



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: See Below

DATE: July 29, 2024

Approved		Date:	7/30/24
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COUNCIL DISTRICT: Citywide

SUBJECT: Master Agreement with the Santa Clara Valley Water District for Support Services to the Santa Clara Valley Water's Purified Water Program

RECOMMENDATION

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Master Agreement between the Santa Clara Valley Water District and the City of San José to provide support services to the Santa Clara Valley Water District Purified Water Program.

SUMMARY AND OUTCOME

Approval of the recommendation would fund the City of San José services to provide needed technical support to advance Valley Water's Purified Water Project.

As the population of Santa Clara County (county) continues to expand and as climate changes make an already variable California climate more vulnerable to long-term drought, purified water will benefit and strengthen the City's water supply portfolio and reliability.

BACKGROUND

Over the past two decades, the City of San José (City) and Valley Water collaborated to support the expansion of recycled water and to augment the local water supply in the county. The San José-Santa Clara Regional Wastewater Facility created South Bay Water Recycling, a regional recycled water distribution system serving the cities of San José, Santa Clara, and Milpitas in response to regulatory requirements of the National Pollutant Discharge Elimination System discharge permit to improve the South Bay water health.

In 2010, the City and Valley Water entered the Recycled Water Facilities and Programs Integration Agreement to cost share and revenue share the Silicon Valley Advanced Purification Center (SVAWPC), an advanced wastewater effluent treatment facility producing up to eight million gallons per day of purified water. The SVAWPC was integrated into the Regional Wastewater Facility treatment process when the purified water it produced was blended with Regional Wastewater Facility effluent, to augment the recycled water supply distributed by South Bay Water Recycling. South Bay Water Recycling currently delivers approximately 13,000 acre-feet-per-year of water, reaching peak summer delivery of about 35 million gallons per day. The integration agreement establishes each agency's cost share to operate the SVAWPC and revenue share from the sale of recycled water by South Bay Water Recycling to water retailers. Valley Water and the City also concurrently agreed to a ground lease to construct the SVAWPC and lease the land at \$10 per year. Pursuant to the ground lease, Valley Water may not demolish the facility and the SVAWPC would revert to the City if Valley Water ceased operation or abandoned it.

Valley Water intends to pursue the expansion of the water supply for the county through the treatment of wastewater, as evaluated during the 2014 South Bay Water Recycling Strategic and Master Planning process.

In 2022, the parties executed a master agreement relating to Valley Water's payment for the City's support services to Valley Water's Purified Water Program, with the term ending on July 1, 2024. All prior funding agreements between the parties have ended and any remaining funds shall be returned to Valley Water pursuant to the terms of the respective agreements.

In 2023, the City and Valley Water executed a letter of intent to collaborate on the expansion of recycled and purified water in the county. Valley Water's Board of Directors and the City Council also confirmed, in 2023, their commitment to: support aggressively pursuing a joint water reuse Program to meet local water supply needs, including both a demonstration and full-scale potable reuse facilities; support the development of feasibility study, demonstration facility, and institutional agreements, including lease and wastewater availability agreements; and support for a coordinated public outreach program.

ANALYSIS

The proposed 2024 master agreement (Attachment) for the San José Purified Water Program expands on the City and Valley Water's decades-long partnership and is part of Valley Water's strategy to respond to the multi-year drought. Compensation from Valley Water shall not exceed \$1,000,000 for any fiscal year during the term of this agreement. Valley Water will deposit in advance to the City up to \$400,000 per fiscal

year to fund City personnel currently funded in Enterprise funds to perform services under the agreement. These positions are budgeted in the special and capital funds and perform work specific to enterprise operations such as the San José-Santa Clara Regional Wastewater Facility or the South Bay Water Recycling. Valley Water will also reimburse the City up to \$600,000 for 2.5 positions added in the General Fund in 2024-2025 dedicated to the Purified Water Program -- 1.0 Senior Environmental Program Manager, 1.0 Supervising Environmental Services Specialist, and 0.5 Deputy Director positions -- and expected to be reimbursed by Valley Water. Work performed by City personnel under the agreement will include attendance of meetings, negotiation and execution of agreements related to demonstration facility and visitors center, regulatory coordination and resolution of reverse osmosis concentrate management and disposal, negotiation and execution of agreements, and related support for to full-scale purification facilities adjacent to the SVAWPC, providing quantity and quality of tertiary treated wastewater for expanding advanced water purification capabilities, regulatory coordination, technical support and coordination, and evaluation of potential private activity limitations.

