

FUNDING AGREEMENT BETWEEN CITY OF SUNNYVALE AND SANTA CLARA VALLEY WATER DISTRICT FOR THE ENVIRONMENTAL CLEARANCE AND BASIS OF DESIGN FOR WATER PURIFICATION FACILITY AND DESIGN OF INCREASED ELECTRICAL CAPACITY AT THE SUNNYVALE WATER POLLUTION CONTROL PLANT

This Funding Agreement ("Agreement") is made and entered into on December 31, 2014 ("Effective Date"), by and between the City of Sunnyvale, a municipal corporation ("Sunnyvale"), and Santa Clara Valley Water District, a special district created by Legislature of the State of California ("District"). Sunnyvale and District hereinafter may be referred to individually as "Party" or collectively as "Parties".

RECITALS

- A. Whereas,** the Parties are jointly involved in efforts to develop recycled water supplies; and
- B. Whereas,** the Parties recognize that sustainable water resource management requires integration of water supply and wastewater discharge limitations among several systems; and
- C. Whereas,** the Parties have a mutual interest in expanding the distribution of recycled water; and
- D. Whereas,** the District's Board of Directors has reaffirmed its commitment to recycled water by passing Resolution 97-60 in support of the expanded use of recycled water; and
- E. Whereas,** Sunnyvale is in the process of reconstruction of its Water Pollution Control Plant ("WPCP"). Sunnyvale is also developing a programmatic environmental impact report ("PEIR") and Master Plan to implement "Conventional Activated Sludge" process (the "Project") in accordance with the California Environmental Quality Act ("CEQA") guidelines; and
- F. Whereas,** the District desires that Sunnyvale study and analyze a "variant" in the PEIR for a potential Membrane Bio-Reactor, Reverse Osmosis, Advanced Oxidation Facility, a Water Purification Facility, ("WPF") rather than Conventional Activated Sludge which requires some modifications to plant design to produce high quality advanced treated water at the WPCP ("MBR Variant"); and
- G. Whereas,** the Parties also desire that Sunnyvale prepare 100% construction design for the primary electrical distribution line to the WPCP to supplement and support a WPF ("Upsized Electrical Equipment"); and
- H. Whereas,** the District desires that Electrical Equipment be upsized to preserve the opportunity to construct a WPF in the future and agrees to fund the increase in design costs as well as to consider funding future construction costs associated with the upsized Electrical Equipment; and
- I. Whereas,** the upsized Electrical Equipment will be designed under the first phase of the WPCP reconstruction which is currently in progress; and
- J. Whereas,** the work the District desires Sunnyvale to undertake will be performed by Sunnyvale's consultants, Carollo Engineers, Inc. and ESA, Inc. ("Consultants"), which is described in the Scope of Services, attached hereto as Exhibit A; and
- K. Whereas,** the Parties understand neither Party is making any representation that it will commit resources to actually construct the WPF other than the financial commitment agreed to by the Parties in this Agreement for the Consultants to complete the inclusion of the MBR Variant in the PEIR and the design of upsized Electrical Equipment in the first phase of the WPCP reconstruction.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL PROMISES HEREINAFTER PROVIDED, THE PARTIES AGREE AS FOLLOWS:

1. RESTRICTED USE OF DISTRICT FUNDING. Funding provided by the District identified in Section 7 of this Agreement shall only be used by Sunnyvale to pay the Consultants for completing the scope of services as described in Exhibit A of this Agreement (“Scope of Services”), which is hereby incorporated into this Agreement by this reference. During the preparation of the PEIR, Sunnyvale shall include the MBR Variant as a component in its proposed Master Plan. Sunnyvale shall ensure its PEIR certification undertake the following two separate actions in association with the PEIR, subject to all legal requirements: 1) Master Plan approval; and 2) endorsement of a WPCP site plan that accommodates Water Purification Facility (WPF), pending further discussions with the District prior to Sunnyvale’s commitment to WPF construction, and completion of a project-level CEQA evaluation of said construction. Certification of the PEIR after due consideration by the Sunnyvale City Council is not the approval of the design and construction of the WPF, but approval of a site layout that provides space for the WPF, and therefore preserves the option for Sunnyvale to approve the construction of a WPF on the WPCP lands in the future following any applicable environmental analysis.

