



COUNCIL REPORT

DATE: June 24, 2025
CATEGORY: New Business
DEPT.: Public Works
TITLE: **Water Supply Reliability Contract Actions**

RECOMMENDATION

1. Adopt a Resolution of the City Council of the City of Mountain View Approving an Amendment to the 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, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution of the City Council of the City of Mountain View Approving the Tier 2 Drought Response Implementation Plan Pursuant to Section 3.11.C of the Amended and Restated Water Supply Agreement with San Francisco, to be read in title only, further reading waived (Attachment 2 to the Council report).

BACKGROUND

The City of Mountain View (City or Mountain View) provides water to the majority of properties in Mountain View through its drinking water and recycled water distribution systems. Mountain View's primary water supply (approximately 84%) comes from the San Francisco Regional Water System (Regional Water System), which is operated by the San Francisco Public Utilities Commission (SFPUC). The City receives approximately 10% of its water from the Santa Clara Valley Water District (Valley Water) and 2% from local groundwater wells. The remaining 4% of Mountain View's water supply is recycled water from the Regional Water Quality Control Plant in the City of Palo Alto. Recycled water is currently available in Mountain View's North Bayshore Area for irrigation and other nonpotable uses. A small number of properties in Mountain View receive drinking water from the California Water Service Company (Cal Water).

Water Supply Agreement

The City purchases water from SFPUC pursuant to the Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County (WSA). The WSA was adopted in 2009, following expiration of the

1984 Settlement and Master Water Sales Contract (1984 Contract), and has been amended most recently in 2021. Mountain View is one of 26 Wholesale Customers that are party to the WSA, all of which are represented in negotiations with SFPUC by the Bay Area Water Supply and Conservation Agency (BAWSCA). BAWSCA also helps to facilitate negotiations between the individual Wholesale Customers.

The Wholesale Customers and SFPUC have negotiated an amendment to the WSA to update key provisions, including:

- How much water is required to be purchased by certain agencies during normal water years—termed the Minimum Annual Purchase Quantity (MPQ); and
- How fees are assessed for water that is allocated between SFPUC and the Wholesale Customers, collectively, during a water shortage emergency condition—termed the Tier 1 Drought Allocation.

The WSA also includes Individual Supply Guarantees (ISGs) for most of the Wholesale Customers, which specifies the maximum volume of water guaranteed during normal water supply conditions. The ISGs are not impacted by the proposed amendment. Mountain View currently has an ISG of 12.46 million gallons per day (mgd) and an MPQ of 8.93 mgd. **Over the past 15 years, the City has not utilized its full MPQ, resulting in over \$15 million in charges for using too little water.**

Drought Supply Allocations

During a water shortage condition caused by drought, the WSA divides available water supply between SFPUC and the Wholesale Customers collectively through the Tier 1 Water Shortage Allocation Plan (Tier 1 Plan) included as Attachment H of the WSA. The Wholesale Customers are responsible for dividing their collective Tier 1 allocation between the individual 26 Wholesale Customers. This is accomplished through the Tier 2 Drought Response Implementation Plan (Tier 2 Plan), which is approved by all 26 Wholesale Customers (but not SFPUC).

The previous Tier 2 Plan was originally set to expire in 2018, but negotiations on a new Tier 2 Plan were postponed due to other statewide activities (such as the “Making Conservation a California Way of Life” regulations and the 2020 Urban Water Management Plan deadlines). Instead, the BAWSCA Board of Directors extended the Tier 2 Plan on an annual basis until agency representatives were ready to negotiate and finalize a new Tier 2 Plan. Negotiations on the Tier 2 Plan occurred over the last two years and concluded recently.

Staff recommends approving the new Tier 2 Plan concurrent with (and contingent on) adoption of the WSA amendment.

ANALYSIS

The recommended actions include a combined package of two important water supply reliability contract items:

1. A WSA amendment designed to:
 - a. Modify the MPQ requirements to align with evolving water supply conditions;
 - b. Update the Tier 1 Plan to modify fee assessments, improve clarity, and streamline processes based on experience from recent droughts, and
 - c. Revise text to address discrete issues that arose over the course of implementing the WSA.
2. An updated Tier 2 Drought Response Implementation Plan.