The county currently imports approximately 55% of all drinking water. The approved agreement would allow for the development of a local, purified water supply in the City and county offsetting potable water use and positioning the City as an ongoing leader in innovative water supply solutions. Purified water is treated with proven technology to purify recycled water to provide a safe drinking water source that is independent of climate or weather. Advanced treatment technologies provide a safe, reliable, and sustainable water supply while allowing agencies to leave more water in local rivers, lakes, and streams for fish, plants, and wildlife. The Purified Water Program is proposing to build an advanced water purification facility at Regional Wastewater Facility lands that will allow the parties to develop purified water in a manner that minimizes environmental impacts while providing safe, drought-resilient drinking water to meet local water supply needs. City personnel support will include, but is not limited to, providing data, technical support, regulatory coordination, negotiating of agreements, and evaluating reverse osmosis concentrate management and private activity.

Climate Smart San José Analysis

Recycled water currently makes up approximately 5% of the City's water supply. By 2030, Climate Smart San José sets the goal for recycled water at 14% of the City's water supply. This agreement aligns with Climate Smart San José Water Use Milestones to increase the percentage of demand met by water recycling.

EVALUATION AND FOLLOW-UP

Updates will be provided to the Recycled Water Policy Advisory Committee.

COST SUMMARY/IMPLICATIONS

Per the master agreement, revenue to the City from Valley Water shall not exceed \$1,000,000 for any fiscal year during the term of the agreement. Valley Water will reimburse the City up to \$600,000 per fiscal year for the 2.5 dedicated positions in the General Fund discussed above and up to \$400,000 per fiscal year for positions funded by Enterprise funds to perform services eligible under the agreement. There are no cost implications to the General Fund as a result of this action. The City shall manage its work under the agreement's scope of services in order to keep within the annual funding limits for each category and to timely perform the work. An estimate for revenue in the General Fund offsetting the expected expenditures for the 2.5 positions has been included in the 2024-2025 Adopted Operating Budget.

COORDINATION

This Program and memorandum have been coordinated with the City Attorney's Office and City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the August 20, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

This item is scheduled to be heard at the August 8, 2024 Treatment Plant Advisory Committee meeting.

CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

HONORABLE MAYOR AND CITY COUNCIL

July 29, 2024

Subject: Master Agreement with the Santa Clara Valley Water District for Support Services to Valley Water's Purified Water Program

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/s/

Kerrie Romanow

Director, Environmental Services

For questions, please contact Jeff Provenzano, Assistant Director, Environmental Services Department, at (408) 277-3288.

ATTACHMENT: Master Agreement by and between the Santa Clara Valley Water District and the City of San José Relating to Valley Water's Payment for City's Support Services to Valley Water's Purified Water Program

Attachment

Master Agreement by and between the Santa Clara Valley Water District and the City of San José Relating to Valley Water's Payment for City's Support Services to Valley Water's Purified Water Program

**MASTER AGREEMENT BY AND BETWEEN THE
SANTA CLARA VALLEY WATER DISTRICT
AND
THE CITY OF SAN JOSE
RELATING TO VALLEY WATER'S PAYMENT FOR CITY'S SUPPORT SERVICES
TO VALLEY WATER'S PURIFIED WATER PROGRAM**

This Master Agreement ("Agreement") is made and entered into as of July 1, 2024, ("Effective Date") and is by and between the City of San José ("City" or "San José"), a California municipal corporation, and the Santa Clara Valley Water District ("Valley Water"), an independent special district of the State of California. The City and Valley Water may be referred to individually as a Party, or collectively as Parties, to this Agreement.

RECITALS

- A. The City is the administering agency for the San José/Santa Clara Water Pollution Control Plant that is now known as the San José-Santa Clara Regional Wastewater Facility ("RWF"), jointly owned by the City and the City of Santa Clara, and manages and operates the South Bay Water Recycling Program ("SBWR").
- B. On March 2, 2010, the Parties entered into the Ground Lease and Property Use Agreement Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility ("Ground Lease Agreement"), to allow Valley Water to construct and operate its advanced water treatment facility on a portion of the RWF premises; and the Recycled Water Facilities and Programs Integration Agreement Between the City of San José and the Santa Clara Valley Water District ("Integration Agreement") to financially support the production and use of recycled water consistent with each Party's separate and distinct interests: for wastewater treatment and disposal for the City, and water quality and supply for Valley Water.
- C. On October 23, 2012, the Parties entered into an Agreement Between the City of San José and the Santa Clara Valley Water District for Operation and Maintenance of the Silicon Valley Advanced Water Purification Center ("O&M Agreement").
- D. The Ground Lease and O&M Agreements authorize Valley Water to operate and maintain the Silicon Valley Advanced Water Purification Center ("SVAWPC"), to provide highly purified water to blend with the RWF's existing tertiary treated water output to produce higher quality non-potable recycled water to be distributed by SBWR.
- E. On January 27, 2022, the Parties executed a Master Agreement Relating to

