

**3.07. Restrictions on Purchases of Water from Others; Minimum Annual Purchases**

A. Each Wholesale Customer (except for Alameda County Water District and the cities of Milpitas, Mountain View and Sunnyvale) agrees that it will not contract for, purchase or receive, with or without compensation, directly or indirectly, from any person, corporation, governmental agency or other entity, any water for delivery or use within its service area without the prior written consent of San Francisco.

B. The prohibition in subsection A does not apply to:

1. recycled water;
2. water necessary on an emergency and temporary basis, provided that the Wholesale Customer promptly gives San Francisco notice of the nature of the emergency, the amount of water that has been or is to be purchased, and the expected duration of the emergency; or
3. water in excess of a Wholesale Customer's Individual Supply Guarantee.

C. Minimum Annual Purchase Quantities. Alameda County Water District and the cities of Milpitas, Mountain View and Sunnyvale may purchase water from sources other than San Francisco, provided that San Francisco shall require that each purchase a minimum annual quantity of water from San Francisco. -These Minimum Annual Purchase Quantities are set out in Attachment E and shall also be included in the Individual Water Sales Contracts between San Francisco and each of these four Wholesale Customers (collectively referred to as the Original Minimum Purchase Customers). Pursuant to Section 3.04, certain Wholesale Customers may also be required to purchase Temporary Modified Minimum Annual Purchase Quantities, set out in Attachment E-1, from San Francisco. Attachment E will be updated pursuant to Section 3.04 to reflect any reduction in existing Minimum Annual Purchase Quantities and any addition of new Minimum Annual Purchase Quantities when Temporary Modified Minimum Annual Purchase Quantities expire and are removed from Attachment E-1; Individual Water Sales Contracts between San Francisco and any Wholesale Customers who are participants in a transfer under Section 3.04 will similarly be amended, as necessary.

1. Annual Notice. After the end of each fiscal year, the SFPUC will send a written notice to each Wholesale Customer ~~that is subject to the minimum annual purchase requirements of this section~~ with a Minimum Annual Purchase Quantity, or a Temporary Modified Minimum Annual Purchase Quantity with a copy to BAWSCA. -The notice will include: ~~(4~~

(a) the quantity of water delivered to ~~the~~each of those Wholesale ~~Customer~~Customers individually and all of the Original Minimum Purchase Customers collectively during the previous fiscal year; ~~{~~

~~2~~

(b) each Wholesale Customer's individual Minimum Annual Purchase Quantity or Temporary Modified Minimum Annual Purchase Quantity (as adjusted for a Rebound Year, if applicable, under Section 3.07.C.2);

~~)-whether or not the Wholesale Customer met its minimum annual purchase requirement under this section; (3~~

(c) whether or not each Wholesale Customer met its individual Minimum Annual Purchase Quantity or Temporary Modified Minimum Annual Purchase Quantity (as adjusted for a Rebound Year, if applicable);

(d) whether or not the Original Minimum Purchase Customers collectively purchased a volume of water from San Francisco that is equal to or greater than the sum of their four Minimum Annual Purchase Quantities (as adjusted for a Rebound Year, if applicable);

(e) any Imputed Sales charged to the Wholesale ~~Customer~~Customers; and ~~(4~~

(f) the status of any Temporary Modified Minimum Annual Purchase ~~Quantity~~Quantities of the Wholesale ~~Customer, if applicable.~~Customers.

~~C-2.~~ Waiver and Rebound Year. The minimum annual purchase requirements set out in Attachments E and E-1 will be waived during a Drought or other period of water shortage if the water San Francisco makes available to these Wholesale Customers is less than ~~its~~their Minimum Annual Purchase ~~Quantity~~Quantities or Temporary Modified Minimum Annual Purchase Quantities, and may be waived during a state of emergency declared by the Governor of California that impacts water supply use or deliveries from the Regional Water System. Once the waiver is no longer in effect, each of the minimum annual purchase requirements set out in Attachments E and E-1 shall be temporarily set, for one full fiscal year (referred to as the Rebound Year), to the midpoint between (1) the Wholesale Customer's actual San Francisco purchases for the final year in which the waiver was in effect, up to a maximum of the Customer's Minimum Annual Purchase Quantity or Temporary Modified Minimum Annual Purchase Quantity, and (2) the Wholesale Customer's Minimum Annual Purchase Quantity or Temporary Modified Minimum Annual Purchase Quantity set out in Attachment E or Attachment E-1, as applicable. Any fiscal year in which a Wholesale Customer meets its Rebound Year-adjusted Temporary Modified Minimum

Annual Purchase Quantity, but not its standard Temporary Modified Minimum Annual Purchase Quantity, will not count as a fiscal year in which the Wholesale Customer has met or exceeded its Temporary Modified Minimum Purchase Quantity for the purposes of Section 3.04.C(4)(a).