2. INCLUSION OF ELECTRICAL DESIGN RELATED TO THE WPF. Sunnyvale shall provide a design for the first phase of the reconstruction of the WPCP (i.e. Design of Primary Treatment Facility), the Upsized Electrical Equipment, which includes, but is not limited to, the construction of a larger power supply building, increased main switchgear capacity and additional duct banks to allow for accommodating additional electrical related infrastructure needed for the potential construction of a WPF. This design consideration will be developed along with the power needs for an “activated sludge” facility for the WPCP. The construction of the Upsized Electrical Equipment will be estimated as part of the construction cost estimates that are provided with the various design submittals. At the time of 90% submittal construction cost estimate, the District will have an opportunity to review the estimate and determine if it would like to proceed with construction of the Upsized Electrical Equipment. The construction cost estimate will be reviewed by both parties and once an agreement has been made on the estimated construction costs the District will have the opportunity to fund the construction of the Upsized Electrical Equipment through an Amendment to this Agreement. The dates by which this funding is required are included in section 6 of this Agreement. In the event that the District decides not to proceed with the Upsized Electrical Equipment, Sunnyvale and District cannot agree on construction costs, or if the Sunnyvale’s invoices are not paid by the date specified in this Agreement then the Upsized Electrical Equipment will be removed from the design and will not be constructed.

3. USE OF CONSULTANTS FOR COMPLETION OF THE SCOPE OF SERVICES. Sunnyvale shall use the Consultants to complete the Scope of Services. Sunnyvale’s agreements with the Consultants to complete the Scope of Services shall specify the District as a third party beneficiary. Sunnyvale’s representative shall keep District’s representative informed of the Consultants’ progress and of any significant pending issue and action regarding Consultants’ performance of the Scope of Services.

4. REVIEW OF PRELIMINARY ADMINISTRATIVE DRAFT OF THE PEIR. Upon completion of the preliminary draft of the PEIR (“Preliminary Draft PEIR”), Sunnyvale shall provide District an opportunity to review said draft and provide Sunnyvale with a consolidated set of comments within ten (10) working days. If Sunnyvale receives consolidated comments from District within ten (10) working days of District receiving the Draft PEIR, Sunnyvale shall review District’s consolidated comments and convene a meeting to discuss resolution for incorporating any or all of District’s comments into the final administrative draft PEIR (“Final Draft PEIR”). Within five (5) working days of the meeting, Sunnyvale shall provide a written explanation and response as to how each District comment on the preliminary administrative Draft PIER was or will be addressed. District shall notify Sunnyvale within five (5) working days if further discussion is needed to resolve differences. Upon such notification, Sunnyvale shall arrange a meeting to discuss resolution prior to any release of the Final Draft PEIR for review and comment. If the District does not meet these review timeframes then Sunnyvale will notify the District of its intent to proceed with the PEIR without the MBR Variant included and within two weeks (14 days) of such notice all scope of work related to the MBR Variant will be suspended, while the work related to the overall Master Planning

PEIR will continue.

5. REVIEW OF ELECTRICAL DESIGN. Upon completion of the thirty percent, sixty percent, and ninety percent design submittals for the Upsized Electrical Equipment, Sunnyvale shall provide the District with an opportunity to review each said design and provide Sunnyvale with a set of consolidated comments within ten (10) working days after receiving said design. If Sunnyvale disagrees with District's comments, Sunnyvale shall immediately arrange a meeting with the District to discuss a resolution. If the District does not meet this review timeframe then Sunnyvale will have the option to proceed with the design without the Upsized Electrical Equipment.

