative for new water supplies. Palo Alto currently receives water from the SFPUC as its sole supplier, and, while the reliability of imported water is in question given climate change and state water system changes, the SFPUC is required by law to secure supplemental sources of water to augment existing supplies during dry years up to SFPUC's wholesale contract obligation of 184 million gallons per day.

Groundwater managed by Valley Water is another supply available to Palo Alto, and staff continues to investigate other water supply projects through the Bay Area Water Supply and Conservation Agency. The Strategic Plan identified several local water reuse projects that could be implemented in parallel with a treated effluent transfer to Valley Water including expansion of Palo Alto's current non-potable distribution system and pilot-scale DPR, once regulations are in place. Large-scale, locally controlled IPR and DPR

projects are not compatible with the Agreement since about half of the treated wastewater from the RWQCP would be dedicated to reuse in other parts of the county.

The timelines for all three parts of the Agreement are shown in Figure 4 below.



4. Other Provisions

In addition to the provisions of the Agreement described above, the Agreement also includes the following rights and obligations:

- Valley Water’s right to name and place signage on the local facility at RWQCP, and to conduct tours and onsite research.
- Valley Water’s first right to purchase excess effluent (above 9 MGD) if available.
- Valley Water’s first right to purchase the RWQCP if ever offered for sale by Palo Alto, and Palo Alto’s first right to purchase a regional plant if developed by Valley Water in Palo Alto and offered for sale in the future.

Proposed Agreement: Environmental Benefits

Expanded water reuse in the county via the proposed Agreement could yield environmental benefits in the relatively near term by keeping a significant amount of RWQCP effluent out of the Bay (another Council-adopted S/CAP goal: “Protect the Bay, other surface waters, and groundwater”). The Lower South San Francisco Bay is relatively shallow and saline and has historically received significant freshwater inputs from numerous wastewater treatment plants. All the wastewater treatment plants that discharge into the lower south bay are encouraged to increase recycled water to reduce flows entering the Bay. Palo Alto has documented that the effluent discharged is slowly changing the salt marsh into a freshwater marsh, which reduces the habitat for the endangered species like the Ridgeway Rail and the Salt Marsh Harvest Mouse.

Valley Water funding for the small salt-removal plant will enable Mountain View to connect

about 60 new commercial irrigation customers to the existing non-potable distribution system. The small salt-removal plant will also enable Palo Alto to expand its non-potable distribution system or could provide a first step toward small-scale potable water production for direct or indirect potable reuse in Palo Alto, all of which would displace imported Tuolumne River water.

Meeting critical water supply demands in other parts of the county with a sustainable water supply source will reduce the need for additional imported water. Valley Water is seeking to develop water reuse projects to provide for at least 10% of the total County water demands by 2025; to achieve this, Valley Water needs to secure 24,000 AF per year of purified water, enough water to serve 74,000 Santa Clara County households.

Next Steps

Mountain View's City Council is considering the Agreement tonight, November 18, 2019. The Valley Water Board of Directors will consider the Agreement on December 10, 2019.

If the Agreement is approved by the governing bodies of all three agencies, Palo Alto will work with the remaining RWQCP Partners to include them in the effluent transfer and amend the Partner agreements. Palo Alto and Mountain View will also need to amend their existing recycled water agreement to address their respective rights and obligations with respect to the local salt removal facility.

If the Agreement is approved, Palo Alto will proceed with a Request for Proposals to design and build the local salt removal facility and possibly apply for a low interest state loan.

Resource Impacts

There are no financial impacts to the FY20 budget. Funding for the local salt removal project is available in the Wastewater Treatment capital improvement project no. WQ-19003 "Advanced Water Purification Facility" and is anticipated to cost approximately \$20 million. According to the first part of the proposed Agreement, Valley Water will contribute \$16,000,000. Any remaining balance will be split between Palo Alto and Mountain View (25% and 75%, respectively). Based on current anticipated project costs of \$20 million, Palo Alto's anticipated cost share of the project is approximately \$1,000,000 and Mountain View's anticipated cost share is approximately \$3,000,000. In addition to the project cost share, Valley Water will pay an additional \$200,000 per year (for up to 10 years) as an effluent transfer option payment to the RWQCP partners to offset salt removal plant operating and maintenance costs and compensate other RWQCP partners that commit effluent to a future transfer. On a parallel track, Palo Alto will be pursuing a loan of \$22,000,000 from the Clean Water State Revolving Fund (Council Staff Report #10734) to spread the costs of the project over 20 to 30 years. The loan application amount includes reimbursement of staff labor and planning costs (e.g. feasibility study and preliminary design phases). The amount requested may be reduced to account for the \$16 million Valley Water contribution after the first round of the application process. For the second part of the Agreement, if Valley Water elects the transfer of treated effluent for use south of Mountain View, Valley Water will pay approximately \$1,000,000 per

year to the participating RWQCP partners; Palo Alto's revenue share will be about \$300,000 per year assuming all RWQCP partners commit proportionate shares to the effluent transfer.

Staff will bring forward recommended contracts for design, contract management, construction and loan agreement and the resource impact will be updated at that time for Council approval and award.

Policy Implications

Expanding the use of recycled water would be consistent with the Sustainability Climate Action Plan Framework (Council Staff Report [#7304](#)), the Sustainability Implementation Plan (Council Staff Report [#8487](#)), and the Council's decision to support the Bay Delta Plan.

Stakeholder Engagement

Palo Alto hosted a community meeting on April 30, 2019 to solicit input on the preliminary Strategic Plan results. Approximately 30 members of the public attended, and many attendees asked questions and made comments. During the meeting Palo Alto staff requested feedback on whether attendees were interested in expanded non-potable reuse and potable reuse options. Community members expressed interest in reducing reliance on imported water and enhancing water conservation and efficiency to save water for the environment. Community members also expressed concern with the use of the Measure E site for a Valley Water regional purification facility.

Palo Alto hosted a community meeting on October 23, 2019 to inform the community and answer questions about the components of the proposed Agreement. Approximately 20 members of the public attended and approached staff during the break-out sessions to get direct answers to questions. Overall, the attendees were supportive of the proposed Agreement. Community member Dave Warner's letter regarding other alternatives for the RWQCP effluent is attached along with Palo Alto's response and a copy of a Valley Water Board resolution that acknowledges the need for investments in water reuse in this part of the county (Attachments B, C, and D, respectively). Remarks by community member, Walter Hays, encouraging the use of the Measure E site are in Attachment E.

Staff explained the proposed agreement to the US Environmental Protection Agency and the Regional Water Board staff, and one letter from each was received (Attachments F and G, respectively).

Environmental Review

The proposed Agreement is not subject to review under the California Environmental Quality Act (CEQA) because the Agreement does not meet the definition of a project under Public Resources Code 21065. The Agreement does not commit the parties to a specific course of action or project. However, Palo Alto has completed an environmental review of the local salt removal facility in accordance with CEQA in the [Addendum to the 2015 Environmental Impact Report for the City of Palo Alto Recycled Water Project](#) certified and adopted by the Council on

September 28, 2015 through Resolutions [9548](#) and [9549](#). Valley Water will be responsible for compliance with environmental regulations including CEQA and NEPA review, as applicable, should they move forward with a regional water reuse program.

Attachments:

- Attachment A: Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County
- Attachment B: Letter from Dave Warner Regarding Water Reuse 2019-10-09
- Attachment C: City Response to Dave Warner
- Attachment D: Resolution from Santa Clara Valley Water Board
- Attachment E: Walter Hayes Remarks Regarding Measure E Site Use
- Attachment F: EPA Letter of Support for Water Reuse
- Attachment G: San Francisco Regional Water Quality Control Board Letter of Support for Water Reuse

PARTNERSHIP AGREEMENT TO ADVANCE RESILIENT WATER REUSE PROGRAMS IN SANTA CLARA COUNTY

This Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County (Agreement) effective December 10, 2019, is entered into by and between the City of Palo Alto, a California chartered municipal corporation (Palo Alto), the City of Mountain View, a California charter city and municipal corporation (Mountain View), and the Santa Clara Valley Water District, a Special District created by the California Legislature (Valley Water). Palo Alto, Mountain View, and Valley Water are referred to herein collectively as “Parties” or individually as “Party”.

RECITALS

WHEREAS, the governing bodies of Palo Alto, Mountain View and Valley Water have established policy goals for long term sustainability, which include maintaining effective use of existing infrastructure, lowering the carbon footprint of energy use, deploying water use efficiency programs, capturing local storm water, managing groundwater basins, and expanding use of recycled water; and

WHEREAS, the Parties have long-standing responsibilities and services to supply water to their customers in Santa Clara County (County) under both normal and drought conditions; and

WHEREAS, Valley Water and Palo Alto executed a Memorandum of Understanding on August 28, 2017, for the purpose of developing plans and studies to expand the production and use of recycled and purified water within the County; and

WHEREAS, Valley Water and Mountain View executed an agreement on October 11, 2017, to Assess the Feasibility of Water Reuse Alternatives, by working together and with other government agencies to expand production and use of recycled and purified water within the County; and

WHEREAS, the Parties seek to develop locally reliable water supply sources to offset supplies of water that would otherwise be imported via the Sacramento-San Joaquin River Delta and its tributaries, including the Tuolumne River and other mountain streams; and

WHEREAS, the Parties together are finalizing the Northwest County Recycled Water Strategic Plan to inform their respective policy makers of opportunities in the north-west portion of the County, including Palo Alto and Mountain View, for groundwater recharge, further recycled water development, and deployment of highly purified wastewater to supplement drinking water; and

WHEREAS, increasing the use of recycled water decreases the volume of wastewater effluent discharged to San Francisco Bay where harm to aquatic life can occur; and

WHEREAS, Valley Water has established a goal that at least 10 percent of total County water demands be supplied by recycled water by 2025; and

WHEREAS, decreasing the salinity of the treated wastewater from the Regional Water Quality Control Plant (RWQCP) through further treatment will allow it to be used on more types of flora, especially redwood trees, thereby increasing its overall use; and

WHEREAS, Palo Alto and Mountain View benefit from the improved recycled water quality, which will facilitate use of recycled water on a wider range of landscaping and allow the Cities to expand their recycled water distribution infrastructure; and

WHEREAS, the Parties recognize the importance of source control for water reuse and are studying measures to address the issue; and

WHEREAS Valley Water is currently researching and piloting both indirect and direct potable reuse technologies within the County; and

WHEREAS, decreasing the salinity in Recycled Water used for irrigation keeps that salt and other constituents out of the soil and ultimately out of the groundwater; and

WHEREAS, the Parties recognize that well-purposed and managed partnerships can serve the public interest more effectively than individual efforts to develop and manage water supplies; and

WHEREAS, the Parties desire to cooperate to achieve the most cost effective, environmentally beneficial utilization of treated wastewater in the County.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

AGREEMENT

ARTICLE A. Definitions

As used in this Agreement, the following terms have the following meanings.

- (a) Agreement: The December 10, 2019, Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County between Palo Alto, Mountain View, and Valley Water.
- (b) CEQA: Means the California Environmental Quality Act.