D. Minimum Annual Purchase Quantity Reset. As shown on Attachment E, in Fiscal Year 2025-26, the Parties reset the then-existing Minimum Annual Purchase Quantities of the Original Minimum Purchase Customers to 80% of the average San Francisco purchases of each Customer over the four most recent non-drought years preceding Fiscal Year 2024-25, effective for Fiscal Year 2024-25. If the Parties extend the Term of this Agreement beyond June 30, 2034 pursuant to Section 2.02, the Parties will review the Minimum Annual Purchase Quantities of the Original Minimum Purchase Customers again ten years after the Fiscal Year 2025-26 reset. If the Original Minimum Purchase Customers, or San Francisco, want to propose a reset of the Minimum Annual Purchase Quantities for Fiscal Year 2035-36, they will provide written notice on or before June 30, 2034. The Parties will meet and confer promptly to evaluate written reset proposals. By November 30, 2035, if the Parties have come to an agreement, the SFPUC will calculate the revised Minimum Annual Purchase Quantities based on the agreed upon methodology and provide written notice to the Original Minimum Purchase Customers and BAWSCA. The Original Minimum Purchase Customers will have at least 15 business days to review and meet and confer with the SFPUC with any questions or concerns before the revised quantities are finalized. If the Parties are unable to come to an agreement, the then-existing Minimum Annual Purchase Quantities will remain unchanged. Any changes to the Minimum Annual Purchase Quantities under this Section 3.07.D will be reflected in a revised Attachment E approved with the written concurrence of San Francisco and BAWSCA in accordance with Section 2.03.C. The Parties intend to include a continuing, periodic review of the Minimum Annual Purchase Quantities on a ten-year schedule in the successor to this Agreement.

E. Collective Minimum Annual Purchase Quantities Considered Before Application of Imputed Sales. Imputed Sales will not apply to any of the individual Original Minimum Purchase Customers in a particular fiscal year if those Customers have collectively purchased a volume of water from San Francisco that is equal to or greater than the sum of their four Minimum Annual Purchase Quantities shown in Attachment E (or adjusted for a Rebound Year pursuant to Section 3.07.C.2, if applicable). If the Original Minimum Purchase Customers do not collectively purchase that sum, any Original Minimum Purchase Customer that has not met its standard or Rebound Year-adjusted Minimum Annual Purchase Quantity will be responsible for Imputed Sales proportional to its share of the difference between that sum and the Original Minimum Purchase Customers' total purchases from San Francisco. Examples of this calculation are contained in

[Attachment E-3.](#)

*Redline Comparing 2021 Amended and Restated Water Supply Agreement and 2025 Proposed Amendments: Sections 2.03, 3.09, and 9.07, and Attachment A Definitions*

**2.03. Amendments.**

**C. Amendments to Attachments.** The following attachments may be amended with the written concurrence of San Francisco and BAWSCA on behalf of the Wholesale Customers:

<u>Attachment</u>	<u>Name</u>
C	Individual Supply Guarantees (amendments reflecting Section 3.04 transfers only)
E	Minimum Annual Purchase Quantities (amendments reflecting Section 3.04 transfers <a href="#">and Section 3.07 resets</a> only)
E-1	Temporary Modified Minimum Annual Purchase Quantities
G	Water Quality Notification and Communications Plan (as may be amended)
J	Water Use Measurement and Tabulation
L-1	Identification of WSIP Projects as Regional/Retail
N-1	Balancing Account/Rate Setting Calculation Table
N-2	Wholesale Revenue Requirement Schedules
N-3	Schedule of Projected Water Sales, Wholesale Revenue Requirement and Wholesale Rates
P	Management Representation Letter
R	Classification of Existing System Assets (subject to Section 5.11)

Amendments to these attachments shall be approved on behalf of San Francisco by the Commission and on behalf of BAWSCA by its Board of Directors, unless the Commission by resolution delegates such authority to the General Manager of the SFPUC or the Board of Directors by resolution delegates such authority to the General Manager/CEO of BAWSCA.

