

File No. 100984

Committee Item No. 5

Board Item No. 31

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: October 13, 2010

Board of Supervisors Meeting

Date 10.19.10

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU                                          |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement *                         |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
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#### OTHER

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Completed by: Victor Young

Date: October 8, 2010

Completed by: Victor Young

Date: 10/14/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

01.01.07

FILE NO. 100984

RESOLUTION NO.

1 [Memorandum of Agreement with the National Park Service – Not to Exceed <sup>\$27,486,504</sup>~~\$30,000,000~~]

2  
3 **Resolution approving the Memorandum of Agreement with the National Park Service**  
4 **for the Comprehensive Management of Yosemite National Park Watersheds that supply**  
5 **water to the San Francisco Regional Water System pursuant to Charter section 9.118.**  
6

7 WHEREAS, the City and County of San Francisco (City) and the National Park Service  
8 (NPS) desire to continue their cooperation in their common goal and acknowledge the City's  
9 financial commitment and the NPS' implementation commitment to watershed protection,  
10 environmental stewardship and security programs; and

11 WHEREAS, services are anticipated to begin in July 2010 and end in June 2015 and  
12 the total duration of this agreement is 60 months; and

13 WHEREAS, the estimated cost over 5 years is <sup>\$27,486,504</sup>~~thirty million (\$30,000,000)~~; and

14 WHEREAS, on August 10, 2010, the San Francisco Public Utilities Commission  
15 adopted resolution 10-1039 executing this agreement; and

16 WHEREAS, Charter Section 9.118 requires Board of Supervisor approval by resolution  
17 of any contracts or agreements entered into by a department, board or commission requiring  
18 anticipated expenditures by the City and County of ten million dollars, and

19 WHEREAS, funds will be available upon adoption of the Hetch Hetchy annual  
20 operating budget each year; now, therefore, be it

21 RESOLVED, That the Board of Supervisors approves the Memorandum of Agreement  
22 with the Department of the Interior, Yosemite National Park for an amount not to exceed ~~thirty~~  
23 <sup>\$27,486,504</sup>~~million (\$30,000,000)~~, and with a total duration of sixty (60) months for watershed protection,  
24 environmental stewardship and security.  
25

**Item 5**  
**File 10-0984**

**Department(s):**  
**Public Utilities Commission (PUC)**

## **EXECUTIVE SUMMARY**

### **Legislative Objective**

- The proposed resolution would approve a new Memorandum of Agreement between the National Park Service (NPS) and the PUC for the NPS to provide watershed management services for the PUC within Yosemite National Park at an estimated cost of \$30,000,000 for a five year term retroactive from July 1, 2010 to June 30, 2015.

### **Key Points**

- The PUC is not required to filter the water that comes from the Hetch Hetchy watershed, which supplies 80 percent of the drinking water for PUC customers, because (a) the exceptionally high water quality of the Hetch Hetchy watershed, and (b) the ongoing watershed management efforts provided by the PUC. On July 21, 2005, the PUC retroactively executed existing agreements between the National Park Service (NPS) and the PUC for the NPS to provide watershed management services for the PUC within Yosemite National Park for a five year term between July 1, 2005 and June 30, 2010, at actual cost of \$19,543,111. The National Park Service provides such watershed management services for the watersheds which lie within Yosemite National Park. Watershed management services include (1) program management, (2) source water protection, (3) security, and (4) special projects.
- The PUC is now requesting a new Memorandum of Agreement retroactive to July 1, 2010 between the NPS and the PUC for the NPS to (a) combine the same watershed management services under their existing agreements, and (b) add a new category of services entitled environmental stewardship. Environmental stewardship services include various tasks which are intended to protect and rehabilitate the ecosystems that affect, or are affected by, PUC water operations.
- The PUC will pay the NPS an estimated not-to-exceed amount of \$27,486,504 for the watershed management services to be provided by the NPS within Yosemite National Park. The expenditure plan provided by the PUC includes \$27,486,504, which is \$2,513,496 less than the requested not-to-exceed amount of \$30,000,000. The proposed expenditures of \$27,486,504 represent an increase of \$7,943,393, or 40.6 percent, when compared to the actual expenditures under the existing agreements of \$19,543,111. According to Mr. Jacobo, this increase of \$7,943,393 is due to (a) assumed NPS cost escalation of approximately 5.0 percent per year over five years, and (b) increased dam security requirements.