6. PEIR AND DESIGN SCHEDULE. The Parties will use its best efforts to adhere to the schedule shown below:

VI. TASK	Date
1) Deadline for District to submit a signed Agreement to Sunnyvale.	December 31, 2014
2) Deadline for District to submit MBR Variant approach information for project description, including information on brine disposal, to maintain PEIR schedule.	January 15, 2015
3) Estimated Completion of Final Draft PEIR	June 30, 2015
4) Estimated Submittal for 90% Design of Primary Treatment Facility (including Upsized Electrical Equipment)	October 2, 2015
5) Deadline for SCVWD to submit signed Amendment to Sunnyvale for construction costs associated Upsized Electrical Equipment.	December 15, 2015 or 10 weeks after the receipt of the Estimated Submittal for 90% Design of Primary Treatment Facility (Facilities Package), whichever is later
6) Estimated Adoption of PEIR and Master Plan	May 31, 2016

The dates specified in the above schedule are estimates only and are based on information currently available to Sunnyvale. The estimated dates assume that no events beyond the reasonable control of Sunnyvale and its consultants will contribute to the delay of completion of the tasks identified in Section 6, subject to provision 5. Failure to complete a task by its anticipated date shall not be considered a breach of this Agreement, but rather should prompt the Parties to work together to evaluate the cause of the delay and assess how to continue to make progress towards completing the task.

7. ESTIMATED COST TO COMPLETE SCOPE OF SERVICES. The estimated consultants and Sunnyvale costs to complete this scope of work is **\$542,661**. This agreement also includes a provision to allow for additional expenditures of **\$76,074** as a contingency to the base cost mentioned above. Should the costs of this scope of services exceed the base cost of **\$542,661**, up to an additional amount of the contingency of **\$76,074**, then Sunnyvale will notify the District of the additional funding needs. The District shall approve the expenditures of the contingency funds within one week (7 days) of receiving Sunnyvale's notification. Should the District not respond within the specified time, Sunnyvale shall continue with the PEIR without further work on the MBR Variant included in the PEIR.

The estimated cost expenditures will begin on the effective date of this agreement and will proceed at the pace of completion of the scope of services, but shall be limited to no more than **\$252,000** by **March 31, 2015**. At this date, the District shall notify the City of the intent to continue with this agreement or direct Sunnyvale to suspend all expenditures related to the MBR Variant. Sunnyvale

shall continue with the PEIR without the inclusion of the MBR Variant at this point.

Total estimated costs to be funded by the District for the completion of the Scope of Services shall not exceed the amount of **\$618,735**. If the projected cost to complete the Scope of Services is likely to exceed **\$618,735**, then Parties shall meet and confer within two weeks (14 days) of the notification by Sunnyvale of the projected increase in cost. Within 7 days of the meet and confer, Parties may choose to amend the agreement to include the newly negotiated costs or terminate the agreement and allow Sunnyvale to proceed with the PEIR without the inclusion of the MBR Variant.

8. DISTRICT PAYMENTS.

(a) **Invoices.** Sunnyvale shall request disbursement of District's financial commitment on a reimbursement basis by submitting to the District invoices(s) for incurred Eligible Costs. Sunnyvale shall submit an invoice to the District for Eligible Costs no more than once a calendar quarter, which shall include the hourly rates, hours spent and task break down of the activities performed in support of this scope of services.

(b) **Disbursements.** Following the review and approval of an invoice by the District, District shall disburse to Sunnyvale an approved amount thirty (30) days after receipt of that invoice.

(c) **Rejection of Invoices.** An invoice may be rejected by the District only if:

- it is submitted without signature;
- is submitted under signature of a person other than Sunnyvale's duly authorized representative;
- the invoice contains a material error; or
- paying the invoice would result in District exceeding its financial commitment described in Section 7 of this Agreement.

District shall notify Sunnyvale of any invoice so rejected, and the reasons therefore.

