



DATE: December 2, 2025

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolutions Authorizing the City Manager to Execute Amendments to the Water Supply Agreement Between the City and County of San Francisco and Wholesale Customers Relating primarily to: 1) Reducing the requirement for purchase of Minimum Water Supply Quantity for the Alameda County Water District, City of Milpitas, City of Mountain View, and City of Sunnyvale; and 2) Updating Tier 2 Water Shortage Allocation Plan

RECOMMENDATION

That the Council considers and adopts the following two resolutions and authorizes the City Manager to execute the amended and restated Water Supply Agreement:

1. Amending the 2021 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 as of (Attachment II); and
2. Updating the Tier 2 Water Shortage Allocation Plan. (Attachment III).

SUMMARY

Hayward receives its potable water supply from the San Francisco Public Utilities Commission (SFPUC) under the terms of a 1962 individual water sales agreement, as well as the 2009 Water Supply Agreement (WSA) between San Francisco and the wholesale water customers (Wholesale Customers) which includes the City of Hayward. From time to time, most recently in 2021, the WSA is amended to reflect evolving water supply and management needs.

This report provides an overview of two proposed wholesale customer water supply agreement actions:

1. 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 (WSA). This amendment addresses three key areas:

- a. Minimum Purchase Quantity Requirements: Modifies the Minimum Purchase Quantity for the Alameda County Water District, City of Milpitas, City of Mountain View and City of Sunnyvale (Minimum Purchase Agencies).
 - b. Tier 1 Shortage Allocation Plan (Tier 1 Plan): This Plan allocates water between San Francisco retail customers and the Wholesale Customers during a declared water shortage emergency by the SFPUC. The amendment establishes a “Tier 1 Family Plan”, a change that ensures that during a drought, financial penalties for exceeding water allocations will only be applied to a Wholesale Customer if the entire group of twenty-six Wholesale Customer agencies exceeds its total water allocation from the SFPUC.
 - c. General Updates: Minor corrections and clarifications within the WSA.
2. An updated Tier 2 Water Shortage Allocation Plan (Tier 2 Plan): The Tier 2 Plan provides the method for allocating water from the SFPUC’s Regional Water System (RWS) among the Wholesale Customers during drought shortages.

FISCAL IMPACT

These actions will have no direct impact on the General Fund or Measure C.

The proposed Minimum Purchase Quantity Amendment will increase the amount the Hayward will pay for water purchases from the SFPUC. The estimated cost increase will range from \$0.007 to \$0.040 per ccf. For Hayward, this translates to an increase of approximately \$44,000 to \$284,000 annually, based on the City’s purchases from the SFPUC in FY21-FY 24.

Funds for the increase in the cost of wholesale water purchases will come from Water Enterprise Fund and will have to be passed on to all water customers.

No additional costs are associated with the Tier 2 update or the proposed general updates to the WSA.

BACKGROUND

The City of Hayward (Hayward) purchases one hundred percent of its water supply from the SFPUC’s RWS. This water supply is governed by two agreements: 1) the 1962 contract between Hayward and the San Francisco Water Department; and 2) the Water Supply Agreement (WSA) between San Francisco and all Wholesale Customers, including the City, and subsequent amendments. The 1962 agreement primarily addresses the quantity of water to be delivered to Hayward and is the contract under which Hayward is assured of receiving sufficient quantities to meet its demand, as long as adequate water supplies are available. The WSA focuses on issues of common interest to all Wholesale Customers, such as the calculation of wholesale rates and allocation of system costs.

Hayward is a member agency of the Bay Area Water Supply and Conservation Agency

(BAWSCA), which represents the interests of the twenty-six entities that purchase water from the SFPUC. In 2006, Hayward delegated authority to BAWSCA to negotiate the WSA, all wholesale customers, including Hayward.

Water Supply Agreement History

In June 2009, Hayward entered into a WSA with the City and County of San Francisco (San Francisco) and Wholesale Customers in Alameda County, San Mateo County and Santa Clara County (2009 WSA). The 2009 WSA establishes the terms by which the twenty-six Wholesale Customers purchase water from the SFPUC's RWS. The 2009 WSA builds on the 1984 "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". The WSA was amended in 2013 and 2019 to address substantive issues that arose during implementation of the WSA.