Water Supply Agreement Amendment

MPQ Amendment

Section 3.07 of the WSA provides that four Wholesale Customers (Alameda County Water District and the cities of Milpitas, Mountain View, and Sunnyvale, collectively the “Minimum Purchase Customers”) may purchase water from sources other than from San Francisco, but they are each obligated to purchase a specific volume of water (their MPQ) from the Regional Water System. If an agency does not meet its MPQ in a particular fiscal year, it must pay San Francisco for the difference between its metered water use and its MPQ.

One key purpose of the original MPQs was to prevent agencies from shifting the purchase of water from the Regional Water System to other less-costly imported water sources. However, changing conditions, such as recurring droughts, improved water-use efficiency, and investments in local supplies, have resulted in reduced water demand across the region, including the Regional Water System. Despite this reduced demand, the Regional Water System still remains vulnerable to severe droughts, prompting the SFPUC to invest in alternative water supplies.

The Minimum Purchase Customers are well positioned to develop their own local, drought-resilient supplies, which would reduce SFPUC’s identified regional dry-year supply gap, improving reliability for all Regional Water System users. For example, Mountain View and Sunnyvale both have multiple recycled water projects aimed at expanding and improving alternative local supplies, but those investments conflict with the current practice of charging for unused water.

The amendments described below are consistent with the original purpose of the MPQs in preventing imported water source-shifting but in a way that supports conservation and alternative supply development (both of which are explicitly encouraged by the WSA). Below are the key changes included in the proposed WSA amendment that relate to MPQs:

- MPQ Reduction: The MPQs set in the 1984 Contract were calculated based on 80% of agency purchases from the Regional Water System in the 1980s. The MPQs were later reduced by 5% as part of the 2009 WSA. Upon adoption of the proposed amendment, the MPQs will be reviewed and reset downward to 80% of each of MPQ agency's average purchases from the most recent four nondrought years. The amendment assigns Mountain View a new MPQ of 6.047 mgd beginning in Fiscal Year 2024-25 and provides a process for the MPQs to potentially be reviewed every 10 years.
- Drought Rebound MPQ: Currently, the MPQs are waived during water shortage emergencies but are reinstated immediately once the emergency is lifted. This amendment will create a single-year "Drought Rebound MPQ" for any agency whose actual water use during the drought is below its MPQ. If this were to occur, the Drought Rebound MPQ would be set at the midpoint between the agency's metered water use during the water shortage and their MPQ. For example, if Agency A had an MPQ of 9.00 mgd but only used 8.00 mgd from the regional system during a drought, they would be assigned a Drought Rebound MPQ of 8.50 mgd for the one year immediately following conclusion of the drought.
- MPQ "Family Plan": The WSA currently requires any agency that does not use its full MPQ to pay for the unused portion of its MPQ every fiscal year. This amendment provides that agencies will only be charged for unused water if the collective use from all Minimum Purchase Customers is less than the sum of their collective MPQs. If the collective water use equals or exceeds the collective MPQs, no imputed sales will be applied (even if an individual agency does not meet its individual MPQ). If the sum of all MPQs is not met by these agencies' collective water use, imputed sales would be applied proportionally to each agency's share of total under-usage.

Figure 1 shows a graphical representation of these parameters. Figure 2 shows the current and proposed MPQs compared to the City’s historical water use.

