

Meeting Location:
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, California 93013



**Joint Special Meeting
of the Boards of Directors of the
Carpinteria Sanitary District
and the
Carpinteria Valley Water District**

Meeting Agenda

Tuesday, April 11, 2023, 5:30 P.M.

Notice is hereby given that a joint special meeting of the Boards of Directors of the Carpinteria Sanitary District (CSD) and the Carpinteria Valley Water District (CVWD) will be held on Tuesday, April 11, 2023, at 5:30 p.m. at CSD Board Room at 5300 Sixth Street, Carpinteria, to consider and discuss the following items:

1. Call to order.
2. Public comment on matters not on the agenda and under the jurisdiction of the Joint Committee. Public comment on agenda items will be heard at time item is addressed.
3. Carpinteria Advanced Purification Project (CAPP) update.
4. Discuss development of a Joint Exercise of Powers Agreement for the CAPP**.
5. Adjournment.

The above matters are the only matters scheduled to be considered at this meeting.

Note: The above Agenda was posted at the Carpinteria Sanitary District and the Carpinteria Valley Water District Administrative Offices in view of the public no later than 5:00 p.m., April 7, 2023. The Americans with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in, or denied benefits of, the District's programs, services, or activities because of any disability. If you need special assistance to participate in this meeting, please contact the District Office at (805) 684-7214. Notification at least twenty-four (24) hours prior to the meeting will enable the District to make appropriate arrangements.

**Indicates attachment of document to agenda packet

Carpinteria Valley Water District & Carpinteria Sanitary District
Carpinteria Advanced Purification Project

DRAFT Terms for Joint Exercise of Powers Agreement

DRAFT - April 6, 2023

Vision:

Secure a reliable, safe, and drought-resistant water supply for the Carpinteria community.

Mission:

Deliver a cost-effective potable reuse project that exceeds regulatory requirements and maximizes water resource recovery through a partnership between CVWD and CSD, for the benefit of the Carpinteria community.

Guiding Principles:

- CVWD, CSD, and the City collectively serve the community of Carpinteria and agree to act as partners and act in good faith to achieve the project's mission and vision.
- Communicate openly and clearly.
- Commit to transparency.
- Consider the needs of diverse stakeholders.
- Inform and educate the community.
- Act as responsible stewards of ratepayers' interests.
- Earn public trust and support.
- Maintain professional relationships based on honesty and mutual respect.
- Listen to understand.
- Be open-minded to different perspectives and new ideas.
- Make informed decisions.
- Remain present and engaged.
- Do the work safely.

Performance Objectives/Success Factors

- Maximize the value of the ratepayers' investment.
- Design facilities that are adaptable, reliable and easy to maintain and operate.
- Implement cost-effective solutions.
- Leverage appropriate technologies.
- Build facilities that CVWD/CSD are proud of.
- Develop the CVWD/CSD Joint Exercise of Power (JEP) Agreement that benefits and protects each agency and is:
 - Clear
 - Fair
 - Adaptable
 - Robust reimbursement mechanism

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Definitions

AWPF: Advanced Water Purification Facility, consisting of membrane filtration, reverse osmosis, ultraviolet disinfection, advanced oxidation, and stabilization,

AWPF+ Facilities: All CAPP facilities within the CSD WWTP property, including AWPF, ancillary AWPF facilities, purified water pump station, and pipelines – as well as use of existing outfall for AWPF waste disposal.

CAPP or Project: Carpinteria Advanced Purification Project, an indirect potable reuse project that will treat effluent from the CSD WWTP with an AWPF for injection in the Carpinteria Groundwater Basin and eventual recovery by CVWD groundwater wells.

CAPP Joint Committee: Committee consisting of 3 CVWD Board members and 2 CSD Board members formed to manage CAPP implementation and ongoing operations.

CAPP Operations Committee: Committee consisting of 2 CVWD members (General Manager and CAPP Operations Lead) and 2 CSD members (General Manager and AWPF Chief Plant Operator) formed to develop and implement the CAPP Operating Agreement as well as address urgent operational issues.