In September 2017, at the request of the Minimum Purchase Agencies, BAWSCA and the Water Management Representatives (WMR) of the Wholesale Customers initiated discussions to create a process by which Minimum Purchase Quantities could be permanently transferred from one agency to another. Throughout 2017 and 2018, the WMR held multiple meetings during which the Minimum Purchase Customer agencies, and the other Wholesale Customers shared their interests and raised concerns regarding changes to the Minimum Purchase Requirements and allowing transfers of minimum annual purchase quantities.

The Wholesale Customers directed BAWSCA to facilitate negotiation of a new WSA amendment to provide a procedure for expedited and permanent transfers of minimum annual purchase quantities in a manner that safeguards the financial and water supply interests of Wholesale Customers not participating in such transfers. This amendment was memorialized in the 2021 Amended and Restated WSA (2021 WSA), approved by Hayward's City Council in March 2022.

DISCUSSION

This section summarizes the main points of the proposed WSA amendments, the Tier 2 Plan, and the potential impacts to Hayward.

Tier 2 Plan Negotiations and Development of Minimum Purchase Quantity Reduction Proposal

In January 2021, BAWSCA began facilitating an update to the Tier 2 Plan, which is the method for allocating water from the RWS among the Wholesale Customers during shortages caused by drought. The Tier 2 Plan is an agreement between the twenty-six Wholesale Customers and must be unanimously adopted by them, which includes Hayward. The Tier 1 Plan allocates water between San Francisco retail customers and the Wholesale Customers during a declared water shortage emergency by the SFPUC.

In November 2021, the SFPUC declared a water shortage emergency in response to the Governor's executive action declaring a drought state of emergency across most of California. This action triggered implementation of the Tier 1 and Tier 2 Plans by the SFPUC and BAWSCA for the first time.

Between January 2022 and June 2024, BAWSCA and the lead negotiators for each Wholesale Customer, supported by a consulting firm providing technical and modeling expertise, met more than 60 times, to negotiate the terms of the updated Tier 2 Plan. Throughout the negotiation period, the Wholesale Customers gained insight into unique characteristics of each agency and specific challenges related to water supplies and droughts. During these discussions, the four Wholesale Customers subject to the Minimum Purchase requirements (Minimum Purchase Customers) presented challenges to the Minimum Purchase Requirements.

In June 2023, following several years of discussions regarding the Minimum Purchase Requirements, the SFPUC proposed amending the 2021 WSA to reset the existing minimum annual purchase quantities to align with current water consumption trends, while protecting investment in the RWS. For the remainder of 2023, the SFPUC, the Minimum Purchase Customers, and BAWSCA held multiple meetings to identify amendments that would address challenges related to the Minimum Purchase Requirements. Once the SFPUC and the Minimum Purchase Customers finalized their recommended amendments to the Minimum Purchase Requirements, the Minimum Purchase Customers presented the proposals to the broader Wholesale Customers' group for consideration.

In June 2024, the lead negotiators concluded negotiations on the updated Tier 2 Plan. The agency representatives collectively agreed that they were ready to recommend the Tier 2 Plan to their governing boards for adoption.

1. Tier 1 Plan Amendment

Tier 1 is a method for allocating water from the SFPUC's RWS between Retail and Wholesale Customers during system-wide shortages of 20% or less. The SFPUC allocates water under the Tier 1 Plan when it determines that projected available water supply is up to 20 % less than projected system-wide water purchases. The collective Wholesale Customers' share is apportioned among the individual Wholesale Customers based on a methodology. Under the current Tier 1 Plan, if an individual Wholesale Customer exceeds its allocation, an "excess use charge" is assessed for the additional amount used by the Wholesale Customer.