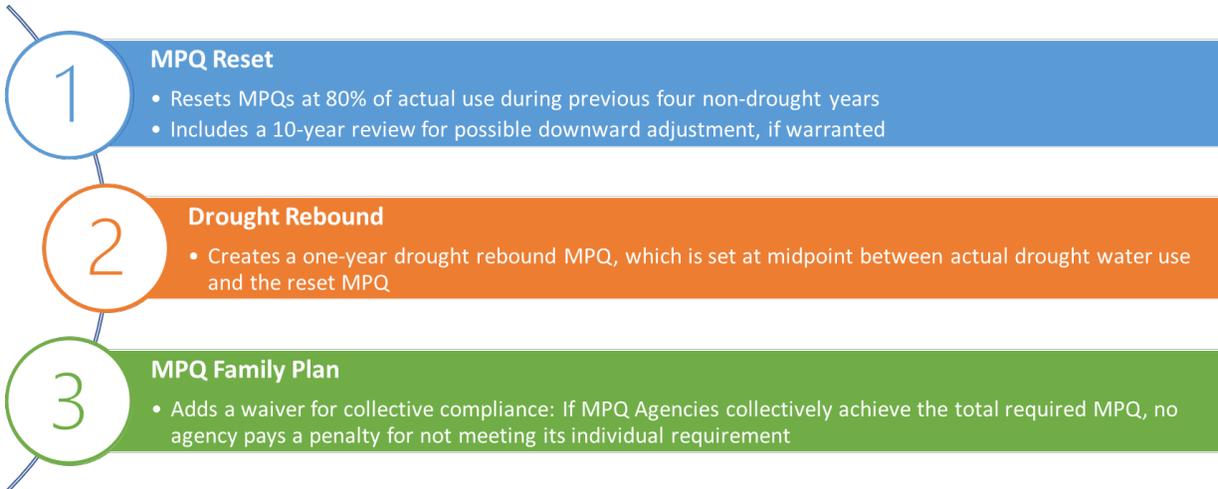


Figure 1. Summary of Key MPQ Amendment Changes

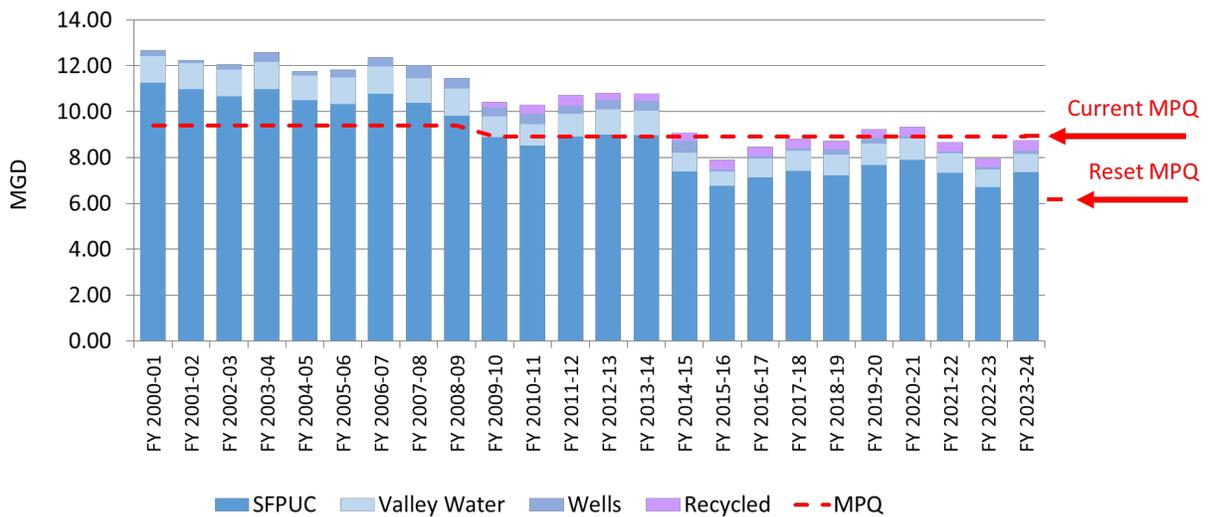


Figure 2: Current and Proposed MPQs Compared to the City’s Historical Water Use by Source

Tier 1 Allocation Plan Amendments

The Tier 1 Plan is the method and process for allocating water between SFPUC and the Wholesale Customers collectively during systemwide shortages of 20% or less that are caused by drought. The Tier 1 Plan was implemented for the first time between 2021 to 2023. During this initial implementation period and through the Tier 2 Plan negotiations, BAWSCA, SFPUC, and the Wholesale Customers identified several changes needed to provide clarity and streamline

processes within the Tier 1 Plan. The parties also negotiated one new element related to Tier 1 fee assessments. Proposed updates to the Tier 1 Plan are described below.

- Allow allocation factors to be updated if the shortage declaration changes: Following the SFPUC's declaration of a water shortage emergency, SFPUC calculates the Wholesale Customers' collective share of available Regional Water System supply. BAWSCA then applies the Tier 2 Plan calculations to determine the allocation percentage for each individual Wholesale Customer (a.k.a., Allocation Factor). This amendment clarifies that BAWSCA can resubmit Allocation Factors if SFPUC adjusts the systemwide rationing requirement during a drought (for example, if the Tier 1 cutback increases from 10% to 20%). This clarification ensures that the Tier 2 Plan remains effective during prolonged or fluctuating drought conditions.
- Incorporate a new "Tier 1 Family Plan": When SFPUC declares a shortage emergency, it determines whether voluntary or mandatory rationing is required. At the end of the 12-month drought period, each Wholesale Customer's metered water use from the Regional Water System is compared to their annual drought allocation. Excess use charges are only applied during mandatory rationing periods. The new Tier 1 Family Plan ensures that excess use charges are only applied when the collective Wholesale Customer usage exceeds the Tier 1 allocation. If this occurs, excess use charges will be proportionally applied to agencies that exceeded their individual Tier 2 allocations.

