File No. 111096

Committee Item No. 1
Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee **Date:** November 30, 2011

Board of Supervisors Meeting **Date** 12/6/11

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Completed by: Victor Young **Date:** November 21, 2011
Completed by: Victor Young **Date:** 12-1-11

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

[Contract Amendment – Western Area Power Administration - Electric Services – Not to Exceed $15,950,888]

Ordinance approving the second amendment to the contract between the City and County of San Francisco and the United States, through the Department of Energy Western Area Power Administration, for delivery of low-cost power and scheduling coordinator services to Treasure Island and Yerba Buena Island; and approving the City indemnifying and holding the United States harmless against claims arising from the activities of the City under the contract, and waiving the requirement of Section 21.19 of the San Francisco Administrative Code which requires that a City contract contain a statement of guaranteed maximum costs, and waiving the requirement of Section 21.35 of the San Francisco Administrative Code which requires that every contract contain a statement regarding liability of claimants for submitting false claims.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. FINDINGS. The Board of Supervisors hereby finds and declares that:

(1) The City, through its Public Utilities Commission (PUC), is currently providing electric utility service at Treasure Island and Yerba Buena Island (TI/YBI) under a multi-year Cooperative Agreement with the United States Navy.

(2) The City is the local reuse authority for Naval Station Treasure Island under the Federal Base Closure and Realignment Act (BRAC), and as a result is entitled to purchase low-cost electricity from the federal government.

(3) The Board of Supervisors has twice approved agreements with the Western Area Power Administration ("WAPA") for low-cost electric services to Treasure Island and Yerba Buena Island ("TI/YBI"). This contract was effective on September 1, 2005, for a period of five years until September 30, 2010, pursuant to Ordinance No. 0017-05 on file with the Clerk of the Board of Supervisors. The First Amendment was approved on December 4, 2007 pursuant to Ordinance 0276-07 on file with the Clerk of the Board of Supervisors, and extended the contract from September 30, 2010 to September 30, 2015.

(4) The contracts between the City and WAPA include delivery of low-cost power and scheduling coordinator services.

(5) These services, which are currently provided by WAPA, are necessary for the City to provide reliable low-cost power for all anticipated electric power needs of TI/YBI.

(6) On July 26, 2011, WAPA asked the City to amend the contract with an extension through September 30, 2020 now, so that WAPA could begin purchasing power for periods beyond the current contract expiration date.

(7) The five-year extension of the Full Load Service contract would increase the total estimated costs of the contract from four million, two hundred and forty thousand dollars ($4,240,000) to nine million, six hundred and fifty thousand dollars ($9,650,000). The actual cost will be determined by the quantity of power used at TI/YBI, but will not exceed ~~thirteen million, eight hundred and ninety thousand dollars ($13,890,000)~~fifteen million, nine hundred and fifty, eight hundred and eighty eight dollars ($15,950,888).

(8) Without these contracts, the City would be required to obtain these services from a third party, such as PG&E, at a higher cost.

(9) The Contract is a standard form used by the United States for power services. Indemnification of the United States is a required element of the contract. In addition, WAPA

would not agree to modify the contracts to include the statements required by San Francisco Administrative Code Sections 21.19 and 21.35.

(10) The PUC approved this amendment at a public meeting on September 13, 2011, in Resolution 11-0153, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 111096.

Section 2. The General Manager of the PUC is hereby authorized to execute the amendment to the contract for full load service with WAPA. A copy of this contract is on file with the Clerk of the Board of Supervisors in File No. 111096.

Section 3. WAIVERS. For the purpose of this contract, the Board of Supervisors finds that it is reasonable and in the public interest to grant the waivers specified below.

(1) The Board of Supervisors hereby waives the requirement of San Francisco Administrative Code § 21.19 that every contract include a statement regarding guaranteed maximum costs.

(2) The Board of Supervisors hereby waives the requirement of San Francisco Administrative Code Section 21.35 that every contract include a statement regarding liability of claimants for submitting false claims to the City.

Section 4. APPROPRIATION OF FUNDS. The costs under this contract will be recovered through the electric utility rates at TI/YBI, and will be included in the annual budgets for the PUC's Power Enterprise.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Margarita Gutierrez
Deputy City Attorney

FILE NO. 111096

LEGISLATIVE DIGEST

Ordinance approving the second amendment to the contract between the City and County of San Francisco and the United States, through the Department of Energy Western Area Power Administration, for the performance of duties and obligations of a scheduling coordinator pursuant to the California Independent System Operator tariff and for the delivery of low cost electric power to Treasure Island and Yerba Buena island on file with the Clerk of the Board of Supervisors in File no. 041351; and approving the City indemnifying and holding the united states harmless against claims arising from the activities of the City under the contract, and waiving the requirement of Section 21.19 of the San Francisco Administrative Code which requires that a city contract contain a statement of guaranteed maximum costs, and waiving the requirement of Section 21.35 of the San Francisco Administrative Code which requires that every contract contain a statement regarding liability of claimants for submitting false claims.

Amendments to Current Law

This ordinance would approve waivers of those requirements in a contract amendment with the Western Area Power Administration (WAPA) for services to ensure reliable delivery of low-cost electric power for use at Treasure Island and Yerba Buena Island (TI/YBI). The ordinance would also indemnify the United States against claims resulting from acts of the City under the contract amendment.

Background Information

Under the Federal Base Closure and Realignment Act, the City is the local reuse authority for the Treasure Island Naval Station, under the auspices of the Treasure Island Development Authority (TIDA). The Public Utilities Commission manages the Treasure Island utilities for TIDA, including water, sewerage, natural gas, and electricity.

Currently, the City has a power purchase agreement, previously approved by the Board of Supervisors, with the U.S. Department of Energy Western Area Power Administration (WAPA), effective from January 1, 2005 through 2015. Under this existing power purchase agreement between the City and WAPA, WAPA guarantees that TIDA receives the amount of electricity needed by TIDA to meet TIDA's electricity needs and provides scheduling coordination services, coordinating the scheduling of electricity through the California Independent System Operator, the not-for-profit public benefit corporation operating the State's wholesale power grid.

WAPA is the City's Scheduling Coordinator and supplemental power provider to TI/YBI. A Scheduling Coordinator is responsible for submitting schedules to the California Independent System Operator (CAISO) for all buyers and sellers transmitting electricity on the ISO

controlled grid. The ISO requires a Scheduling Coordinator to meet extensive financial, operational, equipment, software, and security requirements, including maintaining an operations center 24 hours a day, 7 days a week. WAPA also provides additional power to serve the City's TI/YBI load that is unmet by the amount of generation the City has already contracted to receive from WAPA under its base resource Power Purchase Agreement. The supplemental power provided by WAPA may include long-term, short-term, day-ahead, and hour-ahead purchases, and/or other arrangements. The City's current contract with WAPA for these services expires on September 30, 2015.

The proposed ordinance would approve an amendment to the WAPA contract effective, September 30, 2011 through September 30, 2020, which would modify the terms of the agreement with respect to supplemental power and scheduling coordinator services. On July 26, 2011, WAPA requested the City amend the current contract because WAPA must begin purchasing power beyond the current contract termination date. WAPA's standard contract for these services does not include the City's required false claims provision or the guaranteed maximum amount provision. In addition, WAPA's standard agreement indemnifies and holds WAPA harmless for claims arising out of the City's activities under the contract.

