



DATE: July 8, 2014

CATEGORY: Consent

DEPT.: Public Works

TITLE: **Authorize BAWSCA to Act as City's
Arbiter for SFPUC Rate Calculations**

RECOMMENDATION

Adopt a Resolution Authorizing the Bay Area Water Supply and Conservation Agency to Initiate, Defend, and Settle Arbitration Related to the Water Supply Agreement with the City and County of San Francisco, to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

The City purchases approximately 87 percent of its potable water supply from the San Francisco Public Utilities Commission (SFPUC) Hetch Hetchy System under the terms of a water supply agreement, An Agreement Between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County (Agreement). The Agreement was signed in 2009, expires in 2034, and delineates the terms under which the City purchases water, including water supply (quantity) and water quality, and all aspects of the SFPUC rate-setting process.

The City is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA), a special district that represents the interests of the 26 water agencies that purchase SFPUC water. In addition to the wholesale customers, the SFPUC provides retail water service to customers in the City and County of San Francisco (retail customers). A primary responsibility of BAWSCA is ensuring water rates accurately reflect the actual costs of providing water service. BAWSCA staff performs extensive rate reviews each year to: (1) verify the accuracy of the SFPUC's revenue requirement calculations (used to determine rates); (2) ensure the SFPUC's adherence to Generally Accepted Accounting Principles and compliance with annual audit findings; and (3) ensure SFPUC capital and operations costs are appropriately allocated between retail and wholesale customers. If BAWSCA identifies costs they believe are incorrectly allocated, BAWSCA and SFPUC staff attempt to resolve disputes through informal

discussions. Per the terms of the Agreement, issues not resolved informally must be settled through arbitration, which has only been necessary one time since 1984.

BAWSCA has not previously recommended being designated as the City's arbiter since the agreement is only five years old, and most issues are settled informally. However, BAWSCA addresses numerous financial questions annually, and is continuing to address a pending issue from Fiscal Year 2011-12. Although no arbitration is anticipated, BAWSCA believes this to be an opportune time for the arbitration authorization.

ANALYSIS

The proposed action will designate BAWSCA as the City's representative to arbitrate disputes regarding rate issues, and does not extend to other legal concerns. Staff supports the recommended action because BAWSCA currently performs extensive analysis of SFPUC rate proposals and possesses the technical and historical background to effectively analyze detailed financial issues. Additionally, BAWSCA staff has an effective working relationship with the SFPUC staff, and allowing BAWSCA to represent all member agencies will be a much more efficient process if future arbitration is necessary.

If the attached resolution is adopted by 75 percent of the member agencies, BAWSCA will become our representative to arbitrate disputes regarding rate issues for the limited purposes set forth in the Agreement.

The City will have the opportunity to participate in the arbitration of any disputes through its representative on the BAWSCA Board of Directors, which is comprised of representatives of each of the 26 member agencies. Additionally, BAWSCA is forming a Wholesale Customer Committee which will advise BAWSCA on how to address financial and rate issues. BAWSCA has requested the City Manager appoint an individual who can represent the City's interest on complex financial issues through the Wholesale Customer Settlement Committee.

The attached resolution must be adopted by 75 percent of the member agencies to become effective.

FISCAL IMPACT

BAWSCA may assess each of the 26 member agencies for the cost of the arbitration based on its water usage in order to ensure adequate reserves are maintained. However, it is cost-effective for the City to be represented by BAWSCA and participate

in the arbitration of any such disputes. As a result of an arbitration, the City's rate could increase or decrease. Any such change would most likely be phased in over time rather than in a single year.

ALTERNATIVES

Do not adopt the resolution. If the resolution is approved by at least 75 percent of the 26 member agencies, the designation of BAWSCA as arbiter will become effective; otherwise, the City would retain responsibility for arbitrating rate disputes.

PUBLIC NOTICING – Agenda posting.

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GAH/7/CAM
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Attachment: 1. Resolution