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MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: James D. Maynard, City Attorney
DATE: January 23, 2012
SUBJECT: History of Ione's Wastewater Treatment Plant Project and Future Considerations

The City's wastewater team is pursuing a project, based on Council direction, which will satisfy the requirements imposed on the City by the Central Valley Regional Water Quality Control Board ("RWQCB") at the lowest cost to the ratepayers of Ione by incorporating existing infrastructure where possible and by eliminating hidden costs through an open and transparent public process. Historically, the City has been unable to see any of its prior projects to completion for varied reasons. Ione's history is likely to cause the RWQCB significant concern should the City not continue to make diligent progress toward the design, financing, permitting, and building a new plant or renovating the City's existing plant.

Because of the need to improve treatment in treatment ponds 1-4 to avoid continuing disposal of low-oxygen materials in disposal ponds 5-7 and the need to remove low-oxygen (aka anoxic) sediments that have been placed in disposal ponds 5-7, the City is required to re-construct or renovate the existing secondary treatment plant to resolve the RWQCB's concerns. In fact, the City has been required to make such renovations since at least 2003 but has failed to comply. Should the City fail to meet the interim and final deadlines in the Regional Board's Cease and Desist Order, the Board will pursue Administrative Civil Liability proceedings that could result in fines of \$10,000 per day per violation.

Although in some cases, the RWQCB has forgiven such fines upon project completion, there are no guarantees. The recommended course of action is for the City to comply with the RWQCB's existing deadlines, especially given Ione's long history of non-compliance.

RECENT HISTORY OF THE PLANT:

1. **Central Valley Regional Water Quality Control Board ("RWQCB") issues initial Cease and Desist Order ("CDO") to the Regional Board in 2003.**
 - a. On July 11, 2003, the RWQCB adopted Cease and Desist Order No. R5-2003-0108 (CDO) for the City of Ione. The CDO concerned the potential that seepage of subsurface water observed along the southern bank of Sutter Creek may be wastewater ("WW") from the wastewater treatment plant's ("WWTP") disposal/percolation ponds. The CDO also referred to Board staff concerns that groundwater underlying the WWTP may be degraded by the land discharge of plant effluent through the City's disposal/percolation ponds. Finally, the CDO took exception to the City's construction of a new disposal/percolation pond at the WWTP.

- b. The CDO required the City to: (1) undertake groundwater monitoring, to report the results of this monitoring to the RWQCB; to (2) obtain an interpretation from a California Registered Geologist as to whether or not pond effluent is flowing into Sutter Creek in the vicinity of the WWTP; and to (3) submit a Facilities Guidance Document addressing certain water quality policies and how they may apply to the discharge from the WWTP. The City was also required to submit Quarterly Compliance Status Reports to the RWQCB. Finally, the CDO required the City submit a Final Wastewater Master Plan ("2004 Master Plan") by November 2004.
- c. The City submitted a Hydrological and Geotechnical Report and a Facility Guidance Document to the RWQCB in 2003-2004.
- d. In 2004, Stantec Engineering, in the City's Master Plan recommended that the City renovate its existing pond system and also recommended that the City raise sewer rates to \$56 in 2007 and to \$68 in 2010. Neither system renovation nor rate increases were undertaken.
- e. In 2006, the City submitted the required Report of Waste Discharge, prepared by Lee & Ro, to the Regional Board. The Report was rejected by the Board as incomplete. The City did not comply with the terms of the 2003 CDO.
- f. In 2007, the engineering firm of Lee & Ro prepared a technical memorandum that expanded the number of alternatives from a pond renovation to other potential projects.
- g. Two weeks later, the Council voted to pursue a project that included:
 - i. Tertiary treatment of wastewater;
 - ii. Allowing for growth of Ione;
 - iii. Continuing water reclamation at Castle Oaks;
 - iv. Allow continued use of disposal/percolation ponds;
 - v. Suitable for regionalization.
- h. In 2009, the City Council approved a new Wastewater Master Plan in accordance with the objectives set forth by Council in 2007 and proposing construction of a two-phase, activated sludge with tertiary treatment plant.
- i. In 2009 the Council received and certified a Draft Environmental Impact Report ("EIR") and a Final EIR.
- j. In the same year, the City began a Request for Qualifications ("RFQ") and Request for Proposal ("RFP") process under the Infrastructure Finance Act and ultimately solicited proposals from three entities to build an advanced activated sludge plant. None of the entities ever submitted final responses to the City's RFP. The City elected to continue negotiating with one of the proposers on a sole source basis.
- k. In March 2010, Lee & Ro drafted and the City submitted a Report of Waste Discharge to the Board.