General Clean-Up Amendments

The proposed WSA amendment also includes several revisions to address discrete issues that arose over the course of implementing the WSA related to cross-references, dates, and corrections:

- Update references in Section 2.03.C regarding BAWSCA's authority to amend attachments.
- Extend the timing of the completion of SFPUC's Water System Improvement Program to reflect the currently adopted program completion date (Section 3.09).
- Correct a reference to a SFPUC resolution number in Section 9.07.
- Update "Imputed Sales" definition in Attachment A to reference Attachment E.
- Update "Level of Service Goals and Objectives" definition in Attachment A to reflect updated and expanded Level of Service Goals and Objectives adopted by the SFPUC in November 2023.

Next Steps

SFPUC adopted the WSA amendment at their Commission meeting on May 13, 2025, and the Wholesale Customers are in the process of considering the full package of water supply reliability contract actions for individual adoption (the Tier 2 Plan and the WSA Amendment).

In a letter to Mountain View, SFPUC stated their intent to retroactively implement the provisions of the WSA amendment after it is fully ratified by the Wholesale Customers (if agencies are unable to adopt the amendment prior to close of the fiscal year). Depending on when agencies agendize the topic, this may mean application of the existing MPQs (with an estimated \$3.3 million charges) and a correction applied as a future bill credit once all of the Wholesale Customers have ratified the WSA amendment.

Tier 2 Drought Response Implementation Plan

Since the previous Tier 2 Plan was adopted in 2011, conditions impacting water use have changed (e.g., water supply sources, water use trends, land use, and customer base). These evolving conditions caused several unintended outcomes when the Tier 2 Plan was implemented during the most recent drought from 2021 to 2023, highlighting the need for an update.

The new Tier 2 Plan maintains many of the key elements of the existing Tier 2 Plan, such as a rolling base period that captures service area growth over time and inclusion of ISG. New updates are also included to ensure a minimum supply of water for areas served by the Regional Water System, shared drought response contributions, and complete allocation of the available Tier 1 water. The new Tier 2 Plan was negotiated by designated representatives from each of the 26 Wholesale Customers through more than 60 meetings facilitated by BAWSCA and its consultants between January 2022 and June 2024.

Policy Principles

The Wholesale Customer representatives identified the following policy principles to guide the development of the new Tier 2 Plan:

1. Provide sufficient water for the basic health and safety needs of customers.
2. Minimize economic and other adverse impacts of water shortages on customers and the BAWSCA region.
3. Provide predictability of drought allocations through consistent and predetermined rules for calculation while allowing for flexibility to respond to unforeseen circumstances.

4. Recognize benefits of, and avoid disincentives for, water use efficiency and development of alternative water supply projects.

Allocation Methodology

The new Tier 2 Plan establishes an allocation formula that calculates how Tier 1 water from the Regional Water System will be allocated between the individual Wholesale Customers during a water shortage. The allocation formula takes into account the “base year” usage of each agency during normal water years leading up to the declaration of a shortage condition. This allocation formula can generally be described as follows:

- Minimum and Maximum Cutbacks: The formula establishes a Minimum Cutback equal to one-third of the collective Tier 1 cutback (but no less than 5%) and a Maximum Cutback equal to 1.5 times the collective Tier 1 cutback. For example, a Tier 1 cutback of 15% would result in individual Wholesale Customer cutbacks between 5% and 22.5%.
- Residential Per-Capita Allocation: Each Wholesale Customer is allocated water on a residential per-capita basis in accordance with the State Indoor Water Use Efficiency Standard applied to the population served by the Regional Water System.
- Nonresidential Base Allocation: Each Wholesale Customer is allocated water based on the estimated nonresidential indoor demand on the Regional Water System, less one-half of the collective Tier 1 cutback. For example, a Tier 1 cutback of 15% would result in a 7.5% cutback to nonresidential indoor water use (7.5% being one-half of the Tier 1 cutback of 15%).
- Seasonal Allocation: Each Wholesale Customer is allocated water based on its estimated seasonal purchases from the Regional Water System. The total volume of water allocated in this step is set at one-half of the remaining water following the residential and nonresidential indoor allocations.
- Weighted Share: All remaining water after the Seasonal Allocation step is distributed based on each Wholesale Customer’s “Target Allocation,” which is established according to their proportional Base Period Purchase from the Regional Water System and their ISG (weighted two-thirds and one-third, respectively), bounded by the Minimum Cutback.