**3.09. Completion of WSIP**

San Francisco will complete construction of the physical facilities in the WSIP by ~~December~~June 30, ~~2021~~2032. The SFPUC agrees to provide for full public review and comment by local and state interests of any proposed changes that delay previously adopted project completion dates or that delete projects. The SFPUC shall meet and consult with BAWSCA before proposing to the Commission any changes in the scope of WSIP projects which reduce their capacity or ability to achieve adopted Level of Service Goals and Objectives. The SFPUC retains discretion to determine whether to approve the physical facilities in the WSIP until after it completes the CEQA process as set forth in Section 4.07.

**9.07. City of Brisbane, Guadalupe Valley Municipal Improvement District, Town of Hillsborough**

A. The parties acknowledge that San Francisco has heretofore provided certain quantities of water to the City of Brisbane ("Brisbane"), Guadalupe Valley Municipal Improvement District ("Guadalupe") and the Town of Hillsborough ("Hillsborough") at specified rates or without charge pursuant to obligations arising out of agreements between the predecessors of San Francisco and these parties, which agreements are referred to in judicial orders, resolutions of the SFPUC and/or the 1960 contracts between San Francisco and Brisbane, Guadalupe and Hillsborough. The parties intend to continue those arrangements and accordingly agree as follows:

1. Nothing in this Agreement is intended to alter, amend or modify the terms of SFPUC Resolution No. 74-~~0653~~0053 or the indenture of July 18, 1908 between the Guadalupe Development Company and the Spring Valley Water Company.

2. Nothing in this Agreement is intended to alter, amend or modify the Findings of Fact and Conclusions of Law and Judgment dated May 25, 1961 in that certain action entitled City and County of San Francisco v. Town of Hillsborough in the Superior Court of the State of California in and for the County of Marin, No. 23282, as modified by the Satisfaction of Judgment filed October 23, 1961 and the Compromise and Release between Hillsborough and San Francisco dated August 22, 1961. The rights and obligations of Hillsborough under these documents shall continue as therein set forth.

3. Nothing in this Agreement is intended to affect or prejudice any claims, rights or remedies of Guadalupe or of Crocker Estate Company, a corporation, or of Crocker

Land Company, a corporation, or of San Francisco, or of their successors and assigns, respectively, with respect to or arising out of that certain deed dated May 22, 1884, from Charles Crocker to Spring Valley Water Works, a corporation, recorded on May 24, 1884, in Book 37 of Deeds at page 356, Records of San Mateo County, California, as amended by that certain Deed of Exchange of Easements in Real Property and Agreement for Trade in Connection Therewith, dated July 29, 1954, recorded on August 4, 1954, in Book 2628, at page 298, Official Records of said San Mateo County, or with respect to or arising out of that certain action involving the validity or enforceability of certain provisions of said deed entitled City and County of San Francisco v. Crocker Estate Company, in the Superior Court of the State of California in and for the County of Marin, No. 23281.

### **Attachment A - Definitions**

**“Imputed Sales”** apply when a Wholesale Customer does not meet the minimum annual purchase requirements of Section 3.07.C, [as shown on Attachment E and Attachment E-1](#), except in fiscal years in which a waiver of these requirements is in effect. Imputed Sales are calculated as the difference between (1) a Wholesale Customer’s metered water purchases during a fiscal year, from July 1 to June 30, and (2) the larger of (a) or (b) as follows: (a) the Wholesale Customer’s Minimum Annual Purchase Quantity, as specified in Attachment E [and may be adjusted pursuant to Section 3.07.C.2](#), or (b) the Wholesale Customer’s Temporary Modified Minimum Annual Purchase Quantity, as specified in Attachment E-1 [and may be adjusted pursuant to Section 3.07.C.2](#). If a Wholesale Customer has more than one Temporary Modified Minimum Annual Purchase Quantity, the largest quantity is used for calculating Imputed Sales. Imputed Sales are considered wholesale water usage for the purposes of calculating the Proportional Annual Use, and any fees charged for Imputed Sales are considered wholesale revenues.

**“Level of Service Goals and Objectives”** refers to the “Phased WSIP Goals and Objectives” adopted by the Commission in Resolution No. 08-0200 dated October 30, 2008 as part of the approval of the WSIP, [as updated and expanded by the "2023 Amended and Updated Water Enterprise Level of Service Goals and Objectives," adopted by the Commission in Resolution No. 23-0210 dated November 28, 2023](#), and any amendments that may be adopted by the Commission.