City: City of Carpinteria

CSD: Carpinteria Sanitation District

CVWD: Carpinteria Valley Water District

Joint Exercise of Power (JEP) Agreement: The agreement to be developed based on this term sheet

O&M: CAPP operations and maintenance, include replacement of facilities

Desired Outcomes

Whereas,

- As the community's water supplier, CVWD is leading implementation and funding of CAPP. As the primary beneficiary, CVWD will fund planning, design, construction, and operations of CAPP.
- As the community's wastewater manager, CSD will provide high quality feed water to supply CAPP and has offered to accommodate CAPP construction and operations within the CSD WWTP site.
- CVWD and CSD agree that CSD staff operating the AWPF takes advantage of efficiencies from shared staff and staff recruiting and retainment benefits of AWPF operations.
- CVWD desires cost and quality oversight of CSD AWPF+ facility operations.
- CAPP will operate into the foreseeable future, so CVWD and CSD must develop a JEP Agreement that enables subsequent district leaders to continue the partnership and adapt to future operations and maintenance (O&M) and, if applicable, Project expansion.
- CAPP facility ownership and operational arrangements must be compliant with financing agreements and CVWD and CSD financial compliance requirements.
- CSD reserved space at the CSD WWTP for future recycling and some CAPP facilities will be located at the CSD WWTP – referred to as the "AWPF+" facilities. Design, construction, and operation of the AWPF+ facilities must consider other future uses of space at the CSD WWTP and ongoing

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WWTP operational activities. CSD and CVWD partnership in design, construction, and operation of AWPf+ facilities are essential for a successful project.

- Maximizing CAPP production cost effectively maximizes CVWD supply benefits. CVWD and CSD will work together to maximize flows to the AWPf.

Joint Exercise of Powers Agreement

- JEP Agreement will address design, construction, operation, maintenance, and ownership of AWPf+ facilities.
- JEP Agreement is anticipated to be managed by a CAPP **Joint Committee** with 3 CVWD members and 2 CSD members.
- A CAPP **Operating Committee** will be formed to develop an **Operations Agreement** and to address urgent O&M issues. The committee is likely to include CSD's AWPf Chief Plant Operator, CVWD's CAPP Operations Lead, CSD General Manager, and CVWD General Manager.
- CVWD and CSD's Attorney's will jointly draft the agreement based on the terms presented herein and will draft agreement aspects addressed in "Other Important Clauses" section.

Cost

- CVWD will fund AWPf+ facility design, construction, and O&M costs, except as defined in the **Operating Agreement**.
- Cost share for shared facilities, such as storage or parking, will be addressed by the **Joint Committee**.
- CAPP **Joint Committee** will review and approve annual budgets
 - Comments on Term
 - *Operator salary matrix - Who decides appropriate salary and what is CVWD role?*
- If supplemental AWPf feed water flows are developed that are not part of CSD's normal operations (e.g. non-sewage flows, such as dry weather stormwater runoff), CVWD and CSD will negotiate a cost share in good faith costs based on estimated cost impacts to CSD operations.

AWPf+ Ownership

- CVWD will own all CAPP facilities, including the AWPf+ facilities, and desires to minimize the impact of the AWPf+ facilities on existing and future CSD WWTP operations.
- CSD will grant a Lease or Easement to CVWD for AWPf+ facilities.
 - Comments on Term
 - *CSD to determine best approach to condition and allow CVWD's use of site.*
- CVWD will be responsible for future removal of aboveground AWPf+ facilities, abandonment of below ground AWPf+ facilities, and site restoration within the CSD WWTP if CAPP operations permanently cease.
- CSD owns all source water feeding the AWPf, AWPf discharges or bypasses, AWPf byproducts waste streams, and is responsible for disposal of any product water that does not meet specifications.
- CVWD will own the acceptable product water produced by the AWPf to the maximum amount that it can put to beneficial and reasonable reuse.
- Ownership of the water will transfer from CSD to CVWD **at the Purified Water Pump Station**
 - Comments on Term

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- *Options include equalization storage prior to AWPf, AWPf discharge to pump station clear well, and CSD WWTP property line*
- *Need legal and technical input here*
- CSD may provide short-term or bridge funding to CVWD for CAPP design and/or construction on a reimbursement basis.