9. TRACKING EXPENDITURE OF DISTRICT FUNDING AND AUDITS. Sunnyvale shall maintain accounting procedures that are in accordance with Generally Accepted Accounting Principles. Sunnyvale shall keep complete and accurate books and records of all expenditures of District Funding. Upon at least ten (10) working days notice, District or its auditors may conduct audits at Sunnyvale's office during normal business hours at any time during the term of this Agreement and for a period of one (1) year after the final disbursement from the District Funding. If District's audit alleges that Sunnyvale used any portion of the District Funding to pay for costs other than costs incurred from the Consultants for their performance of the Scope of Services, Sunnyvale shall have the opportunity to respond within five (5) working days of receiving such audit finding(s). If it is mutually determined that the City used a portion of District funding for anything other than its intended purpose, the City shall refund District an amount equal to said portion. In case of a conflict or disagreement, the Parties shall meet and confer pending which the Parties may choose to terminate the agreement or make negotiated modifications and settlements.

10. TERM. The term of this Agreement is from the Effective Date through December 31, 2018 inclusive, subject to the provisions of Section 14 of this Agreement. If the Parties determine that more time is required to complete this Funding Agreement, then a written amendment to the Agreement shall be executed by the designated representatives with authority to act for each Party.

For purposes of this Section, the individuals identified in Section 18, NOTICES, are designated representative for the respective Party to execute such amendments as necessary to implement the intentions of the Parties under this Agreement.

11. INDEPENDENT CONTRACTOR. The Parties, in the performance of the tasks to be performed by each, will each act as and be an independent contractor and not an agent or employee of any other Party. As independent contractors, the Parties are responsible for tasks performed by their agents, contractors, consultants, or employees. Each Party agrees to indemnify and hold harmless any other Party from any claim that may be made by its agents, contractors, consultants, or employees for benefits or compensation.

12. INDEMNIFICATION. Pursuant to Government Code Section 895.4, each of the Parties hereto shall fully defend, indemnify and hold each of the other Parties, their officers, employees, and agents, harmless from any damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees or agents, under or in connection with any work performed or authority delegated to such Party under this Agreement. No Party, nor any officer, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, employees or agents, under or in connection with any work performed or authority delegated to such other parties under this agreement. Nothing contained herein will be construed as a waiver of any immunities or defenses that a Party may have under applicable provisions of law, including the provisions of the California Tort Claims Act (Govt. Code §810 et seq.). This provision will survive expiration or termination of this Agreement.

If there is a third party lawsuit challenging the PEIR, the Parties will meet to evaluate the lawsuit to determine whether the sufficiency of the environmental review of the MBR Variant is potentially at issue. If the MBR Variant is potentially at issue, the Parties will execute a joint defense agreement and develop a litigation strategy, including development of the administrative record. After lodging of the administrative record and the filing of petitioner's statement of issues pursuant to Public Resources Code Section 21167.8 ("Statement of Issues"), if the sufficiency of the environmental review of the MBR Variant is expressly identified as one of the issues ("MBR Variant Issue") to be litigated in the Statement of Issues, the District will reimburse Sunnyvale for previous and ongoing outside counsel costs incurred by Sunnyvale directly attributable to the MBR Variant Issue. Sunnyvale shall direct its outside counsel to prepare a separate invoice for costs related solely to the MBR Variant Issue, which Sunnyvale shall provide to the District for reimbursement along with outside counsel's unredacted timesheets supporting the costs. If the District disagrees with the outside counsel costs allocated to the MBR Variant Issue, the Parties shall meet and endeavor to resolve the dispute, and if they are unable to reach a resolution, they shall proceed to mediation to resolve outstanding issues. If the Parties do not reach consensus, either party may request binding arbitration before a mutually selected arbitrator. Each party shall bear its own costs and attorney's fees for purposes of the arbitration. Should Sunnyvale be awarded costs or attorney fees as a result of the litigation, District shall be entitled to a refund of its reimbursements to Sunnyvale. After final judgment is rendered in a third-party lawsuit challenging the PEIR, if petitioners prevail on the MBR Variant Issue, District shall indemnify Sunnyvale for a percentage of any monetary award (including attorney fees) based solely on the total number issues petitioners prevail on. For example, if the judgment of a monetary award was supported by petitioner prevailing on four different issues, including the MBR Variant Issue, then the District will indemnify Sunnyvale for 25% of the monetary amount awarded to petitioners by the court. If the issues contain mixed claims that include or involve both activated sludge and the MBR Variant, (e.g. challenges to analyses of water, air, utilities and the like), then Parties shall meet to resolve the issues and allocate fair shares of pursuant to the process discussed above and proceed to mediation and arbitration if the issues are unresolved.