**ATTACHMENT E**

**MINIMUM ANNUAL PURCHASE QUANTITIES**

**(Section 3.07.C)**

<b>AGENCY</b>	<b>MINIMUM ANNUAL PURCHASE QUANTITY (IN MGD)<sup>1</sup></b>
Alameda County Water District	<del>7.648</del> <u>6.682</u>
City of Milpitas	<del>5.341</del> <u>4.371</u>
City of Mountain View	<del>8.930</del> <u>6.047</u>
City of Sunnyvale	<del>8.930</del> <u>7.412</u>

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<sup>1</sup> In Fiscal Year (FY) 2025-26, the then-existing Minimum Annual Purchase Quantities for Alameda County Water District and the Cities of Milpitas, Mountain View, and Sunnyvale were reset to 80% of each of those four customers' average San Francisco purchases over the four non-drought years preceding FY 2024-25 (FY 2017-18, FY 2018-19, FY 2019-20, and FY 2020-21), effective FY 2024-25. Prior to this reset, from the effective date of this Agreement (July 1, 2009) through FY 2023-24, those four customers had the following Minimum Annual Purchase Quantities:

1. Alameda County Water District: 7.648 MGD
2. City of Milpitas: 5.341 MGD
3. City of Mountain View: 8.930 MGD
4. City of Sunnyvale: 8.930 MGD



## ATTACHMENT H

### WATER SHORTAGE ALLOCATION PLAN

This ~~Interim~~ Water Shortage Allocation Plan (“Plan”), also known as the Tier 1 Shortage Plan, describes the method for allocating water between the San Francisco Public Utilities Commission (“SFPUC”), on the one hand, and the Wholesale Customers collectively, on the other, during shortages caused by drought. The Plan also implements a method for allocating water among the individual Wholesale Customers, known as the Tier 2 Drought Response Implementation Plan (“Tier 2 Plan”), which has separately been adopted by the Wholesale Customers and does not include the SFPUC. The Plan includes provisions for transfers, banking, and excess use charges. The Plan applies only when the SFPUC determines that a system-wide water shortage due to drought exists, and all references to “shortages” and “water shortages” are to be so understood. This Plan was initially adopted pursuant to Section 7.03(a) of the 1984 Settlement Agreement and Master Water Sales Contract and has been incorporated and updated to correspond to the terminology used in the ~~June~~ 2009 Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County and Santa Clara County (“Agreement”), as amended and restated from time to time.

#### SECTION 1. SHORTAGE CONDITIONS

**1.1. Projected Available SFPUC Water Supply.** The SFPUC shall make an annual determination as to whether or not a shortage condition exists. The determination of projected available water supply shall consider, among other things, stored water, projected runoff, water acquired by the SFPUC from non-SFPUC sources, inactive storage, reservoir losses, allowance for carryover storage, and water bank balances, if any, described in Section 3.

**1.2. Projected SFPUC Customer Purchases.** The SFPUC will utilize purchase data, including volumes of water purchased by the Wholesale Customers and by Retail Customers (as those terms are used in the Agreement) in the year immediately prior to the drought, along with other available relevant information, as a basis for determining projected system-wide water purchases from the SFPUC for the upcoming ~~year~~ Supply Year (defined as the period from July 1 through June 30).

**1.3. Shortage Conditions.** The SFPUC will compare the projected available water supply (Section 1.1) with projected system-wide water purchases (Section 1.2). A shortage condition exists if the SFPUC determines that the projected available water supply is less than projected system-wide water purchases in the upcoming Supply Year ~~(defined as the period from July 1 through June 30)~~. When a shortage condition exists, SFPUC will determine whether voluntary or mandatory actions will be required to reduce purchases of SFPUC water to required levels.

**1.3.1 Voluntary Response.** If the SFPUC determines that voluntary actions will be sufficient to accomplish the necessary reduction in water use throughout its service area, the SFPUC and the Wholesale Customers will make good faith efforts to reduce their water purchases to stay within their annual ~~shortage~~ Tier 1 and Tier 2 allocations as applicable (see Section 2 of this Attachment H) and associated monthly water use budgets. The SFPUC will not impose excess use charges during periods of voluntary rationing, but may suspend the prospective accumulation of water bank credits, or impose a ceiling on further accumulation of bank credits, consistent with Section 3.2.1 of this Plan.