2. In April 2011, the RWQCB issues subsequent CDO finding that the City violated the terms of the 2003 CDO by not fully completing the required Report of Waste Discharge. The RWQCB requires the City to:

- a. (1) comply with all the requirements of the permit under which it has operated since 1995; (2) to construct facility improvements that would stop the degradation of groundwater by mobilized iron and manganese; (3) stop any seepage of such groundwater to Sutter Creek; (4) to obtain an NPDES permit if necessary; and to submit a Seepage Discharge Compliance Plan by January 30, 2012 that addresses five required elements.
- b. Additionally, the CDO mandated that, if the Seepage Discharge Compliance Plan concludes an NPDES permit is not necessary, the City submit a Report of Waste Discharge to the Regional Board by May 30, 2012. The prior Reports of Waste Discharge submitted by the City in 2006 and 2010 were rejected by the RWQCB as incomplete.
- c. Finally, the CDO requires that a technical report be submitted by October 30, 2013 certifying that the improvement project has been completed and is compliance. Schedules prepared to date indicate that meeting the October 2013 deadline will be difficult and challenging, even absent further delay by Council. Diligent pursuit of staff's recommended solutions, however, including the retention of RBI and Winzler & Kelly, will provide the best chance of meeting this deadline. Further delay is not recommended as it is certain that more delay will be viewed by the RWQCB as further fruitless delay mirroring a long line of previous delays. The RWQCB is unlikely to show the City leniency in such a situation.
- d. In early 2011, the City concurrently pursued regionalization with the California Department of Corrections and with the Amador Regional Sanitation Agency to help defray costs from the PERC-proposed WWTP but those negotiations were unsuccessful.
- e. In September 2011 the City's new wastewater team conducted a public workshop on Ione's wastewater issues
- f. After that September meeting, the City's wastewater project team evaluated the proposed activated sludge plant with tertiary treatment and determined that the costs were not sustainable for a City of Ione's size without the involvement of regional partners such as ARSA and CDCR.
- g. At the October 19, 2011 workshop, the Council chose between two different paths to WW project completion. The City could pay \$100,000 to PERC for a Customized Design Report and complete the sole source Design-Operate-Build-Finance ("DBOF") deal it had been working toward or it could change course and choose to pursue lower cost project with alternate financing.
 - i. An initial set of rate studies, based on the project as described in the City's EIR, was undertaken to demonstrate the potential difference in rates between PERC's proposal and financing through the bond market or the State's Revolving Fund ("SRF").
 - ii. The Council chose to stop negotiations with PERC and to begin pursuit of a lower cost project although both Council and public were informed, on October 19, 2011, that design and procurement consultants would be necessary and that although there are higher up-front costs during design, financing, and construction phases, savings on the overall cost of the project would run in the

tens of millions of dollars of savings in construction and financing costs over the life of the plant.

- h. As a result of those two workshops, the Council directed the City's WW team to:
 - i. Pursue lower cost funding through the RWQCB's SRF funding mechanism;
 - ii. Prepare an RFP to hire a design consultant to: (1) prepare the SRF-required Facilities Planning Report; and (2) evaluate lower cost treatment options; and (3) assist the City's team with the SRF application process.
- i. The City had not retained a firm to prepare the Report of Waste Discharge as it was previously assumed that Lee & Ro, as the City's wastewater consultant, would prepare the Report of Waste Discharge as it had done in 2006. Lee & Ro, however, is no longer involved with the City's wastewater project.
 - i. The City's wastewater committee, therefore, recommended retaining RBI to prepare the Report of Waste Discharge because: (1) RBI was previously retained to prepare the City's Seepage Compliance Plan; (2) because RBI has an extensive history of successful submissions of these types of Reports to the Regional Board while the City's two prior submissions had been rejected as insufficient by the Regional Board; and (3) because retaining another engineering firm to prepare the report would likely entail even greater cost to the City as the firm reviewed all of the relevant reports and documents.