If an agency meets its Target Allocation at any point during the stepwise process described above, no additional water is allocated to that agency.

Estimated Effects on Mountain View

Mountain View’s drought cutbacks, resulting from the new Tier 2 Plan, are expected to be slightly below the collective Tier 1 cutback that will be required from the Wholesale Customers (Table 1).

Table 1: Estimated Effects of the Tier 2 Plan on Mountain View’s SFPUC Drought Water Supply

| Collective Tier 1 Cutback for the Wholesale Customers | Range in Wholesale Customer Individual Cutbacks | Expected Mountain View Cutback |
|---|---|--------------------------------|
| 15% | 5% to 31% | 12% |
| 20% | 7% to 38% | 18% |
| 25% | 8% to 43% | 24% |

Mountain View’s estimated cutbacks from the new Tier 2 Plan are approximately 2% higher than the previous Tier 2 Plan; however, these cutbacks could be reduced if the City increases its recycled water use, thereby balancing the impacts of the new allocation formula. Additionally, actual Tier 2 cutbacks assigned to the individual Wholesale Customers will be based on the actual usage patterns of all 26 agencies in the years preceding a drought; so, although Table 1 provides a general sense of expected scale, the actual cutbacks will vary.

Mountain View achieves its drought cutbacks by implementing the adopted Water Shortage Contingency Plan. This plan reduces nonessential water usage to achieve the required cutbacks. For example, landscape water use is reduced by assigning customers irrigation days based on their street address. This approach has proven simple to understand and successful at saving water during previous droughts.

Key Logistics

The following are key logistical components of the proposed Tier 2 Plan:

- **Approval: The Tier 2 Plan must be approved unanimously by all 26 Wholesale Customers.**
- **Applicability: The Tier 2 Plan applies to Regional Water System shortages of up to 20%, which is estimated to translate to a Tier 1 Drought Allocation cutback of up to 25% for the Wholesale Customers.**

- **Expiration:** The term of the new Tier 2 Plan is coordinated with the term of the WSA to avoid simultaneous renegotiation. The WSA expires June 31, 2034 but has two 5-year extensions that can be approved by consensus of SFPUC and the Wholesale Customers.
 - Scenario 1: If SFPUC and the Wholesale Customers choose to extend the WSA to 2039, the Tier 2 Plan will expire on December 31, 2034.
 - Scenario 2: If the WSA is allowed to expire in 2034 without extension, the term of the Tier 2 Plan will be extended through December 31, 2036 to allow the Wholesale Customers to negotiate a new WSA with SFPUC prior to negotiating a new Tier 2 Plan.

FISCAL IMPACT

The proposed WSA amendment updating the City's MPQ requirements is expected to save the City approximately \$3.3 million this fiscal year (FY 2024-25), with similar savings over the next few fiscal years—depending on future water shortage conditions. Increased costs associated with the updated Tier 2 Plan is expected to be negligible.

LEVINE ACT

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a "license, permit, or other entitlement for use" if the official has received a campaign contribution exceeding \$500 from a party, participant, or agent of a party or participant within the last 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html

Please see below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

EXEMPT FROM THE LEVINE ACT

- Contract between two or more state or local government agencies

CONCLUSION

The proposed water supply reliability contract actions include approval of a new drought allocation plan between the 26 Wholesale Customers of SFPUC's Regional Water System and an amendment to the City's water supply agreement aimed at improving water supply reliability. Of particular importance to Mountain View, the amendment will reduce Mountain View's minimum purchase requirement from 8.93 MGD to 6.047 MGD beginning in Fiscal Year 2024-25 and put in place safeguards to prevent the City from being charged in future years for using too little water

due to conservation and local supply development. These actions are designed to strengthen water supply reliability for all users of the Regional Water System.

ALTERNATIVES

1. Do not approve the WSA amendments.
2. Do not approve the Tier 2 Plan.
3. Provide other direction.

PUBLIC NOTICING—Agenda posting.

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- Attachments:
1. Resolution Approving Amendments to the WSA
 2. Resolution Approving the Tier 2 Drought Implementation Plan