**1.3.2 Mandatory Response.** If the SFPUC determines that mandatory actions will be required to accomplish the necessary reduction in water use in the SFPUC service area, the SFPUC may implement excess use charges as set forth in Section 4 of this Plan.

**1.4. Period of Shortage.** A shortage period commences when the SFPUC determines that a water shortage exists, as set forth in a declaration of water shortage emergency issued by the SFPUC pursuant to California Water Code Sections 350 et seq. Termination of the water shortage emergency will be declared by resolution of the SFPUC.

## SECTION 2. SHORTAGE ALLOCATIONS

**2.1. Annual [Tier 1](#) Allocations between the SFPUC and the Wholesale Customers.** The annual water supply available during shortages will be allocated between the SFPUC and the collective Wholesale Customers as follows:

Level of System Wide Reduction in Water Use Required	Share of Available Water	
	SFPUC Share	Wholesale Customers Share
5% or less	35.5%	64.5%
6% through 10%	36.0%	64.0%
11% through 15%	37.0%	63.0%
16% through 20%	37.5%	62.5%

[This Plan refers to the SFPUC's and Wholesale Customers' respective shares of available water so established as the SFPUC's and Wholesale Customers' Tier 1 allocations.](#) The water allocated to the SFPUC shall correspond to the total allocation for all Retail Customers. In the event that the SFPUC share of the available water supply in the above table results in Retail Customers having a positive allocation (i.e., a supply of additional water rather than a required percentage reduction in water use), the SFPUC's percentage share of the available water supply in the table shall be reduced to eliminate any positive allocation to Retail Customers, with a corresponding increase in the percentage share of the available water supply allocated to the Wholesale Customers. For any level of required reduction in system-wide water use during shortages, the SFPUC shall require Retail Customers to conserve a minimum of 5%, with any resulting reallocated supply credited to storage for inclusion in calculation of projected available water SFPUC water supply in a subsequent year (Section 1.1).

The parties agree to reevaluate the percentages of the available water supply allocated to Retail and Wholesale Customers by May 1, 2028.

**2.2 Annual [Tier 2](#) Allocations among the Wholesale Customers.** The annual water supply allocated to the Wholesale Customers collectively during system wide shortages of 20 percent or less ([i.e., the Wholesale Customers' Tier 1 allocation](#)) will be apportioned among them based on a methodology, [known as the Tier 2 Plan, that has been separately](#) adopted by all of the Wholesale Customers, [and not the SFPUC](#), as described in Section 3.11(C) of the Agreement. In any year for which the methodology must be applied, the Bay Area Water Supply and Conservation Agency ("BAWSCA") will calculate each Wholesale Customer's individual percentage share of the amount of water allocated to the Wholesale Customers collectively pursuant to Section 2.1. Following the declaration or reconfirmation of a water shortage emergency by the SFPUC, BAWSCA will deliver to the SFPUC General Manager a list, signed by the President of BAWSCA's Board of Directors and its General Manager, showing each Wholesale Customer together with its percentage share and stating that the list has been prepared in accordance with the methodology adopted by the Wholesale Customers. The SFPUC shall allocate water to each Wholesale Customer, as specified in the list. The shortage allocations so established ([known as Tier 2](#)

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[allocations](#)) may be transferred as provided in Section 2.5 of this Plan. If BAWSCA or all Wholesale Customers do not provide the SFPUC with individual allocations, the SFPUC may make a final allocation decision after first meeting and discussing allocations with BAWSCA and the Wholesale Customers.

The [Tier 2 Plan](#) methodology adopted by the Wholesale Customers utilizes the rolling average of each individual Wholesale Customer's purchases from the SFPUC during the three immediately preceding Supply Years. The SFPUC agrees to provide BAWSCA by November 1 of each year a list showing the amount of water purchased by each Wholesale Customer during the immediately preceding Supply Year. The list will be prepared using Customer Service Bureau report MGT440 (or comparable official record in use at the time), adjusted as required for any reporting errors or omissions, and will be transmitted by the SFPUC General Manager or his designee.