### **Fiscal Impact**

- The not-to-exceed \$30,000,000 cost of the proposed agreement would be funded from the water fees paid by PUC water customers, and appropriated by the Board of Supervisors. According to Mr. Carlos Jacobo, Budget Manger for the PUC, the proposed agreement costs were included in the current water rates charged by the PUC.

### Recommendations

- Amend the proposed resolution to reduce the requested not-to-exceed amount of \$30,000,000 by \$2,513,496, to a not-to-exceed amount of \$27,486,504.
- Approve the proposed resolution, as amended.

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

According to Section 9.118 of the City's Charter, approval of any agreement with a period of more than ten years or a cost of more than \$10,000,000 requires approval by the Board of Supervisors.

### Background

According to Mr. Carlos Jacobo, Budget Manager for the PUC, approximately 80 percent of the drinking water provided to the PUC comes from the Hetch Hetchy watershed. Mr. Jacobo advised that the PUC is not required to filter water that comes from the Hetch Hetchy watershed due to (a) the exceptionally high water quality of the Hetch Hetchy watershed, and (b) the ongoing watershed management efforts provided by the PUC and the National Park Service. The National Park Service provides such watershed management services for the watersheds which lie within Yosemite National Park, while the PUC provides less intensive watershed management services<sup>1</sup> for all other areas.

On July, 25 2005, the PUC approved an existing Watershed Protection Memorandum of Agreement between the National Park Service (NPS) and the PUC for the NPS to provide watershed management services for the Hetch Hetchy watersheds that lie entirely within Yosemite National Park, for a five year term between July 1, 2005 and June 30, 2010. Watershed management services are provided in three categories of services including (1) program management, (2) source water protection, and (3) special projects. A separate Security Agreement was executed by the PUC on May 4, 2007 for a five year term from July 1, 2007 through June 30, 2012. The combined actual cost of these two agreements was \$19,543,111 over the five year period, July 1, 2005 through June 30, 2010, including (a) \$17,692,249 under the existing Watershed Protection Agreement, and (b) \$1,850,862 under the existing Security Agreement.

Although approval of the existing Memorandum of Agreement for Watershed Protection between the PUC and the NPS was subject to Board of Supervisors approval pursuant to San Francisco Charter 9.118 because it exceeded \$10,000,000, according to Mr. Jacobo, the PUC

<sup>1</sup> According to Mr. Jacobo, because water collected in watersheds other than those within Yosemite National Park is subject to filtration, the watershed management services provided by the PUC in areas outside Yosemite National Park are less intensive than those provided by NPS.

did not submit the existing Watershed Protection Agreement to the Board of Supervisors for approval due to staff oversight.

Since the expiration of the current Watershed Protection Agreement on June 30, 2010, the PUC and NPS have extended the current Agreement on a month-to-month basis in anticipation of the proposed new Memorandum of Agreement which would replace the two existing agreements. If the proposed resolution is approved, the proposed Memorandum of Agreement would retroactively approve a new agreement effective as of July 1, 2010.

For the purposes of this report, these two existing agreements are referenced in combination because (a) they both provide services in the Hetch Hetchy watershed which are necessary to maintain the water quality of the Hetch Hetchy watershed, and (b) they are proposed to be replaced by the subject proposed single agreement.

**DETAILS OF PROPOSED LEGISLATION**

The PUC is now requesting a new Memorandum of Agreement between the NPS and the PUC for the NPS to provide watershed management services within Yosemite National Park. The proposed new agreement has a term of five years, retroactive from July 1, 2010 through June 30, 2015, at a not-to-exceed amount of \$30,000,000, payable by the PUC to the NPS for the watershed management services provided by the NPS within Yosemite National Park.

According to the Attachment from the PUC, the PUC estimates expending \$27,486,504 under the proposed agreement, which is \$2,513,496 less than the requested not-to-exceed amount of \$30,000,000. Therefore, the Budget and Legislative Analyst recommends the proposed resolution be amended to reduce the authorized not-to-exceed amount by \$2,513,496, from a not-to-exceed amount of \$30,000,000 to a not-to-exceed amount of \$27,486,504. Table 1 below provides a summary of the detailed expenditure plan provided in the Attachment to the report.

**Table 1: Summary of Expenditures**

Raker Act Fees	\$150,000
Watershed Protection	20,448,808
Dam Security	3,519,938
Environmental Stewardship	1,207,651
Special Projects	2,160,107
<b>Total</b>	<b>\$27,486,504</b>

As shown in Table 1 above, the proposed expenditure plan is categorized into (a) Raker Act Fees, (b) Watershed Protection, (c) Dam Security, (d) Environmental Stewardship, and (e) Special Projects. A description of each category of service follows.

