

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA
APPROVING THE AMENDMENTS TO THE WATER SUPPLY
AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN
FRANCISCO AND WHOLESALE CUSTOMERS AND
AUTHORIZING THE CITY MANAGER TO ENTER INTO THE
AMENDED AND RESTATED WATER SUPPLY AGREEMENT AS
NEGOTIATED BY THE BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY (BAWSCA)**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, water supply agencies in Alameda, San Mateo and Santa Clara Counties, including the City of Santa Clara, purchase water from the City and County of San Francisco (San Francisco);

WHEREAS, the San Francisco Public Utilities Commission (SFPUC or Commission) Water Enterprise operates the Regional Water System, which delivers water to Santa Clara and other communities in Alameda, San Mateo and Santa Clara Counties, as well as to customers within San Francisco (collectively, “the Parties”);

WHEREAS, the Parties entered into the “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” in 1984;

WHEREAS, in April 2003, water supply agencies in Alameda, San Mateo and Santa Clara Counties established the Bay Area Water Supply and Conservation Agency (BAWSCA), as authorized by Water Code Section 81300 *et seq.*;

WHEREAS, upon expiration of the 1984 “Settlement Agreement and Master Water Sales Contract,” the Parties entered into the “Water Supply Agreement between San Francisco and Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County” (“Water Supply Agreement”) on July 1, 2009, authorized by SFPUC Resolution No. 09-0069 and City of Santa Clara Resolution 09-7638;

WHEREAS, on September 18, 2018, the Santa Clara City Council, by Resolution No.18-8603, delegated authority to BAWSCA to act as its authorized representative in discussions and negotiations with San Francisco to amend the Water Supply Agreement;

WHEREAS, BAWSCA has submitted periodic reports to the Santa Clara City staff on progress during the negotiations and has provided detailed briefings on all significant elements of the amendments;

WHEREAS, the Parties now desire to adopt an amended and restated Water Supply Agreement in order to:

- (1) require the SFPUC to adhere to a formal program to engage with BAWSCA on its 10-year CIP development;
- (2) adjust the provisions of the Water Shortage Allocation Plan regarding the initial allocation of water during shortages between San Francisco Retail and Wholesale water customers;
- (3) extend the December 31, 2018 deadline to December 31, 2028, for the SFPUC to complete a water supply planning process and decide whether or not to (a) grant permanent customer status to the cities of San Jose and Santa Clara, dedicating a permanent share of the SFPUC water supply to these two wholesale customers, who currently have temporary, interruptible status, and (b) increase the 184 mgd Supply Assurance created as a permanent dedication of water supply in the 1984 "Settlement Agreement and Master Water Sales Contract" and carried forward into the 2009 Water Supply Agreement;
- (4) change the classification of certain Hetch Hetchy Water and Power capital projects, adjusting the amount of capital funding to be provided towards these projects by the Parties and the SFPUC Power Enterprise through the term (June 30, 2034) of the Water Supply Agreement;
- (5) modify provisions related to the SFPUC's administration of the Wholesale Capital Fund to more closely align with the historic rate of capital project spending by the SFPUC and prevent volatility in the annual determination of the Wholesale Revenue Requirement;
- (6) extend the estimated timing of the completion of the WSIP to reflect the currently adopted

program completion date;

(7) clarify the cost allocation and water accounting provisions used for the Regional Water System's Groundwater Storage and Recovery Project;

WHEREAS, in addition to the substantive modifications set forth above, the amended and restated Water Supply Agreement also includes a number of non-substantive updates and revisions to incorporate previously approved modifications, such as the First Amendment to the Water Supply Agreement, adopted in 2013 as new Section 3.18, prohibiting San Francisco from draining Hetch Hetchy Reservoir or decommissioning O'Shaughnessy Dam without securing Wholesale Customer approval in the form of an amendment;

WHEREAS, on October 30, 2008, as lead agency, the SFPUC approved and certified an Environmental Impact Report ("2008 EIR") (Resolution No. 08-0200), which addressed the environmental impacts of adopting the Water Supply Agreement, and on June 9, 2009, as responsible agency, the Santa Clara City Council approved the 2008 EIR (Resolution No. 09-7638);

WHEREAS, the analysis contained in the 2008 EIR, and the CEQA findings adopted by the City in connection with the adoption of the 2009 WSA, remain adequate for purposes of this approval action under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15162, as there are no substantial changes proposed in the Water Supply Agreement, there are no substantial changes in circumstances that would require major revisions to the 2008 EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the 2008 EIR; and

WHEREAS, an amended and restated Water Supply Agreement, in the form negotiated by BAWSCA, was presented to and approved by the Commission on December 11, 2018.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. The Santa Clara City Council approves the modifications included in the attached amended and restated "Water Supply Agreement Between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County" dated November 2018 (Amended and Restated Water Supply Agreement).
2. The City Manager is authorized and directed to sign the Amended and Restated Water Supply Agreement, in the form previously approved by the San Francisco Public Utilities Commission and attached hereto.
3. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2019, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Amended and Restated Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County and Santa Clara County – Dated November 2018