It is estimated that the amendment would increase the amount of the contract from amount from to four million, two hundred and forty thousand dollars ($4,240,000) to nine million, six hundred and fifty thousand dollars ($9,650,000).

Item 1 File 11-1096 *Continued on November 16, 2011*	Department : Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would (a) authorize the City, through the Public Utilities Commission (PUC), to execute the second amendment to an existing agreement with the United States, through the Department of Energy's Western Area Power Administration (WAPA) to approve, (a) retroactive to September 30, 2011, the extension of the existing Full Load Service (FLS) agreement, which currently expires on September 30, 2015 by five years which would result in the existing agreement expiring on September 30, 2020, (b) increase the estimated cost of the existing agreement, from September 1, 2005 through September 30, 2020, or 15 years and one month, to not exceed $13,890,000, although the existing agreement would not include a not-to-exceed amount, (c) indemnify and hold WAPA harmless against claims arising from the activities of the PUC under the agreement, (d) waive the requirement of Administrative Code Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (e) waive the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount).

Key Points

- On January 11, 2005, the Board of Supervisors approved a FLS agreement between the PUC and WAPA for the term from September 1, 2005 through September 30, 2010 for WAPA to provide supplemental electricity for Treasure Island from third party electricity generators (Ordinance No. 17-05). On December 4, 2007, the Board of Supervisors approved the first amendment to this FLS agreement with WAPA, to extend the term by five years through September 30, 2015 (Ordinance No. 276-07). The PUC approved a resolution that this amended agreement, from September 1, 2005 through September 30, 2010, can not exceed $4,240,000.

- The PUC has expended a total of $3,479,545 under the existing FLS agreement from September 1, 2005 through September 30, 2011. The PUC estimates expending an additional approximately $2,827,800 for the four-year period from October 1, 2011 through September 30, 2015 when the existing agreement expires. Therefore, the PUC anticipates expending a total of approximately $6,307,345 for the 10 years and one month period from September 1, 2005 through September 30, 2015, or $2,067,345 more than the existing $4,240,000 not to exceed amount.

Fiscal Impact

- The total estimated cost to the PUC for purchasing supplemental electricity and related portfolio management charges under the proposed five-year extension of the existing agreement, from October 1, 2015 through September 30, 2020, is $9,643,543.

- The total estimated costs under the existing agreement, including the proposed amendment, extending the existing agreement by five years, resulting in a total term of 15 years and one month, from September 1, 2005 through September 30, 2020, are $15,950,888 ($9,643,543 for the proposed five-year extension plus $6,307,345 for the existing agreement term of 10 years and one month), which is $2,060,888 more than the currently estimated not-to-exceed amount of $13,890,000 included in the proposed ordinance.

Policy Consideration

- A competitive process has not been initiated in order to ascertain what the specific costs would be from another third party provider to ensure that the City is obtaining the lowest price possible for the purchase of the supplemental electricity. No competitive process has been initiated because (a) the PUC is purchasing small amounts of electricity in comparison to other purchasers and would pay a premium for the amounts it would purchase, (b) WAPA purchases large amounts of electricity and receives cost savings which it passes on to the PUC, and (c) the purchased electricity would need to be delivered to WAPA's transmission center which is located in Oakland that would require transmission agreements by the PUC in addition to the cost of purchasing the electricity itself. Therefore, the PUC believes that it is getting the lowest price possible for this supplemental electricity. It should be noted that, for the same reasons stated above, the existing agreement between the PUC and WAPA, as previously approved by the Board of Supervisors, was awarded on a sole source basis without utilizing competitive bid processes.

- While the proposed amendment to the existing agreement does not include a not-to-exceed amount, per the waiving of Administrative Code Section 21.19, the proposed ordinance originally specified a not-to-exceed amount of $13,890,000, which was amended to $15,950,888 by the Budget and Finance Committee. The PUC will continue to monitor its expenditures on the existing agreement and, if it is anticipated that the PUC will exceed the not-to-exceed amount, the PUC would be required to obtain approval by the Public Utilities Commission and subsequently the Board of Supervisors to increase that not-to-exceed amount if that increase exceeds $500,000 as is required by Charter Section 9.118(b).

- The Budget and Finance Committee, at its meeting of November 16, 2011, amended the proposed ordinance to reflect the updated estimate of $15,950,888 as the not-to-exceed amount, rather than the $13,890,000 amount as previously included in the proposed ordinance.

Recommendations

- Approve the proposed ordinance.

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

In accordance with Charter Section 9.118(b), City agreements with anticipated expenditures of $10,000,000, or more or amendments to such City agreements with anticipated expenditures of more than $500,000 are subject to approval by the Board of Supervisors.

Background

The City, through the Public Utilities Commission (PUC), is currently providing electricity to Treasure Island and Yerba Buena Island under a multi-year cooperative agreement that the City, through the Treasure Island Development Authority (TIDA), has with the United States Navy.[1]

In order to provide that electricity, the PUC currently has an existing agreement with the U.S. Department of Energy's Western Area Power Administration (WAPA) for the delivery of low-cost Federal electricity services to Treasure Island and Yerba Buena Island from January 1, 2005 through December 31, 2024, which was approved by the Board of Supervisors on January 22, 2001 (Resolution No. 56-01). The existing agreement provides baseline electricity to Treasure Island and Yerba Buena Island from electricity sourced from two federal hydropower projects, the Central Valley Project and the Washoe Project, but does not provide supplemental electricity[2] if electricity needs are in excess of the baseline electricity needs.[3] The costs of the electricity under the existing agreement are recovered in full through Treasure Island and Yerba Buena Island electric utility rates and are included in the PUC's annual budget. From 2009 through 2010, WAPA provided baseline electricity at an average of 7,226 megawatt hours per year.

In order to provide supplemental electricity to Treasure Island and Yerba Buena Island in the event that the baseline electricity provided is not sufficient, the PUC entered into a separate Full Load Service (FLS) agreement with WAPA, with a term from September 1, 2005 through September 30, 2010, which was approved by the Board of Supervisors on January 11, 2005 (Ordinance No. 17-05) in which WAPA provides supplemental electricity from third party electricity generators at market rates. On December 4, 2007, the Board of Supervisors approved the first amendment to the existing FLS agreement with WAPA, which extended the FLS agreement by five years through September 30, 2015 in order to allow WAPA to begin purchasing electricity beyond September 30, 2010 (Ordinance No. 276-07). In addition to providing supplemental electricity, the existing FLS agreement also provides portfolio management services[4] to meet Treasure Island and Yerba Buena Island's electricity needs. All of the costs of the electricity under the existing FLS agreement are recovered in full through Treasure Island and Yerba Buena Island electric utility rates and are included in the PUC's annual budget.

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[1] Under the cooperative agreement between the TIDA and the United States Navy, TIDA assumes responsibility for (a) operating and maintaining water, waste water, storm water, electricity and gas utility systems, (b) security and public health and safety services, (c) grounds and street maintenance and repair, and (d) property management and caretaker services. On September 13, 2011, the Board of Supervisors authorized the extension of the existing cooperative agreement from October 1, 2011 through September 30, 2012 (Resolution No. 372-11).