Valley Water's Payment for City's Support Services to Valley Water's Purified Water Program, as amended on August 1, 2022, January 14, 2023, and August 29, 2023, with a term ending on July 1, 2024, to continue support of a potential Public Private Partnership (P3) Indirect Potable Reuse Project or another purified water project.

- F. On January 31, 2023, the Parties executed a Letter of Intent for Collaborating on the Expansion of Recycled and Purified Water in Santa Clara County ("LOI") to reflect the Parties' intent to negotiate in good faith for the development of joint water reuse project(s) that expand upon the Parties' existing collaborative efforts related to the SVAWPC for the purpose of improving water supply reliability in the County of Santa Clara in the face of the impacts of climate change.
- G. On November 17, 2023, the Valley Water Board and San José City Council confirmed: (1) support for aggressively pursuing a joint water reuse project to meet local water supply needs, including both a demonstration and full-scale potable reuse facilities that is the largest size practicable within funding, environmental, and technical constraints; (2) support for the development of the feasibility study, demonstration facility and institutional arrangements, including lease and wastewater availability agreements, within two years; and (3) support for a coordinated public outreach program to ensure the success of a direct potable reuse project.
- H. All prior funding agreements between the Parties have ended and any remaining funds, if any, shall be returned to Valley Water pursuant to the terms of the respective agreements.

The Parties desire to establish the basis and procedure for reimbursement by Valley Water for the costs and expenses incurred by City in the performance of support services in connection with development of a San José Purified Water Project (Project), through the term of this Agreement.

Now, therefore, in consideration of the mutual promises set forth below, the Parties agree as follows:

AGREEMENT

1. Recitals

The foregoing recitals are true and are incorporated herein by this reference as though set forth in full.

2. Scope of Agreement

- A. The Parties have agreed that the City will provide support services generally described in the Scope of Services, attached hereto as Exhibit

- A.
- B. Nothing in this Agreement commits either Party to the implementation of any project, including without limitation, the City's provision of wastewater, land or permission to discharge into the RWF outfall.
- C. Nothing in this Agreement modifies the terms of any existing agreements between the City and Valley Water.

3. Agreement Term and Termination

- A. The term of this Agreement commences on its Effective Date and expires on June 30, 2026. The term of this Agreement shall be automatically extended for an additional period of one (1) year, not to exceed four (4) additional years through June 30, 2030, subject to termination under Section 3(B)). If either Party does not wish to renew for an additional period, they must provide written notice of termination on or before January 1 of the new one-year period.
- B. Any Party may terminate this Agreement by providing thirty (30) days written notice to the other Party. The City shall send Valley Water a final invoice within sixty (60) days of the effective date of termination of this Agreement.

4. Funding Amounts

A. City Enterprise Fund.

- 1. The City receives monies from ratepayers, debt proceeds, grants, and outside users of the Regional Wastewater Facility for the exclusive operation, maintenance and improvement of the sanitary sewer collection and treatment system ("Enterprise Fund"). The Scope of Service involves the services of positions normally funded through the Enterprise Fund.
- 2. The parties intend that through this Agreement, Valley Water shall provide City funding to pay for City's use of Enterprise Fund personnel to perform services under the Scope of Services to the Agreement so that the funding does not originate from City's Enterprise Fund, and (d) is funded in advance by Valley Water.
- 3. Valley Water shall pay City up to \$400,000 per fiscal year (July 1 – June 30) for City Enterprise Fund personnel work under this Agreement. Within fifteen days from the Effective Date, Valley Water shall deposit \$200,000 with City towards the Enterprise Fund ("Funding Account"), and City shall be entitled to make withdrawals

from the Funding Account to pay for its performance of the Scope of Work under the Agreement so long as it remains in compliance with the reporting requirements set forth in section 4(A)(6) below.

