



## Agenda Item: 5

**Date:** March 4, 2010

**Subject:** City of Sacramento and Sacramento Suburban Water District Mutual Assistance Agreement

**Staff Contact:** Warren Jung, Manager Engineering Services

### **Recommended Board Action:**

Authorize General Manager to execute a mutual assistance agreement with the "City of Sacramento and Sacramento Suburban Water District" for the existing intertie connection at McClellan Business Park on Bell Avenue west of Winters Street Agreement. (See Exhibit 1 – Agreement).

### **Discussion:**

**History:** In 1995 an intertie connection was installed between the City of Sacramento (City) and the United States Air Force (AF) on Bell Street west of Winters Street at the former McClellan Air Force Base (See Exhibit 2 – Location Map). The intertie was connected to a booster pump system that fed the former 750,000-gallon above ground concrete storage tank at the northwest corner of Bell Street and Kilzer Avenue. The AF/City agreement allowed the AF to fill the storage facility four times per year with additional usage pending emergencies. In 2000 the former Northridge Water District assume control of the potable water system including maintenance of the intertie and the terms of the agreement. Since 2000 the intertie has never been open other than testing the backflow devices.

**Present Conditions:** McClellan Business Park (McClellan) is preparing plans to improve the existing roadway section on the north side of Bell Street west of Winters Street. The area fronts the 62-acre parcel north of Bell Street that the County released to McClellan in early 2009 for final cleanup and future development. McClellan presently has commitments from US Foods to construct a food distribution warehouse on about 40 or the 62-acres. The roadway improvements will install new curb, gutters and sidewalks, driveways and widen the north side right-of-way line to match the proper right-of-way standards within the City area. Within the new right-of-way is the existing AF/City intertie connection, which will require relocation in order to complete the roadwork.

The new road improvements will require the relocation of the existing intertie. McClellan's engineering consultant has prepared plans for the roadway improvements including removing the existing intertie as required by the City agreement and reconstructing a new intertie and meter

per staff's direction. The relocation work including the roadway improvements will be at McClellan's cost. The new location will be west of the existing location in a new proposed planter opposite Astoria Street (See Exhibit 3).

The City has also requested to void the existing agreement and prepare a new mutual assistance agreement between the City and Sacramento Suburban Water District (SSWD). The City prepared a mutual assistance agreement (MAA) for the intertie connection (Exhibit 1) of which has been reviewed by staff and found to be acceptable. The agreement provides no permanent water supply to each agency other than for emergency purposes including notification procedures for each agency to open the valves. The agreement also provides the sharing of materials, facilities, equipment and labor as necessary for potential emergency in either agency including billing.

Staff recommends approval of the mutual assistance agreement. The intertie provides a potential source for SSWD future Area "D" water into the North Service Area. The intertie offers opportunities and mutual benefits for either agency to provide or received domestic service or fire protection as necessary for emergency purposes.

**Fiscal Impact:**

There is no fiscal impact. The design of the new facilities, removal of the old intertie and construction of the new intertie will be performed by McClellan Park under the direction of the District.

**Strategic Plan Alignment:**

Water Supply – 1E, Ensure the safety and security of the water system.

The relocating of the water main will ensure that proper coverage and protection is provided on the District facilities for future use in the area.

Facilities and Operations – 2B, Monitor and improve the District's efficiencies in operating and maintaining system infrastructure.

The proposed project will relocate an existing water main to continue water service for domestic and fire protection while maintaining circulation for the area.

Leadership – 5D, Interact with the community in a positive and progressive manner for the mutual benefit of the area.

By relocating the existing water facility the new roadway improvements can be made to make the road safer, provide proper drainage and advance future growth in the McClellan Area. The potential intertie provides a mutual benefit for the City of Sacramento as well as for Sacramento Suburban Water District.

## Exhibit 1

CITY DRAFT 2-9-10

### CITY OF SACRAMENTO AND SACRAMENTO SUBURBAN WATER DISTRICT MUTUAL ASSISTANCE AGREEMENT

This agreement is entered into on \_\_\_\_\_, 2010 (the "Effective Date") by and between the City of Sacramento, a charter municipal corporation ("City") and the Sacramento Suburban Water District, a county water district organized and existing under and pursuant to Division 12 of the Water Code of the State of California ("SSWD"). City and SSWD individually may be referred to as "Agency" and collectively referred to as "Agencies".