[2] Supplemental electricity is electricity provided by WAPA in addition to the baseline electricity provided to meet the PUC's electricity needs on Treasure Island and Yerba Buena Island.

[3] Under the existing agreement, the amount of baseline electricity that the PUC receives is .17264 percent of the electricity available for market after (a) meeting the electricity needs of the Central Valley Project and the Washoe Project and first preference customers who are wholly located in Trinity, Calaveras, or Tuolomne Counties within California and (b) any other adjustments required for maintenance, regulation, reserves, transformation losses and ancillary services.

[4] Portfolio management services consist of providing (a) historical electricity load data, (b) expected future electricity loads to determine electric power schedules for Treasure Island and Yerba Buena Island, and (c) purchasing and selling electricity from and to third party providers.

The ordinances approving both the original FLS agreement, and the existing amended FLS agreement, as previously approved by the Board of Supervisors, (a) indemnified and held WAPA harmless against claims arising from the activities of the PUC under the agreement, (b) waived the requirement of Administrative Code Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (c) waived the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount). However, the Public Utilities Commission adopted a resolution on October 9, 2007, which limited the amount of the amended agreement to not exceed $4,240,000 from September 1, 2005 through September 30, 2015, but that not-to-exceed amount was not approved by the Board of Supervisors, although an estimate of the total costs of the agreement was included in the ordinance that was approved. According to a previous Budget and Legislative Analyst report on the first amendment to the existing agreement, dated November 14, 2007, the City Attorney's Office advised that these indemnification and waiver provisions are standard language required by agreements with WAPA and pose little risk to the City. All expenditures under the WAPA agreements are included in the PUC's budget and therefore subject to appropriation approval by the Board of Supervisors. In addition, the existing FLS agreement contains a provision allowing the PUC to terminate the existing FLS agreement without cause, with three months written notice.

According to Mr. Sam Laraño, Manager of Interconnection Services and Redevelopment at the PUC, as shown in Table 1 below, the PUC has expended a total of $3,479,545 for supplemental electricity and related portfolio management charges under the existing FLS agreement from September 1, 2005 through September 30, 2011, with a total megawatt-hour[5] usage of 51,243 megawatt-hours. Based on the PUC's total expenditures of $3,479,545 from September 1, 2005 through September 30, 2011, the PUC expended an average of $571,980 per year over this six-year period.

Table 1: Total Electricity Usage and Cost under FLS Agreement with WAPA for the Six Year and One Month Period from September 1, 2005 through September 30, 2011

	Actual Electricity Usage in Megawatt-hours under FLS Agreement	Cost per Megawatt-hour	Total Cost of Electricity Usage Under FLS Agreement	Portfolio Management Charges (See Footnote 4 Above)	Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
9/2005 - 12/2005	2,823	$76.31	$215,389	$10,200	$225,589
1/2006 - 12/2006	3,654	67.53	246,715	30,600	277,315
1/2006 - 12/2007	9,512	66.16	629,349	30,600	659,949
1/2008 - 12/2008	10,209	74.85	764,097	30,600	794,697
1/2009 - 12/2009	11,182	57.44	642,282	30,600	672,882
1/2010 - 12/2010	9,548	58.35	557,134	30,600	587,734
1/2011- 9/2011 4,	315	$55.26	238,429	22,950	261,379
Total	**51,243**		**$3,293,395**	**$186,150**	**$3,479,545***
* - Average annual cost of $571,980					

[5] A megawatt-hour is a unit of energy equivalent to one megawatt of electricity expended for one hour of time.

Mr. Laraño estimates that, as shown in Table 2 below, the PUC will expend approximately $2,827,801 for electricity usage and portfolio management charges for the remaining four-year period under the existing agreement, or from October 1, 2011 through September 30, 2015.

Table 2: Projected Cost of Remaining Four-Year Period under the Existing Agreement, from October 1, 2011 through September 30, 2015

	Estimated Electricity Usage Under FLS Agreement (in Megawatt-Hours)	Projected Cost Per Megawatt-Hour	Projected Cost of Electricity Usage Under FLS Agreement	Estimated Portfolio Management Charges	Estimated Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
10/2011-12/2011	3,263	$41.00	$133,787	$8,500	$142,287
1/2012-12/2012	10,333	42.24	436,453	34,000	470,453
1/2013-12/2013	10,303	54.50	561,526	34,000	595,526
1/2014-12/2014	10,457	58.75	614,325	34,000	648,325
1/2015-9/2015	15,131	62.50	945,710	25,500	971,210
Total			**$2,691,801**	**$136,000**	**$2,827,801**

The Budget and Legislative Analyst notes that, given that the PUC has already expended $3,479,545 for supplemental electricity and portfolio management charges for the six-year and one month period from September 1, 2005 through September 30, 2011 and the PUC estimates expending an additional $2,827,801 for the four-year period from October 1, 2011 through September 30, 2015, an estimated total of $6,307,346 will be incurred for supplemental electricity and related portfolio management charges under the existing September 1, 2005 through September 30, 2015 agreement. The Budget and Legislative Analyst also notes that this estimated total of $6,307,346 is $2,067,346 more than the not-to-exceed $4,240,000 amount that the PUC has currently committed to not exceeding.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would authorize the City and County of San Francisco, through the Public Utilities Commission (PUC), to execute the second amendment to the existing agreement between the United States, through the Department of Energy's Western Area Power Administration (WAPA), enabling the PUC to approve (a) retroactive to September 30, 2011, the extension of the existing Full Load Service (FLS) agreement[6], which currently expires on September 30, 2015 by five years which would result in the existing agreement expiring on September 30, 2020, (b) increase the estimated cost of the agreement to a not-to-exceed amount of $13,890,000, (c) indemnify and hold WAPA harmless against claims arising from the activities of the PUC under the agreement, (d) waive the requirement of Administrative Code

[6] A FLS agreement is an agreement by which WAPA provides the PUC with supplemental electricity to meet its electricity needs beyond the baseline electricity provided by WAPA under a separate agreement.

Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (e) waive the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount).

The proposed five-year extension (proposed second amendment) of the existing agreement between the PUC and WAPA, until September 30, 2020 would allow WAPA to begin purchasing electricity for periods beyond the existing agreement's expiration date of September 30, 2015. The proposed ordinance would be retroactive to September 30, 2011 to accommodate WAPA's requirement that the existing agreement be amended by September 30, 2011 if the PUC wishes to continue their FLS agreement beyond September 30, 2015 when the existing agreement expires.

On September 13, 2011 the Public Utilities Commission approved the subject proposed second amendment to the agreement (Resolution No. 1100153).

FISCAL IMPACTS

According to Mr. Laraño, as shown in Table 3 below, the total estimated cost of purchasing supplemental electricity and the related portfolio management service charges under the proposed five year extension of the existing agreement from October 1, 2015 through September 30, 2020 is $9,643,543 for 125,529 mega-watt hours of electricity.