4. The City may provide notice to Valley Water once the balance of the Funding Account reaches \$50,000 or less, and within fifteen business days Valley Water shall thereafter deposit with City an additional \$200,000 for the Funding Account or the unpaid balance of the \$400,000 annual allotment, whichever is less.
5. The \$400,000 fiscal year limit shall apply to work performed within a fiscal year (July 1 through June 30) commencing July 1, 2024. Valley Water shall not be responsible for any Enterprise Fund personnel work performed in any fiscal year exceeding \$400,000, and City shall bear the cost for any such work above the annual limit.
6. Each quarter, City shall submit a detailed written report to Valley Water documenting the services performed, dates of work, hours worked, hourly rates, and costs incurred for work performed by the City's Enterprise Fund personnel.

B. City's General Fund

1. Separate and apart from work performed by the Enterprise Fund personnel, City shall perform the Scope of Services under this Agreement using personnel and consultants funded or administered through its General Fund. Valley Water agrees to reimburse City up to \$600,000 per fiscal year (July 1 to June 30) for work performed and costs incurred in a given fiscal year during the term of the Agreement.
2. Valley Water is not responsible for any General Fund work performed or costs incurred exceeding \$600,000 in any fiscal year, and City shall bear the cost for any such work or costs above the annual limit.
3. The City shall provide Valley Water, on a quarterly basis, a written invoice documenting the General Fund work performed during the immediately previous three months. The invoice shall set forth the relevant period, the number of hours worked, the applicable hourly rates, reimbursable expenses, and documents supporting the reimbursable expenses.
4. Within 45 days of receipt of an invoice, Valley Water shall remit payment to City subject to review and approval of Valley Water.

Such approval shall not be unreasonably withheld.

5. Amounts invoiced by City within thirty days from the close of the fiscal year and subsequently paid by Valley Water shall be deemed to have been paid within the fiscal year for purposes of this section.

C. Total Funding.

1. Compensation from Valley Water shall not exceed \$1,000,000 for any fiscal year during the term of this Agreement (\$400,000 for City's Enterprise Fund and \$600,000 for City's General Fund). Any unexpended funds from the prior fiscal year shall be applied towards the next fiscal year. The Parties agree that this will not serve as precedent for any future commitment by either Party. City shall return to Valley Water any funds remaining in the Funding Account upon termination of this Agreement and payment for costs incurred by the City as of the date of termination.
2. City shall manage its work under the Agreement's Scope of Services between the Enterprise Fund and General Fund in order to keep within the annual funding limits for each category and in order to timely perform under the Agreement.

5. Responsibilities of the Parties

A. Valley Water agrees to:

1. Ensure sufficient staff resources and consultant services are devoted to development and pursuit of the Scope of Services.
2. Provide all necessary studies, reports, plans, specifications, maps, and other documents to City in a timely manner, and allow the City at least 2 weeks for detailed review and comments, unless mutually agreed otherwise by the Parties.
3. Schedule meetings with 2 weeks advance notice and cognizant of City availabilities unless mutually agreed to otherwise by the Parties.
4. Review and respond to subsequent requests for additional information to complete the Scope of Services in collaboration with the City.
5. Work collaboratively with City staff and consultants retained by City

to ensure timely discussion and review of the Purified Water Project tasks.

6. Complete review and approval of City invoices in a timely manner.

B. City agrees to:

1. Ensure sufficient staff resources and consultant services are devoted to City's responsibilities with respect to the Scope of Services, subject to the appropriation of funds by City's Council.
2. Ensure that it has a minimum of two Full Time Equivalent employees funded by its General Fund available to perform its responsibilities with respect to the Scope of Services during the term of the Agreement.
3. Review and provide comments on the Scope of Services and any amendments thereto within a timeframe mutually agreed to by the Parties.
4. Work collaboratively with Valley Water and its consultant, contractors, and agents to ensure timely discussion and review of Purified Water Project tasks associated with planning, design, and construction and necessary approvals, and provide timely response to any request for information (RFI) pertinent to the aforementioned.
5. Each quarter, submit a detailed written report to Valley Water documenting the services performed, dates of work, hours worked, hourly rates, and costs incurred for work performed under City's Enterprise Fund.
6. Submit timely quarterly invoices (detailing services performed, dates of work, hours worked, hourly rates, and costs incurred) for reimbursement of work performed under City's General Fund.
7. Conform with all deliverables and completion times set forth in this Agreement.
8. Comply with the Schedule of Performance (Exhibit-B) and any amendments thereto.

