

Heron



SAN FRANCISCO PUBLIC UTILITIES COMMISSION

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GENERAL MANAGER

March 17, 2009

Mr. Ray Yep
Santa Clara Valley Water District
5750 Almaden Express Way
San Jose, CA 95118-3686

Dear Mr. ~~Yep~~ *Ray*:

Enclosed for your file is an original First Amendment to the O&M Agreement between the SFPUC and the SCVWD for the Intertie.

Please contact me should you have any questions.

Sincerely,

David A. Briggs
Division Manager

DAB:jf

cc: File: 3.9.1

FIRST AMENDMENT TO
AGREEMENT BETWEEN
CITY AND COUNTY OF SAN FRANCISCO
PUBLIC UTILITIES COMMISSION
AND
SANTA CLARA VALLEY WATER DISTRICT
FOR
LONG TERM OPERATION AND MAINTENANCE
OF THE INTERTIE

THIS FIRST AMENDMENT to that Agreement between the City and County of San Francisco, acting by and through its Public Utilities Commission ("City"), and the Santa Clara Valley Water District ("District"), for long term operation and maintenance of the Intertie dated December 21, 1999 ("the Agreement"), is made in the State of California on this 2rd day of March, 2009.

RECITALS

WHEREAS, in December 1999 the City and the District entered into separate agreements to (1) develop and (2) operate and maintain the Intertie; and

WHEREAS, since being put into service it has become clear that the Intertie may be more efficiently operated and maintained and that flexibility to choose between the Parties to do so is desirable; and

WHEREAS, the City is now undertaking its Water System Improvement Program, which places high burdens on current City operations personnel; and

WHEREAS, changes to the operation and maintenance provisions require that the Agreement be amended.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the Parties agree to amend the Agreement as follows:

1. Provision 4 entitled **MAINTENANCE, REPLACEMENT AND REPAIR OF THE INTERTIE** is amended to read :

The Parties shall jointly designate one of them to have primary responsibility for routine operation, maintenance, replacement and repair of the physical works of the Shared Project Facilities ("the O&M Party"). It is the Parties intent that the District shall be designated as the O&M Party until at least December 31, 2013. If mutually agreed, accomplishment of operation, maintenance, replacement and repair of physical works of the Shared Project Facilities may be contracted to a third party, with responsibility for contract administration by the City or the District as may be agreed. Routine operation, maintenance, replacement and repair of each Party's Separate Facilities such as water treatment facilities, shall be the sole responsibility of each respective Party. The Parties shall establish and agree upon an annual plan and budget for operation, maintenance, repair, replacement or capital improvements during the Annual Meeting. Such plan shall include a contingency fund. The District or the City may repair or replace any of the physical works of the Shared Project Facilities, as consistent with the annual plan and budget, or as mutually agreed by the Parties.

Any fences and access gates to the Intertie shall be kept in good repair. Such gates shall be kept closed and locked except when in actual use. The Parties shall provide each other with a key to each lockable gate to the Intertie.

2. Provision 15 entitled **PAYMENTS FOR OPERATIONS AND MAINTENANCE OF INTERTIE** is amended as follows:

The O&M Party shall have lead responsibility for reconciliation of joint costs associated with the Intertie. The non-O&M Party shall provide the O&M Party with a quarterly accounting of the non-O&M Party's joint cost expenditures for inclusion by the O&M Party in its accounting for billing and invoicing of joint costs for the Intertie.

- (a) The O&M Party shall bill the non-O&M Party quarterly and include the supporting accounting system documentation as appropriate.
- (b) The O&M Party's invoices to the non-O&M Party shall include sufficiently detailed information to explain the types of joint costs incurred during the billing period. The O&M Party shall provide clarifications of invoices to the non-O&M Party upon written request.


- (c) All payments shall be due within 60 days after the date of the O&M Party's billing or if the non-O&M Party has requested a clarification of an invoice in writing within 30 days of the O&M Party's billing, within 30 days of the O&M Party's written clarification.
- (d) Interest shall be charged for all delinquent payments. The non-O&M Party shall pay the O&M Party accrued interest on all overdue payments at the rate of 0.5 percent per month from the due date to the date of payment.

The frequency of reporting and billings may be modified upon mutual agreement and written confirmation, provided however that the reporting/billing cycle shall be no less than one year.

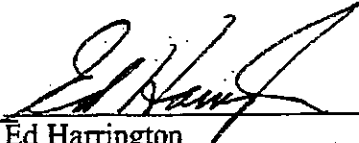
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to be effective on the date first above written.

CITY AND COUNTY OF SAN FRANCISCO

Approved as to Form:
Dennis J. Herrera
City Attorney



Donn Furman
Deputy City Attorney



Ed Harrington
General Manager
Public Utilities Commission

Approved by Public Utilities Commission

Approved by Board of Supervisors

Resolution No. 08-0223

Resolution No. 60-09

Adopted: 12-9-08

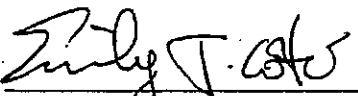
Adopted: 2-24-09

Attest: _____

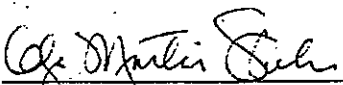
Attest: _____

SANTA CLARA VALLEY WATER DISTRICT

Approved as to Form:



Emily J. Cole
Senior Assistant District Counsel
Santa Clara Valley Water District



Olga Martin Steele
Chief Operating Officer
Santa Clara Valley Water District