- (c) Designated Representatives: Employees or officials designated in writing by each of the respective Parties to serve as representatives for purposes of this Agreement. In the absence of such written notice, the Designated Representatives shall be the Valley Water Chief Executive Officer, the Mountain View City Manager, and the Palo Alto City Manager.
- (d) Dispute Resolution Procedure: The alternative dispute resolution process to be used for disputes arising out of this Agreement. The procedure is set forth in more detail in Section 23 below.
- (e) Effective Date: December 10, 2019 shall be the date this Agreement is effective.
- (f) Effluent: Tertiary treated wastewater from the RWQCP that meets National Pollutant Discharge Elimination System permit requirements.
- (g) Effluent Transfer Option: Valley Water's option to secure Effluent, as described in Section 11 of this Agreement.
- (h) Enhanced Recycled Water: Non-potable water produced by the Local Plant which is blended with Recycled Water from the RWQCP.
- (i) Local Plant: A salinity removal unit to produce 1.25 MGD Enhanced Recycled Water for the RWQCP service area.
- (j) MGD: Million gallons per day, expressed as an annual average, unless otherwise noted.
- (k) Minimum Flow Delivery: An annual average of 9 MGD of Effluent to be supplied by the RWQCP to Valley Water, consistent with Appendix 1.
- (l) NEPA: Means the National Environmental Policy Act.
- (m) O&M: Operation and maintenance.
- (n) Parties: The City of Palo Alto ("Palo Alto"), the City of Mountain View ("Mountain View"), and the Santa Clara Valley Water District ("Valley Water").
- (o) Recycled Water: Effluent that is treated to meet California Code of Regulations Title 22 requirements for non-potable water.
- (p) Regional Plant: A purification treatment facility capable of treating Effluent flows of 9 MGD or greater for the purpose of regional water supply benefit.

- (q) Regional Program: Valley Water's program to derive benefits from the Effluent under the terms of this Agreement.
- (r) Remaining Funds: Funds available for use by the RWQCP Partners pursuant to Section 5(f).
- (s) Responsible Agencies: Responsible Agencies are agencies other than the lead agency, that have some discretionary authority for carrying out or approving a project, as defined in the California Environmental Quality Act and its associated regulations.
- (t) RWQCP: The Palo Alto Regional Water Quality Control Plant.
- (u) RWQCP Partners: The cities of Palo Alto, Mountain View and Los Altos; the Town of Los Altos Hills; the East Palo Alto Sanitary District and Stanford University.
- (v) RWQCP Service Area: RWQCP Service Area includes the service areas of the RWQCP Partners.
- (w) Startup: The point in time when Valley Water begins to receive Effluent, following initial testing and commissioning, or the point in time when Valley Water begins to pay for the Effluent as part of its Regional Program, pursuant to this Agreement, whichever is earlier.
- (x) Term: The total duration of the Agreement as described in Section 1 of this Agreement.
- (y) Water Supply Option: Palo Alto's and Mountain View's option to secure additional water supply as described in Section 19 of this Agreement.

ARTICLE B - General Provisions

1. Term.

This Agreement shall be in effect on December 10, 2019. The Term of the Agreement shall be dependent upon the actions of the Parties pursuant to Articles C and D, not to exceed 76 years from Effective Date. The Term shall expire on the latest of the following.

- a. If Valley Water exercises its Effluent Transfer Option within 13 years of the Effective Date, the Term of this Agreement shall be for as long as Valley Water is required to or elects to make annual payments for the Effluent (pursuant to Section 12, Section 17 and Section 20), up to a maximum of 63 years from Startup.

- b. If Valley Water does not exercise the Effluent Transfer Option, the Term of the Agreement shall be as follows:
 - i. If the Local Plant is constructed in accordance with Section 5, the Term shall be 30 years after the commencement date of operation of the Local Plant; or
 - ii. If the Local Plant is not constructed in accordance with Section 5, the Term of this agreement shall be 18 years after the Effective Date.

2. Governance.

A joint committee comprised of elected officials from Valley Water, Palo Alto and Mountain View will be established to review and accept updates on the design, construction, operation and regulatory compliance of the Local Plant and the Regional Plant if the Regional Plant is located in Palo Alto. If the Regional Plant is not located in Palo Alto then the aforementioned committee will operate only with respect to the Local Plant. The committee's role will be advisory to staff and governing bodies of the Parties.

ARTICLE C - Local Plant

3. Local Plant Beneficiaries

The Parties agree that the Local Plant will be developed by Palo Alto and operated for the benefit of Recycled Water customers of Palo Alto, Mountain View, and potentially other RWQCP Partners. However, Palo Alto and Mountain View shall ensure that funding from Valley Water shall only be used to benefit users in Santa Clara County.

4. Local Plant Ownership, Operation and Maintenance, and Location

The Parties agree that Palo Alto shall own the Local Plant and be responsible for its design, construction, operation, maintenance, ultimate decommissioning, and site restoration. The Local Plant shall be located within the RWQCP site.

Palo Alto, as the Lead Agency under CEQA for the Local Plant, has prepared an Addendum to the City of Palo Alto Recycled Water Project Environmental Impact Report certified and adopted in 2015 evaluating the environmental impacts of the Local Plant.

5. Local Plant Capital Costs

- a. Valley Water's Contribution. The Local Plant capital cost is estimated to be \$20 Million (2019 dollars). Valley Water's contribution shall be \$16 Million (2019 dollars), escalated annually based on Valley Water's Yield-to-Maturity Rate as

published in Valley Water's Quarterly Performance Reports to the Board of Directors for the fourth quarter of each fiscal year (hereinafter referred to as "\$16 Million Contribution"). Valley Water's \$16 Million Contribution towards the Local Plant and, if applicable, other projects described in Section 5(f), in conjunction with the Annual Option Payments set forth in Section 6, shall constitute full and final consideration for its right to secure the Minimum Flow Delivery.

- b. Palo Alto and Mountain View's Contribution. Subject to Section 5(d), Palo Alto's and Mountain View's combined capital contribution shall be the difference between the actual cost of the Local Plant and Valley Water's \$16 Million Contribution.
- c. Benefits of Grant Funding. Any federal grant funding sought by Palo Alto or Mountain View, or both, for the Local Plant shall not include the San Jose Area Water Reclamation and Reuse Program under the Title XVI Program. The benefits of any grant funding for the Local Plant shall be split by Palo Alto and Mountain View as determined in and through a separate agreement between Palo Alto and Mountain View.
- d. In the Event of Elevated Costs. Should the lowest responsible construction bid, or any other circumstance, result in a Local Plant total project cost above the \$20 Million (2019 dollars) estimate, Palo Alto and/or Mountain View may elect to cover the increase (above Valley Water's \$16 Million contribution) independently, without an additional contribution from Valley Water. If Palo Alto and/or Mountain View are unable to identify a funding source or secure low interest rate loans to sufficiently cover costs above the \$20 Million total project cost estimate, Palo Alto or Mountain View or both may request to meet and confer with Valley Water to potentially modify this Agreement. However, absent such a modification to the Agreement, Valley Water's contribution shall be limited to the \$16 Million Contribution.
- e. In the Event of No Local Plant. If Palo Alto and Mountain View elect not to proceed with or complete construction of the Local Plant within 13 years of the Effective Date, they shall provide written notice to Valley Water within this 13-year period and they shall still receive the \$16 Million Contribution from Valley Water so long as such funds are allocated and utilized consistent with the provisions of Sections 5(f) and 5(g).
- f. Possible Alternative to Local Plant. If the Local Plant is not constructed, any portion of Valley Water's \$16 Million Contribution not utilized for the capital of the Local Plant, defined as Remaining Funds, will be available for other projects, specified below. Palo Alto and Mountain View will consult with all RWQCP Partners to develop a plan for expending the Remaining Funds and notify Valley Water prior to expenditure of Remaining Funds. Remaining Funds will be allocated by Palo Alto for projects specified below that benefit all RWQCP

Partners that have committed their Effluent to Valley Water for the Term of this Agreement. However, the projects specified below must be located within Santa Clara County. Eligible projects for receipt of the Remaining Funds shall be, in order of preference:

- i. Recycled Water facilities at the RWQCP owned and operated by one or more RWQCP Partners.
 - ii. Other water supply projects, including but not limited to water conservation capital projects, owned and operated by a RWQCP Partner.
- g. Time Frame for Expenditure of Funds. The time frame for any expenditure of funds for reimbursement pursuant to this Section 5 shall extend from the Effective Date to eighteen (18) years from the Effective Date. Within this time frame, Palo Alto must present to Valley Water all invoices for expenditure of funds by itself and other RWQCP Partners pursuant to this Section. Valley Water shall not reimburse any invoices presented beyond 18 years from the Effective Date. Palo Alto's failure to seek reimbursement within this timeframe shall not extinguish or otherwise impact Palo Alto's and Mountain View's obligations under Article D herein.
- h. Invoicing and Payments. Monthly, Palo Alto shall invoice Valley Water for project costs expended pursuant to this Section 5, including documentation of work performed by itself and any other RWQCP Partner. Invoices shall not include RWQCP Partners' staff costs and administrative overhead. Valley Water shall pay such valid Palo Alto invoices within thirty days of receipt.

6. Annual Option Payments Prior to Startup of Regional Plant

- a. Amount of Payment. Valley Water agrees to pay to Palo Alto \$200,000 per year (2019 dollars) ("Annual Option Payment") from the Effective Date, until (a) June 1, 2033, or (b) at Startup, whichever occurs first. The amount of the Annual Option Payment shall be increased annually based on the annual average (previous twelve months) of the CPI-All Items for the San Francisco-Oakland-Hayward, California area published by the United States Department of Labor-Bureau of Labor Statistics (<https://data.bls.gov/PDQWeb/cu>), beginning on the first anniversary of the Effective Date.
- b. Timing of Payment. Valley Water shall provide the Annual Option Payment to Palo Alto by June 1 of each year beginning June 1, 2020.
- c. Allocation of Payment.

- i. Fifty percent (50%) of the Annual Option Payment will be allocated to Palo Alto and Mountain View.
- ii. Palo Alto will distribute the remaining 50% of the Annual Option Payment to the RWQCP Partners (other than Palo Alto and Mountain View) that have committed their Effluent for the Term of this Agreement by January 31 of the year that the Annual Option Payment is made. These funds will be distributed proportionally by the amount of Effluent to be contributed. If no other RWQCP Partners commit their Effluent by January 31 of that year, this 50% of the Annual Option Payment will be allocated to Palo Alto and Mountain View.
- iii. Palo Alto shall ensure that the Annual Option Payments are utilized for water supply or water reuse related projects in the RWQCP Service Area.

7. Reverse Osmosis Concentrate Produced by the Local Plant

Palo Alto is responsible for securing any necessary changes in its National Pollution Discharge Elimination System (NPDES) permit to accommodate reverse osmosis concentrate discharge from the Local Plant to receiving waters under the jurisdiction of federal and state agencies.

8. Local Plant Naming and Tours

- a. Valley Water reserves the right to name the Local Plant, including signage on site. Signage may be subject to approval by the appropriate Palo Alto decision maker or body, of which will not be unreasonably withheld.
- b. With 48-hour advance notice to the RWQCP plant manager or his/her designee, designated Valley Water personnel may lead tours of the Local Plant by Valley Water employees or members of the public. Valley Water-led tours shall be subject to prior and ongoing review by the RWQCP plant manager or his/her designee to ensure that the tours are conducted safely and with minimal disruption to other RWQCP activities, and that parking of private vehicles by tour attendees is consistent with RWQCP requirements. Valley Water will submit a plan or program for tours of the Local Plant for the RWQCP plant manager's review and approval and shall conduct tours consistently with the approved plan or program.

9. On-site Research at the Local Plant

Valley Water may desire to conduct research work on treatment processes at the Local Plant, including installation of pilot test equipment. Valley Water-managed research teams may include personnel from RWQCP Partners, universities, private companies engaged in research, or other research laboratories. Palo Alto agrees that it will make its best effort to enable research at the Local Plant and not unreasonably deny or constrain Valley Water proposals to conduct such research. Valley Water agrees to

share results of such research with Parties, upon request. In conducting such research, Valley Water shall not significantly disrupt operation of the Local Plant or the RWQCP, nor cause or result in significantly decreased flows, RWQCP upsets, or permit violations.

10. Term of Local Plant Operation

Palo Alto agrees to operate the Local Plant for a continual period of at least 30 years, unless the Parties all agree to cease operations sooner.