6. Records Retention and Audit

- A.** City agrees to make available for examination by Valley Water, subject to limitations established by state law, its authorized agents, officers, or

employees, any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements invoiced to Valley Water or amounts deducted from the Funding Account. City shall also furnish to Valley Water, its authorized agents, officers or employees such other evidence or information as Valley Water may request with regard to any such expenditure or disbursement charged by City.

- B.** City shall maintain full and adequate records to document the actual costs it incurs which are subject to reimbursement of the City's costs pursuant to this Agreement. City shall provide such assistance as may be reasonably requested in the course of such inspection.

7. Notices

Any and all notices required to be given to a Party hereunder shall be deemed to have been delivered upon deposit in the United States mail, postage prepaid, addressed to either of the Parties at the following address or such other address, or via e-mail with a written confirmation of receipt at the address(es) below, as is provided by either Party in writing:

City:

City of San José
Environmental Services Department
Attention: Jeff Provenzano, Assistant Director
200 East Santa Clara Street, 10th Floor, San José, CA 95113
Phone: (408) 277-3671
Email address: Jeffrey.Provenzano@sanjoseca.gov

Valley Water:

Santa Clara Valley Water District
Water Utility Enterprise
Attention: Kirsten Struve, Assistant Officer
5750 Almaden Expressway San José, CA 95118
Phone: (408) 630-3138
Email address: kstruve@valleywater.org

8. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

9. Mutual Indemnification

The Parties agree to defend, indemnify and hold harmless the other, their officers, employees and agents against any claim, loss or liability for personal injury, death, or damage to real property arising out of or resulting in any way from work performed under this Agreement due to the acts or omissions of their respective officers, employees or agents. Nothing contained herein will be construed as a waiver of any immunities or defenses that either party may have under applicable provisions of law, including the provisions of the California Tort Claims Act (Government Code Section 810 et seq.). The acceptance of services and duties by City or Valley Water will not operate as a waiver of such right of indemnification. This provision will survive expiration or termination of this Agreement.

10. Governing Law and Compliance with Laws

The Parties agree that California law governs this Agreement. In the performance of this Agreement each Party will comply with all applicable laws, ordinances, codes and regulations of the federal, state, and applicable local government.

11. Disputes

The Parties agree that they will work together in good faith to achieve the intent of this Agreement. In the event that a dispute arises as to the proper interpretation of the respective obligations and responsibilities of the Parties as described herein, or as to any other aspect of this Agreement, Valley Water and the City agree that they each will assign the appropriate individuals to meet and make good faith efforts to negotiate in order to arrive at a resolution of the dispute. If any legal action or other proceeding is commenced to enforce or interpret any provision of, or otherwise relating to, this Agreement, each Party shall bear the entirety of its own costs and expenses including but not limited to attorneys' fees.

12. Venue

In the event that suit is brought by any Party to this Agreement, the Parties agree that venue will be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

13. Assignability

Parties will not assign this Agreement or any portion thereof to a third party without the prior written consent of the other Party.

14. Ownership of Materials

All reports, documents, technical data, findings, or other materials (collectively, the "Work Product") developed exclusively by City as part of this Agreement shall be the property of the City. Valley Water shall have right to the Work Product for Valley Water business, including, without limitation, further development of its water supply infrastructure. This section shall not apply to any Work Product or documents or communications covered by attorney-client privilege.

15. Entire Agreement

This Agreement constitutes the entire agreement between the City and Valley Water with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral and written. Except as expressly set forth in Exhibit-B (Schedule of Performance), this Agreement may not be amended or modified in any respect except by an instrument in writing signed by authorized representatives of the Parties.

16. Counterparts and Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed to be an original, and all of which, taken together, will be deemed to be one and the same instrument.

Unless otherwise prohibited by law or policy of a Party, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a writing as set forth in Evidence Code Section 1550. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the City.

17. Nonwaiver

A Party's waiver of any term, condition, or covenant, or breach of any term, condition or covenant will not be construed as a waiver of any other term, condition or covenant.

18. Third Parties

This Agreement is entered into only for the benefit of the Parties executing this Agreement and not for the benefit of any other individual, entity, or person.

19. Debt Limitation

The City and Valley Water are both subject to laws or policies which limit their ability to incur debt in future years. Nothing in this Agreement shall constitute an

obligation of future legislative bodies of the City or Valley Water to appropriate funds for purposes of this Agreement.