**2.3. Limited Applicability of Plan to System Wide Shortages Greater Than Twenty Percent.** The [Tier 1](#) allocations of water between the SFPUC and the Wholesale Customers collectively, provided for in Section 2.1, apply only to shortages of 20 percent or less. The SFPUC and Wholesale Customers recognize the possibility of a drought occurring which could create system-wide shortages greater than 20 percent despite actions taken by the SFPUC aimed at reducing the probability and severity of water shortages in the SFPUC service area. If the SFPUC determines that a system wide water shortage greater than 20 percent exists, the SFPUC and the Wholesale Customers agree to meet within 10 days and discuss whether a change is required to the allocation set forth in Section 2.1 in order to mitigate undue hardships that might otherwise be experienced by individual Wholesale Customers or Retail Customers. Following these discussions, the Tier 1 ~~water~~ allocations set forth in Section 2.1 of this Plan, or a modified version thereof, may be adopted by mutual written consent of the SFPUC and the Wholesale Customers. If the SFPUC and Wholesale Customers meet and cannot agree on an appropriate Tier 1 allocation within 30 days of the SFPUC's determination of water shortage greater than 20 percent, then (1) the provisions of Section 3.11(C) of the Agreement will apply, unless (2) all of the Wholesale Customers direct in writing that a Tier 2 allocation methodology agreed to by them be used to apportion the water to be made available to the Wholesale Customers collectively, in lieu of the provisions of Section 3.11(C).

The provisions of this Plan relating to transfers (in Section 2.5), banking (in Section 3), and excess use charges (in Section 4) shall continue to apply during system-wide shortages greater than 20 percent.

**2.4. Monthly Water Budgets.** Within 10 days after adopting a declaration of water shortage emergency, the SFPUC will determine the amount of Tier 1 water allocated to the Wholesale Customers collectively pursuant to Section 2.1. The SFPUC General Manager, using the Tier 2 allocation percentages shown on the list delivered by BAWSCA pursuant to Section 2.2, will calculate each Wholesale Customer's individual annual [Tier 2](#) allocation. The SFPUC General Manager, or his designee, will then provide each Wholesale Customer with a proposed schedule of monthly water budgets based on the pattern of monthly water purchases during the Supply Year immediately preceding the declaration of shortage (the "Default Schedule"). Each Wholesale Customer may, within two weeks of receiving its Default Schedule, provide the SFPUC with an alternative monthly water budget that reschedules its annual Tier 2 ~~shortage~~ allocation over the course of the succeeding Supply Year. If a Wholesale Customer does not deliver an alternative monthly water budget to the SFPUC within two weeks of its receipt of the Default Schedule, then its monthly budget for the ensuing Supply Year shall be the Default Schedule proposed by the SFPUC.

Monthly Wholesale Customer water budgets will be derived from annual Tier 2 allocations for purposes of accounting for excess use. Monthly Wholesale Customer water budgets shall be adjusted during the year to account for transfers of shortage allocation under Section 2.5 and transfers of banked water under Section 3.4.

**2.5. Transfers of Shortage Allocations.** Voluntary transfers of shortage allocations between the SFPUC and any Wholesale Customers, and between any Wholesale Customers, will be permitted using the same procedure as that for transfers of banked water set forth in Section 3.4. The SFPUC and BAWSCA shall be notified of each transfer. Transfers of shortage allocations shall be deemed to be an emergency transfer and shall become effective on the third business day after notice of the transfer has been delivered to the SFPUC. Transfers of shortage allocations shall be in compliance with Section 3.05 of the Agreement. The transferring parties will meet with the SFPUC, if requested, to discuss any effect the transfer may have on its operations.

### **SECTION 3. SHORTAGE WATER BANKING**

**3.1. Water Bank Accounts.** The SFPUC shall create a water bank account for itself and each Wholesale Customer during shortages in conjunction with its resale customer billing process. Bank accounts will account for amounts of water that are either saved or used in excess of the shortage allocation for each agency; the accounts are not used for tracking billings and payments. When a shortage period is in effect (as defined in Section 1.4), the following provisions for bank credits, debits, and transfers shall be in force. A statement of bank balance for each Wholesale Customer will be included with the SFPUC's monthly water bills.

**3.2. Bank Account Credits.** Each month, monthly purchases will be compared to the monthly budget for that month. Any unused shortage allocation by an agency will be credited to that agency's water bank account. Credits will accumulate during the entire shortage period, subject to potential restrictions imposed pursuant to Section 3.2.1. Credits remaining at the end of the shortage period will be zeroed out; no financial or other credit shall be granted for banked water.