ARTICLE D - Effluent Delivery to Valley Water

11. Effluent Transfer Option

- a. Valley Water shall have the right to exercise an exclusive Effluent Transfer Option to secure from Palo Alto and Mountain View (or from the RWQCP Partners in aggregate) a Minimum Flow Delivery of an annual average of 9 million gallons per day (MGD) of Effluent (approximately 10,000 AFY), as described in Appendix 1. Valley Water's exercise of this Effluent Transfer Option shall be subject to CEQA review. Valley Water may elect to develop a Regional Plant to receive and treat such Effluent or may instead receive the Effluent for development of other beneficial use in Santa Clara County as part of its Regional Program.
- b. This Agreement shall not bind or commit Valley Water to any definite course of action with respect to the Effluent Transfer Option and shall not restrict Valley Water from considering any alternatives, including a no-action alternative, or requiring any feasible mitigation measures when considering whether to receive Effluent delivery.
- c. If Valley does not exercise its Effluent Transfer Option within 13 years of the Effective Date all rights and obligations under Article D shall terminate.

12. Timing of Valley Water's Effluent Transfer Option

- a. Valley Water's period to exercise the Effluent Transfer Option and to accomplish Startup extends for thirteen years from the Effective Date. Valley Water may exercise the Effluent Transfer Option by written notification by its Designated Representative to the Designated Representatives of Palo Alto and Mountain View. Before Startup, as needed, Palo Alto will work with Valley Water to provide adequate Effluent for testing and commissioning purposes.
- b. Notwithstanding Section 12 (a), Valley Water may elect to defer acceptance of the Effluent as part of its Regional Program. After 10 years from Startup, if the

Parties have not agreed to amend this Agreement and Valley Water has not begun taking the Effluent, all rights and obligations under Article D shall terminate; however, all other Articles of the Agreement shall not be affected and shall remain in full force and effect.

13. Effluent to Valley Water if Valley Water Exercises its Effluent Transfer Option

- a. Flow Parameters. The Minimum Flow Delivery is defined as 9 million gallons per day (MGD) of annual average flow of Effluent that will be provided to Valley Water, predicated upon Valley Water exercising its Effluent Transfer Option, from Startup through the Term of this Agreement, consistent with the parameters described in Appendix 1, subject to the provisions of this Section 13. During the planning or design phases of the Regional Program, Valley Water may identify one or more other Effluent flow parameters required for operation of the Regional Program. In this case, these flow parameters shall be developed consistent with RWQCP data provided by Palo Alto, and Appendix 1 will be amended accordingly subject to approval by Palo Alto's, Mountain View's and Valley Water's Designated Representatives, which approval shall not be unreasonably withheld.
- b. Water Quality. Palo Alto shall ensure that the Effluent meets all applicable federal and state water quality standards for wastewater discharge to the lower San Francisco Bay. If operational changes are anticipated at the RWQCP that could adversely affect the quality of Effluent, Palo Alto will provide notice to Valley Water and will work in good faith to minimize potential impacts to Regional Program.
- c. Supply Shortages Due to Drought. During water supply shortages such as droughts, Palo Alto and Mountain View will take certain actions to increase the volume of Effluent delivered to Valley Water (within the Minimum Flow Delivery) described as follows:
 - i. Palo Alto will use best efforts to temporarily modify operations to maximize the volume of Effluent delivered to Valley Water, while complying with all legal and federal, state, and local regulatory requirements and completing any legally mandated environmental review under CEQA (and NEPA, if applicable). Such modifications may include, but shall not be limited to, temporary decreases to environmental flows.
 - ii. Palo Alto and Mountain View will implement the appropriate stages of their Water Shortage Contingency Plans and will use best efforts to reduce non-critical use of non-potable Recycled Water. Critical uses may include health and safety and preservation of tree canopies.

- d. Effluent Commitments. Palo Alto will make good faith efforts to sign separate agreements with other RWQCP Partners to commit their shares of Effluent for delivery to Valley Water for a period consistent with the Term of this Agreement. Good faith efforts include sending letters to the appropriate representatives of the RWQCP Partners within 3 months of the Effective Date. Even if one or more of the other RWQCP Partners does not commit their Effluent, Palo Alto and Mountain View will ensure that the Minimum Flow Delivery will be met.
- e. Annual Availability of Excess Effluent. Each year following Startup, Palo Alto and Mountain View will notify Valley Water by February 1 to determine what, if any, amount of Effluent will be available to deliver to Valley Water in excess of the Minimum Flow Delivery in the following fiscal year and to describe any conditions that may apply to such delivery. On an annual basis, by February 1, any commitments for delivery in excess of the Minimum Flow Delivery for the upcoming fiscal year shall be made in writing by the Designated Representatives of Mountain View and Palo Alto.
- f. Long-Term Availability of Excess Effluent. At any time, the Parties' Designated Representatives may determine that more Effluent is available beyond the Minimum Flow Delivery for a definitive number of years in the future within the Term of this Agreement. The Parties agree they will consider such increases at the request of any Party, and this Agreement may be amended to implement such increases.
- g. Proportional Reduction of Effluent Due to Reduced Flows. Subject to Section 13 (c), Mountain View and Palo Alto shall receive minimum supplies of Enhanced Recycled Water as follows: Mountain View 2.5 MGD and Palo Alto 1.0 MGD (currently estimated to be produced from 3.25 MGD and 1.3 MGD of Effluent, respectively). If Mountain View and Palo Alto are using more than 2.5 MGD and 1.0 MGD of Enhanced Recycled Water, respectively, these volumes shall be reduced to 2.5 MGD and 1.0 MGD, respectively, before Valley Water's Effluent delivery is reduced below the Minimum Flow Delivery. If insufficient Effluent is available to meet Mountain View's and Palo Alto's minimum Enhanced Recycled Water supplies and meet Valley Water's Minimum Flow Delivery, all three volumes shall be reduced proportionally based on the volumes of Effluent required to produce them. In no case shall Mountain View's or Palo Alto's Enhanced Recycled Water reduction exceed 30% below 2.5 MGD and 1.0 MGD, respectively, unless otherwise agreed to by the Parties.
- h. Meet and Confer Due to Reduced Effluent Flows. If the amount of Effluent Valley Water requests, up to the Minimum Flow Delivery, is not met, the Parties shall meet and confer for the purpose of identifying and implementing feasible solutions to any supply shortfall, including the potential to extend the Term of the Agreement to make up for lost Effluent delivery.

14. Regional Plant Location

- a. Possible Locations. If Valley Water pursues a Regional Plant as part of its Regional Program, it is the preference of the Parties to locate the Regional Plant in Palo Alto. As such, Valley Water and Palo Alto shall evaluate the feasibility of all potential locations in Palo Alto, including: within the fence line of the RWQCP; at the Measure E site; or a yet to be determined location. If it is determined by Valley Water that it is not feasible or economical to locate the Regional Plant in Palo Alto, the Effluent may be conveyed for reuse by Valley Water to another location. The point of delivery of the Effluent to Valley Water shall be at the RWQCP, or another location mutually agreed between Valley Water and Palo Alto.
- b. Local Cooperation. If Valley Water notifies Palo Alto that it intends to locate a Regional Plant in Palo Alto, Palo Alto shall cooperate with Valley Water in identifying ways to accommodate a Regional Plant to the maximum extent possible within the boundary of the RWQCP or adjacent to the RWQCP boundary pending siting evaluation results. Palo Alto will also cooperate with Valley Water as it explores siting an appropriate sized water tank, to balance inbound fluctuating flows and produce a steady flow for treatment. Valley Water shall negotiate with Palo Alto to share costs between Palo Alto and Valley Water for use of the RWQCP site, including modification of existing facilities.
- c. Measure E Site Evaluation. In the event that Valley Water determines that the Measure E site adjacent to the RWQCP facility is the best location for a Regional Plant, and no extenuating circumstances (including, but not limited to, any environmental impacts identified through CEQA review) have been identified by Palo Alto, Palo Alto's staff will recommend to Palo Alto Council that the Council place a measure on the ballot to allow this use. If a Regional Plant is located, at least in part, on the Measure E site, Valley Water may lease the land from Palo Alto at a rate based on the then-current zoning, anticipated to be for "public facilities." A separate lease agreement will be required subject to approval by the Palo Alto City Council or Designated Representative.
- d. Permit Processing. Palo Alto and Mountain View agree to process expeditiously, in accordance with regular city processes, Valley Water's complete non-discretionary permit applications for a Regional Plant.

15. Regional Plant/Conveyance Facilities Ownership, Capital, Operation and Maintenance Costs

Subject to Valley Water exercising the Effluent Transfer Option, Valley Water may own and construct a Regional Plant and conveyance facilities to and from the Regional Plant (preliminary cost of \$300 Million based on a comparison of like projects), or conveyance

facilities to take the Effluent elsewhere. Valley Water will be responsible for all capital and O&M costs for a Regional Plant and conveyance facilities.

16. Other Development Commitments by the Parties

- a. Development, Operation & Maintenance. In the event that a Regional Plant is to be located in Palo Alto, Palo Alto shall support Valley Water's chosen development and O&M approach for the Regional Plant. Approaches under consideration by Valley Water include, but are not limited to, a design-build method with Valley Water responsibility for O&M; or a public-private partnership in which, for example, Valley Water may partner with one or more private entities to provide financing, design, construction, and O&M.
- b. Support of Regional Program. Additionally, in the event that Valley Water notifies Palo Alto and Mountain View that it intends to develop a Regional Plant in Palo Alto, Palo Alto and Mountain View shall provide, when requested by Valley Water, written support to State and federal agencies to which Valley Water seeks grant funding or low-interest loans for the Regional Plant, and city staff shall participate in meetings with State and federal agencies for these purposes.
- c. Environmental Documentation. The Parties to this Agreement anticipate that Valley Water will be the Lead Agency and Palo Alto will be a Responsible Agency under CEQA/NEPA for a Regional Plant. Any legally mandated environmental review shall be completed prior to approval and development of the Regional Plant. The Parties shall work together to facilitate compliance under CEQA (and NEPA if applicable) for the development of the Regional Plant. As part of this process, the Parties agree to provide timely notice, review, and responses.

17. Annual Payments for Effluent

- a. Initiation and Allocation of Payments. Upon Startup, Valley Water will pay Palo Alto \$1,000,000 per year for the Minimum Flow Delivery during the Term of this Agreement. Valley Water shall make payments on a fiscal year basis (July – June). Valley Water's first payment following Startup shall be prorated based on Effluent received or, if Effluent deliveries have not started, shall be \$1,000,000 prorated based on the number of months left in the fiscal year. The \$1,000,000 annual amount referred to in this Section is in 2019 dollars, and shall be adjusted July 1 of each year by the annual average (previous 12 months) of the CPI-All Items for the San Francisco-Oakland-Hayward, California area published by the United States Department of Labor-Bureau of Labor Statistics (<https://data.bls.gov/PDQWeb/cu>). Valley Water's payments will be made by August 31 for the preceding fiscal year.