Once the SRF application process is underway and City Council has chosen a plant design, the City will issue a Request for Bids to select a construction firm to work with the City and with Winzler & Kelly on the final design and construction of the new or renovated plant. To successfully complete the project, the City must consider and be prepared to adequately address the following concerns at both the RWQCB and the State Water Board's Division of Financial Assistance, the entity that oversees SRF funding:

- 1. Technical Considerations
 - a. Geotechnical Conditions
 - b. Hydrological Conditions
 - c. Climate Change/Other Environmental
 - d. Wastewater Treatment
 - e. California Environmental Quality Act ("CEQA") and the National Environmental Protection Act ("NEPA").
- 2. Legal Considerations
 - a. Regulatory Compliance
 - b. Evaluation of Existing Contractual Obligations
 - c. Porter-Cologne etc.(state law)
 - d. Clean Water Act etc. (federal law)
 - e. Bond Disclosure Requirements
 - f. Litigation Prevention
- 3. Financing Considerations
 - a. Bond Financing

- b. Credit Review by SRF Program
- c. Existing Development Agreements
- d. Proposition 218 Compliance

There are over twenty-five separate requirements involved in successful completion of the SRF process and each of those requirements has sub-parts that must be addressed by appropriate professional staff. Such concerns cannot be appropriately addressed by a committee of community volunteers. Instead, both State law and the RWQCB require these considerations to be addressed by licensed professionals.

CITY CONSULTANTS

Neither City staff nor members of Council nor well-meaning community volunteers, have the required expertise and professional licenses that are required to complete critical project elements successfully and within the deadlines imposed by the RWQCB. Such consultants, therefore, are required to assist the City with successful completion of the SRF loan process and to ensure that the City gets the lowest-cost and most technically efficient plant at the lowest possible cost to the City's ratepayers. As outlined above, and discussed in more detail below, the SRF process includes complicated legal, technical, and financing issues. These issues must be strategically addressed and completed if the City is to obtain the lowest cost funding for the project.

Project elements such as design, financing, credit review, and legal review will be required no matter how the project is organized or solicited. As the wastewater team noted in Fall 2011, while PERC and other DBOF proposers such as Teichert would have worked on certain project elements with little or no up-front cost, the costs of compliance with the requirements of the RWQCB, would have been included in the overall project cost which would have resulted in much higher sewer payments by Ione's ratepayers over the life of the plant. Additionally, the City may still have had to pay other engineering firms to prepare and submit the RWQCB required Report of Waste Discharge and the RWQCB required Facilities Planning Report.

The City's Wastewater Committee has proposed that Robertson-Bryan Inc. ("RBI") be retained to provide overall project management and to continue work on meeting the RWQCB's interim deadlines such as the required Report of Waste Discharge with all the required technical information in a format that is acceptable to the RWQCB. Following the City's Council's authorization of the release of the RFP approved for this purpose, the City's Wastewater Committee has proposed that Winzler & Kelly be retained to: (1) evaluate lower cost treatment options; (2) assist with the SRF application; (3) provide initial design and cost estimates; (4) prepare the required Facilities Planning Report; and (5) assist with CEQA compliance. Again, these are all elements must be analyzed and executed by licensed professionals.

If the City decided to have RBI handle the tasks currently proposed for Winzler & Kelly, the City would need to amend RBI's scope of work even further. Significantly, given RBI's lack of experience with the SRF funding process, it would likely be more expensive to have RBI perform the work. Similarly, should the Council decide to retain another engineering firm altogether to handle all of the tasks outlined above, most significantly the Report of Waste Discharge and the Facilities Planning Report, it would take time

and money for that engineering firm to get up to speed on the many complex issues that impact the City's wastewater problems.

There has been extensive discussion of the "large number of consultants" that are involved with the WWTP project. At this point, the City's consultants, as proposed at the City's January 17, 2012 Council meeting, include: (1) RBI will continue to serve as program manager and will prepare the required Report of Waste Discharge; (2) Winzler & Kelly will serve as SRF consultant and will provide initial facilities planning and design work; (3) PMC will prepare the rate study required for SRF funding and Proposition 218; (4) Scott Smith of CSG Advisors will assist with the credit and financing aspects of the SRF process; and (5) the City Attorney will ensure compliance with various legal requirements and prevent or mitigate potential litigation.