20. No Partnership or Agency

Nothing in this Agreement is intended to constitute a partnership between the Parties, authorize either party to act as agent for the other, or authorize a party to act in the name or on behalf of or otherwise to bind the other in any way.

21. Designated Representatives for Schedule of Performance (Exhibit-B)

For purposes of executing amendments to the Schedule of Performance in Exhibit-B, below, the Parties' designated representatives are as follows:

Valley Water: Deputy Assistant Officer Kirsten Struve

City: Assistant Director Jeff Provenzano

Either Party may change their designated representative by providing the other Party with at least thirty days advanced written notice.

22. Exhibits

The following listed Exhibits are incorporated herein by this reference as though set forth in full:

Exhibit A – Scope of Services

Exhibit B – Schedule of Performance

Exhibit C – Compensation

(Remainder of Page Intentionally Blank)

IN WITNESS WHEREOF, the City and Valley Water have executed this Agreement on the Effective Date as defined in the introductory paragraph of this Agreement.

APPROVED AS TO FORM FOR CITY:

CITY OF SAN JOSE

ROSA TSONGTAATARII
Chief Deputy City Attorney

By_____
SARAH ZARATE
Director, Office of the City Manager

Date_____

Date_____

APPROVED AS TO FORM FOR
VALLEY WATER:

**SANTA CLARA VALLEY WATER
DISTRICT**

BRIAN C. HOPPER
Sr. Assistant District Counsel

By_____
RICK L. CALLENDER, ESQ
Chief Executive Officer

Date_____

Date_____

EXHIBIT A

SCOPE OF SERVICES

City shall provide support services for Valley Water's Purified Water Project as set forth in this Scope of Services.

a. Background: The Purified Water Project

The San José Purified Water Project ("Project") is part of Valley Water's strategy to respond to the multi-year drought and is consistent with Board direction to expand the County's recycled water supply. Valley Water's 2040 Water Supply Master Plan ("WSMP") recommends developing at least 24,000 AFY of potable water reuse (above the current target of 33,000 AFY of non-potable reuse). Valley Water has developed a Countywide Water Reuse Master Plan ("CoRe Plan") that has evaluated potable reuse expansion throughout Santa Clara County, including identifying options for achieving the WSMP's water reuse target.

The Project may include a capital expansion area adjacent to the SVAWPC or a separate advanced water purification center to purify wastewater for potable reuse. The Project is anticipated to be designed in two phases: Phase I will include demonstration facilities and a visitors' center, and Phase II will include full-scale advanced water purification facilities and conveyance infrastructure for potable reuse. Valley Water and the City must resolve several key issues before the possible capital expansion area adjacent to the SVAWPC or a separate advanced water purification center to purify wastewater for potable reuse could proceed, including:

1. An amendment to the ground lease, and/or new ground lease on RWF lands;
2. Quantity, quality, and diversion point of source water (tertiary treated wastewater);
3. Private Activity impacts or limitations on indirect and direct potable reuse;
4. No negative impacts to the RWF ratepayers;
5. Reverse Osmosis concentrate ("RO") responsibilities and management;
6. Amendment and/or new agreements (integration agreement, O&M, power, signage, etc.) reasonably associated with purified water production on RWF lands;
7. CEQA / NEPA and permitting requirements; and
8. An agreement defining Operations & Maintenance (O&M) roles and responsibilities (direct potable reuse responsible agency, source control, stormwater, waste streams, etc.)

b. Description of Tasks

Task 1 - Attendance of Meetings

City will attend meetings with Valley Water, local, federal and state regulatory staff, to identify, discuss, and resolve issues, to establish priorities, and to review progress. This includes development of a schedule for the negotiation and proposed approval of agreements by the respective Parties' governing boards for Valley Water's planning purposes. These meetings will be used to further refine the principal terms to be included in various agreements that will establish commitments for the above-listed key issues and legal aspects of a water purification facility.

Task 2 – Negotiation and Execution of Agreements Related to Demonstration Facility and Visitors Center

City will engage in negotiation of agreements related to the following. All agreements are subject to consideration and approval by the City Councils of San José and Santa Clara (as needed), and the Valley Water Board.