- b. Allocation of Payments. Palo Alto will allocate these funds to RWQCP Partners that have committed their Effluent to Valley Water by January 31 proportionally based on the RWQCP Partner's share of the total Effluent committed through the Term of this Agreement.
- c. Duration of Payments. Valley Water's payments for Effluent pursuant to this Article shall continue through the Term of this Agreement unless this Article D is terminated earlier subject to Sections 12(b) or 20. If Article D of the Agreement is so terminated, Valley Water's payment for Effluent in the year it is terminated shall be prorated based on the termination date and the proportion of days lapsed in the fiscal year, and Valley Water's obligation to make this last payment shall survive the termination of Article D.
- d. Additional Wastewater Treatment Costs. If implementation of the Regional Program is deferred pursuant to Section 12 (b) and, during that period of deferral, Palo Alto incurs incremental wastewater treatment costs to meet new NPDES requirements adopted after Startup, Valley Water shall pay Palo Alto a proportion of the annual O&M costs, not capital costs, for such incremental wastewater treatment based on the percentage of Minimum Flow Delivery relative to the total volume of wastewater effluent produced over that period. However, Valley Water's obligation to pay for annual O&M costs under this Sub-Section shall not begin until the five-year anniversary of Startup and shall cover the period after that date. Palo Alto shall invoice Valley Water, detailing the basis of the costs for the preceding year, after the end of the sixth year after Startup and each year thereafter until Valley Water begins to take delivery of Effluent or until Article D of the Agreement is terminated pursuant to Section 20. Valley Water's obligation to pay such costs shall be capped at \$150,000 per year (in 2019 dollars, adjusted July 1 of each year by the annual average (previous 12 months) of the CPI-All Items for the San Francisco-Oakland-Hayward, California area published by the United States Department of Labor-Bureau of Labor Statistics (<https://data.bls.gov/PDQWeb/cu>)).
- e. Payment Prorating. If the quantity of Effluent made available by Palo Alto to Valley Water in any given fiscal year falls below the Minimum Flow Delivery the payment for that year shall be prorated accordingly. If the Minimum Flow Delivery is made available but Valley Water accepts less than the Minimum Flow Delivery, Valley Water shall be responsible for the full \$1,000,000. If Valley Water requests and receives more than the Minimum Flow Delivery, Valley Water's payment to Palo Alto shall be prorated accordingly.

18. Reverse Osmosis Concentrate Produced by a Regional Plant in Palo Alto

In the event that a Regional Plant is located in Palo Alto, Palo Alto shall evaluate operating strategies and make best efforts to accomplish any necessary changes in its NPDES permit to accommodate reverse osmosis concentrate discharge from the

Regional Plant to receiving waters under the jurisdiction of federal and state regulators. Palo Alto staff shall include Valley Water staff in its planning and negotiations with the regulators. To the extent that discharge of the reverse osmosis concentrate to receiving waters via Palo Alto's wastewater outfall is not feasible and acceptable to the regulators, Valley Water shall evaluate and implement alternative reverse osmosis concentrate management measures acceptable to Palo Alto, if within the Palo Alto's jurisdiction. Valley Water shall pay the costs of treating the reverse osmosis concentrate to meet applicable state and federal requirements of and any alternative reverse osmosis concentrate management measures. The Parties acknowledge that a separate agreement may be needed to address management of reverse osmosis concentrate.

19. Water Supply Option for Palo Alto and Mountain View

- a. Volume and Timing of Request. Beginning one year from the Effective Date, at their discretion, Palo Alto or Mountain View or both shall each have an opportunity to provide Valley Water a notification of the need for additional water to meet demands in their respective service areas. The written notification shall include the amount of potable water or non-potable water, or both, requested, up to the following maximum amounts: Palo Alto may request an annual average of up to 3.0 MGD and Mountain View may request an annual average of up to 1.3 MGD. Palo Alto and Mountain View may make multiple notifications regarding the need for additional water, but the cumulative total of the additional water requested shall not exceed the respective maximum amounts (3.0 MGD for Palo Alto and 1.3 MGD for Mountain View) over the Term of the Agreement. The notification may also include an indication of a maximum cost for the water in the first year. Valley Water will make its best effort to develop a proposal that includes at least one supply within that maximum cost for the first year.
- b. Valley Water Response. Within three (3) months of receiving the written notification from Palo Alto or Mountain View or both, Valley Water will provide an estimate of the incremental costs to Valley Water to prepare a proposal for the requested water. The requesting party (Palo Alto or Mountain View or both) will respond to Valley Water's cost estimate within four (4) months. After receiving written approval from the requesting party (Palo Alto or Mountain View or both) accepting the estimated cost for Valley Water to do so, Valley Water will have up to four (4) years from receipt of the original request to prepare a water supply proposal to the requesting party (Palo Alto or Mountain View or both). Parties will meet periodically as requested by any Party during this four (4) year period to discuss the request and the proposal being developed. Valley Water's proposal will include a description of the water supply, including the cost, payment schedule, and any conditions related to the supply to the requester (Palo Alto or Mountain View or both). Valley Water will submit quarterly cost invoices for its work in preparing the proposal and the requesting party (Palo Alto or Mountain View or both) will reimburse Valley Water within 30 days.

- c. Cost Components. Valley Water's cost estimate in its proposal shall be limited to Valley Water's costs, including all costs associated with the water supply, such as but not limited to: facility costs, commodity costs, and any wheeling fees. Valley Water shall not be required to subsidize the cost of the water in order to meet the maximum cost pursuant to Section 19 (a). The proposal shall include or allow for subsequent increases in cost after the first year based upon Valley Water's costs.
- d. Acceptance or Denial of Proposal. The requester (Palo Alto and/or Mountain View) will have up to twelve (12) months from receiving Valley Water's proposal to provide written notification that they accept or decline this proposal, unless a shorter time period is one of the conditions required by Valley Water. For example, a shorter time frame may be required if Valley Water's proposal involves a fleeting opportunity with third parties in which a commitment is needed in less than 12 months. In the event that Valley Water prepares a proposal with a time period for acceptance of less than 12 months, it shall also, with the requesting party's concurrence, proceed to develop a separate proposal for which the acceptance time period is up to twelve (12) months.
- e. Reinitiating a Request. If the requesting party (Palo Alto or Mountain View or both) declines Valley Water's proposal or fails to accept it within the time prescribed in Section 19(d), starting 5 (five) years from declining the previous opportunity or five years after the time to accept the proposal expires, whichever is earlier, the requesting party (Palo Alto or Mountain View or both) may reinitiate the process as described in Section 19(a)-(d). This sequence of proposals and potential denials, including the five (5) year period between the denial (or expiration of time in which to accept) and the next request, can be repeated throughout the Term of the Agreement. Notwithstanding the minimum five-year interval between a proposal declined or not timely accepted by the requesting party (Palo Alto or Mountain View or both) and a subsequent opportunity to request a proposal, Valley Water shall have discretion to consider a request by Palo Alto or Mountain View to develop a proposal for them after a period of less than five years since they declined a prior Valley Water proposal or the time in which to accept it expired.
- f. Delivery of Water. If the requesting party (Palo Alto or Mountain View or both) accepts Valley Water's proposal, Valley Water will have up to ten (10) years from the acceptance date to begin delivery of the water to the requester (Palo Alto or Mountain View or both) at cost. All water provided by Valley Water may only be utilized by the requesting party (Palo Alto or Mountain View or both) within their respective service areas and Valley Water's obligation to provide the water to Palo Alto or Mountain View or both expires at the end of the Term of this Agreement or any separately date agreed upon in writing. The Parties shall develop detailed terms and conditions for Valley Water's water supply delivery to them in a separate agreement, shall complete any environmental review legally

required for adoption of such agreement, and shall provide environmental documentation to support CEQA findings, for approval by Parties' governing bodies prior to commencement of delivery of water to them under this Section. Such separate agreement may have a term that extends beyond the Term of this Agreement and may include additional conditions dependent upon the Effluent transfer.

- g. In the Event of No Regional Program. If Valley Water determines Startup of the Regional Program will not occur within thirteen (13) years of the Effective Date and the Parties have not agreed to further extend this timeline, Palo Alto and Mountain View shall no longer have the ability to request a potable and/or non-potable water supply from Valley Water.

20. Severability and Voidance of Effluent Transfer Provisions by Valley Water

Commencing thirteen years after the Effective Date, Valley Water may terminate the rights and obligations under Article D of this Agreement at its sole discretion by providing Palo Alto and Mountain View with at least five years' written notice if Valley Water has commenced receiving Effluent or at least one years' written notice if Valley Water has not commenced receiving Effluent. If the provisions of this Section 20 are exercised by Valley Water, Article D shall be terminated at the conclusion of the notice period and shall be of no further effect; however, all other Articles of the Agreement shall not be affected and shall remain in full force and effect.

ARTICLE E – SALE OF RWQCP OR THE REGIONAL PLANT DURING TERM

21. Sale of RWQCP During Term of Agreement

Palo Alto agrees that it shall not sell or attempt to sell the RWQCP to any third-party unless Valley Water is first offered the right to purchase the RWQCP at fair market value to be determined by an independent third-party consultant qualified in the wastewater or water industry. Valley Water shall have six months after a fair market value has been determined to consider this purchase, and Palo Alto may only pursue the sale to third parties following the expiration of this six-month period or receipt of Valley Water's written notice that it does not intend to purchase the RWQCP. Upon Valley Water's expression of intent to purchase the RWQCP, Palo Alto shall provide Valley Water with an additional twelve months to complete any financing necessary for the purchase.

The provisions of Article D herein (Effluent Delivery to Valley Water), shall survive any sale of the RWQCP to a third-party during the Term, and Palo Alto shall include as an express condition in the sale of the RWQCP to a third-party the requirement that the third party assume the obligations of this Agreement for the remainder of the Term.

Valley Water shall constitute a third-party beneficiary to any agreement between Palo Alto and a third-party for the sale of the RWQCP.

22. Sale of Regional Plant

Valley Water agrees that if a Regional Plant is located in Palo Alto and if Valley Water decides to cease its operation of the Regional Plant, it shall not sell or attempt to sell the Regional Plant to any third-party unless Palo Alto is first offered the right to purchase the Regional Plant at fair market value to be determined by an independent third-party consultant qualified in the wastewater or water industry. Palo Alto shall have six months after a fair market value has been determined to consider this purchase, and Valley Water may only pursue the sale to third parties following the expiration of this six-month period or receipt of Palo Alto's written notice that it does not intend to purchase the Regional Plant. Upon Palo Alto's expression of intent to purchase the Regional Plant, Valley Water shall provide Palo Alto with an additional twelve months to complete any financing necessary for the purchase.

ARTICLE F – OTHER PROVISIONS

23. Dispute Resolution Procedure

The process by which the Parties will attempt in good faith to resolve any dispute arising out of or relating to this Agreement, which will be undertaken promptly and initially by representatives of the Parties in the following manner:

- a) If a dispute should arise, an authorized representative for each of the Parties will meet or teleconference within fourteen (14) calendar days of written notification of the dispute to resolve the dispute. Prior to such meeting or teleconference, the Party bringing the dispute will draft and submit to the other Parties a written description, including any factual support, of the disputed matter. After receiving this written description, the other Parties will provide a written response to such written description within a reasonable period of time.
- b) If no resolution of the dispute occurs at this meeting or teleconference, the issue will be elevated to an executive-level manager of each Party (i.e. executive level manager for Valley Water and Assistant City Manager or higher-level executive for Palo Alto and Mountain View). Each Party's executive-level manager will meet or teleconference as soon as practical, but, in no event, later than twenty one (21) calendar days after the matter has been referred to them, with the initial meeting to occur at a location to be selected by the Parties.
- c) If the dispute remains unresolved after forty-five (45) calendar days from their receipt of the matter for resolution, and any necessary Party is not willing to continue negotiations, the Parties agree to submit the dispute

to mediation. Any statute of limitations shall be tolled from the time the matter is submitted to mediation until the mediation process has concluded.

d) If the Parties are not able to agree on a mediator, any necessary Party may request the American Arbitration Association or other acceptable mediation service to nominate a mediator. The Parties will share the cost of the mediator equally.

e) In the event mediation is unsuccessful, any Party may pursue other remedies available at law including filing an action in any state or federal court within the County of Santa Clara.

