



STAFF REPORT

AGENDA NO: 8e

MEETING DATE: February 19, 2019

To: Honorable Mayor and City Council

Date: February 19, 2019

From: Syed Murtuza, Director of Public Works – (650) 558-7230

Subject: Adoption of a Resolution Approving the Amended and Restated Water Supply Agreement Between the City and County of San Francisco and the Wholesale Customers in Alameda, San Mateo, and Santa Clara Counties and Authorizing the City Manager to Execute the Agreement

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution approving the Amended and Restated Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda, San Mateo, and Santa Clara Counties dated November 2018, and authorize the City Manager to execute the agreement.

BACKGROUND

Burlingame purchases potable water from the San Francisco Regional Water System and is one of the 26 member agencies of the Bay Area Water Supply and Conservation Agency (BAWSCA). In 2006, BAWSCA member agencies delegated authority to BAWSCA to negotiate the Water Supply Agreement (WSA) between San Francisco and the member agencies. The City of Burlingame approved the WSA in 2009. The WSA builds upon the 1984 Settlement Agreement and Master Water Sales Contract between the City and County of San Francisco and Certain Suburban Purchasers in San Mateo County, Santa Clara County, and Alameda County (1984 Agreement).

The City of Burlingame approved Amendment No. 1 to the WSA in the spring of 2013; the amendment prohibited changes to the Hetch Hetchy Reservoir unless there is an amendment to the WSA.

During the course of implementing the WSA, it became clear to BAWSCA and the San Francisco Public Utilities Commission (SFPUC) that a number of amendments were needed to address substantive, important, and discrete issues. As a result, in September 2018, the City Council adopted a resolution authorizing BAWSCA to negotiate with the SFPUC on several sections of the WSA to address substantive and important issues that have arisen during implementation of the WSA.

DISCUSSION

BAWSCA and SFPUC have recently identified seven amendments of importance to each agency, which are summarized below and are included in the body of the amended agreement.

1. Oversight of SFPUC's Capital Improvement Program (CIP) (2009 WSA new Section 6.09): This amendment adds a new section to the WSA obligating SFPUC to formally engage with BAWSCA on its 10-year CIP development. This amendment ensures that BAWSCA and the Wholesale Customers are involved in the development of the 10-year CIP, have the opportunity to comment on proposed changes to the Level of Service Goals, requires the SFPUC to create an asset management policy applicable to the Regional Water System by December 31, 2020, and commits the SFPUC to quarterly reporting and meetings on CIP implementation.
2. Tier 1 Drought Allocation Plan (2009 WSA Attachment H Section 2.1): The Tier 1 Drought Allocation Plan amendment includes a modest change to the existing formula to ensure that, in the event of a cutback, San Francisco Retail Customers do not receive a positive allocation of water and will take a minimum five percent cutback. Any positive allocation of water would be re-distributed to Wholesale Customers; additional water conserved by Retail Customers up to the minimum five percent level would remain in storage for allocation in future successive dry years.
3. 2018 Decisions (2009 WSA Sections 3.13, 4.01, 4.05, 4.06, 9.06, Attachment Q): The WSA required that by December 31, 2018, the SFPUC was to decide whether to make San Jose and Santa Clara permanent customers and whether to offer additional supply to other Wholesale Customers. Currently, there is insufficient data for the SFPUC to make these decisions at this time. This amendment will extend the deadlines for SFPUC to decide and obligate SFPUC to provide annual updates to its Commission regarding developing permanent supply for San Jose and Santa Clara. The amendment also expands Santa Clara's service area map for operational purposes.
4. Asset Classification (2009 WSA new Section 5.11 and definitions and Attachment R; revisions to Section 4.07): Asset classification is critical to the allocation of Hetch Hetchy Enterprise capital and operating costs in order to separate out the Power function, the costs for which have never been paid by Wholesale Customers. This amendment documents and fixes the classification of all significant "upcountry" existing assets of the Regional Water System and limits the changes from historical classifications for seven specific and known projects on five assets, without changing the classification of the underlying asset. This facilitates efficient contract administration and limits and mitigates Wholesale Customer exposure to financial risks on certain projects.
5. Wholesale Capital Fund (2009 WSA, Section 6.08 E and Attachment M-3): Under the 2009 WSA, funds for capital projects are appropriated and placed into the Wholesale Capital Fund upon appropriation. The balance of the Fund is reviewed at five-year intervals beginning in FY 2014-15, and any excess balance (unexpended, unencumbered amount in excess of 10% of appropriation) is transferred to the balancing account. This amendment provides for an annual reconciliation of costs to ensure that SFPUC has the necessary resources for capital

improvements, without holding an excessive amount of Wholesale Customer funds.

6. Water System Improvement Program (WSIP) Completion Date (2009 WSA Section 3.09): The WSA contained an outdated WSIP completion date. This amendment updates the WSIP completion date to December 30, 2021, as adopted by the SFPUC's Commission in March of 2018.
7. Regional Groundwater Storage and Recover Project (RGSRP) (2009 Agreement, Section 3.17): This amendment updates the RGSRP contract provisions to better reflect how the RGSRP will be operated and to outline the cost-allocation responsibilities shared by the RGWRP's partner agencies.

In addition to the above amendments, the attached amended and restated Water Supply Agreement includes a number of non-substantive updates and "clean-up" revisions, as summarized below.

- Updated Attachment A, reflecting new and revised definitions.
- Updated Attachment C, reflecting recent Individual Supply Guarantee transfers.
- Updated Attachment K, reflecting the updated Wholesale Customers' share of Net Book Value of Existing Assets and share of Revenue-Funded Capital Expenditures.
- New section 3.18, reflecting the Hetch Hetchy Amendment approved in 2013.
- Revised section 8.04, reflecting the authority previously delegated by the Wholesale Customers to BAWSCA in 2014 to initiate, defend, and settle arbitration for matters subject to arbitration under the WSA.
- Updates reflecting Cal Water's acquisition of Skyline County Water District.
- Updates to the addresses for both BAWSCA and the SFPUC.

FISCAL IMPACT

There are no fiscal impacts associated with this action.

Exhibits:

- Resolution
- Redlined Amended and Restated Water Supply Agreement
- Clean Amended and Restated Water Supply Agreement with Attachments