Each of the consultants listed above has expertise in the field and is required to ensure compliance with the various legal requirements and restrictions involved with public contracting, public works projects, and public financing. Additionally, this team, with the exception of Winzler & Kelly, has been working together for several months and has reviewed and discarded various plans and solutions, most of which had fatal flaws. For example, the team recommended the City back away from the sole source DBOF deal proposed by the prior administration. The team also recommended moving away from an expensive activated-sludge plant that would have proved too costly for the existing ratepayer base. The team has spoken at length with major developers who have projects in and around the City of Ione to determine if any of them could provide monies to assist with upsizing the plant. The team continues to negotiate with ARSA and with CDCR as to whether a regional solution could be workable. Finally, the team has recommended that Winzler & Kelly, once retained, review several lower-cost technologies, including the pond system as proposed by Dr. Green. The collective goal is to provide the City's ratepayers with the lowest cost financing and project that is successful in achieving regulatory compliance.

1. RBI's Contracts

- a. January 2011 - \$5,000 contract to assist with the RWQCB CDO hearing. RBI was successful in eliminating the connection ban and to ensure that the State's Anti-Degradation Policy was included in the CDO.
- b. June 2011 - \$62,463 contract to prepare the required Seepage Discharge Compliance Plan. RBI suggested a program management role as a part of this contract but that proposal was rejected by the former City Manager who served as the de facto program manager. The Compliance plan will be submitted to the RWQCB by the January 30, 2012 deadline and provided to City Staff, to Council and to the public at the City's February 7, 2012 meeting but initial conclusions, as outlined at the December 20, 2011 Council meeting suggest favorable conditions for a lower cost project.
- c. September 2011 - \$43,272 contract to assist with PERC negotiations and to shepherd the PERC contract to completion. Because of the PERC model's likely impact on City sewer rates the City's WW team sought additional direction from Council. This compelled Mr.

O'Brien to perform many additional program management tasks but has led the City toward a much lower-cost project that will still solve the City's compliance problems. Those additional services included:

- i. Two community workshops as it became apparent that the PERC model was not viable;
 - ii. Preparation and presentation of various rate analyses;
 - iii. Attendance at an initial meeting, convened by then Vice-Mayor Smylie, between City's new wastewater team and RWQCB Staff;
 - iv. Attendance at meetings with various stakeholders including Sutter Creek, ARSA, Senator Gaines, SRF staff and subsequent meetings with RWQCB staff;
 - v. Preparation, for Council approval, of the Request for Proposal to hire an SRF consultant;
 - vi. Meetings with various RFP proposers and oversight of the RFP response and evaluation process.
- d. Significantly, and in light of the City's financial situation, RBI agreed to lower Mr. O'Brien's billing rate from \$230 per hour to \$200 per hour, an almost 15% discount.
- e. **December 2011 – proposed \$113,578 contract** for program management services through the end of the current fiscal year, which includes preparation of the required Report of Waste Discharge.
- i. The Report of Waste Discharge requires technical expertise and familiarity with the requirements and preferences of the RWQCB and includes follow-up negotiations with the Board. This process will eventually culminate in the negotiation and release of new Waste Discharge Requirements that will govern compliance by the new or renovated WWTP.

2. Retention of Winzler & Kelly – Proposed \$163,690 Contract

The SRF Application process is lengthy, technically complex, and has many potential pitfalls. Because of these potential pitfalls, the City Council determined that it would promulgate a Request for Proposal for an engineering firm with extensive SRF experience.

- a. That RFP was promulgated in November 2011 for a "State Revolving Fund (SRF) Application Support and Preparation of the SRF-Required Facilities Planning Report."
- i. Six applicants responded to the City's RFP.

- ii. The City convened a Technical Review Panel to evaluate the proposers on: (1) work plan; (2) understanding of the Project; (3) responsiveness to the RFP; (4) experience and qualifications of the firm, project manager, key personnel, and sub-consultants on similar projects – i.e. successful completion of the SRF funding process; (5) innovative approaches.
 - iii. The five members of the Technical Review Panel independently and unanimously evaluated the Winzler & Kelly proposal as the top-ranked proposer. Winzler & Kelly has successfully obtained more SRF and/or grant funding than any of the other proposers.
 - iv. Cost bids were then opened and Winzler & Kelly was the Panel's top ranked firm on the final evaluation criteria: "cost relative to proposed work."
- b. The Winzler & Kelly scope of work, as solicited by the City in the City's RFP, is much broader than the simple preparation of the SRF Application and includes evaluation of several different approaches, including the approach advocated by Dr. Green, along with initial design work on whichever technical solution is chosen by Council.
- c. **The Winzler & Kelly contract includes the following services as requested in the RFP previously approved by Council:**
- i. Submit SRF FFAST Application as the first step toward obtaining the most inexpensive bond financing through the State Revolving Fund;
 - ii. Evaluate various treatment alternatives that would utilize existing infrastructure to ensure the lowest-cost project while still meeting the regulatory requirements imposed by the RWQCB. Alternatives to be evaluated include, but are not limited to:
 - 1. Use of the existing pond system;
 - 2. AIWPS pond system as proposed by Dr. Green's team;
 - 3. Constructed wetlands to provide polishing treatment;
 - 4. Biolac extended aeration system; and a
 - 5. Upflow Sludge Blanket Filtration Bioreactor system;
 - iii. Preparation of a Technical Report for the City that will recommend the most feasible project along with potential alternatives for consideration by Council; projects with fatal flaws, however, will not be included in the Technical Report;
 - iv. Preparation of the required Facilities Planning Report (initial design work) consistent with the requirements of the RWQCB and the SRF application;