1. Facilities and land lease on RWF lands;
2. Specifications for diversion point of source water (tertiary treated wastewater);
3. Reverse Osmosis concentrate ("RO") responsibilities and management;
4. Return point to RWF for RO Concentrate, waste streams and stormwater for Demonstration facility);
5. Amendment of O&M and Integration Agreement to support the Demonstration Facility and Visitors Center
6. Amendment or new legal agreements (i.e., power, signage, funding) associated with Demonstration Facility / Visitor's Center on City's lands; and
7. Support related to agendizing agreements for the respective City Councils and Valley Water Board consideration including any requisite City or Valley Water committees.

Task 3 – Regulatory Coordination and Resolution of RO Concentrate Management and Disposal

City, Valley Water, and applicable consultants will develop short-term and long-term strategies for regulatory compliance with pertinent regulatory agencies, including the Regional Water Quality Control Board ("RWQCB") on various permitting items such as application of existing permit conditions and agency issues regarding RO concentrate management, National Pollutant Discharge Elimination System ("NPDES") permitting, and potable reuse facility permitting.

City's work under this task may include, but is not limited to:

1. Fulfillment of data requests and site access coordination;
2. Timely and adequate response to RFIs;
3. Review of studies prepared by Valley Water or its consultants pertaining to RO concentrate management;
4. Participation in the evaluation and discussions of regulatory options for

- addressing long-term RO concentrate management solutions;
5. Necessary approvals by applicable regulatory agencies.

This task may require City, at City's sole discretion, to provide peer review, responding to regulatory agencies, consultant support services, and attendance at meetings, as appropriate, to discuss study outcomes.

Task 4 – Negotiation and Execution of Agreements and Related Support For to Full Scale Purification Facilities Adjacent to the SVAWPC

City and Valley Water will negotiate either an amendment to the Ground Lease Agreement and/or a new lease agreement for land to accommodate the Project and associated facilities. The proposed lease agreement should include an option for additional facilities for technical demonstration, educational outreach and training activities associated with purified water.

In addition to negotiation of the lease or amendment, City work under this task may include, but is not limited to:

1. CEQA / NEPA requirements;
2. Support and coordination regarding remediation of hazardous materials, regulatory permitting support, coordination of site entry, permission to sample, and support of materials registration;
3. Fulfillment of data requests and site access coordination;
4. Timely and adequate response to RFIs; and
5. Amendment or new legal agreements (i.e., water availability, O&M, power, signage, funding, etc.) associated with the Full Scale Purification Facilities.

Task 5 - Quantity and Quality of Tertiary Treated Wastewater for Expanding Advanced Water Purification Capabilities

City and Valley Water have met and discussed the quality of source water for an expanded facility. City and Valley Water will meet to identify and discuss the quantity of source water for an expanded facility, and the period source water will be made available to Valley Water.

Task 6 - Regulatory Coordination

City will work with Valley Water and their consultants, as appropriate, to develop strategies for and attend meetings with pertinent regulatory agencies (RWQCB) to discuss existing and future permit conditions and agency issues regarding potential impacts of RO concentrate management. This task may require City staff to respond to regulatory agencies, provide supporting information, and participate in the development and review of follow-up studies.

City will work with Valley Water and their consultants to develop strategies for an evaluation and formation of a direct potable reuse responsible authority (DiPRRA). In addition, an evaluation of the wastewater influent quality and the existing source control program (SCP), including any enhancements that may

be needed as part of an approved improved SCP

Task 7 – Technical Support and Coordination

City shall provide technical support and coordinate with Valley Water to support the Project development and implementation. City, with necessary consultant services, will review engineering, environmental, regulatory, and technical memoranda and reports developed by Valley Water and/or its consultants in support of Purified Water Project development. This task includes general project coordination during the design, construction, and post-construction phases and work activities and coordination associated with, but not limited to:

1. Tie-in Connections at RWF for RO concentrate management, waste streams, and tertiary effluent pipelines;
2. Site boundaries and surveys;
3. RWF water quality sampling, as needed;
4. Existing utility identification and connections;
5. Current and historical water quality information;
6. Effluent water samples for additional testing, as needed; and
7. As-Built drawings of applicable areas of RWF.