Table 3: Projected Cost of Proposed Five-Year Extension of Existing Agreement, from October 1, 2015 through September 30, 2020

	Estimated Electricity Usage Under FLS Agreement (in Megawatt-Hours)	Projected Price Per Megawatt-Hour[7] Under FLS Agreement	Projected Cost of Electricity Usage Under FLS Agreement	Estimated Portfolio Management Charges	Estimated Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
10/2015-12/2015	6,020	$62.50	$376,257	$8,500	$384,757
1/2016-12/2016	22,713	66.25	1,504,752	34,000	1,538,752
1/2017-12/2017	23,581	70.00	1,650,662	34,000	1,684,662
1/2018-12/2018	25,680	76.89	1,974,550	34,000	2,008,550
1/2019-12/2019	25,881	81.94	2,120,681	34,000	2,154,681
1/2020 - 9/2020	21,654	$85.28	1,846,640	25,500	1,872,140
Total	**125,529**		**$9,473,543**	**$170,000**	**$9,643,543**

Therefore, under the proposed amended agreement, the estimated cost of $9,643,543 to purchase supplemental electricity for the five year period from October 1, 2015 through September 30,

[7] According to Mr. Larano, the projected prices used to determine total cost of the proposed ordinance are based on the Forward Price Curve for Electricity, which is the industry standard for forward pricing of electricity. The electricity prices provided are location and area-specific based on the point of delivery for the energy.

2020 is an average of $1,928,709 per year, which is $1,356,729, or over 237 percent more than the current average of $571,980 (See Table 1 above) annually expended under the existing agreement from September 1, 2005 through September 30, 2011. According to Mr. Laraño, this increase in demand for supplemental electricity is due to the anticipated development of Treasure Island[8], which includes the development of new housing and commercial offices, estimated to be completed by 2015 at the earliest. The Budget and Legislative Analyst also notes that, as shown in Table 3 above, the projected price per megawatt-hour is also anticipated to increase annually, resulting in higher total costs per mega-watt hour under the proposed extended agreement. However, Mr. Laraño advises that these prices are determined in a standard manner across electricity providers and would not vary if another electricity provider were chosen by the PUC to provide supplemental electricity to Treasure Island and Yerba Buena Island.

The total costs under the agreement, including the proposed five-year extension, from September 1, 2005 through September 30, 2020, or a total term of 15 years and one month, are estimated to be $15,950,888 ($9,643,543 for the five-year extension plus $6,307,345 for the existing agreement of 10 years and one month), which is $2,060,888 more than the previously estimated not-to-exceed amount of $13,890,000 included in the proposed ordinance. Therefore, the Budget and Finance Committee amended the not-to-exceed amount to $15,950,888 at its meeting of November 16, 2012, in order to account for the total estimated supplemental electricity costs and related portfolio management charges from September 1, 2005 through September 30, 2020. The Budget and Legislative Analyst notes that the cost of the proposed increase in the not-to-exceed amount from $13,890,000 to $15,950,888 are fully reimbursed to the PUC from the electricity revenues received by the PUC for electricity charged to customers on Treasure Island and Yerba Buena Island.

POLICY CONSIDERATIONS

The Budget and Legislative Analyst notes that the primary purpose for extending the existing agreement is the assumption that purchasing supplemental electricity for Treasure Island and Yerba Buena Island from another third party provider, such as Pacific Gas & Electric (PG&E), would be more expensive than continuing to purchase supplemental electricity through the existing agreement with WAPA. According to Mr. Laraño, the cost of purchasing supplemental electricity from third party providers from 2015 through 2020 would be determined in the same way that WAPA bases its prices, but that there would be additional costs to provide the service due to the need to coordinate with WAPA to determine the availability of WAPA's base resource energy, and to schedule, procure, and deliver the balance of the energy required to Treasure Island on a timely basis. According to Mr. Larano, while WAPA provides this service at cost to

[8] According to Mr. Laraño, initial transfer of property at Treasure Island to the developer is estimated to occur in 2012. After that initial property transfer, initial design work, including development of new roadways and utility infrastructure, on the transferred property would take from 12 to 24 months. If the planned transfer occurs in the beginning of 2012, the design can be completed by early 2014. Initial infrastructure construction is anticipated to take 12 to 24 months to complete and is currently estimated to be completed between 2014 and 2015. Construction of housing, offices, etc., is anticipated to begin with the first new homes and offices to be occupied between 2015 and 2016.

the PUC, a third party, such as PG&E, would need to cover its costs and would also add additional fees in order to make a profit, making purchasing electricity from a different third party provider more expensive.

However, the Budget and Legislative Analyst notes that a competitive process was not initiated for the subject proposed five-year extension in order to ascertain what the specific costs would be for purchasing supplemental electricity for Treasure Island and Yerba Buena Island from alternative third party providers in order to ensure that the City is obtaining the lowest price possible for this supplemental electricity. Mr. Larano advises that this proposed five-year extension is recommended for award by the PUC on a sole source basis and that no competitive process has been initiated because (a) the PUC is purchasing small amounts of electricity in comparison to other purchasers and would pay a premium for the amounts it would purchase, (b) WAPA purchases large amounts of electricity and receives cost savings which it passes on to the PUC, and (c) the purchased electricity would need to be delivered to WAPA's transmission center which is located in Oakland that would require transmission agreements by the PUC in addition to the cost of purchasing the electricity itself. Therefore, the PUC believes that it is getting the lowest price possible for this supplemental electricity.

It should be noted that for the same reasons stated above, the existing agreement between the PUC and WAPA, as previously approved by the Board of Supervisors, was awarded on a sole source basis without utilizing competitive bid processes.

The Budget and Legislative Analyst also notes that the proposed ordinance (a) approves indemnifying and holding WAPA harmless against claims arising from the activities of the City, (b) waives the Administrative Code Section 21.35 requirement that every agreement contain a statement regarding liability of claimants for submitting false claims, and (c) waives the Administrative Code Section 21.19 requirement that every agreement contain a statement regarding guaranteed maximum costs, or a not-to-exceed amount. However, the City Attorney's Office advises that the above provisions are standard language required by agreements with WAPA, have been included in previous agreements with WAPA for decades, as previously approved by the Board of Supervisors, and pose little risk to the City. The City Attorney's Office also advises that all expenditures under the proposed amendment are subject to appropriations approval by the Board of Supervisors and that the PUC can terminate the FLS agreement without cause, with three months written notice, leaving little risk to the City in approving such waivers.

The Budget and Legislative Analyst also notes that while the proposed amendment to the existing agreement does not specify a not-to-exceed amount, since the proposed ordinance waives Administrative Code Section 21.19, the proposed ordinance originally specified a not-to-exceed amount of $13,890,000 which was amended to $15,950,888 by the Budget and Finance Committee. Ms. Margarita Gutierrez of the City Attorney's Office advises that if the proposed ordinance is approved, the Board of Supervisors will only have granted the PUC the authority to purchase electricity up to the not-to-exceed amount and therefore the PUC would be required to request approval by the Board of Supervisors for all expenditures which exceed the not-to-exceed amount by more than $500,000. In any event, expenditures are subject to appropriation approval by the Board of Supervisors.

As noted above, the Budget and Finance Committee, at its meeting of November 16, 2011, amended the proposed ordinance to reflect the updated estimate of $15,950,888 as the not-to-exceed amount, rather than the $13,890,000 amount as previously included in the proposed ordinance

RECOMMENDATION

Approve the proposed ordinance.