24. Force Majeure.

Neither Palo Alto nor Mountain View shall be liable for delays or failures in performance of its obligations under Article D of this Agreement that arise out of or result from causes beyond its or their control, including without limitation, the occurrence or threat of the following: an act of God or public enemy; an act of civil or military authorities; a fire, flood, earthquake or other natural disaster; an explosion; a war or act of terrorism; an epidemic or pandemic; a national or state emergency; a strike; a lockout; a riot or civil unrest; a freight embargo; delays of common carriers; acts or orders of governmental authorities; impact of governmental statutes, regulations, permits or orders imposed or issued after the effective date of this Agreement; unavailability of required labor or materials; inability to obtain funding due to a financial crisis; a regulatory agency's failure to issue a required permit or other approval despite submittal of a complete application; litigation not initiated by Palo Alto; and any other events or circumstances not within the reasonable control of the affected Party whether similar or dissimilar to any of the foregoing. If Palo Alto is required to take or forego certain actions to maintain compliance with its NPDES permit and other regulatory requirements, such acts or omissions shall not be considered to be within Palo Alto's reasonable control and shall be excused under this Section 24.

25. Audit.

Valley Water shall have the right to conduct audits of Palo Alto and Mountain View to ensure that the funds paid by Valley Water under this Agreement are being used in accordance with all restrictions set forth in Sections 5 and 6 of this Agreement. Palo Alto and Mountain View shall cooperate with any such audit and shall provide records requested by Valley Water within a reasonable amount of time.

26. Mutual Benefits of this Agreement

Through execution of this Agreement, Parties agree to commit funding and resources to advance a locally controlled, drought resilient supply that improves water supply

reliability and assists in maintaining local groundwater basins, to the benefit of all Parties. Additionally, the Parties seek to develop reliable water supply sources to minimize supplies of water that would otherwise have to be imported via the Sacramento-San Joaquin River Delta and its tributaries, including the Tuolumne River and other mountain streams.

27. Notifications

Palo Alto and Valley Water shall notify all RWQCP Partners of the execution of this Agreement within 30 days of the Effective Date.

28. Choice of Law.

This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California. The parties agree that the venue of any action, proceeding or counterclaim shall be in the County of Santa Clara, California.

29. Amendments.

This Agreement may not be modified or amended except by a writing signed by all Parties.

30. Captions.

The captions in this Agreement are for reference only and shall in no way define or interpret any provision hereof.

31. Severability.

If any provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the full extent permitted by law, provided the material provisions of this Agreement can be determined and effectuated.

32. Counterparts.

This Agreement may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

33. Attorneys' Fees.

In the event of a dispute between the parties with respect to the terms or conditions of this Agreement, the prevailing party is entitled to collect from the other its reasonable attorneys' fees as established by the judge presiding over such dispute.

34. Entire Agreement.

This Agreement, together with Appendix 1 attached hereto, constitutes the entire agreement between the Parties and supersedes all prior written or oral understandings.

35. Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of all Parties, and all Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the cause shall apply to the interpretation or enforcement of this Agreement.

36. Separate Writings, Exhibits, Appendices.

The following appendix constitutes a part of this Agreement and is incorporated into this Agreement by this reference:

Appendix 1.

37. Time of the Essence.

Time is of the essence in respect to all provisions of this Agreement that specify a time for performance.

38. Waiver.

No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement (1) shall be effective unless it is in writing and signed by the Party making the waiver; (2) shall be deemed to be a waiver of, or consent, to any other breach, failure of a condition, or right or remedy, or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

39. Indemnification.

a. Indemnification by Valley Water. Valley Water shall defend, hold harmless, and indemnify Palo Alto and Mountain View, their officers, agents and employees from, for and against any and all claims, injuries, losses, fines, liabilities, damages, costs, and expenses (including reasonable attorneys' fees and costs) arising from or related to: (1) Valley Water's use of the RWQCP for tours or onsite research work as provided under this Agreement; (2) Valley Water's use, sale or distribution of the Effluent after taking delivery of the Effluent from Palo Alto; (3) siting or operating the Regional Plant, a water tank or associated facilities, or both, on Palo Alto property; (4) constructing and utilizing Effluent conveyance facilities to and from the RWQCP; and (5) litigation related to a ballot measure to allow use of the Measure E site for the Regional Program or land use approvals by Palo Alto (including actions under CEQA) for the Regional Program. This duty to indemnify shall exclude those claims, injuries, losses, fines, liabilities, damages, costs, and expenses directly caused by Palo Alto's or Mountain View's gross negligence or willful misconduct. Valley Water and Palo Alto may modify Valley Water's duty to indemnify Palo Alto through written amendment of this Agreement relating to development of the Regional Plant.

b. Indemnification by Palo Alto. Palo Alto shall defend, hold harmless, and indemnify Valley Water and its officers, agents and employees from, for and against any and all claims, injuries, losses, fines, liabilities, damages, costs, and expenses (including reasonable attorneys' fees and costs) arising from or related to: (1) approval, siting, or construction of the Local Plant; (2) operation of the Local Plant; (3) allocation of Remaining funds pursuant to Section 5(f); (4) allocation of the Annual Option Payment pursuant to Section 6. This duty to indemnify shall exclude those claims, injuries, losses, fines, liabilities, damages, costs, and expenses directly caused by Valley Water's gross negligence or willful misconduct.

c. The provisions of this Section 39 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall take effect on the Effective Date as stated above.

CITY OF MOUNTAIN VIEW,
A California charter city and municipal
Corporation

By: _____
Daniel H. Rich
City Manager

APPROVED AS TO CONTENT:

By: _____
Dawn S. Cameron
Public Works Director

FINANCIAL APPROVAL:

By: _____
Jesse Takahashi
Finance and Administrative
Services Director

APPROVED AS TO FORM:

By: _____

Krishan Chopra
City Attorney

CITY OF PALO ALTO
A California Chartered Municipal Corporation

By: _____
Ed Shikada
City Manager

APPROVED AS TO FORM:

By: _____
Molly Stump
City Attorney

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Norma J. Camacho
Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Brian C. Hopper
Sr. Assistant District Counsel

October 9, 2019

Dear Palo Alto City Council,

Thank you for the attention you have given our recycled water opportunity. My apologies for not better anticipating the reasonable conclusion you reached at your 9/23 meeting given the information you had: You concluded that holding the transfer agreement hostage to Valley Water changing its position on the bay delta plan doesn't seem fair. Here is more detail regarding the problems raised in my oral communication at your 10/7 meeting along with some possible solutions.

As a reminder, California urban areas are embracing recycled water for two reasons: Increased supply reliability and reduced dependence on imports, the latter which of course has great environmental and sustainability benefits. Along with cost, we should use the same criteria.

1) The merits of the water transfer agreement should exclude any benefit Palo Alto receives from the desalting plant, which by doing so substantially diminishes the transfer agreement's value to Palo Alto

The \$16 million contribution to the desalting plant was Gary Kremen's thoughtful answer as to how to address the water supply fees Palo Alto has been paying Valley Water as part of residents' property tax bills. The fee continues this year as can be seen on just received bills. As you know Palo Alto gets no benefit from these fees and, by the last data I found, amount to \$1.6 million per year paid by Palo Alto (as of 2015).

If indeed the desalting plant is the proposed offset for these fees, then the desalting plant benefits to Palo Alto should not be considered as part of Palo Alto evaluating the transfer agreement because Palo Alto should be getting these benefits as resolution to the water supply fee issue.

The problem is that without the desalting plant, there is little benefit to Palo Alto from the water transfer agreement, particularly in the context of increased reliability and reduced imports. For Palo Alto to get either, the transfer agreement requires us to pay Valley Water an unspecified additional amount. The other promoted benefit, our share of the \$1 million that Valley Water will ultimately pay for effluent is small in the context of the \$1.6 million we are already paying Valley Water.

Valley Water might argue that their original intent on the desalting plant was to pay substantially less but that the water transfer agreement allowed them to increase their contribution to \$16 million. But that raises the question of whether or not we are getting sufficient value for the \$1.6 million paid annually. Assuming Valley Water provides \$0.2 million per year for operations, the net present value of a 20 year municipal bond that Valley Water could sell at a high 3% interest rate based on annual payments of \$1.4 million, is worth \$20 million, well above the \$16 million that Valley Water is contributing, not to mention that Mountain View gets the most benefit from the desalting plant (Mountain View gets 3 million gallons per day (mgd) to Palo Alto's 1 mgd). It could be argued that even if the full value of the desalting plant was going to Palo Alto, it is still not sufficient to offset our \$1.6 million annual payments.

In the chance that Valley Water argues that the desalting plant and the water transfer agreement never intended to address the annual \$1.6 million payments made by Palo Alto, then another issue arises: Do we want to move forward with the transfer agreement with this issue still outstanding? The challenge is that this issue has been festering for years.

Valley Water might argue that the transfer agreement has substantial benefits to reliability and reduced dependence on imports even though Palo Alto won't see them without paying more. The trouble is that Valley Water projects their water demand to grow and there is no assurance that our recycled water will reduce Valley Water's imports. The best argument they would likely make is that our recycled water will help them not increase imports. Not increasing water imports isn't adequate. As you know, both the Tuolumne River and Bay Delta are in crisis in part due to Palo Alto's water supply through the SFPUC and Valley Water's supply through the State Water Project and Central Valley Project. For context, cities such as Los Angeles, San Diego and others are working to substantially reduce their dependence on water imports (LA Mayor Eric Garcetti targeted a 50% reduction

2) **Valley Water precluded us from exploring the Crystal Springs Project Alternative**

Because of a no-shop clause in the 2017 MOU between us and Valley Water, our utilities department has not been allowed to explore another, likely more beneficial, alternative: Redwood City is planning to send its advanced purified water from its regional wastewater treatment plant to Crystal Springs reservoir as its vehicle for indirect potable reuse (the Crystal Springs Project). An interesting alternative is to leverage this project. Instead of building a new purification facility and piping water south to San Jose, Palo Alto's wastewater could be piped to Redwood City and leverage known economies of scale by increasing the size of Redwood City's project. Eric Hansen of Silicon Valley Clean Water thought the idea was interesting. The benefits could be significant:

- i) **No incremental cost for Palo Alto to benefit:** If our wastewater goes to the Crystal Springs Project, there is no incremental cost for choosing to augment Palo Alto's water supply as the infrastructure to deliver SFPUC water to Palo Alto is already in place. As you know, in the current draft of the transfer agreement, in order to provide additional water to Palo Alto, Valley Water requires Palo Alto to bear unspecified additional costs. Otherwise under the transfer agreement Palo Alto gets no supply reliability benefit nor any reduction on its reliance on water imports.
- ii) **Lower overall cost:** Thanks to economies of scale the cost of piping our wastewater to Redwood City and increasing the size of the Redwood City purification facility is likely substantially less costly than either of the options Valley Water is considering which are either a) building a plant in Palo Alto and piping the potable water to Valley Water or b) piping the wastewater to Alviso and building a plant there.
- iii) **Higher quality water:** The Indirect Potable Reuse (IPR) water from Crystal Springs is much higher quality than the IPR water run through Valley Water's aquifer. IPR run through an aquifer picks up minerals and may need to be filtered or treated to improve taste. IPR water through Crystal Springs would be much more like Tuolumne River water.
- iv) **Increased supply reliability:** Without our having to exercise and pay for an option with Valley Water, this project would by its nature increase our supply reliability as it is increasing the SFPUC's supply reliability

	Current Transfer Agreement	Crystal Springs Alternative
Improves Palo Alto Supply Reliability and Reduces Imports	Only at significant unknown cost	Yes
Mineral Content of Water	High (water spots on glassware)	Very low
Economies of Scale/Lower Cost	No	Yes
Environmental Benefits	Unclear or limited	Subject to negotiation

The extent of these benefits is unknown as Palo Alto has been precluded from studying them due to the no-shop clause in section 5(b) of the MOU. Probably the biggest unknown is the SFPUC's interest in this expansion of the Crystal Springs Project. However, the SFPUC commissioners have given guidance to staff to find more local water sources and hence by inference there should be strong interest.

