



## Agenda Report

19-006

Agenda Date: 2/19/2019

### REPORT TO COUNCIL

#### SUBJECT

Action on Proposed Amendments to Water Supply Agreement with the City and County of San Francisco

#### BACKGROUND

The San Francisco Public Utilities Commission (the SFPUC) provides wholesale water to the City of Santa Clara via the Hetch Hetchy system. The water supplied is governed by a 2009 Water Supply Agreement (WSA) between the SFPUC, the City of Santa Clara, and 25 other public agencies located in Alameda, San Mateo, and Santa Clara Counties. (A separate, prior agreement was in place between 1984 and 2009.) The Bay Area Water Supply and Conservation Agency (BAWSCA) was formed in 2003 to represent the interests of the retailers served by the SFPUC. These agreements were the result of negotiations between the SFPUC and BAWSCA, as representative of its 26 member agencies, of which Santa Clara is one. Santa Clara also has a seat on the BAWSCA Board of Directors.

As implementation of the 2009 WSA progressed, BAWSCA, representing its member agencies, identified the need for amendments to the Agreement. In September 2018, the Santa Clara City Council granted BAWSCA the authority by resolution (Resolution No. 18-8603) to be its representative in negotiating these amendments. During the negotiating process, BAWSCA gave regular updates to City Attorney's Office and Water & Sewer Utilities' staff regarding the progress of the negotiations. The parties agreed to seven (7) substantive amendments, as well as several non-substantive updates and revisions, mostly to incorporate previously agreed upon modifications. The SFPUC approved these amendments at their regular meeting on December 11, 2018.

#### DISCUSSION

Staff seeks Council approval of the attached resolution approving the amendments to the 2009 WSA. The amendments approved by the SFPUC after negotiations with BAWSCA include:

- (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 million gallons per day (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 of the Water Supply Agreement (until June 30, 2034);
- (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 Water System Improvement Program to reflect the currently adopted program completion date of December 30, 2021; and
- (7) Clarify the cost allocation and water accounting provisions used for the Regional Water System's Groundwater Storage and Recovery Project.

Additionally, the amendments included expansion of Santa Clara's service area for utilizing the SFPUC water supply to south of the 101 Freeway, providing the City operational convenience, enhanced flexibility during emergencies and non-emergencies while improving system reliability and water quality for customers.

These amendments, along with other non-substantive modifications allow for increased accountability and transparency. Once BAWSCA receives 75% of member agency approved resolutions, customized signature pages will be distributed to the City for signing. The approved Water Supply Agreement will be valid in March of 2019.

### **ENVIRONMENTAL REVIEW**

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 2009 Water Supply Agreement, and on June 9, 2009, as responsible agency, the Santa Clara City Council approved the 2008 EIR (Resolution No. 09-7638). 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 2009 WSA, 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.

### **FISCAL IMPACT**

There is no fiscal impact to approving this resolution other than administrative staff time and expense.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**RECOMMENDATION**

Adopt a resolution approving amendments to the 2009 Water Supply Agreement with the City and County of San Francisco.

Reviewed by: Gary Welling, Director, Water & Sewer Utilities

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Proposed resolution approving amendments to the 2009 Water Supply Agreement with the City and County of San Francisco.