**Description of Services**

1-Raker Act Fees

According to Federal Law known as the Raker Act of 1913, the National Park Services is entitled to, in addition to reimbursement of costs for the other services described below, an

annual fee of \$30,000 for each of the five years of the proposed agreement term for a total of \$150,000.

## 2- Watershed Protection

The proposed Agreement includes \$20,448,808 for source water protection services including (a) \$1,011,137 for staffing for roadway entrance stations which control access to Hetch Hetchy watershed areas, (b) \$7,884,512 for patrolling the watershed area and enforcing proper visitor use, (c) \$4,321,233 for trail and restroom maintenance, (d) \$4,192,812 for operation of the wilderness permitting system which controls the number of overnight campers in the Hetch Hetchy watershed areas, (e) \$2,231,376 for outreach, education, and impact monitoring services, and (f) \$807,738 for program management services including one full time NPS staff member to serve as the program manager who prepares all reports, invoices, and budgets, and ensures the timeliness and quality of all work performed by the NPS.

## 3-Dam Security

Dam security services, totaling \$3,519,938 under the proposed new Agreement, generally include (a) patrols, (b) monitoring, (c) emergency response, (d) investigations and, (e) supporting equipment and activities. Under the existing agreements, the total expenditures for dam security were \$2,276,186, as shown in the Attachment. According to Mr. Jacobo, details regarding the specific security services are not publicly available due to Homeland Security restrictions.

## 4-Environmental Stewardship

In June of 2006, the PUC adopted an Environmental Stewardship Policy which requires the PUC to protect and rehabilitate the ecosystems that affect, or are affected by, PUC water operations. Under the existing agreements with NPS which were executed in July of 2005, prior to the adoption of the PUC's Environmental Stewardship Policy, environmental stewardship services were provided under the Special Projects category for as-needed services as discussed below.

The proposed new Agreement would include new environmental stewardship services totaling \$1,207,651, in accordance with the PUC's Environmental Stewardship Policy, including (a) reptile and amphibian studies (this project, entitled "Amphibian/Reptile Survey", is an ongoing project which was previously included as a special project under the existing agreements, as shown in the Attachment), (b) studies of the ecosystem downstream of the O'Shaughnessy Dam (this project, entitled "Looking Downstream", is an ongoing project which was previously included as a special project under the existing agreements, as shown in the Attachment), and (c) review of the water release amounts allowed for the O'Shaughnessy Dam and the Eleanor Dam.

## 5- Special Projects

Special Projects serves as a funding set aside for as-needed services which are not anticipated at the time of execution of the Agreement. Under the existing agreements with the NPS, \$1,719,417 was expended under Special Projects for (a) environmental stewardship services (which are now included in the regular agreement services as shown in Table 1 above at an

estimated cost of \$1,207,651), and (b) various other projects such as livestock monitoring and visitor impact monitoring.

The PUC anticipates additional future as-needed services totaling \$2,160,107. Because such a special project set aside of \$2,160,107 is 7.9 percent of the total estimated expenditure plan of \$27,486,504, the Budget and Legislative Analyst finds a 7.9 percent special projects set aside to be reasonable.

## FISCAL IMPACT

The estimated expenditures under the proposed Agreement totaling \$27,486,504 will be funded from water fees paid by PUC water customers, subject to appropriations approval by the Board of Supervisors. According to Mr. Jacobo, the additional estimated cost of \$27,486,504 under the proposed Agreement with the National Park Service is included in the water rates previously approved by the Board of Supervisors<sup>2</sup> through FY 2013-2014.

The estimated expenditures of \$27,486,504 represent an increase of \$7,943,393, or 40.6 percent, when compared to the actual expenditures under the existing agreements of \$19,543,111. According to Mr. Jacobo, this increase of \$7,943,393 is due to (a) assumed NPS cost escalation of approximately 5.0 percent per year over the five year period of the agreement, and (b) increased dam security requirements.

## RECOMMENDATIONS

1. Amend the proposed resolution to reduce the requested not-to-exceed amount of \$30,000,000 by \$2,513,496, from \$30,000,000 to a not-to-exceed amount of \$27,486,504.
2. Approve the proposed resolution, as amended.

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<sup>2</sup> The FY 2009-2010 through FY 2013-2014 water rates were considered approved by the Board of Supervisors on June 5, 2009 because, pursuant to Proposition E approved by the San Francisco voters on November 5, 2002, the PUC's water rates were not rejected within 30 days of their submission to the Board of Supervisors.