13. NONDISCRIMINATION. Each Party shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or any other legally protected category, in connection with or related to the performance of this Agreement.

14. TERMINATION.

(b) Each Party has a right to terminate this Agreement for convenience, without cause, by giving not less than thirty (30) days written notice of termination to the other Party. Upon receipt of such notice, the non-terminating Party shall immediately take action to cease cause further activities and associated accrual of costs.

(c) If any Party fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, any of the other Party may terminate this Agreement immediately upon written notice.

15. GOVERNING LAW. This Agreement will be governed by the laws of the State of California.

16. COMPLIANCE WITH LAWS. Each Party shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

17. CONFLICT OF INTEREST. Each Party will avoid all conflict of interest or appearance of conflict of interest in performance of this Agreement.

18. NOTICES. All notices and other communications required or permitted to be given under this Agreement will be in writing and will be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective Parties as follows:

To SUNNYVALE:

John Stufflebean, Director,
City of Sunnyvale - Environmental Services Department
456 W. Olive Ave
Sunnyvale, CA 94086

To DISTRICT:

Jim Fiedler, Water Utility Enterprise Chief Operating Officer
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Notice will be deemed effective on the date personally delivered or, if mailed, three (3) calendar days after deposit in the mail.

19. 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 Jose, California.

20. SEVERABILITY. In the event that any provision of this Agreement is prohibited by any law governing its construction, performance or enforcement, such provision shall be ineffective to the extent of such prohibition without invalidating thereby any of the remaining provisions of the Agreement.

21. ENTIRE AGREEMENT. This Agreement represents the entire understanding of the Parties as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment duly executed by the Parties to this Agreement.

22. AUTHORIZED REPRESENTATIVES. The Parties shall each designate a representative with authority to implement provisions of this agreement for all purposes other than to amend this agreement. Sunnyvale hereby designates John Stufflebean or his designee. The District hereby designates Jim Fiedler or his designee.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

CITY OF SUNNYVALE
A Municipal Corporation

ATTEST:

By: _____

Name/Title

By: _____

Deanna J. Santana,
City Manager

APPROVED AS TO FORM:

By: _____

Kathryn A. Berry,
Senior Assistant City Attorney

SANTA CLARA VALLEY WATER DISTRICT
An independent special district created by
Legislature of the State of California

By: _____

Beau Goldie,
Chief Executive Officer

APPROVED AS TO FORM:

By: _____

Anthony T. Fulcher,
Senior Assistant District Counsel

Exhibit A

City of Sunnyvale Water Pollution Control Plant (WPCP) Scope of Services to Support Potential Water Purification Facilities

Background

Carollo (Consultant) and the City of Sunnyvale (Sunnyvale) are in the process of developing the Master Plan for the Sunnyvale's water pollution control plant (WPCP). As part of the planning process Sunnyvale is deciding whether to implement conventional activated sludge treatment (CAS) or a membrane bioreactor (MBR). Central to this decision is whether Sunnyvale eventually develops a joint project with the Santa Clara Valley Water District (District) to produce purified water at the WPCP. If Sunnyvale wants to pursue the future joint project with the District, it would require installation of MBR treatment at the WPCP, instead of the CAS treatment process. In addition, reverse osmosis (RO) and an advanced oxidation processes (AOP) using hydrogen peroxide and UV would be required to produce purified water. This combination of MBR/RO/AOP facilities hereafter will be referred to as the Water Purification Facility (WPF).