Valley Water might argue that the no-shop clause is a standard term in this type of negotiation. In my experience it is not common. While I don't have experience with public entities, in private enterprise they are used sparingly and usually for short duration and only once all the major terms have been worked out. Until now I had not heard of a 3.5 year no-shop clause. It also seems that major terms were not yet resolved in February of 2017. Valley Water must have expected that they would be at a competitive disadvantage in a situation like this, which in turn puts Palo Alto leadership in a difficult, less knowledgeable situation. It is disappointing that they required this clause that far back.

3) The do-it-ourselves direct potable reuse (DPR) alternative is compelling.

It has a cost per acre foot of \$2,500 compared to the SFPUC's expected price of \$3,000. It also has the biggest positive impact on water reliability and reduced dependence on imports. In terms of financing, Poseidon Water mentioned public-private partnership ideas at Valley Water's September recycled water committee meeting including means of mitigating risks associated with in process DPR regulations. Poseidon Water has a number of water infrastructure projects in California, including the Carlsbad and Huntington Beach desalination plants.

Among areas that would need to be further explored for this alternative is Palo Alto's willingness to drink recycled water. The good news is that there is lots of precedent for drinking recycled water, although not yet with DPR. About 30% of Orange County's drinking water is from recycling.

Solutions

There are multiple possible solutions to address the lack of benefits to Palo Alto in the current form of the water transfer agreement:

- 1) Improve the transfer agreement terms to reflect what we likely would have received with the Crystal Springs or do it ourselves alternatives:
 - a) Replace the option for Palo Alto to get additional potable water at unknown cost with a commitment that Palo Alto will receive additional water at no additional capital cost.
 - b) As soon as the DPR regulations are finalized, Valley Water commits to switch to augmenting Palo Alto's water with DPR water at no additional cost to Palo Alto.
 - c) Valley Water's pricing to Palo Alto should not exceed the DPR price Palo Alto modeled.
 - d) Assuming Valley Water won't support the Bay Delta Plan, have Valley Water commit to other environmental benefits. For example, could they commit to setting a substantial imports reduction goal (if current imports are at 55% could they set a goal of reducing them to 40% by say 2040)?
 - e) Unlink the salt removal facility so that it is not dependent on the transfer agreement and make sure the salt facility economics justify relenting on resolving our \$1.6 million payments issue.
- 2) Do it ourselves and save money.
- 3) Have Valley Water let us out of the no-shop clause so that we can better understand the Crystal Springs alternative.
- 4) Wait for the no-shop clause to expire (December 31, 2020). In the scheme of things this isn't that long, particularly with DPR regulations on the horizon and the relatively lower cost that DPR offers.

Timing

We are pretty far along in negotiations and the changes suggested above will have a substantial impact to Valley Water's economics. This timing problem is Valley Water's, not ours. It is a result of their no-shop clause. If there hadn't been a no shop clause, our excellent utilities staff would likely have investigated the Crystal Springs alternative as it arose and could have been addressing differences much earlier.

Conclusion: The transfer agreement today is mediocre. It should be improved or we should choose a different solution

The transfer agreement as it stands provides Palo Alto no additional supply reliability and provides no reduction in our reliance on water imports without additional investment. These are the two most important criteria to Palo Alto and to California's urban areas in general. Both the unexplored Crystal Springs alternative and the do it ourselves alternative better meet these criteria.

Please make the transfer agreement better so that there are benefits to Palo Alto on the two most important criteria, supply reliability and reducing reliance on water imports. If that doesn't work, let's pursue both the Crystal Springs alternative and the do it ourselves option including discussing ways of mitigating DPR risk with Poseidon Water.

Sincerely,



Dave Warner

Mr. Warner:

Our City Manager has asked me to respond to your attached October 9, 2019 letter to City Council on his behalf. You, Karla Daily and I have also had several email exchanges as we have continued a very positive dialogue on how best to reuse treated wastewater. We also greatly appreciated your participation at our October 23rd Community Meeting on this topic. I know we agree that we all benefited from that in-depth exchange of information and ideas.

The first point in your original letter assumes that Valley Water's \$ 16 Million contribution to a Palo Alto salt removal facility is connected to the State Water Project Tax (Tax) that County property owners pay. Making a connection between the two was discussed early in the Agreement process, and it was decided not to make any connection between the two. The draft Agreement has many benefits to Palo Alto, as described below, and there was not a need to create a linkage to the Tax issue. I know that you are now aware of a new (September 24, 2019 - Attached) Valley Water Board Resolution which can provide funding for Cities like Palo Alto, based in part on this Tax situation. We look forward to Valley Water establishing procedures for obtaining these funds, and to Palo Alto receiving its share for water related projects.

With these changes in the assumptions in your letter, we believe it is quite appropriate to conclude that there are very substantial benefits to Palo Alto and its neighbors, both from the construction of a salt removal facility in Palo Alto, and from a potential transfer of treated wastewater to a County-wide Water Reuse Program; the two parts of the draft Agreement. Specifically, those benefits include:

1. Meeting critical water supply demands in Palo Alto and other parts of the County with sustainable water supply sources, like recycled and purified water, reduces the need for additional imported water from the Tuolumne River and other sources. While your letter points out that population growth in other areas can tend to counter this benefit, it is still true that Palo Alto would be doing what is within its power to save water.
2. Expanding water reuse in the County will keep a significant amount of the Regional Water Quality Control Plant (RWQCP) effluent out of the Bay, consistent with the Council-adopted goal: "Protect the Bay, other surface waters, and groundwater".
3. Valley Water funding for the Palo Alto salt-removal plant will enable Mountain View to connect approximately 60 new commercial irrigation customers to its existing recycled water distribution system, and improve the quality of the irrigation water for all current recycled water users in Palo Alto and Mountain View.
4. Increasing the reuse of treated wastewater will dramatically improve the resiliency of water supply systems, should the other supplies be impacted by earthquakes, climate change, or other events.
5. The alternative water supply option provided to Palo Alto within the draft Agreement would be a safety net for Palo Alto, giving the City a way to "recover" the water which is transferred south. While Palo Alto's current water supply

agreement with San Francisco is quite robust (and Palo Alto has access to groundwater), such a safety net has substantial value in today's uncertain world.

The second point in your letter is that Palo Alto should consider piping treated wastewater to Crystal Springs Reservoir where it would become part of the San Francisco water supply system. However, adding treated wastewater to Crystal Springs Reservoir is only in its earliest stages of conceptual consideration. If that concept gains traction, there are several wastewater treatment plants much closer to Crystal Springs than Palo Alto's. In contrast, Valley Water has a relatively large existing water purification plant, a sophisticated system of recharging and banking groundwater, and, together with San Jose, the most robust recycled water system in Northern California. It is far more likely that the next major water reuse programs will come in Santa Clara County than further north on the Peninsula. Palo Alto has a long and successful history of partnering with Valley Water on water reuse, watershed protection, flood control, and water conservation projects. The first water reuse project in Palo Alto was entirely funded by Valley Water in the early 1980's. Cities north of Palo Alto have not expressed interest in similar partnerships with Palo Alto.

The third point in your letter is that moving toward Direct Potable Reuse (DPR) of highly treated wastewater is compelling, and many agree with you. Being able to use the same distribution system as our current potable water delivery system would save many millions of dollars and is extremely attractive. The focus in your letter, however, is on Palo Alto "do(ing)-it-ourselves". That is, implementing DPR on our own. It appears best to partner with a much larger, research-oriented, agency in trying to accomplish this end point, due to the very real concerns about disease control and the need for certainty. We believe the draft Agreement puts us in the best position to partner with one of the leading water supply agencies in the Country, Valley Water, as we consider moving toward DPR. In addition, the draft Agreement has us building our own salt removal plant in Palo Alto; positioning us to be able to pilot DPR locally at some point in the future. Therefore, the draft Agreement gives us the best of both worlds: a small plant from which to conduct a pilot, and a large partner to ensure state-of-the-art quality control.

In summary, it seems the draft Agreement has many benefits for Palo Alto and our neighbors and constitutes a win-win for all involved. Partnering with Valley Water increases the likelihood that a Regional Plant would be located in Palo Alto, increasing benefits even further. I know that you are a strong supporter of water reuse and look forward to continuing our dialogue on how best to utilize treated wastewater. Many thanks for your strong interest and thoughtful suggestions. Please don't hesitate to continue to email Karla and I as we move this important work forward.

Sincerely,

Phil Bobel, Assistant Director, Public Works

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 19 –

**SUPPORT OF GOVERNOR NEWSOM'S
PROPOSED DELTA CONVEYANCE
("GOVERNOR'S PROPOSED PROJECT")**

WHEREAS, our mission at the Santa Clara Valley Water District (Valley Water) is to provide Silicon Valley with safe, clean water to support healthy lives, the environment, and economy; and

WHEREAS, the Board of Directors endeavor through our policies and actions to affirm to the residents of Silicon Valley that we are dependable stewards and that Valley Water can be trusted to provide clean, safe, affordable water, and guarantee our water supply for the future; and

WHEREAS, Santa Clara County relies on State Water Project (SWP) and Central Valley Project (CVP) water conveyed through the Sacramento-San Joaquin Bay-Delta (Delta) for 40 percent of its water supply on average; and

WHEREAS, imported water from the Delta and its watershed has played a significant role in recharging the County's groundwater basin, protecting against further land subsidence, and providing for the well-being of the citizens of Santa Clara County; and

WHEREAS, substantial local investments in water use efficiency and conservation, recycled water and groundwater management are essential but cannot cost-effectively replace imported water; and

WHEREAS, Valley Water has long been committed to sustained reliable water supplies as well as environmental stewardship; and

WHEREAS, if no action is taken, Valley Water's SWP and CVP supplies will be vulnerable to risks from declining ecosystem conditions, increasing regulatory restrictions, seismic risks, climate change and sea level rise, resulting in reduced water supply reliability for Santa Clara County; and

WHEREAS, the "Bay-Delta Plan" as proposed by the State Water Resources Control Board may materially cut water deliveries to the San Francisco Public Utility Commission served areas of Santa Clara County, potentially creating more demand upon Valley Water; and

WHEREAS, Governor Newsom, through the California Department of Water Resources (DWR) proposes to develop a single tunnel Delta Conveyance Project; and

WHEREAS, the Delta Conveyance Project is a critical component of the Governor's "balanced portfolio approach" to water, the State of California's blueprint for a "sustainable and resilient future"; and

WHEREAS, the Governor's Proposed Project has the potential to protect Valley Water's water supply reliability by upgrading aging infrastructure, thereby reducing the vulnerability of SWP and CVP water supplies to seismic events in the Delta and climate change impacts; and

WHEREAS, the Governor's Proposed Project has the potential to improve access to transfer supplies and increase storage project yield while conveying water across the Delta in a way that is safer for the environment; and

WHEREAS, Valley Water supports the use of unionized labor and Project Labor Agreements (PLAs) to participate in the construction of the Governor's Proposed Project.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District does hereby find, determine, and order as follows:

1. Valley Water hereby declares its support for Governor Newsom in his development of a single tunnel Delta Conveyance Project (the Governor's Proposed Project) and adopts the Guiding Principles, attached hereto as Attachment 1, for Participation in the Governor's Proposed Project; and
2. Valley Water Directors and staff will use these Guiding Principles to shape Valley Water's participation in the Governor's Proposed Project, including evaluating the Governor's Proposed Project, identifying ways to meet Valley Water's goals, and shaping the project development and any agreements necessary to secure the conditions needed for Valley Water's continued participation and support.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on September 24, 2019:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: _____
LINDA J. LEZOTTE
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

ATTACHMENT 1

Guiding Principles for Participation in Governor Newsom's Proposed Delta Conveyance Project ("Governor's Proposed Project")

Guiding Principle #1 - Santa Clara County needs are the primary drivers in all our decisions involving the Governor's Proposed Project.

