

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE ADOPTING FINDINGS FOR PURPOSES OF AND PURSUANT TO THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 IN CONNECTION WITH APPROVAL OF A WATER SUPPLY AGREEMENT WITH THE CITY AND COUNTY OF SAN FRANCISCO**

WHEREAS, the City of San Jose (City) purchases water from the City and County of San Francisco (San Francisco) pursuant to a Settlement Agreement and Master Water Sale Contract entered into in 1984, which agreement will expire on June 30, 2009; and

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

WHEREAS, engineering reports prepared by and for the SFPUC staff identified serious deficiencies in the Regional Water System which exposed its Bay Area customers to the threat of an extended interruption in water delivery in the event of a major earthquake; and

WHEREAS, acting in response to directions from the State Legislature (California Water Code Section 73500 *et seq.*), in 2002 the SFPUC adopted a Water System Improvement Program (WSIP) to address these deficiencies, ensure the Regional Water System's ability to deliver water meeting Safe Drinking Water Act standards, and otherwise improve the Regional Water System's capabilities of meeting customer needs; and

WHEREAS, the San Francisco Planning Department prepared a Program Environmental Impact Report (PEIR) to evaluate the potential environmental impacts of implementing the WSIP and the Bay Area Water Supply and Conservation Agency (BAWSCA), of which City is a member and reviewed and commented on the draft PEIR; and

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WHEREAS, the San Francisco Public Utilities Commission certified the Final PEIR on October 30, 2008 in its Motion No. 17743; and

WHEREAS, on October 30, 2008, the SFPUC reviewed and considered the PEIR prepared for the WSIP, adopted findings required by the California Environmental Quality Act of 1970, as amended (CEQA), including a mitigation monitoring and reporting program and a statement of overriding considerations, and approved the WSIP in its Resolution No. 08-0200; and

WHEREAS, on October 30, 2008, the SFPUC also endorsed selected Water Supply Elements for the new Water Supply Agreement, which are consistent with the WSIP evaluated in the Final PEIR, in its Resolution No. 08-0201; and

WHEREAS, the SFPUC, on April 28, 2009, approved a Water Supply Agreement with its wholesale customers, including City, and recommended that they likewise approve it; and

WHEREAS, it has been agreed in the Water Supply Agreement that additional analysis under CEQA shall be performed on the impacts of interrupting or reducing service under the Water Supply Agreement to City in the event an issuance of conditional notice of interruption or reduction is issued; and

WHEREAS, prior to acting on the Water Supply Agreement and the accompanying individual Water Sales Contract, the City Council desires to make certain findings pursuant to 14 California Code of Regulations, Sections 15091 and 15096, promulgated under CEQA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San José as follows:

1. City has reviewed the information contained in the Final PEIR that is relevant to its approval of the Water Supply Agreement, has reviewed the CEQA findings contained in SFPUC Resolution No. 08-0200, including the Statement of Overriding

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Considerations and the Mitigation Monitoring and Reporting Program, and hereby adopts said findings as a responsible agency under CEQA to the fullest extent that they are relevant to City's decision to approve the Water Supply Agreement.

2. The SFPUC has already adopted the mitigation measures recommended in the PEIR, has authority to implement the mitigation measures or to seek any required approvals for the mitigation measures, and City has no direct authority to implement the mitigation measures, which may be funded in part with revenues from the Water Supply Agreement.

3. City has reviewed and considered the Final PEIR and finds that the Final PEIR is adequate for its use as a responsible agency decision-making body for its consideration of the Water Supply Agreement and Individual Water Sales Contract.

4. Approval of the Water Supply Agreement and Individual Water Sales Contract is within the scope of the WSIP and activities evaluated in the Final PEIR.

5. Since the Final PEIR was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Final PEIR 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 Final PEIR.

6. City has not identified any feasible alternative or additional feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the WSIP would have on the environment; and

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BE IT FURTHER RESOLVED that the Director of Planning is hereby directed to prepare a Notice of Determination under CEQA and cause the same to be filed with the County Clerk of the County of Santa Clara promptly following the City Council's approval of the Water Supply Agreement and an Individual Water Sales Contract with San Francisco.

ADOPTED this        day of                    \_\_, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk

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CC Agenda: 6/16/09  
Item No. 7.3c  
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