Scope of Services

This scope of work includes the design of a site plan for the potential WPF and program-level environmental analysis of the design and operating characteristics of the WPF as a "variant" in the Program EIR (PEIR) for the Master Plan. Consistent with requirements of the California Environmental Quality Act (CEQA), the EIR will analyze qualitatively the reasonably foreseeable actions related to implementation of the WPF, including RO by-product disposal and the disposition of the purified water. For purposes of scoping the EIR evaluations, it is assumed that the District would use the purified water either to blend with non-potable recycled water or to recharge the groundwater basin, and that the water ultimately could be reused as potable supply.

A. Planning

1. Prepare Site Layouts: Current master plan site layouts would be modified to reflect layout considerations for a MBR and related support facilities. Site layout considerations would be prepared in a manner similar to and consistent with the Site Layout Technical Memorandum (TM) that was completed as part of the long-term site master plan. Investigation of site utilization and access, parking considerations, support utilities would be included in the analysis.
2. Complete a Capital Improvement Plan (CIP) for MBR Facilities: As part of the implementation analysis for the MBR, a separate CIP would be developed. This would include an analysis of the timing and phasing for the MBR facilities, estimated construction and project costs, and evaluation of overall O&M impacts to the WPCP.
3. Complete a Basis of Design (BOD) for MBR Facilities: A BOD document would be prepared for the MBR facilities that would include: (1) design criteria; (2) potential vendors; (3) recommendations for level of automation; (4) major O&M considerations (access/redundancy needs) and (5) layout considerations (plan/section views).

4. Additional Programmatic Environmental Impact Report (PEIR) Support: The potential WPF facilities would be evaluated at a program level of detail. To abet the two separate actions that the PEIR would support, it is proposed to evaluate the WPF as a “Variant” of the proposed Master Plan. That is, the EIR would first describe and focus the impact evaluation on the proposed Master Plan of a CAS process. It would then briefly describe how implementation of the Master Plan would differ with the addition of the WPF and related support facilities including objectives, revised site plan, and descriptions of proposed design and operating characteristics. It is assumed that Sunnyvale and the Consultant would provide information on design and operating characteristics and that the District would provide language on the need for, and objectives of, the facility for consideration by Sunnyvale. Every section of the PEIR would present conclusions (e.g., impact significance) with and without implementation of the “Variant”. This would enable decision makers to identify the trade-offs of including the WPF and would support the separate decisions they will be asked to make. The level of detail would be consistent with the level of detail provided by Sunnyvale and the Consultant.

The PEIR likely will include about five dozen individual impact evaluations (generally corresponding to individual questions in the CEQA Appendix G checklist). With inclusion of the “Variant”, for each impact the proposed Master Plan would be evaluated first, followed by an evaluation of the “Variant”. Inclusion of the WPF in the overall Master Plan would incrementally increase construction impacts and footprint impacts associated with additional facilities. The key environmental issues associated with the potential WPF are: RO byproduct disposal, energy use and the air emissions and greenhouse gas emission associated with increased power consumption; water quality and public health; and growth inducement potential associated with augmenting the regional water supply. Table 1 presents a summary regarding the impacts of the Variant on the PEIR sections.

There are many unknowns regarding the water purification facility proposal that will ultimately affect the level of effort, such as: (1) water quantities contemplated; (2) RO byproduct disposal methods and assumptions; (3) extent of inter-agency coordination that may be needed for the WPF CEQA evaluation; (4) whether pipelines for conveying product water will have been identified prior to publication of the PEIR; (5) which communities could receive product water; and (6) involvement of the District in review of the PEIR.