Fresno, Huron, Southern California, Discovery Bay, Rio Vista and other places in California have important desires, but providing safe, clean, affordable water for the people, businesses, wildlife and habitat of *Santa Clara County* is our primary focus.

Guiding Principle #2 - We will not allow Silicon Valley values and priorities to be placed at a disadvantage relative to Central Valley Agriculture or Southern California.

We support the Governor's Proposed Project in which all parties pay their fair share and avoid cost shifting to urban users.

Santa Clara County rate payers and / or taxpayers should *pay no subsidies* to Central Valley Agriculture or Southern California water users. If anyone pays less than Valley Water on a per acre-foot basis, their benefit from the Governor's Proposed Project should be less than Valley Water's benefit.

Guiding Principle #3 - We are advocating for a flexible approach that addresses Silicon Valley stakeholder and community input.

We take public input seriously, having had over 60 agenda items at properly noticed, public meetings on Delta Conveyance and Valley Water's water master supply plan alone (see Appendix A for a partial list of such meetings).

We support the Governor's Proposed Project that provides for environmental protections for the Delta, that is part of an overall State effort for a balanced water portfolio, and that takes into account climate change.

To quote from the recent *Baykeeper Issue Brief on the Delta Tunnels*:

'With a portfolio of science-based actions we can stabilize the Delta ecosystem to prevent fish extinctions while permitting sustainable water exports. Signs of hope and solutions include:

Reduction in tunnel scope to a single smaller tunnel. Several groups, including the Natural Resources Defense Council and the Public Policy Institute of California, have suggested that a single tunnel could help achieve the reliability and resiliency sought by water contractors while maintaining an engineered limit to diversions that would be less susceptible to over-extraction and abuse."

Additionally, to quote Governor: Newsom in his 2019 "State of the State" speech:

"That's why I do support a single tunnel."

"The status quo is not an option."

"We need to protect our water supply from earthquakes and rising sea levels, preserve delta fisheries and meet the needs of cities and farms."

"We have to get past the old binaries, like farmers versus environmentalists, or North versus South. Our approach can't be 'either/or.' It must be 'yes/and.'"

Given that Westlands Water District and certain other agriculture districts have declined to participate in the WaterFix project, we are supportive of a *lower-cost, scaled-down*, project relative to the previously planned California WaterFix. Other than one tunnel instead of two which is mandatory, we support considering an approach that incorporates the following objectives:

- a. A reduced intake volume from the original 9,000 cubic feet per second; and
- b. A reduced number of intakes on the Sacramento River; and
- c. A project that incorporates and ensures less impacts on fisheries relative to current operations; and
- d. Allows Valley Water elected officials to be actively involved as leaders in the governance of the Governor's Proposed Project to ensure the project is implemented appropriately and to prevent any Southern California or big agriculture water grab.

Any changes to the Governor's Proposed Project that diverge from this principle must be brought before the board before any final agreement is announced.

Guiding Principle #4 - As water is a human right, we must make investments to make sure our water supply meets future needs at a cost affordable by everyone.

Valley Water believes in an "all-of-the-above approach" to water supply. We have significant ongoing investments in water conservation. We are looking seriously at highly purified (drinkable) water, recycled water, storm water capture, rainwater capture, grey water usage, etc. We take into account the importance of local supplies and resiliency.

At the same time, the cost of water is an important consideration to our rate payers and we believe that water is a basic human right. Of the options that produce a significant quantity of supply, our imported supply is the lowest cost per unit source available to Valley Water, and the Governor's Proposed Project could help stabilize the increasing cost of our overall supply portfolio. The cost of water is a social justice issue; the Governor's Proposed Project would help keep down the cost of our water supply portfolio and make safe, clean water more affordable.

Consistent with this principle, our support of the Governor's Proposed Project is conditioned on the per acre-foot cost remaining similar to the prior estimates of per acre-foot cost for the California WaterFix, adjusted for the loss of scale inherent in one tunnel.

Guiding Principle #5 - Equity and costs are important.

Those communities and/or organizations that pay SWP property taxes (funds) and receive on average 85% of their water supply from sources other than Valley Water managed supplies will receive, directly or indirectly and not exceeding the amount of SWP property tax paid as estimated by Valley Water, those funds back in the form of additional, incremental, dedicated, segregated funds exclusively for water conservation programs, potable recycled water, non-potable recycled water (including salinity reductions), options to purchase wastewater, purified water, wastewater treatment plant environmental upgrades, Automatic Meter Infrastructure (AMI) updates, or dedicated environmental focused grants starting in FY 2019 until FY 2024. Upon Valley Water approval of award for a program within the FY 2019-2024 timeframe, the funds shall be reserved for the recipient, including interest earned, to reimburse eligible expenditures through FY 2033. To unlock these additional, incremental, dedicated funds, the communities and organizations will be required to make at least a 20% match of Valley Water's contribution (with no match required for facilities where Valley Water would have a long-term water supply contract or option for such). If an eligible agency has not gained Valley Water approval for a program by 6/30/2024, the dedicated, segregated funds go back to Valley Water by FY 2026.

Guiding Principle #6 - Any final arrangement must provide flexibility to acquire supplemental water by taking advantage of future wet years to ensure residents have a reliable water supply, no matter what extreme weather the changing climate brings.

Valley Water supports a participation approach, that would allocate the benefits and costs of the Governor's Proposed Project to Valley Water in proportion to its current 2.5% level of participation in the State Water Project ("SWP").

Given the uncertainty around Central Valley Project ("CVP") use of the facilities contemplated under the Governor's Proposed Project, Valley Water shall acquire an additional increment of SWP water supply benefit enabled by the Governor's Proposed Project that would offset projected declines in long-term CVP deliveries as well as strongly advocate for moving our current or future CVP supplies through the Governor's Proposed Project. This objective will lead to our participation in the Governor's Proposed Project for State Water Project deliveries at a higher percentage level than 2.5%.

Additionally, Valley Water shall commit to and/or purchase enough supplies from the Governor's Proposed Project to replace the projected deficit in current imported water supplies over time, and to ensure against future uncertainty. More specifically, we commit to securing sufficient supplemental water supplies if they become available at a reasonable price to avoid a deficit in our water supply, with potentially additional investments to provide insurance against future uncertainty. To optimize the benefits available through participation in the Governor's Proposed Project, we will also seek and evaluate additional storage opportunities.

If we do not act, given competition for limited water supplies in California, undoubtedly, water made available through improvements in the State Water Project and the Bay-Delta will instead go to Central Valley Agriculture and Southern California.

Guiding Principle #7 - Keep negotiating for the best deal for Santa Clara County.

Staff shall continue participating in planning discussions with State and federal agencies as well as other prospective Project participants to further define the project, and to develop agreements to secure the conditions needed for Valley Water's support.

Guiding Principle #8 – Public Engagement to be part of the Proposed Project.

Stakeholder engagement within the Delta as well as outside the Delta is paramount for the success of the proposed project; therefore public engagement throughout the duration of the project planning, design and construction is necessary by the Delta Conveyance Design and Construction Authority, Delta Conveyance Finance Authority as well as the California Department of Water Resources.

APPENDIX A
Valley Water Public Meetings Regarding Delta Conveyance

Board Agenda Items and Workshops

1. May 10, 2011 - Overview of Delta Issues
2. August 26, 2011 (Board Workshop)- Secretary of California Natural Resources Agency, John Laird, and several representatives of environmental groups discussed the ecosystem restoration goal of the BDCP.
3. October 14, 2011 (Board Workshop) - Deputy Secretary of the California Natural Resources Agency, Gerald Meral, and several general managers of California water agencies discussed the water supply reliability goal of the BDCP.
4. March 28, 2012 (Board Workshop) - Several elected officials and residents of Delta counties discussed the in-Delta perspective on BDCP, along with perspectives from Senior Policy Fellow at the Public Policy Institute of California, Ellen Hanak.
5. May 15, 2012 (Board Agenda Item)- Staff prepared a BDCP update following release of the preliminary administrative draft of the BDCP.
6. August 7, 2012 (Board Agenda Item) - Following the July 25th announcement by the Governor and Obama Administration on key elements of the BDCP proposed project, staff provided an update on the Bay Delta Conservation Plan and results of an opinion survey.
7. February 26, 2013 – (Board Agenda Item) Prior to the release of the second Administrative Draft of the BDCP, staff provided an update on the BDCP and established a Board Ad Hoc Committee to assist the Board with developing policies relating to the District's engagement in the BDCP.
8. October 11, 2013 (Board Workshop)- Director of California Department of Water Resources, Mark Cowin, Undersecretary of California Department of Food and Agriculture, Sandra Schubert, and Economist David Sunding provided an overview of BDCP in relation to other State planning efforts and discussed the statewide economic impacts and perspective on BDCP.
9. November 8, 2013 (Board Workshop) - California Department of Fish and Wildlife staff and several representatives of environmental and in-Delta interests discussed habitat restoration and conservation in the Delta and the perspectives of in-Delta users
10. November 13, 2013 (Board Workshop) - Director of Department of Fish and Wildlife Chuck Bonham, technical experts in Delta risks, and BDCP project managers discussed Delta risks, the relevance of BDCP to Delta fisheries, and plan components and analysis.

11. December 9, 2013 (Board Workshop) - Secretary of California Natural Resources Agency, John Laird and other invited guests provided perspectives on the importance of BDCP to the State, County and economy of Silicon Valley. Staff provided a preliminary analysis of BDCP benefits and costs to Santa Clara County
12. January 27, 2014 (Board Workshop) - Former Director of the San Francisco Public Utilities Commission's Water System Improvement Program, Julie Labonte, and President and CEO of Hallmark Group Capital Program Management, Chuck Gardner, described implementation of large water supply infrastructure construction projects.
13. May 27, 2014 (Board Agenda Item) - Following the five 2013–2014 District Board Workshops on BDCP, staff provided an update on Bay Delta Conservation Plan, a summary of the workshops, and responses to Board questions raised during and after the workshops
14. July 22, 2014 (Board Agenda Item) - Staff presented draft District comments on the Public Review Draft BDCP and its EIR/EIS and on the draft BDCP Implementing Agreement for Board review for consistency with Board Policy. Staff also presented an update on the BDCP and responses to additional Board questions.
15. September 23, 2014 (Board Agenda Item) - Staff responded to questions and concerns raised by Board Members and the League of Women Voters of California with various aspects of the BDCP
16. January 22, 2015 (Board Workshop) - Staff and a panel of invited guests described the BDCP adaptive management strategy and the current scientific understanding of habitat restoration in general as well as with respect to BDCP restoration actions.
17. May 26, 2015 (Board Agenda Item) - Staff provided an update on the BDCP and described the new approach proposed by the State to separately develop California WaterFix and EcoRestore.
18. October 27, 2015 (Board Agenda Item) - Staff provided an update on the BDCP and the re-circulated draft environmental documents including draft staff comments on the re-circulated documents.
19. January 26, 2016 (Workshop) - A panel of guests provided updated information and resource agency perspectives on the California WaterFix and California EcoRestore.
20. April 15, 2016 (Board Agenda Item) - Staff provided an overview of imported water and current issues
21. July 12, 2016 (Board Agenda Item) - Staff provided an updated business case analysis and a draft District policy statement for the State Water Board hearing on the petition to change the point of diversion for the SWP and CVP
22. September 27, 2016 (Board Agenda Item) - Update on Implementation of the 2012 Water Supply and Infrastructure Master Plan and Development of the 2017 Water Supply Master Plan (WSMP)