Department of Energy
Western Area Power Administration
Sierra Nevada Customer Service Region
114 Parkshore Drive
Folsom, California 95630-4710

JUL 26 2011

Ms. Barbara Hale
Assistant General Manager, Power
City and County of San Francisco
Hetch Hetchy Water and Power
1155 Market Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Hale:

The City and County of San Francisco (CCSF) and the Western Area Power Administration (Western) are parties to Full Load Service (FLS) Contract 04-SNR-00723 which provides for Western to furnish Supplemental Power and Portfolio Management Services to CCSF. The FLS Contract is scheduled to terminate on September 30, 2015.

It is time for Western to begin purchasing Supplemental Power for periods extending beyond the FLS Contract termination date. In order for Western to purchase long-term Supplemental Power for the FLS customers, we must have a commitment by all customers for which we will be making the purchase. Therefore, we have amended the FLS Contract to extend the term to September 30, 2020.

We also have revised the General Power Contract Provisions section of the FLS Contract to reference the September 1, 2007 version.

Enclosed are two originals of Amendment 2 to the FLS Contract. Customers who wish to continue taking Full Load Service from Western beyond September 30, 2015, must execute the Amendment by September 30, 2011.

If the terms and conditions of the Amendment are acceptable, please have the appropriate official sign both originals, have the signatures attested, and return both originals with a resolution or certificate, if applicable, to Ms. Ruth Nye, mail code N6205, at this office. Once we have executed the Amendments, one original will be returned to you for your files.

Received
7-27-11
Office of AGM
Power

If you have any questions, please contact Ms. Jeanne Haas of my staff at (916) 353-4438.

Sincerely,

Sonja A. Anderson
Power Marketing Manager

Enclosure (2)

UNITED STATES

DEPARTMENT OF ENERGY

WESTERN AREA POWER ADMINISTRATION

SIERRA NEVADA REGION

AMENDMENT 2
(Extension / Portfolio Management Services)

TO THE

CUSTOM PRODUCT CONTRACT

FOR

FULL LOAD SERVICE

WITH

THE CITY & COUNTY OF SAN FRANCISCO

HETCH HETCHY WATER & POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
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HETCH HETCHY WATER & POWER

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Resolution
General Power Contract Provisions [September 1, 2007]

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE

WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

1.

Th :t 04-SNR-00723 (FLS Contract) is made this _____ day Do Not Date Here 2011, between the UNITED STATES OF AMERICA, DE[illegible], WESTERN AREA POWER ADMINISTRATION (Western) and the CITY & COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER & POWER, (CCSF), also hereinafter referred to individually as Party and together as Parties, pursuant to the same authorities as the FLS Contract.

2. EXPLANATORY RECITALS:

2.1 The Parties entered into the FLS Contract on August 13, 2004. Under the FLS Contract, Western provides Supplemental Power and Portfolio Management Services to CCSF.

2.2 The Parties entered into Amendment 1 to the FLS Contract on

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November 30, 2007. This, among other things, extended the termination date of the FLS Contract to September 30, 2015.

2.3 Western is considering making Supplemental Power purchases extending beyond September 30, 2015, which is the current term of the FLS Contract.

2.4 In order to provide Supplemental Power from purchases extending beyond the FLS Contract termination date to CCSF, the Parties must agree to extend the term of the FLS Contract.

2.5 At the time Amendment 1 to the FLS Contract was executed, the June 15, 2005 General Power Contract Provisions (GPCP) were effective. Western revised its GPCP effective September 1, 2007. The Parties wish to update the FLS Contract with the current GPCP.

3. AGREEMENT:

The Parties agree to the terms and conditions set forth herein.

4. TERM OF AMENDMENT:

This Amendment shall become effective upon execution and shall remain in effect concurrently with the FLS Contract.

5. MODIFICATION OF SECTION 4 (EFFECTIVE DATE AND TERM OF CONTRACT) OF THE FLS CONTRACT:

The following subsection of Section 4 of the FLS Contract is hereby modified as shown below:

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4.1 This Contract shall become effective upon execution by the Parties and shall remain in effect through September 30, 2020; except as otherwise provided for herein.

6. MODIFICATION OF SECTION 17 (GENERAL POWER CONTRACT PROVISIONS) OF THE FLS CONTRACT:

Section 17 of the FLS Contract is hereby modified as shown below:

The GPCP, effective September 1, 2007, attached hereto, are hereby made a part of this Contract the same as if they had been expressly set forth herein; Provided, That, for the term of this Contract, CCSF hereby agrees to waive its rights under this Contract to Article 11 of the GPCP.

7. FLS CONTRACT TO REMAIN IN EFFECT:

Except as expressly modified by this Amendment, said FLS Contract shall remain in full force and effect, and this Amendment shall be subject to all provisions of the FLS Contract, except as herein amended.

8. AUTHORITY TO EXECUTE:

Each individual signing this Amendment certifies that the Party represented has duly authorized such individual to execute this Amendment that binds and obligates the Party.

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IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed the day and year first above written.

WESTERN AREA POWER ADMINISTRATION

By:_____
Sonja A. Anderson
Title: Power Marketing Manager
Address: 114 Parkshore Drive
Folsom, California 95630

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

(Seal)

By:_____
Title:_____
Address:_____

By:_____
Title:_____

Approved as to Form:

Dennis J. Herrera
City Attorney

By Margarita G.
Margarita Gutierrez
Deputy City Attorney

CITY & COUNTY OF SAN FRANCISCO

HETCH HETCHY WATER & POWER

RESOLUTION

WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS

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*Legal Citation Revised September 1, 2007

WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS

I. APPLICABILITY.

1. Applicability.

1.1 These General Power Contract Provisions (Provisions) shall be a part of the contract to which they are attached. In the event these Provisions differ from requirements of the contract, specific terms set forth in the contract shall prevail.

1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with Provisions 10, 17, 18, 19, 29, 30, 36, 43, 44, and 45 of these General Power Contract Provisions.

II. DELIVERY OF SERVICE PROVISIONS.

2. Character of Service.

Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

3. Use of Capacity or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of Western. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Western, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.

4. Continuity of Service.

Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision 34 (Uncontrollable Forces) herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

5. Multiple Points of Delivery.

When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

6. Metering.

6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western, a designated representative of Western, or where situations deem it appropriate as determined by Western, by the Contractor or its agent(s). In the event metering equipment is furnished and maintained by the Contractor or its agent(s) and the equipment is used for billing and other accounting purposes by Western, the Contractor shall ensure that the metering equipment complies with applicable metering policies established by Western.

6.2 Meters shall be secured by appropriate security measures and meters shall not be accessed except when the meters are to be inspected, tested, adjusted, or repaired. Representatives of affected parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested each year by the party responsible for meter maintenance, unless a different test interval is determined in accordance with good utility practices by an applicable regional metering policy, or as agreed upon by the parties. Meters shall also be tested at any reasonable time upon request by a party hereto, or by an affected supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance as soon as practicable. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Provision 6.3 below.