This task also includes assistance in the development, review, and finalization of any materials and processes that may be required by the final California Regulations for Direct Potable Reuse including, but not limited to:

8. Joint Plan (describing partner agency coordination procedures);
9. Information to be provided to public for public meeting held before the State Water Resources Control Board prior to permit issuance;
10. Program to receive early warning of potential occurrences that could interfere with operation of the treatment process;
11. Establishment of a Source Control Committee;
12. Development of Validation Study protocol;
13. Validation Study/Validation Study report;
14. Water Safety Plan;
15. Engineering Report;
16. Operations Plan;
17. Monitoring Plan; and
18. Corrosion Control and Stabilization Plan

Task 8 – Evaluate Private Activity Limitations

This task may require contracting with third-party bond counsel, attendance of meetings for strategy development with Valley Water staff, Valley Water preparation of a project description, scope, functionality, and terms of potable reuse, as necessary, for bond counsel to determine impacts and viability, preparation of documents by City and Valley Water staff, or consultants, as applicable.

EXHIBIT B
SCHEDULE OF PERFORMANCE

During the first year of this Agreement, the parties shall complete the following tasks:

Demonstration and Visitors Center

1. Approval of Facilities and Land Lease Agreement to support the Demonstration and Visitors Center
2. Specifications for diversion point for source water to support the Demonstration and Visitors Center
3. Specifications for return point for ROC to support the Demonstration and Visitors Center
4. Amendment of current or new agreements to support Demonstration and Visitors Center

Within thirty days prior to the end of each year in the term of this Agreement, the Parties shall meet and confer to develop and finalize a schedule for Tasks to be completed and/or milestones met in the upcoming year. This updated schedule shall be approved in a writing signed by the designated representative of each Party as defined in Section 21 of the Agreement. Such executed schedule shall amend this Exhibit-B and be binding upon the Parties.

EXHIBIT C

COMPENSATION

Payment on an Hourly Basis.

1. **Hourly Rates:** Valley Water will compensate City at the hourly rates in Exhibit C.1 of this Agreement. Notwithstanding anything to the contrary, these hourly rates are valid at the time of execution but may be subject to increase following each new fiscal year.

2. **Reimbursable Expenses:** Valley Water will reimburse for expenses subject to the following:

The following expenses are reimbursable to the extent City documents to Valley Water's satisfaction that they were incurred in performing the work required by the Scope of Services:

(a) the cost of mailing, shipping and/or delivery of documents or products to Valley Water.

(b) the cost of photographing, reproducing and/or copying.

(c) the cost of subcontractors provided Valley Water has preapproved, in writing, the use and cost of the subcontractor.

(d) telephone and fax charges.

(e) the rental of any specialized equipment to the extent Valley Water has preapproved, in writing, the cost of such rental.

3. **Quarterly Report (Enterprise Fund):** Every three months, the City shall provide Valley Water a report for the work performed during the immediately previous three months as specified under Section 4(A) of the Agreement.
4. **Quarterly Invoice (General Fund):** Every three months, the City shall provide Valley Water with an invoice for the work performed during the immediately previous three months as specified under Section 4(B) of the Agreement.

EXHIBIT C.1
SCHEDULE OF CHARGES

The following City staff positions are anticipated to be necessary to provide support services under this Agreement. Additional or alternative positions may be necessary throughout the Agreement. The rates will be subject to change based on City's salary schedules approved by City Council. The rates may be subject to change following each new fiscal year beginning July 1 and ending June 30.

Position	Job Code	Hourly Rate
Assistant City Manager	1688	\$ 366.83
Deputy City Manager	1686	\$ 334.57
Department Director	1696	\$ 286.78
Chief Deputy City Attorney	2138	\$ 285.58
Senior Deputy City Attorney IV	2171	\$ 240.17
Assistant Director	8048	\$ 236.59
Deputy Director	1640	\$ 224.64
Senior Deputy City Attorney III	2137	\$ 216.28
Division Manager	8074	\$ 197.16
Principal Engineer	3820	\$ 193.57
Debt Administrator	1228	\$ 179.24
Senior Env Prog Man	5214	\$ 170.87
Senior Engineer	3815	\$ 160.12
Associate Engineer	3814	\$ 150.56
Wastewater Operations Superintendent II	3647	\$ 137.41
Supervising Environmental Services Specialist	8204	\$ 135.02
Financial Analyst	1288	\$ 135.02
Environmental Services Program Manager	8073	\$ 132.63
Administrative Officer	1646	\$ 131.44
Senior Analyst	1654	\$ 129.05
Wastewater Operations Foreperson II	3633	\$ 121.88
Analyst II	1632	\$ 108.74
Wastewater Operator III	3639	\$ 108.74
Environmental Services Specialist	8202	\$ 95.59
Senior Office Specialist	1135	\$ 80.06