In addition to these uncertainties, the District is engaged in a parallel, concurrent planning process with the City of San Jose. This may affect the description and analysis of the WPF, particularly if the District initiates CEQA or public outreach for its program. If there are two parallel CEQA processes underway, increased coordination (e.g., with respect to analytical assumptions, shared nomenclature, etc.) would be essential and is not included in this effort. The original scope and budget for the Sunnyvale WPCP Master Plan Program EIR specified assumptions made to estimate total cost of preparing the PEIR. In light of the potential inclusion of the WPF and associated unknowns listed above, revisions have been made to some of the original assumptions described in the PEIR contract. The revised list of assumptions follows:

- The District will provide a description of the MBR Variant. This scope of work and budget is based on no changes to the basic description of the Variant after January 31, 2015. Any changes occurring after January 31st would affect scope, budget and EIR schedule.

- Any publicly available materials developed by the District describing the Variant following January 31st will be consistent with the project description information supplied to ESA.
- The MBR Variant will include only effluent from the City of Sunnyvale Water Pollution Control Plant
- The MBR Variant will include only indirect potable reuse.
- The evaluation of the MBR Variant will include one proposal for RO by-product disposal. At present, Sunnyvale and District are proposing that the RO by-product would be routed to the deep bay outfall for disposal; however, the District and City intend to continue to explore other options in consultation with the Regional Water Quality Control Board.
- Attendance at up to 6 Variant meetings with the City of Sunnyvale and the District
- Approval of the Sunnyvale Master Plan EIR would be separate from any endorsement of the WPF by the City of Sunnyvale.
- The Variant will be evaluated at a program level. For example, the PEIR will not include a quantitative assessment of changes in effluent characteristics from RO byproduct disposal.
- Any revisions to the project description after initiation of analyses for the EIR may require additional budget.
- Time spent on projects in litigation, in depositions and providing expert testimony will be charged at the negotiated rate schedule times 1.5.
- The effort required to complete the Final Program EIR will depend on the number of comments on the Draft EIR from agencies, environmental groups, and other interested parties. For scoping purposes, it is assumed that the effort required to respond to comments and finalize the EIR will not exceed 1,698 person hours of the Subconsultant's technical and support staff time.
- The aesthetics evaluation will utilize simulations prepared as part of Master Plan development
- Up to four (4) "build" alternatives, analyzed at a level of detail consistent with Section 15126 of the CEQA Guidelines, are assumed.
- CEQA documents following the PEIR (e.g., Findings, Mitigation Monitoring and Report Program, Notice of Determination) shall address only one alternative.
- This scope of work assumes no more than two rounds of review for any deliverable (report, maps, memorandum, etc.).
- Sunnyvale will consolidate all Sunnyvale and, if applicable, District comments into one document (presumed to be annotated versions of Word files) and will resolve conflicting comments prior to submittal to Subconsultant. All comments will be received at approximately the same time.
- This scope of work is based on the schedule provided in the Subconsultant's proposal. If the schedule is prolonged, additional services may be required that are not included in this scope of work. Preparation and circulation of public notices will be posted and/or mailed by Sunnyvale. The necessary facilities for public hearings/meetings will be provided by

Sunnyvale. Preparation of graphic materials specifically for use at public presentations or hearings will be limited to a PowerPoint presentation relying on graphics included in the EIR and one presentation board.

- This scope of work assumes that public documents (e.g., the NOP, Draft Program EIR) would primarily be circulated to the agencies and public in electronic format. Sunnyvale would be provided with 5 copies of the Administrative Draft EIR (ADEIR), 15 bound copies of the Draft EIR, 5 copies of the Administrative Final EIR (AFEIR) and 15 bound copies of the Final EIR. The District would be provided with 2 copies of the ADEIR, 5 bound copies of the Draft EIR, 2 copies of the AFEIR and 5 copies of the final EIR.
 - Costs for a court reporter at public meetings have not been included.
 - Up to eight buildings will be included in the cultural resources survey
 - Areas of archaeological sensitivity may require subsurface Extended Phase 1 investigation to determine the presence or absence of cultural resources. An Extended Phase 1 Work Plan and investigation are not included in this scope.
 - Permitting assistance is not included in the scope.
 - This scope includes database investigation of hazardous materials issues, suitable to support CEQA evaluation. It does not include the completion of a Phase I Environmental Site Assessment.
5. Coordination Effort with Sunnyvale and Water District Staff: It is anticipated that a number of coordination meetings will be required between Sunnyvale and the District. The Consultant will be responsible for setting agendas, presiding over the meetings, providing graphic aids as necessary, preparing meeting minutes, and preparing action item/decision summaries for all meetings.