**3.2.1. Maximum Balances.** The SFPUC may suspend the prospective accumulation of credits in all accounts. Alternatively, the SFPUC may impose a ceiling on further accumulation of credits in water bank balances based on a uniform ratio of the bank balance to the annual water allocation. In making a decision to suspend the prospective accumulation of water bank credits, the SFPUC shall consider the available water supply as set forth in Section 1.1 of this Plan and other reasonable, relevant factors.

**3.3. Account Debits.** Each month, monthly purchases will be compared to the budget for that month. Purchases in excess of monthly budgets will be debited against an agency's water bank account. Bank debits remaining at the end of the fiscal year will be subject to excess use charges (see Section 4).

**3.4. Transfers of Banked Water.** In addition to the transfers of shortage allocations provided for in Section 2.5, voluntary transfers of banked water will also be permitted between the SFPUC and any Wholesale Customer, and among the Wholesale Customers. The volume of transferred water will be credited to the transferee's water bank account and debited against the transferor's water bank account. The transferring parties must notify the SFPUC and BAWSCA of each transfer in writing (so that adjustments can be made to bank accounts), and will meet with the SFPUC, if requested, to discuss any effect the transfer may have on SFPUC operations. Transfers of banked water shall be deemed to be an emergency transfer and shall become effective on the third business day after notice of the transfer has been delivered to the SFPUC. If the SFPUC incurs extraordinary costs in implementing transfers, it will give written notice to the transferring parties within ten (10) business days after receipt of notice of the transfer. Extraordinary costs means additional costs directly attributable to accommodating transfers and which are not incurred in non-drought years nor simply as a result of the shortage condition itself. Extraordinary costs shall be calculated in accordance with the procedures in the Agreement and shall be subject to the disclosure and auditing requirements in the Agreement. In the case of transfers between Wholesale Customers, such extraordinary costs shall be considered to be expenses chargeable solely to individual Wholesale Customers and shall be borne equally by the parties to the transfer. In the case of

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transfers between the SFPUC and a Wholesale Customer, the SFPUC's share of any extraordinary transfer costs shall not be added to the Wholesale Revenue Requirement.

**3.4.1. Transfer Limitations.** The agency transferring banked water will be allowed to transfer no more than the accumulated balance in its bank. Transfers of estimated prospective banked credits and the "overdrafting" of accounts shall not be permitted. The price of transfer water originally derived from the SFPUC system is to be determined by the transferring parties and is not specified herein. Transfers of banked water shall be in compliance with Section 3.05 of the Agreement.

### **SECTION 4. WHOLESALE EXCESS USE CHARGES**

**4.1. Amount of Excess Use Charges.** Monthly excess use charges shall be determined by the SFPUC at the time of the declared water shortage consistent with the calendar in Section 6 and in accordance with Section 6.03 of the Agreement. The excess use charges will be in the form of multipliers applied to the rate in effect at the time the excess use occurs. The same excess use charge multipliers shall apply to the Wholesale Customers and all Retail Customers. The excess use charge multipliers apply only to the charges for water delivered at the rate in effect at the time the excess use occurred.

**4.2 Monitoring Suburban Water Use.** During periods of voluntary rationing, water usage greater than a customer's allocation (as determined in Section 2) -will be indicated on each SFPUC monthly water bill. During periods of mandatory rationing, monthly and cumulative water usage greater than a Wholesale Customer's shortage allocation and the associated excess use charges will be indicated on each SFPUC monthly water bill.

**4.3. Suburban Excess Use Charge Payments.** An annual reconciliation will be made of monthly excess use charges according to the calendar in Section 6. Annual excess use charges will be calculated by comparing total annual purchases for each Wholesale Customer with its annual shortage allocation (as adjusted for transfers of shortage allocations and banked water, if any). Excess use charge payments by those Wholesale Customers with net excess use will be paid according to the calendar in Section 6. The SFPUC may dedicate excess use charges paid by Wholesale Customers toward the purchase of water from the State Drought Water Bank or other willing sellers in order to provide additional water to the Wholesale Customers. Excess use charges paid by the Wholesale Customers constitute Wholesale Customer revenue and shall be included within the SFPUC's annual Wholesale Revenue Requirement calculation.