In Fall of 2024, all twenty-six Wholesale Customers and the SFPUC negotiated an amendment to the Tier 1 Plan in the WSA to incorporate a new "Tier 1 Family Plan," whereby the SFPUC may only apply excess use charges to Wholesale Customers who exceed their individual shortage allocation when the collective Wholesale Customer usage exceeds the Tier 1 allocation.

2. Impact Related to the WSA Amendments

Minimum Purchase Quantity Requirements

The proposed amendments to the Minimum Purchase Quantity Requirements will increase costs for both the SFPUC's own Retail Customers and all Wholesale Customers. Because the RWS revenue requirement must be recovered through water rates, BAWSCA has estimated that reducing the Minimum Purchase Requirements for the four customers is estimated to cost all the Wholesale Customers and the SFPUC's retail customers an additional \$0.007-\$0.04 per ccf (hundred cubic feet). This equates to approximately a 0.13%-0.72% water rate increase.

The Minimum Purchase Quantities were initially developed and imposed on agencies with multiple sources of water to provide the SFPUC with some level of wholesale revenue certainty. Otherwise, the SFPUC could see large decreases in purchase volumes and sales revenues during normal water supply years from those agencies purchasing water from much less expensive water supply sources, thus affecting the SFPUC's fixed costs.

The proposal assumes the cost for the reduction in Minimum Purchase Quantities will be distributed among all the wholesale agencies, and the SFPUC's retail customers. As one of the SFPUC's largest water purchasers, Hayward could sustain a fiscal impact of approximately \$284,000 annually, for at least the first several years, based on the City's purchases from the SFPUC in FY21-FY24.

When the Minimum Purchase Quantity proposal was presented to the WMR in June 2024, Hayward expressed strong concerns regarding the financial impacts to the City as well as to other Wholesale Customers. Hayward's Public Work's Director and Water Resources Manager had a number of meetings, with staff representatives for the four Minimum Purchase Agencies and BAWSCA staff to develop a course of action that is fair and feasible for all effected agencies. However, Hayward's concerns were eventually not included in the Minimum Purchase Quantity final proposal

Potential Impacts on Hayward Regarding Tier 1 and Tier 2 Amendments

Tier 1 Water Shortage Allocation Plan

The proposed amendments to the WSA regarding Tier 1 Plan will have no adverse impacts to Hayward. If the City were to exceed its water allocation during a drought, but the Wholesale Customers collectively use less than the total Wholesale Customer allocation from the SFPUC, the City will not be charged excess use fees.

General Updates to the Water Supply Agreement

The proposed additional amendments to the WSA are administrative and will have no fiscal impact.

Tier 2 Plan

The proposed updates to the Tier 2 Plan provide a predictable and equitable allocation framework. As Hayward depends on supplies from the SFPUC's RWS, the formula ensures allocations are sufficient to meet public health and safety standards, and is vital for water supply planning and management purposes.

ECONOMIC IMPACT

The proposed amendment would increase the amount all Hayward water customers, including residences and businesses, will pay for water purchased from the SFPUC, which may result in modest increases to the rates charged to its customers. For a typical single-family home, the bi-monthly increase will average less than \$1.

STRATEGIC ROADMAP

This agenda item does not directly relate to one of the Council's six Strategic Priorities.

SUSTAINABILITY FEATURES

The WSA amendment might remove a potential water conservation incentive for one or two agencies.

PUBLIC CONTACT

The SFPUC approved the WSA amendments at its May 13, 2025, Commission meeting.

NEXT STEPS

The proposed WSA amendments and updates have been approved by all of the other Wholesale Agencies' governing bodies (twenty-five) and the SFPUC. Hayward is the last agency to consider the amendment. If Hayward does not approve the WSA amendments, the amendments will not go into effect for the Tier 1 "Family Plan", the Minimum Purchase Requirements, and discrete issues that arose over the course of implementing the WSA. In view of this staff recommends approval.

If Hayward does not approve the Tier 2 updates, drought allocations would default to a determination by the BAWSCA Board or the SFPUC, potentially resulting in a less favorable and unpredictable outcome.

Prepared by: Cheryl Muñoz, Water Resources Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Jayanti Addleman, Interim City Manager