



Santa Clara Valley Water District

File No.: 20-0736

Agenda Date: 9/8/2020

Item No.: 4.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Public/Private Partnership Implementation Approach and Staffing Plan for Purified Water Projects.

RECOMMENDATION:

- A. Approve the proposed Design-Build-Finance-Operate-Maintain procedures for procurement under a Public-Private Partnership (P3) structure of the necessary facilities and services to accomplish purification and delivery to groundwater recharge ponds of the product water;
- B. Direct staff to launch a P3 procurement plan as soon as the necessary elements for a proposed project, including (a) agreement for long-term supply of treated wastewater, (b) agreement enabling management of reverse osmosis concentrate, and (c) agreement for siting of the purification facilities, are sufficiently secured for the proposed project;
- C. Encourage the current short-listed P3 entities to participate in the new Request for Qualifications;
- D. Review a schedule for implementation of the P3 procurement process; and
- E. Receive information on the P3 staffing plan.

SUMMARY:

Recommendations A, B and C constitute the set of recommendations approved by the Board's Recycled Water Committee (Committee) at its August 6, 2020 meeting. In addition, Recommendations D and E carry forward for the Board's review a schedule and staffing plan that were reviewed by the Committee at the same meeting.

BACKGROUND:

In December 2019, Valley Water reached agreement with the Cities of Palo Alto and Mountain View for a long-term supply (option) for a minimum of 9 million gallons per day (MGD) of treated wastewater. The Palo Alto/Mountain View agreement included general provisions for management of reverse osmosis concentrate as well as identification of at least one site for a purification plant on City of Palo Alto lands. Further work and an agreement are needed to secure a site for the proposed plant if the option is exercised.

Recently, staff initiated discussions with the City of San Jose (and with the City of Santa Clara expected to join these discussions shortly) to receive, for a long term, approximately 9 MGD of treated wastewater to be purified by Valley Water at a proposed site adjacent to the existing Silicon Valley Advanced Water Purification Center. The agreement to secure such water is anticipated to be

an option agreement of similar structure to that of the Palo Alto/Mountain View agreement. To progress a project located in San Jose, agreements would be needed to secure a long-term site and the outfall permit access as well. Staff will update the Board at this meeting on the discussions under way to this end.

To provide sufficient technical basis for proceeding with P3 procurement for a proposed project, the three critical foundational requirements are deemed to be:

- Confirmation of a firm supply of treated wastewater from one of the wastewater plant owners under consideration;
- Confirmation of a viable site for the purification plant, either through a long-term lease or land acquisition;
- Confirmation of a solution for management of the treatment plant's reverse osmosis concentrate (byproduct flow), inclusive of a viable plan for meeting National Pollutant Discharge Elimination System (NPDES) permit requirements, as administered by the applicable Regional Water Quality Control Board.

At the June 16, 2020 Board meeting, staff received from the Board its key objectives related to the Purified Program P3 approach. These are primarily:

- Implement a project of nominal capacity of 9 MGD as soon as possible
- Advance a “progressive” P3 approach to deliver the project
 - Leverage private sector innovation and expertise
 - Accelerate project implementation
 - Reduce staff workload for detailed project development by allocating risks and responsibilities to a private partner
- In deploying P3 procurement:
 - Ensure price certainty/budget predictability at time of contract award
 - Maximize competitive pressures on pricing and terms to lock-in best possible deal for Valley Water

PROPOSED APPROACH:

In terms of implementation approach, based on further review and input from industry experts, staff proposes implementing P3 procurement through an industry, best-practice approach, which will accomplish the Board's objectives above and has additional advantages over a “progressive” approach, including firm pricing and committed financing. The best practice is generally known as a Design-Build-Finance-Operate-Maintain (DBFOM) approach.

Reflecting back on staff's prior discussions with the Board, a *progressive* approach would involve selection of an intended private partner through a qualifications process, followed by joint final planning and development of project design. Once a significant level of design is complete and key

permitting requirements are determined, Valley Water would negotiate long-term pricing and risk transfer with the private partner. Since there would be little or no competitive pressure on the private partner at that stage, it is possible that the negotiated pricing arrangements and risk transfer would be less favorable to Valley Water than staff's proposed DBFOM approach.

Staff's proposed DBFOM approach maximizes competitive pricing pressures; promotes private sector innovation; accelerates private sector involvement via commercially confidential meetings and collective negotiations during the Request for Proposals (RFP) process; enables a best-value award (considering both technical approach and pricing); maximizes transparency, as definitive terms and conditions known at time of bidding (equal footing for all proposers); and optimizes staff involvement by focusing efforts on the definition of performance standards (as opposed to being actively involved in design development).

The earliest possible implementation timeline, is as follows:

- Q4 2020 - Launch Request for Qualifications (RFQ) process, with shortlisting by early 2021
- Q1 2021 - Launch RFP Process (4 to 8-month process)
- Q2 2022 - Board approval of P3 Agreement with selected proposer

This schedule depends, initially, upon *readiness* in terms of all three critical foundation requirements (water, site and reverse osmosis discharge solution) being sufficiently established for a project either in Palo Alto or San Jose/Santa Clara prior to issuing a new Request for Qualifications (RFQ). The earliest possible timing for Board consideration of readiness and approval of release of the RFQ is Q4 2020.

This schedule is, further, contingent upon Board approval of at least one of the two specific project concepts (i.e., a Palo Alto/Mountain View or a San Jose/Santa Clara source water agreement, specific sizing and key project elements), as well as the necessary agreements for water, siting and reverse osmosis concentrate discharge, prior to release of a RFP.

The proposed Valley Water staffing approach relies heavily upon consultant assistance for a range of tasks, cost ground-truthing, environmental documentation and cultural resources, finance strategy, and possibly legal as well. The proposed P3 approach, places responsibility on the private partner to undertake design and construction, among other functions, so the proposed Valley Water staffing plan is designed to prepare for and interface with the candidate private partners, not to duplicate or direct their work.

Staff's presentation of the proposed approach and implementation schedule at the Committee meeting will be assisted by HDR subconsultants Jill Jamieson, CEO of Illuminati Infrastructure Advisors, and Phillippe Daniel of Liquisti, whose biographies are attached.

FINANCIAL IMPACT:

Budgeted funds for FY 2020-21 total \$5.9 million. Staff will review the cost estimates through the Capital Improvement Program (CIP) Committee and will update the multi-year CIP document and FY 2021 budget as needed. The revised funding need will be presented to the Board at or before the

time a recommendation is placed before the Board to authorize issuance of an RFP for selection of a P3 entity.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: PowerPoint
Attachment 2: Consultant Biographies
Handout 4.1-A, S. Williams Email

UNCLASSIFIED MANAGER:

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