- v. Assist the City with the final SRF application process once the Facilities Planning Report is complete;
 - 1. Winzler & Kelly has successfully obtained grant and/or loan funding through the RWQCB and other state and federal agencies and will make recommendations regarding other potential sources of financing in addition to SRF monies;
- vi. Provide assistance with the CEQ A and NEPA requirements;
- vii. Provide recommendations on approaches to SRF credit and legal review;
- viii. Develop and prepare engineering cost estimates and an overall construction schedule for selected alternative.

If the City chooses to retain both RBI and Winzler & Kelly, as recommended at the City's January 17, 2012 Council meeting, the City's team to ensure successful adherence to the RWQCB's CDO timelines will be in place. When Winzler & Kelly completes the required Facilities Planning Report, the City will be well on its way toward construction of a revised project at the lowest possible cost to the City's ratepayers. Finally, a construction firm will need to be retained to build the selected project.

SRF PROCESS AND HURDLES

1. SRF Considerations: Why Winzler & Kelly?

- a. To obtain SRF funds, the City must apply via the RWQCB's FAAST system for inclusion on the Statewide Project Priority List. Projects are included on the list at the request of the Executive Officer of each of the State's RWQCBs.
 - i. The City's project falls into Priority Class A, which is the highest priority class and intended for those agencies that have demonstrated public health problems with existing WW plants and for which the RWQCB has adopted a CDO.
 - ii. Projects are funded based on "readiness to proceed" which means that the City must diligently continue toward a revised project in order to comply with RWQCB deadlines and to show the City's due diligence regarding compliance with the various requirements of the SRF application process.
- b. The bulk of SRF funds come pursuant to the Federal Clean Water Act, which means that in addition to compliance with various State requirements, the City, must also show compliance with several pages of federal statutes and regulations. Winzler & Kelly has experience with and can advise on how best to achieve this compliance.

- c. The proposed project must be one that the RWQCB finds to be an acceptable solution to the issues raised by the RWQCB's CDO or the City will be ineligible for SRF funds. Winzler & Kelly, because of their experience with the SRF funding process, is in the best position to advise the City on which project will most readily achieve the City's goals while satisfying the requirements of the RWQCB.
- d. Winzler & Kelly should be retained as it will provide SRF Application Support and will prepare the SRF-Required Facilities Planning Report.
 - i. On the other hand, RBI will provide overall project direction, will draft the Report of Waste Discharge, and will advise Council on the various project alternatives as evaluated by Winzler & Kelly.
 - ii. If the Council decides not to retain Winzler & Kelly, as previously discussed above, the City will still need to retain a professional engineering firm to work on the SRF application and to prepare the Facilities Planning Report.
 - 1. Because RBI does not have experience obtaining funding from the SRF, it could actually cost the City more to have RBI provide support for the City's SRF project and to prepare the Facilities Planning Report than it would to retain Winzler & Kelly as Winzler & Kelly has extensive experience with these types of applications and will therefore be more efficient and will also be able to identify and avoid potential pitfalls.
- e. As noted previously, there are more than 25 separate SRF requirements that must be addressed in the City's proposed Facilities Planning Report – again, Winzler & Kelly has sufficient experience with the SRF funding process to ensure the City “gets it right” the first time.
- f. Additionally, the City must prepare and provide to the SRF Division of Financial Assistance certain environmental documents and reports, water conservation compliance documents, credit analysis documents, and various legal opinions including an analysis of the City's compliance with the required Proposition 218 process. Each of these elements have potential pitfalls on which Winzler & Kelly can advise.
- g. Winzler & Kelly, because of its extensive experience with SRF funding, will also provide advice for the City regarding procurement requirements. SRF staff is most familiar and comfortable with projects that use a Design-Bid-Build (“DBB”) procurement method and therefore that procurement method may be recommended. Winzler & Kelly is also familiar, however, with the Design-Build (“DB”) procurement method, should such a procurement approach be more cost-effective. Regardless of whether the City uses a DBB or DB process, each of these methods must be implemented in accordance with the strict requirements of the SRF funding process.