B. Final Design – Headworks and Primary Treatment Project

1. Preparation of Contract Documents: the Consultant will prepare separate contract documents for the new electrical switchgear building and 12kV ductbank design in sufficient detail to develop two separate detailed engineering estimates for the CAS and MBR design. It is estimated that a total of 17 drawings would be impacted by this effort.

Table 1: PEIR Sections Requiring Increased Level of Effort with Inclusion of the Variant	
S. Summary	Introduce Variant with short description. Summarize impacts of Variant either in narrative form or separate table.
1. Introduction	Include in discussion of document organization.
2. Project Background	Include brief description (i.e., 1-2 pages) on planning context of Variant (District).

Table 1: PEIR Sections Requiring Increased Level of Effort with Inclusion of the Variant

3. Project Description	Include general description of reasonably foreseeable characteristics of the Water Purification Variant concept based on information provided by Sunnyvale and Consultant
4. Settings, Impacts, and Mitigation Measures	
<i>Plans and Policies</i>	Sunnyvale involvement in the development of regional RO treated supply for indirect potable reuse would supplant and/or augment potable supplies. Would likely involve discussion of additional plans (by District, BAWSCA and others) addressing regional water supplies, regional planning forecasts (e.g., Plan Bay Area).
<i>Aesthetics</i>	Address water purification facility qualitatively (no simulations proposed).
<i>Air Quality</i>	Need to address qualitatively criteria air pollutant emissions from increased power consumption, facility construction.
<i>Biological Resources Report</i>	No significant “footprint” impacts expected from addition of facilities. Address qualitatively any consequences (adverse or beneficial) of RO byproduct disposal on biological resources.
<i>Cultural Resources Report</i>	Minimal Change. No significant “footprint” impacts expected from addition of facilities.
<i>Geology, Soils and Seismicity</i>	Address construction and operation of water purification facility at WPCP in section.
<i>Greenhouse Gas Emissions</i>	Need to address GHG emissions from increased power consumption/energy use for WPF and compare to GHG emissions from increased power consumption/energy use from provisioning other water supply sources
<i>Hazards and Hazardous Materials</i>	Add to section.
Hydrology and Water Quality	Will probably break this into two sections due to inclusion of additional information on water quality. Add discussion of potable reuse regulations, drinking water regulations, related water quality/public health issues (e.g., surface water treatment rule) for potential types of reuse for purified water – either blended for non-potable use or for IPR.). Address potential improvement of water quality of groundwater basin due to IPR. Address RO byproduct disposal qualitatively, changes in

Table 1: PEIR Sections Requiring Increased Level of Effort with Inclusion of the Variant

	discharge characteristics. Include qualitative discussion of impacts of recharge as well as end use (alternatively, District could supply
Energy	Address increased power consumption
Fluvial and Tidal Flooding	Minimal Change.
Land Use and Land Use Planning	See plans and policies, above.
Mineral Resources	No change.
Noise	Add to section.
Population and Housing	See plans and policies discussion. If WPF would augment regional potable supplies, must consider regional growth inducement potential and secondary effects of that growth.
<i>Public Services and Utilities</i>	Address additional line power (or changes to on-site energy production), substation, any other changes needed in services to accommodate plant.
<i>Recreation</i>	Add to section
<i>Transportation and Traffic</i>	Add to section
<i>Cumulative Analysis</i>	Water quality and public health are key issues of concern to the public and will be addressed thoughtfully and thoroughly.