**4.4. Tier 1 Family Plan.** During periods of mandatory rationing, the SFPUC will not assess excess use charges on any of the Wholesale Customers if the Wholesale Customers' collective cumulative purchases over the course of the Supply Year are less than the Wholesale Customers' Tier 1 allocation, as set forth in Section 2.1. If the Wholesale Customers' collective cumulative purchases exceed the Wholesale Customers' Tier 1 allocation, the SFPUC shall assess excess use charges on each individual Wholesale Customer that exceeded its individual Tier 2 allocation (established in accordance with Section 2.2) over the course of the Supply Year in proportion to each individual Wholesale Customer's share of the collective Wholesale Customers' purchases that exceeded the Wholesale Customers' Tier 1 allocation.

### **SECTION 5. GENERAL PROVISIONS GOVERNING WATER SHORTAGE ALLOCATION PLAN**

**5.1. Construction of Terms.** This Plan is for the sole benefit of the parties and shall not be construed as granting rights to any person other than the parties or imposing obligations on a party to any person other than another party.



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**5.2. Governing Law.** This Plan is made under and shall be governed by the laws of the State of California.

**5.3. Effect on Agreement.** This Plan describes the method for allocating water between the SFPUC and the collective Wholesale Customers during system-wide water shortages of 20 percent or less. This Plan also provides for the SFPUC to allocate water among the Wholesale Customers in accordance with directions provided by the Wholesale Customers through BAWSCA under Section 2.2, and to implement a program by which such allocations may be voluntarily transferred among the Wholesale Customers. The provisions of this Plan are intended to implement Section 3.11(C) of the Agreement and do not affect, change or modify any other section, term or condition of the Agreement.

**5.4. Inapplicability of Plan to Allocation of SFPUC System Water During Non-Shortage Periods.**

The SFPUC's agreement in this Plan to a respective share of SFPUC system water during years of shortage shall not be construed to provide a basis for the allocation of water between the SFPUC and the Wholesale Customers when no water shortage emergency exists.

**5.5. Termination.** This Plan shall expire at the end of the Term of the Agreement~~..~~. The SFPUC and the Wholesale Customers can mutually agree to revise or terminate this Plan prior to that date due to changes in the water delivery capability of the SFPUC system, the acquisition of new water supplies, and other factors affecting the availability of water from the SFPUC system during times of shortage.

**SECTION 5. ALLOCATION CALENDAR**

**6.1. Annual Schedule.** The annual schedule for the shortage allocation process is shown below. This schedule may be changed by the SFPUC to facilitate implementation.

**6.1.1**

<b>In All Years</b>	<b>Target Dates</b>
1. SFPUC delivers list of annual purchases by each Wholesale Customer during the immediately preceding Supply Year	November 1
2. SFPUC meets with the Wholesale Customers and presents water supply forecast for the following Supply Year	February
3. SFPUC issues initial estimate of available water supply	February 1
4. SFPUC announces potential first year of drought (if applicable)	February 1
5. SFPUC and Wholesale Customers meet upon request to exchange information concerning water availability and projected system-wide purchases	February 1-May 31
6. SFPUC issues revised estimate of available water supply, and confirms continued potential shortage conditions, if applicable	March 1
7. SFPUC issues final estimate of available water supply	April 15 <sup>th</sup> or sooner if adequate snow course measurement data is available to form a robust estimate on available water supply for the coming year.
8. SFPUC determines amount of water available to Wholesale Customers collectively	April 15 <sup>th</sup> or sooner if adequate snow course measurement data is available to form a robust estimate on available water

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supply for the coming year.

<b>In Drought Years</b>	<b>Target Dates</b>
9. SFPUC formally declares the existence of water shortage emergency (or end of water shortage emergency, if applicable) under Water Code Sections 350 et. seq.	April 15-30
10. SFPUC declares the need for a voluntary or mandatory response	April 15-30
11. BAWSCA submits calculation to SFPUC of individual Wholesale Customers' percentage shares of water allocated to Wholesale Customers collectively	April 15- 30
12. SFPUC determines individual shortage allocations, based on BAWSCA's submittal of individual agency percentage shares to SFPUC, and monthly water budgets (Default Schedule)	April 25—May 10
13. Wholesale Customers submit alternative monthly water budgets (optional)	May 8-May 24
14. Final drought shortage allocations are issued for the Supply Year beginning July 1 through June 30	June 1
15. Monthly water budgets become effective	July 1
16. Excess use charges indicated on monthly Suburban bills	August 1 (of the beginning year) through June 30 (of the succeeding year)
17. Excess use charges paid by Wholesale Customers for prior year	August of the succeeding year