Design Responsibilities

- CVWD will hold final design contract(s).
- CSD and CVWD will collaborate on the design development process.
- CSD will provide essential input to the part AWPf+ design development and review process; however, CVWD will have final authority on the design of AWPf+ facilities.
- CSD Board shall have final authority for any modification to existing CSD facilities.
- Change orders to design contract will be managed by CVWD, following CVWD protocols, with essential input from CSD for AWPf+ facilities. **Joint Committee** will resolve disagreements.

Construction Responsibilities

- CVWD will hold construction contractor, construction management, and engineering services contracts.
- CSD will be consulted and included in decision-making process for all AWPf+ facilities.
- CSD shall have final authority for any modification to existing CSD facilities.
- Construction contract may include start up responsibilities for contractor. These responsibilities will be coordinated with CSD and documented in the **Operations Agreement**.
- Change orders to design contract will be managed by CVWD, following CVWD protocols, with essential input from CSD for AWPf+ facilities. **Joint Committee** will resolve disagreements.

O&M Responsibilities

- CSD will operate and maintain AWPf+ on behalf of CVWD. CVWD and CSD controls of AWPf+ facilities will be defined in the **Operations Agreement**.
- Comments on Term
- *CVWD will want to control pump station operation since it is tied well operations but extended pump station / well downtime may require temporarily modifying AWPf operations by CSD.*
- CVWD will reimburse CSD for AWPf+ O&M costs. The **Operations Agreement** will define the scope of reimbursable costs and methodology for tracking and calculating reimbursement costs.
 - CSD and CVWD will share operational data. The **Operations Agreement** will define the frequency and type of data to be shared along with the sharing methods.
 - AWPf operations will be discussed by CVWD and CSD as part of regular **Operations Committee** and **Joint Committee** meetings. CVWD and CSD each reserves the right to inspect episodically, review monthly manager reports to start, event driven reporting, operating logs quarterly.
 - Proper AWPf operations is dependent on consistent, high-quality feedwater. CSD will make every reasonable effort to provide effluent that meets the AWPf source requirements.

Comments on Term

- *This is a good faith effort clause, not a performance guarantee.*

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- CSD will review any major changes to CSD facilities or operations with the CVWD in advance of implementing changes.
- Resolving O&M issues is based on each agency's good faith best efforts to continue operations.
- CVWD will work with CSD to address issues that impact CSD's ability to provide consistent, high-quality influent. Chronic or upcoming (e.g., from new regulations) issues would be addressed by the **Joint Committee** and acute issues the **Operating Committee**.
- If AWPf feed water from CSD WWTP does not meet influent requirements, CSD will promptly attempt to address issue(s) and will report to the CVWD and **Operations Committee** within a reasonably short period of time.
- CAPP is **responsible / liable** for impacts to CSD WWTP operations, such as AWPf discharges to CSD outfall. CSD will operate the AWPf with properly certified operators. However, production and discharge issues may occur from AWPf operations.

Comments on Term

- *CAPP is financially responsible for AWPf discharges.*
- *Who is responsible for CSD WWTP discharge violations caused by AWPf (owned by CVWD but operated by CSD)? What if CSD causes AWPf damages through its operations? How would cost be allocated or risk assigned? >> **Need legal input on this term***
- CVWD is responsible for disposal of bypasses, byproducts, waste streams, etc. that cannot be disposed of through the existing outfall.
- CVWD owns regulatory risk related to drinking water supply. CSD will work in good faith to support changes or improvements required to maintain drinking water compliance associated with CAPP.

Permits

- CSD and CVWD will work collaboratively in good faith to obtain and comply with permits associated with CAPP.
- CVWD will be the lead agency for permits associated with CAPP except for CSD's existing WWTP NPDES permit (for ocean discharge). For the CSD WWTP NPDES (ocean discharge), CSD is lead agency and CVWD is an interested agency.

Comments on Term

- *CAPP potentially impacts WWTP and outfall operations.*
- *CAPP WDR/WRR (for injection; CVWD is lead agency and, CSD to assist) – coordination considerations include AWPf reporting. Permit requirements will be included in the **Operations Agreement**.*
- CVWD will lead the approval process for the Title 22 Engineering Report, which is incorporated into the CAPP WDR/WRR. CSD, as an interested agency, will review and comment on these documents.
- CSD will be financially responsible for the enhanced source control program required by indirect potable reuse Title 22 regulations based on CSD's current expectations for the program.