Hetch Hetchy Water & Power  
National Park Service Funding  
FY05-06 Through FY14-15

	Previous 5-Year Agreement					New 5-Year Agreement					Total	
	Year 1 FY05-06	Year 2 FY06-07	Year 3 FY07-08	Year 4 FY08-09	Year 5 FY09-10	Year 1 FY10-11	Year 2 FY11-12	Year 3 FY12-13	Year 4 FY13-14	Year 5 FY14-15		
<b>Core Tasks</b>												
Raker Act Fee	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Watershed Protection	2,716,345	2,913,285	3,090,991	3,255,342	3,421,545	3,770,717	3,867,356	4,062,223	4,266,835	4,481,677	4,714,808	20,148,808
Dam Security	6,548	418,776	595,675	642,617	612,570	637,020	668,871	702,315	737,430	774,302	819,898	3,519,898
Environmental Stewardship Projects	Previously Provided, As Special Projects As Shown Below					179,559	238,551	250,458	262,980	276,129	290,755	1,207,857
<b>Core Task Subtotal</b>	\$2,752,893	\$3,362,061	\$3,716,666	\$3,927,959	\$4,084,115	\$4,617,290	\$4,804,758	\$5,044,996	\$5,297,245	\$5,562,108	\$5,826,397	\$27,486,504
<b>Special Projects</b>												
Watershed Protection Projects												
Glen Aulin Composting Toilets		225,000										
Tuolumne User Capacity Management Program		104,225										
Stock Use Management		9,643										
Portable Toilets at Cathedral Lakes Trailhead		10,000										
Visitor Impact Monitoring			91,439		110,396							
Meadow Degradation & Impacts on Water Stream					169,796							
Wilderness Restoration & Watershed Protection					61,912							
Lake Eleanor Housing Structural Improvements					252,980							
<b>Subtotal</b>		\$348,868	\$0	\$91,439	\$595,084							\$1,035,307
<b>Environmental Stewardship Projects</b>												
HH Cultural Landscape Assessment		34,703										
Submerged Cultural Resources		14,175										
Looking Downstream: Assessment below the Dam		220,501		112,540	139,628							
Tuolumne Meadow Health Assessment		38,588	33,455									
Amphibian/Reptile Survey		\$307,967	\$33,455	40,436	50,000							
<b>Subtotal</b>		\$656,835	\$33,455	\$152,976	\$189,628							\$684,026
<b>Future Special Projects Allocation</b>												
<b>Special Projects Subtotal</b>		\$656,835	\$33,455	\$244,415	\$784,712	\$214,581	\$451,385	\$473,954	\$497,652	\$522,535	\$522,535	\$2,160,107
<b>Grand Total</b>	\$2,752,893	\$4,018,896	\$3,750,121	\$4,172,374	\$4,848,827	\$4,831,871	\$5,256,143	\$5,518,950	\$5,794,897	\$6,084,643	\$6,348,932	\$29,646,611

Attachment

**Memorandum of Agreement  
Between  
City and County of San Francisco  
San Francisco Public Utilities Commission  
and  
National Park Service  
Yosemite National Park  
for**

**Comprehensive Management of Watersheds Supplying the San Francisco Regional  
Water System within Yosemite National Park**

This Memorandum of Agreement (MOA) is hereby entered into by and between the National Park Service (NPS) and the San Francisco Public Utilities Commission (SFPUC), referred to collectively herein as "the Parties."

**ARTICLE I – BACKGROUND AND OBJECTIVES**

The Hetch Hetchy watershed is part of the Tuolumne River basin and is located entirely within Yosemite National Park (YNP). The headwaters of the Tuolumne River drain into Hetch Hetchy Reservoir. This watershed provides over 80% of the drinking water to the 2.5 million people in the San Francisco Bay Area and is managed by the National Park Service (NPS).

The SFPUC is not required to filter its Hetch Hetchy water supply in part due to:

- The exceptionally high quality water produced by the Hetch Hetchy watershed.
- Ongoing and effective source water protection provided by NPS watershed management.

This combination meets the U.S. Environmental Protection Agency's and the California Department of Health Service's criteria for filtration avoidance.

The following are approved standby water sources for the San Francisco Regional Water System (SFRWS):

- The Lake Eleanor watershed.
- Tuolumne River sub-watershed between O'Shaughnessy Dam and Early Intake.
- Cherry Creek sub-watershed below Lake Eleanor.

This MOA includes the management of the portions of these watersheds that are within YNP.