- h. Winzler & Kelly included assistance with CEQA/NEPA compliance as part of their proposed scope of work and will advise on the federal "cross-cutting" requirements if the SRF program determines that the project is subject to Tier One Review.
 - i. Tier One Review includes compliance with the federal Endangered Species Act, and the requirements of the Environmental Protection Agency, the U.S. Fish & Wildlife Service, and the National Office of Historic Preservation.
 - ii. Other environmental documents that may be needed and that Winzler & Kelly will advise on include Army Corps of Engineers Section 404 and 1600 Permits and RWQCB Section 401 Water Certifications.
 - i. The SRF process also requires the City have an Adopted General Plan - the City of Ione has a General Plan and Winzler & Kelly will advise on the sufficiency of that plan in light of SRF requirements.
 - j. Winzler & Kelly included advising on the required Credit and Legal Documentation in its proposed Scope of Work.
 - i. These documents are critical components of obtaining SRF funds and given the City's past financial difficulties with public bond offerings, the City will benefit greatly from Winzler & Kelly's advice.
 - ii. The likely maximum funding amount will be determined, in part, on the City's creditworthiness and the availability of a dedicated source of funding to repay the loan. Winzler & Kelly, working with Scott Smith of CSG Advisors, can advise the City on how best to present its credit documentation.
 - k. Finally, Winzler & Kelly has extensive experience with small community pond systems throughout Northern California and has participated in many community workshops to explain and garner community support for State-mandated projects in other municipalities.
2. When Winzler & Kelly has completed its scope of work the City will be in a position to execute an initial financing agreement with the SRF. Once that financing agreement is executed, the City will be ready to finalize design plans for the proposed facility and to begin the RFP process for procurement of project construction.
- a. When the SRF program is satisfied that the final design and procurement has been completed it will issue an Approval of Award letter at which point the City will be in a position to award the construction contract to the prime contractor.
 - b. As construction progresses, the SRF program will monitor construction and initial operation of the project and will eventually accept the City's Certification of Completion if appropriate.

3. Once the project is completed, the City will begin repayment of the SRF loan one-year after project completion.

CONCLUSIONS

The City's wastewater team, after evaluating various proposals identified by residents of Ione, has identified potential low-cost projects that will satisfy the RWQCB and that are feasible from both an engineering and legal perspective. For example, the City's current wastewater team has evaluated other low-cost options such as treating the City's water to tertiary at the existing tertiary treatment plant but found this option unworkable because: (1) the Tertiary Plant doesn't have sufficient capacity to handle both the Ione and the ARSA wastewater flows, and (2) even if the water is treated to tertiary it still must be treated first in Ponds 1-4 (which need cleaning because of years of accumulated sludge deposits) and then must also be disposed of in Ponds 5-7. Tertiary treated water in those ponds would not remedy the low-oxygen conditions at the bottom of the City's disposal/percolation ponds because of contamination. Similarly, direct injection of wastewater into the groundwater table would only be allowed by the RWQCB if the City's wastewater treatment goes beyond tertiary treatment to what Board staff have referred to as purified water which must undergo even more costly treatment such as reverse osmosis filtration and enhanced oxidation treatment.

Finally, even if the City desired to do so, there is no legal mechanism that would allow the Council to pursue a sole source contract with a Design-Build ("DB"), Design-Build-Operate ("DB O"), or Design-Build-Operate-Finance ("DBOF") firm. A competitive bidding process is required by the Public Contract Code or the Government Code's Infrastructure Finance Act, and pursuing a sole source contract would leave the City at an extremely high risk of litigation. To avoid potential liability, the City would be required to begin a new round of Request for Qualifications and Request for Proposals if it wished to forego the SRF process and negotiate directly with a DBO firm. Finally, even if the City were to choose such a course of action the City would still require the advice of a registered engineer such as Mr. O'Brien to advise on the feasibility and completeness of the proposals submitted and to prepare and submit the documents required by the RWQCB's interim deadlines.