Comments on Term

- *CSD does not have a formal pretreatment program.*
- *CSD is currently developing the program based on other similar projects.*
- *SWRCB and RWQCB will ultimately approve program. The approvals may require expansion of the program as currently envisioned, which may require CVWD cost share.*

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- The agreement will be re-opened if CSD realizes an explicit, substantial regulatory benefit in the future from CAPP. CVWD and CSD will negotiate a revised Project cost share in good faith based on material benefits of CAPP to CSD.

Comments on Term

- *Most likely driven by material change in CSD NPDES permit where CAPP provides a benefit to CSD that would not occur if CAPP was not implemented.*
- *Define avoided costs captured by CSD contribution to debt service and O&M based on study that adequately characterizes avoided costs.*

Operating Agreement

The following is a brief list of items that the Operating Agreement is anticipated to address

- Anticipated staffing plan and timing of CSD hiring AWPf operator(s)
- WWTP effluent and/or AWPf processes effluent used for WWTP processes
 - *CVWD preference is to match treatment need to quality need of WWTP water use*
- Project controls – who has controls over which processes, how do controls systems coordinate, how do CSD and CVWD coordinate operations, etc.
- Hand off points between the AWPf, the pump station and the two agencies.
- Sharing of operational data
- Site access
- Incorporate applicable Regional Board and City permit requirements
- Startup responsibilities split between construction contractor, CVWD design and construction management consultants, and CSD operators
- CVWD reimbursement for CSD for AWPf operations

Considerations

- *Eligibility for reimbursement*
- *Tracking methodology*
 - *Certain FTE's baseline? CSD timecards?*
 - *AWTO operations requirements will be defined in the WDR/WRR permit*
 - *CSD will provide time sheet level details of operations efforts and maintain accounting records in accordance with GAAP to CVWD on a regular (monthly) basis.*
- *Calculation methodology*
 - *CSD direct costs plus an overhead allowance; Employee costs and retirement obligations will be accounted for with the CSD providing a fully burdened hourly rate.*
 - *Identify O&M costs excluded from reimbursement (e.g., source control)*

Committees

- **CAPP Joint Committee** responsibilities
 - Overall Project management
 - Review progress reporting aligned with billing process
 - Adopt annual budget
 - Set policy direction
 - Resolve design, construction, and O&M cost decisions between CVWD and CSD

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- Forum for appeals
- Addressing chronic issues or new regulations impacting CAPP
- CAPP **Operating Committee** responsibilities
 - Develop Operating Agreement
 - Addressing and/or discussing urgent / acute operating issues
 - CAPP Emergency Response

Other Important Clauses

- Additional Parties / Signatories
 - *Allowing for additional agency participation/signatories to this agreement with approval of both parties.*
- Agreement Amendment Process
- Dispute Resolution
 - *Operating Committee appeals to Joint Committee, which appeals to Joint Boards, which appeals to... mediation/arbitration*
- Execution and Recording
 - *Standard signature page and indication of the milestone by which agreement, etc... becomes effective.*
- Indemnification
 - *Mutual Indemnification and waiver of special punitive or third-party damages.*
- Insurance
 - *Attorney's to jointly define*
 - *CVWD to carry property insurance*
 - *CSD to carry workers compensation as a reimbursable cost*
- Partial Invalidity
 - *Standard legal clause, this is a place holder for this and any other legal clauses that the attorneys want.*
- Reopener
 - *In the event of a catastrophic loss of the CSD WWTP or CAPP facilities ceases to operate for more than 6 months, the CSD and CVWD will reopen and renegotiate the agreement.*
- Reservation of Rights
 - *What is off the table?*
- Successors
 - *Binding Successors should be included.*
- Term
 - *Align with funding (minimum of 30 years) plus with some shorter term (non-optional?) renewals*
 - *Look to Cachuma, State Water, etc. as examples.*
- Termination / Withdrawal
 - *Triggered only by mutual consent, Non-payment in a reasonable time frame, Force Majeure, ...*
 - *No unilateral withdrawal*