6.3 Except as otherwise provided in Provision 6.4 hereof, should any meter that is used by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during the period of failure to register accurately, shall, for billing purposes, be estimated by Western from the best available information.

6.4 If inspections and tests of a meter used by Western for billing or other accounting purposes disclose an error exceeding 2 percent, or a lesser range in error as agreed upon by the parties, then a correction based upon the inaccuracy found shall be made to the service records for the period of inaccuracy as determined by Western. If the period of inaccuracy cannot be determined, the inaccuracy shall be assumed to have existed during the entire monthly billing period immediately preceding the billing period in which the inspection or test was made and the resulting correction shall be made accordingly.

6.5 Any correction in billing or other accounting information that results from a correction in meter records shall be made in a subsequent monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties arising out of inaccurate metering equipment.

7. Existence of Transmission Service Contract.

If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish service over its own facilities.

8. Conditions of Transmission Service.

8.1 When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.

8.2 Unless otherwise provided in the contract or applicable rate schedule, the Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.

8.3 Western will endeavor to inform the Contractor from time to time of any changes planned or proposed on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system, because of changes or conditions on the system over which the service is supplied, shall not be a charge against or a liability of Western.

8.4 If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to making such changes, but not thereafter.

8.5 If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to the date on which said capacity ceases to be available to Western, but not thereafter.

9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.

When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its load served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by Western, available at the direct delivery points affected is fully utilized.

10. Construction, Operation, and Maintenance of Contractor's Power System.

The Contractor shall, and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by Western, will not interfere with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or

discontinue furnishing services to the Contractor if, after notice by Western, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by Western to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this Provision shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.

III. RATES, BILLING, AND PAYMENT PROVISIONS.

11. Change of Rates.

Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to Western within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

12. Minimum Seasonal or Annual Capacity Charge.

When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.

13. Billing and Payment.

13.1 Western will normally issue bills to the Contractor for services furnished during the preceding month within ten (10) days after the end of the billing period.

13.2 If Western is unable to issue timely monthly bill(s), Western may elect to render estimated bill(s). Such estimated bill(s) shall be subject to the same payment provisions as final bill(s), and any applicable adjustments will be shown on a subsequent monthly bill.

13.3 Payments of bills issued by Western are due and payable by the Contractor before the close of business on the twentieth (20th) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western. Bills will be paid electronically or via the Automated Clearing House method of payment unless a written request to make payments by mail is submitted by the Contractor and approved by Western. Should Western agree to accept payments by mail, these payments will be accepted as timely and without assessment of the charge provided for in Provision 14 (Nonpayment of Bills in Full When Due) if a United States

Post Office first class mail postmark indicates the payment was mailed at least three (3) calendar days before the due date.

13.4 The parties agree that net billing procedures will be used for payments due Western by the Contractor and for payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. Payments due one party in any month shall be offset against payments due the other party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists. The parties shall exchange such reports and information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

14. Nonpayment of Bills in Full When Due.

14.1 Bills not paid in full by the Contractor by the due date specified in Provision 13 (Billing and Payment) hereof shall bear a charge of five hundredths percent (0.05%) of the principal sum unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Western will also assess a fee of twenty-five dollars ($25.00) for processing a late payment. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.

14.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either by law or in equity, for the breach of any of the terms hereof.

15. Adjustments for Fractional Billing Period.

The demand or capacity charge and minimum charges shall each be proportionately adjusted when fractional billing periods are applicable under this contract. A fractional billing period can occur: 1) at the beginning or end of electric service; 2) at the beginning or end of irrigation pumping service each year; 3) for a fractional billing period under a new rate schedule; or 4) for fractional periods due to withdrawals of electric services. The adjustment will be made based on the ratio of the number of hours that electric service is available to the Contractor in such fractional billing period, to the total number of hours in the billing period involved. Energy billing shall not be affected by fractional billing periods.

16. Adjustments for Curtailments to Firm Service.

16.1 Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of one (1) hour or longer in duration each. Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Provision 14 (Nonpayment of Bills In Full When Due). For purposes of billing adjustments under this Provision, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.

16.2 The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, of each reduction, of: the number of hours reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that

the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.

16.3 The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of one (1) hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.

IV. POWER SALES PROVISIONS.

17. Resale of Firm Electric Service (Wholesale Sales for Resale).

The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by that utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.

18. Distribution Principles.

The Contractor agrees that the benefits of firm electric power or energy supplied under the contract shall be made available to its consumers at rates that are established at the lowest possible level consistent with sound business principles, and that these rates will be established in an open and public manner. The Contractor further agrees that it will identify the costs of firm electric power or energy supplied under the contract and power from other sources to its consumers upon request. The Contractor will demonstrate compliance with the requirements of this Provision to Western upon request.

19. Contract Subject to Colorado River Compact.

Where the energy sold under the contract is generated from waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13 (a) of the Boulder Canyon Project Act of December 21, 1928, 43 U.S.C. §§ 617a-e, and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.

V. FACILITIES PROVISIONS.

20. Design Approval.

All facilities, construction, and installation by the Contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's current "General Requirements for Interconnection," in effect upon the signing of the contract document providing for each interconnection, copies of which are available from Western. At least ninety (90) days, unless otherwise agreed,

prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor's needs.

21. Inspection and Acceptance.

Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the work site. Any materials or work that Western determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the Contractor before the new facilities are energized.

22. As-Built Drawings.

Within a reasonable time, as determined by Western, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor's drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by Western. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by Western.

23. Equipment Ownership Markers.

23.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the United States right-of-way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.

23.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor's right-of-way or in the Contractor's substations pursuant to the contract which are owned by the United States, by permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.

24. Third-Party Use of Facilities.

The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by Western, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.

25. Changes to Western Control Facilities.

If at any time during the term of the contract, Western determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission

system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by Western, to the be paid by the Contractor. Western shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, Western shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions to the contract and require the removal of the Contractor's facilities.

26. Modification of Western Facilities.

Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.

27. Transmission Rights.

If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.

28. Construction and Safety Procedures.

28.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the contract. The Contractor and the authorized employees, agents, and subcontractors of the Contractor shall comply with all applicable safety laws and building and construction codes, including the provisions of Chapter 1 of the Power System Operations Manual, entitled Power System Switching Procedure, and the Occupational Safety and Health Administration regulations, Title 29 C.F.R. §§ 1910 and 1926, as amended or supplemented. In addition to the safety program required herein, upon request of the United States, the Contractor shall provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

28.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Western.

28.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the site.

28.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.

28.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any requirement of this Provision, or Provision 21 (Inspection and Acceptance) herein, Western or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

29. Environmental Compliance.

Facilities installed under the contract by any party shall be constructed, operated, maintained, replaced, transported, and removed subject to compliance with all applicable laws, including but not limited to the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa-470mm, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations, and executive orders.

30. Responsibility for Regulated Materials.

When either party owns equipment containing regulated material located on the other party's substation, switchyard, right-of-way, or other property, the equipment owner shall be responsible for all activities related to regulated materials in such equipment that are necessary to meet the requirements of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-9675, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2702-2761, the Clean Water Act, 33 U.S.C. §§ 1251-1387, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-j26, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, and any other existing or subsequent applicable laws, regulations, and executive orders. Each party shall label its equipment containing regulated material in accordance with appropriate laws and regulations. If the party owning the equipment does not perform activities required under appropriate laws and regulations within the time frame specified therein, the other party may perform or cause to be performed the required activities after notice to and at the sole expense of the party owning the equipment.