23. January 31, 2017 (Board Agenda Item) - Update on the 2017 Water Supply Master Plan and Potential Storage Options
24. March 14, 2017 (Board Agenda Item) – Review and confirm proposed Principles related to the Waterfix and receive WaterFix update
25. April 25, 2017 (Board Agenda Item) - Update on the 2017 Water Supply Master Plan and Alternative Water Supply Strategies
26. May 9, 2017(Board Agenda Item) – Updated information on the Delta Stewardship Council’s Delta Plan, the District’s CWF Principles relevant to the Delta Plan amendments
27. May 25, 2017 (Board Workshop) Guests Chuck Gardner, John Bednarski, Pat Pettiette, and Bob Goodfellow provide presentation on cost estimation, risk assessment and management, and cost control for the WaterFix
28. July 11, 2017 (Board Agenda Item) – Update on WaterFix and providing a schedule for future presentations through Fall 2017
29. August 22, 2017 – 1) Analysis of issues facing imported water supply reliability; 2) Update on WaterFix including proposed design and construction management and governance.
30. September 12, 2017 (Board Agenda Item) – California WaterFix water supply analysis, cost and water allocations, and financing.
31. October 17, 2017 (Board Workshop) – Conditional Support for California WaterFix
32. May 2, 2018 (Board Workshop) – Update on California WaterFix, Authorization to Execute Agreements, Designation of District Representative, and Adoption of CEQA Findings.
33. May 8, 2018 (Board Workshop) - Update on California WaterFix, Authorization to Execute Agreements, Designation of District Representative, and Adoption of CEQA Findings (Continued from May 2, 2018)
34. July 6, 2018 - (Board Agenda Item) Update on California WaterFix; Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement; and Adopt a Resolution for approval of the Delta Conveyance Finance Authority Joint Powers Agreement.
35. August 14, 2018 (Board Agenda Item) - Update on California WaterFix to Execute agreement between the Department of Water Resources (DWR) and Santa Clara Valley Water District for the advance contribution of money to DWR for preconstruction planning costs for the California WaterFix.
36. January 22, 2019 (Board Agenda Item) – Receive an update on California WaterFix including updates on implementation and governance, regulatory processes, and various agreements.

37. August 13, 2019 (Board Agenda Item) -- Update on Delta Conveyance Project and Request for Board Direction on Participation in the Delta Conveyance Project

Ad Hoc and Advisory Committee Meetings

1. March 18, 2013 – BDCP – Initial meeting, discuss and define the BDCP Ad Hoc Committee's purpose and intended outcome
2. April 9, 2013 – BDCP – 1) Review scope and purpose of the Committee; 2) Discuss the Delta Stewardship Council's Delta Plan; 3) Overview of BDCP, Chapters 104; 4) Discuss the Natural Resource Defense Council's proposed portfolio-based BDCP alternative
3. April 22, 2013 - BDCP – 1) Overview of BDCP, Chapters 104 (continued from 4/9/13); 2) Overview of BDCP, Chapters 5-7; 3) Discuss the Natural Resource Defense Council's proposed portfolio-based BDCP alternative (continued from 4/9/13)
4. May 28, 2013 – BDCP – 1) Discussion of BDCP EIR/EIS alternatives; 2) Discussion of Conservation Measure 1 Construction Mgmt Structure; 3) delta Dialogues – Discussion Group; 4) BDCP Schedule and Board Workshops
5. June 25, 2013 – BDCP – 1) Overview and discussion of Chapters 8-10; 2) Discussion of Board member communication and outreach
6. August 22, 2013 – BDCP – 1) Overview of the role of science in Delta planning; 2) Schedule for Bay Delta issues and Board communication
7. October 9, 2013 – BDCP – 1) Overview of the Role of Science in Delta Planning (carryover from August 22, 2013 meeting); 2) Update on BDCP; 3) Schedule and future agendas
8. December 17, 2013 – BDCP – 1) Discuss 2013 Board Workshops on BDCP; 2) Discuss potential 2014 Board items; 3) Discuss next steps for public outreach and engagement
9. January 13, 2014 – BDCP – 1) Discuss 2013 Special Board Workshops on BDCP; 2) Report out by Committee members on BDCP and related issues
10. January 24, 2014 – BDCP - Discuss 2013 Special Board Workshops on BDCP (Continued from 1/13/14); 2) Report out by Committee members on BDCP and related issues
11. June 3, 2014 – BDCP – 1) Updates on the BDCP and BDCP EIR/EIS; 2) Report out by Committee members on BDCP and related issues
12. July 10, 2014 – BDCP - 1) Updates on the BDCP and BDCP EIR/EIS; 2) Report out by Committee members on BDCP and related issues
13. September 9, 2014 – BDCP – 1) Discuss staff responses to Board member questions on the BDCP; 2) Discuss staff responses to the BDCP comment letter from the League of Women Voters of CA; 3) Schedule for Board communication on BDCP
14. October 6, 2014 – Agricultural Water Advisory Committee (BDCP Update)

15. May 13, 2015 – BDCP – 1) Update on BDCP; 2) Election of Chair and Vice Chair; 3) Report out by Committee members on BDCP and related issues
16. October 5, 2015 – Agricultural Water Advisory Committee (BDCP Update)
17. October 13, 2015 – BDCP – 1) Update on BDCP and the recirculated draft environmental documents; 2) Report out by Committee members on BDCP and related issues
18. November 24, 2015 – BDCP 1) Update on WaterFix Business Case; 2) Report out by Committee members on BDCP and related issues
19. February 22, 2016 – BDCP 1) Update on Waterfix Business Case; 2) Update on the Design Construction Enterprise and related agreements; 3) Draft Policy Statement for State Water Resources Control Board proceedings
20. April 4, 2016 – Agricultural Water Advisory Committee (BDCP Update)
21. June 21, 2016 – BDCP – Update on WaterFix
22. October 3, 2016 – Agricultural Water Advisory Committee - Water Supply Update, including WSMP
23. October 17, 2016 – Environmental & Water Resources Committee - Water Supply Update, including WSMP
24. October 25, 2016 – BDCP – Update on WaterFix, EcoRestore and other Delta planning efforts
25. October 26, 2016 – Santa Clara Valley Water Commission - Water Supply Update, including WSMP
26. November 8, 2016 - BDCP disbanded
27. January 17, 2017 – Joint Board meeting with Open Space Authority - WSMP Update
28. April 12, 2017 – Santa Clara Valley Water Commission - 2017 WSMP Update
29. August 2, 2017 – Agricultural Water Advisory Committee – Update on California WaterFix
30. August 2, 2017 - Joint Water Resources Committee (South County) – Update on WaterFix
31. August 16, 2017 – Environmental & Water Resources Committee – Update on Cal WaterFix
32. August 25, 2017 – Santa Clara Valley Water Commission – Update on Cal WaterFix

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Water Purification

A. I'm here to urge the Water District to build the proposed water reuse plant on what I call the "Measure E" site, 10 acres undedicated from Bixby Park, in the Palo Alto Baylands.

B. I'll give you a short history of the site:

1. Bixby Park is what once was Palo Alto's dump, or landfill. When the dump closed, the City converted it to a park.

2. About 8 years ago, a group of us in Palo Alto decided we wanted to persuade the City to stop incinerating the sludge from its sewage treatment plant, to instead convert it to compost through anaerobic digestion, and to do so in the city to avoid lengthy transportation.

3. The problem was finding a site, so our group drafted an initiative to undedicate 10 acres of the former dump for that purpose, and the initiative, Measure E, passed.

4. In the meantime, a more practical solution was found for anaerobic digestion, so the site is available for other vital environmental purposes, such as water purification.

C. There are two prerequisites:

1. The initiative provides that any use other than anaerobic digestion requires a vote of the people.

2. The initiative reserves the site for 10 years, at the end of which the City Council can rededicate it to the park or use it for any other purpose. That 10-year reservation will be up in two years

D. Recommendation.

1. The group that worked to pass Measure E would like very much to have the District locate the water purification facility on the Measure E site, and we are willing to work to get the public to vote approval.

2 To do that, we need you to decide before the 10-year reservation runs out, and I urge you to do so.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

November 4, 2019

Members of the City Council
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

Dear Councilmembers,

In September 2019, the U.S. Environmental Protection Agency (USEPA) released for public comment a draft National Water Reuse Action Plan (<https://www.epa.gov/waterreuse/water-reuse-action-plan#draft>). The Plan identifies priority actions and the leadership needed at all levels of government and with all sectors to advance water recycling and make wiser use of scarce water resources. Water reuse is one of the nation's most promising opportunities to support communities and the economy by bolstering safe and reliable water supplies.

For several years, USEPA Region 9 has participated in discussions among Bay Area water managers about the need for improved regional integration of wastewater, stormwater, and drinking water management. USEPA Region 9 is pleased to support the proposed water reuse agreement between Palo Alto, Mountain View, and the Santa Clara Valley Water District to advance water reuse programs within Santa Clara County. We are aware that the negotiations to draft this agreement have taken years and recognize your efforts to meaningfully advance water reuse in the county. We appreciate your leadership and believe the agreement represents an important step towards expanding water reuse and moving towards a widespread regional water reuse system.

Expanded water reuse in the county via the proposed partnership agreement could yield environmental benefits by keeping a significant amount of treated wastewater from being discharged to San Francisco Bay. The Lower South San Francisco Bay is relatively shallow and historically saline with limited freshwater inputs. With increased urbanization, freshwater inputs to Lower South San Francisco Bay have created freshwater marsh conditions at the backs of marshes and reduced habitat for endangered species such as the Ridgway's Rail and Salt Marsh Harvest Mouse. Projects that come out of the proposed partnership are expected to decrease these freshwater inputs and restore the more historical salinity regime while providing a more sustainable and reliable water supply for Santa Clara County. We fully support this partnership and urge the Council to approve the agreement. Please contact me if I can be of further assistance at smith.davidw@epa.gov or (415) 972-3464.

Sincerely

A handwritten signature in blue ink, appearing to read "David Smith", is placed below the word "Sincerely".

David Smith
Assistant Director
Water Division (WTR-3)

Cc: Karin North, Palo Alto Regional Water Quality Control Plant

San Francisco Bay Regional Water Quality Control Board

November 5, 2019

City Council
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

Subject: Partnership to Advance Water Reuse in Santa Clara County

Dear Councilmembers:

The San Francisco Bay Regional Water Quality Control Board (Water Board) is pleased to support the proposed Partnership between Palo Alto, Mountain View, and the Santa Clara Valley Water District to advance water reuse programs within Santa Clara County. The Water Board strives to preserve, enhance, and restore the quality of the Region's water resources for the protection of the environment, public health, and all beneficial uses as well as to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. Consequently, the Water Board strongly supports projects that increase the beneficial reuse of highly treated wastewater. The use of recycled water is an important component of a secure and reliable and resilient water supply. This project is an important step towards expanding water reuse and moving towards a regional water reuse system.

Expanded water reuse in the county via the proposed Partnership should yield multiple water quality and other environmental benefits. These include smart beneficial reuse of highly treated wastewater rather than discharging it to Lower South San Francisco Bay. This may help avoid further loss of surrounding salt marsh habitat, which supports endangered species such as the Ridgeway Rail and Salt Marsh Harvest Mouse. It would also help reduce further loading of nutrients and other pollutants to the Bay, while reducing reliance on external sources of drinking water. These are obvious win-wins in your and our interests in sustainable and reliable water supply and protection of San Francisco Bay.

In closing, the Water Board appreciates the opportunity to support water reuse opportunities, and we will work collaboratively with your and other Partnership staff on the development and permitting of Partnership projects.

Sincerely,

Thomas Mumley
Assistant Executive Officer

cc: Karin North, Watershed Protection Manager, Environmental Services, City of Palo