VI. OTHER PROVISIONS.

31. Authorized Representatives of the Parties.

Each party to the contract, by written notice to the other, shall designate the representative(s) who is (are) authorized to act in its behalf with respect to those matters contained in the contract which are the functions and responsibilities of the authorized representatives of the parties. Each party may change the designation of its authorized representative(s) upon oral notice given to the other, confirmed promptly by written notice.

32. Effect of Section Headings.

Section headings or Provision titles appearing in the contract or these General Power Contract Provisions are inserted for convenience only and shall not be construed as interpretations of text.

33. Operating Guidelines and Procedures.

The parties to the contract may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.

34. Uncontrollable Forces.

Neither party to the contract shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Provision 13 (Billing and Payment) herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

35. Liability.

35.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractors', its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under the contract.

35.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

36. Cooperation of Contracting Parties.

If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Provisions 13 (Billing

and Payment) and 14 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.

37. Transfer of Interest in Contract or Change in Preference Status.

37.1 No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the prior written approval of the Administrator of Western. Any voluntary transfer of the contract or of the rights of the Contractor under the contract made without the prior written approval of the Administrator of Western may result in the termination of the contract; Provided, That the written approval of the Administrator shall not be unreasonably withheld; Provided further, That if the Contractor operates a project financed in whole or in part by the Rural Utilities Service, the Contractor may transfer or assign its interest in the contract to the Rural Utilities Service or any other department or agency of the Federal Government without such prior written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this Provision.

37.2 The Contractor shall maintain its status as an entity eligible for preference in Western's sale of Federal power pursuant to Reclamation law, as amended and supplemented.

37.3 Western shall give the Contractor written notice of Western's proposed determination that the Contractor has violated Provision 37.1 and Western's proposed action in response to the violation.

37.4 The Contractor shall have 120 days after receipt of Western's notice provided under Provision 37.3 to submit a written response to Western. The Contractor may also make an oral presentation to the Administrator during this 120-day period.

37.5 At any time during this process, the Contractor and Western may agree upon corrective action to resolve Western's proposed determination that the Contractor is in violation of Provision 37.1.

37.6 Within 30 days of receipt of the Contractor's written response provided under Provision 37.4, Western will notify the Contractor in writing of its final decision. The Administrator's written notice will include the intended action, the effective date thereof, and the reasons for taking the intended action. Implementation of the Administrator's action shall take place no earlier than 60 days from the Contractor's receipt of such notice.

37.7 Any successor to Western shall be subject to all the provisions and conditions of the contract to the same extent as though such successor were an original signatory to the contract.

37.8 Nothing in this Provision shall preclude any right to judicial review available to the Contractor under Federal law.

38. Choice of Law and Forum.

Federal law shall control the obligations and procedures established by this contract and the performance and enforcement thereof. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the parties agree to pursue alternative dispute resolution.

39. Waivers.

Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.

40. Notices.

Any notice, demand, or request specifically required by the contract or these Provisions to be in writing shall be considered properly given when delivered in person or sent by postage prepaid registered or certified mail, commercial delivery service, facsimile, electronic, prepaid telegram, or by other means with prior agreement of the parties, to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice. Where facsimile or electronic means are utilized for any communication covered by this Provision, the sending party shall keep a contemporaneous record of such communications and shall verify receipt by the other party.

41. Contingent Upon Appropriations and Authorization.

41.1 Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the contract. In case such appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

41.2 In order to receive and expend funds advanced from the Contractor necessary for the continued performance of the obligations of the United States under the contract, additional authorization may be required. In case such authorization is not received, the Contractor hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

42. Covenant Against Contingent Fees.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Western shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

43. Contract Work Hours and Safety Standards.

The contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 3701, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

44. Equal Opportunity Employment Practices.

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

45. Use of Convict Labor.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

San Francisco Water Power Sewer
Services of the San Francisco Public Utilities Commission

AGENDA ITEM
Public Utilities Commission
City and County of San Francisco

DEPARTMENT Power Enterprise AGENDA NO. 9

MEETING DATE September 13, 2011

Professional Services Amend: Consent Calendar
Project Manager: Samuel D. Laraño

Amendment No. 2, Full Load Service Contract with the U.S. Department of Energy Western Area Power Administration for Treasure Island and Yerba Buena Island

Summary of Proposed Commission Action:	**Approve** Amendment No. 2 to the Full Load Service ("FLS") contract between the City and County of San Francisco ("the City"), through its Public Utilities Commission ("PUC"), and the United States of America, through the Department of Energy Western Area Power Administration ("WAPA" or "Western"), for WAPA to continue providing portfolio management services and supplemental power purchases for Treasure Island and Yerba Buena Island ("TI/YBI"); and **authorize** the General Manager of the SFPUC to execute this amendment extending the term for an additional period of five years past the current termination date of September 30, 2015 to September 30, 2020, and to increase the previously authorized amount of the contract by approximately $9,650,000, for a total not-to-exceed agreement amount of $13,890,000, subject to the Board of Supervisors approval pursuant to Charter Section 9.118.
Background & Description of Scope of Services:	**Background:** The City has an existing power purchase agreement with WAPA that provides low-cost Federal electricity to TI/YBI from January 1, 2005 through December 31, 2024 through an allocation of base resource energy. This agreement was approved by the Board of Supervisors on January 22, 2001, Resolution 0056-01, File 002191. The City and WAPA are also parties to FLS Contract 04-SNR-00723, wherein WAPA provides supplemental power and portfolio management services, on behalf of the City, for TI/YBI from September 1, 2004 to September 1, 2010. The FLS contract gives WAPA the ability to procure supplemental power in the event that WAPA's base resources are insufficient to meet TI/YBI's requirements on any given period. The FLS contract was approved by

APPROVAL:

DEPARTMENT / BUREAU _____ FINANCE Todd L. Rydstrom

COMMISSION SECRETARY Mike Housh GENERAL MANAGER Ed Harrington

	the Board of Supervisors on January 11, 2005 under Ordinance 0017-05, File 041351. Amendment No. 1 to the FLS Contract was approved by the SFPUC with Resolution 07-0178 on October 9, 2007 and the Board of Supervisors on December 04, 2007 under Ordinance 0276-07, File 071458. Amendment No. 1 extends the term of the FLS contract by an additional five years past the termination date of September 30, 2010 to September 30, 2015 and increases the total estimated amount to $4,240,000. **Amendment No. 2 to the FLS Contract** is proposed to extend the term of the agreement by another five years past the termination date of September 30, 2015 to September 30, 2020. WAPA is in the process of soliciting and entering into an additional supplemental power purchase agreement for the same period and requires a commitment from its customers by amending the FLS contract to extend the term to September 30, 2020. It should be noted that the actual cost of the supplemental electricity to be purchased under Amendment Nos. 1 and 2 may be higher or lower than the estimated cost due to the variability of the following: (a) market rate of electricity at the time of purchase; (b) total amount of electricity generated by WAPA's Central Valley and Washoe Projects; (c) TI/YBI's actual electricity requirements and time of demand; and (d) number of transactions, i.e., buying and selling electricity from and to third party providers, needed to balance TI/YBI's hourly electric load. **Description of Scope of Services:** Under the FLS contract, WAPA provides supplemental power purchases and portfolio management services to serve the TI/YBI load that is unmet by the amount of generation that the City has contracted to receive from WAPA under its Base Resource Power Purchase Agreement. This additional or supplemental power may include long-term, short-term, day-ahead, and hour-ahead purchases, and/or other arrangements. The estimated cost of providing supplemental power to TI/YBI from October 1, 2015 to September 30, 2020 is $9,650,000. The estimate was calculated based on a 5-year average market forecast price of $76.83 per megawatt-hour ("MW-hr") to purchase an estimated 125,600 MW-hr of supplemental energy from the open market to meet the total energy requirements for TI/YBI during the period of October 1, 2015 through September 30, 2020.
Result of Inaction:	A delay in amending or disapproval of the amendment to the FLS contract will result in termination of the low-cost services currently provided by WAPA on September 30, 2015. As a result, the SFPUC

	will have to provide the services internally or procure and contract equivalent services from a third party provider.
Budget & Costs:	**Original Not-To-Exceed Amount:** $2,120,000 **Amendment No. 1 Not-To-Exceed Amount:** $4,240,000 **Amendment No. 2 Not-To-Exceed Amount:** $9,650,000 **Total Not-To-Exceed Amount:** $13,890,000 **Funding** to cover the cost of procuring supplemental power for TI/YBI will be recovered through the electric utility rate.
Schedule:	**Original FLS Contract Duration:** January 11, 2005 through September 30, 2010 **Amendment No. 1 Duration:** October 1, 2010 through September 30, 2015 **Amendment No. 2 Duration:** October 1, 2015 through September 30, 2020 **Total Duration:** 15 years, 9 months, 19 days
Compliance With Administrative Chapter 12 and 14B	The Human Rights Commission (HRC) approved Sole Source Waiver Request No. 6076 for WAPA based on Board of Supervisors passing Ordinance No. 348-98, File 98-1776 approving the contract with this public agency.
Recommendation:	SFPUC staff recommends that the Commission approve Amendment No. 2 to the FLS contract and adopt the attached resolution.
Attachments:	1. SFPUC Resolution 2. HRC Administrative Chapter 12B and 14B Waiver Request Form (HRC Form 201)

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. **11-0153**

WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") purchases low-cost electricity and other services from the federal government, through the Western Area Power Administration ("WAPA"), in order to provide electric service to Treasure Island and Yerba Buena Island ("TI/YBI"); and

WHEREAS, Pursuant to Resolution 04-0197 the City and County of San Francisco ("the City") has previously executed a Full Load Service ("FLS") contract with the WAPA for electric service to TI/YBI effective January 11, 2005, for a period of five years and nine months or until September 30, 2010; and

WHEREAS, Pursuant to Resolution 07-0178 the City has previously executed Amendment No. 1 to the FLS contract extending the term from September 30, 2010, to September 30, 2015; and

WHEREAS, Under the FLS contract WAPA provides Portfolio Management Services and Supplemental Power Purchases to ensure that loads at TI/YBI would be reliably served; and

WHEREAS, Amendment No. 2 amends the FLS contract to extend the term by five years from September 30, 2010 to September 30, 2015; and

WHEREAS, The FLS contract amount will increase to account for the additional five years that WAPA will have to provide Supplemental Power Purchases and Portfolio Management Services to serve the electric load at TI/YBI; and

WHEREAS, The FLS contract allows the City to continue providing low cost federal power for all the anticipated electric power needs of TI/YBI; and

WHEREAS, The cost of the extended FLS contract will be recovered through the electric utility rate at TI/YBI and paid for by the SFPUC's Power Enterprise to WAPA; now therefore, be it

RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is hereby authorized to execute Amendment No. 2 of the FLS contract with WAPA extending the term for an additional period of five years expiring on September 30, 2020 and increasing the previously authorized FLS contract amount with WAPA to a value not to exceed $13,890,000, subject to the approval of the Board of Supervisors; and be it

FURTHER RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is authorized to seek approval of Amendment No. 2 of the FLS contract by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of September 13, 2011

Secretary, Public Utilities Commission

CITY AND COUNTY OF SAN FRANCISCO
HUMAN RIGHTS COMMISSION

S.F. ADMINISTRATIVE CODE CHAPTERS 12B and 14B
WAIVER REQUEST FORM
(HRC Form 201)

FOR HRC USE ONLY
Request Number: 6076

S.F. HUMAN RIGHTS COMMISSION
2011 JUN 30 AM 10:59

➢ Section 1. Department Information

Department Head Signature: 6/30/11
Barbara Hale, AGM Power

Name of Department: San Francisco Public Utilities Commission

Department Address: 1155 Market Street, 4th Floor, San Francisco, CA 94103

Contact Person: Barbara Hale, Assistant General Manager, Power Enterprise

Phone Number: (415) 554-2483 Fax Number: (415) 554-3280

➢ Section 2. Contractor Information

Contractor Name: U.S. Department of Energy, Western Area Power Administration
Contact Person: Hiroshi Kashiwagi

Contractor Address: 114 Parkshore Drive, Folsom, CA 95630-4710

Vendor Number (if known): 28372 or 40955 Contact Phone No.:(916) 353-4477

➢ Section 3. Transaction Information

Date Waiver Request Submitted: 21 June 2010 Type of Contract: Electric Power Purchase and Scheduling Coordinator Services

Contract Start Date: October 1998 End Date: December 2024 Dollar Amount of Contract: $1,200,000 for Fiscal Year 2011-2012

➢ Section 4. Administrative Code Chapter to be Waived (please check all that apply)

- ☒ Chapter 12B
- ☐ Chapter 14B *Note*: Employment and LBE subcontracting requirements may still be in force even when a 14B waiver (type A or B) is granted.

➢ Section 5. Waiver Type (Letter of Justification *must* be attached, see Check List on back of page.)

- ☒ A. Sole Source
- ☐ B. Emergency (pursuant to Administrative Code §6.60 or 21.15)
- ☒ C. Public Entity
- ☐ D. No Potential Contractors Comply -- Copy of waiver request sent to Board of Supervisors on:
- ☐ E. Government Bulk Purchasing Arrangement -- Copy of waiver request sent to Board of Supervisors on:
- ☐ F. Sham/Shell Entity -- Copy of waiver request sent to Board of Supervisors on:
- ☐ G. Local Business Enterprise (LBE) (for contracts in excess of $5 million; see Admin. Code §14B.7.I.3)
- ☐ H. Subcontracting Goals

Received
6/27/11
Office of AGM
Power

HRC ACTION

12B Waiver Granted: √ 14B Waiver Granted: _____
12B Waiver Denied: _____ 14B Waiver Denied: _____

Reason for Action: Board of Supervisors passed Ordinance No. 348-98 requiring contract with this public entity.

HRC Staff: Tamra Winchester Date: 6-30-11

HRC Staff: _____ Date: _____

HRC Director: _____ Date: 7.6.11