#### RECITALS

1. The City and United States entered into a Utility Service Contract dated March 20, 1995, and identified as federal contract number F04699-95-C-0023 and City Manager Agreement number 95-082 (the "Prior Contract"), for the City to provide emergency water service for the McClellan Air Force Base water distribution system, on specified terms and conditions, at an intertie located on the north side of Bell Avenue at its intersection with Astoria Street in Sacramento, CA (the "Prior Intertie").
2. In connection with the closure of McClellan Air Force Base in 2001, the United States conveyed the McClellan Air Force Base water distribution system to Sacramento County, and Sacramento County subsequently conveyed the former McClellan Air Force Base water distribution system to the Northridge Water District.
3. On February 1, 2002, the Northridge Water District consolidated with the Arcade Water District to form the SSWD.
4. Although SSWD now owns and operates the former McClellan Air Force Base water distribution system that includes the Prior Intertie, there is no record that the Prior Contract was ever assigned by the United States, nor that the City ever consented to any assignment of the Prior Contract.
5. SSWD now desires to abandon the Prior Intertie and enter into this Mutual Assistance Agreement with the City to allow emergency water service to be provided to either Agency at a modified intertie (the "New Intertie") located at north side intersection of Bell Avenue and Astoria Street, as shown on **Exhibit A**, attached hereto.

6. City is willing to enter into this Agreement, subject to the terms and conditions specified below.

**NOW, THEREFORE, the City and SSWD agree as follows:**

**SECTION 1. RECITALS INCORPORATED**

The above recitals are incorporated in this Agreement as is fully set forth at this place.

**SECTION 2. PURPOSE**

The Agencies desire to set forth in this Agreement procedures to develop and implement a plan to provide mutual assistance at the New Intertie during emergency conditions. The Agencies intend that the Agency supplying assistance will be reimbursed its actual costs in providing an emergency water supply and for related materials and supplies.

**SECTION 3. ABANDONMENT OF PRIOR INTERTIE; TERMINATION OF PRIOR CONTRACT**

- A. At no cost to City, SSWD will close and cap the Prior Intertie and related appurtenances to the satisfaction of the City Department of Utilities (DOU) and the DOU's written approval thereof shall be a condition precedent to City's performance of any obligations hereunder.
- B. SSWD and City further agree that the Prior Contract is terminated as of the Effective Date of this Agreement, and that neither Agency shall have any further rights or obligations under the Prior Contract as of the Effective Date of this Agreement; provided that such termination shall not affect any rights or obligations arising under the Prior Contract prior to the Effective Date of this Agreement.

**SECTION 4. CONSTRUCTION OF NEW INTERTIE; MAINTENANCE AND REPAIR**

- A. At no cost to city, SSWD shall design and construct the New Intertie and related appurtenances to the satisfaction of the DOU, and the DOU's written approval thereof shall be a condition precedent to City's performance of any obligations hereunder.
- B. Upon completion of construction and DOU approval of the New Intertie and related appurtenances, SSWD shall be solely responsible for maintenance and repair of the New Intertie and related appurtenances, except that the City will maintain and repair the lateral's point of connection and corporation stop. SSWD shall convey at no cost to City such permanent rights as may be necessary for the City to maintain and repair the facilities that the City will maintain and repair as aforementioned.

## **SECTION 5. OPERATION OF NEW INTERTIE FOR EMERGENCY WATER SERVICE**

### **A. NOTIFICATION PROCEDURES**

If either Agency has a need for emergency water service at the New Intertie, the Agency requesting emergency assistance shall notify the other Agency's personnel as follows:

1. 8:00 a.m. – 4:30 p.m., Monday – Friday:

Notification to SSWD:

- a. General Manager
- b. Assistant General Manager or Engineering Services Manager
- c. Operations Manager
- d. Production and/or Water Quality Supervisor
- e. Field Forman

Notification to City:

- a. Director of Utilities
- b. Field Service Manager
- c. Engineering Service Manager

2. 4:30 p.m. – 8:00 a.m., Monday – Friday, and weekends and holidays: The Agency requesting emergency assistance shall notify the other Agency's answering service, as follows:

Notification to SSWD:

Notification to City: Call 311 (if inside City limits); 916-264-5011 (if outside City limits).

Each Agency's answering service will be instructed to notify its on-call personnel. The on-call personnel will be instructed to notify one of the above personnel for assistance.

### **B. EMERGENCY PROCEDURES**

The procedure for requesting emergency assistance shall be as follows:

1. Notify the first available contact person in Section 1, A-1. If after hours, notify the on-call personnel and instruct him/her to notify the first available contact personnel.
2. Discuss the existing emergency situation with the above-contact personnel.

3. Analyze, discuss and determine a course of action, taking into account the nature of the emergency, impacts to the environment, time of day, parties to be involved, equipment and facilities required and the personnel required to implement the course of action.
4. Determine a plan and procedure for implementing the proposed course of action. The plan shall provide for the most appropriate possible utilization of personnel, equipment, materials and/or facilities necessary to minimize adverse impacts of the emergency condition to either the City or SSWD. The plan shall include procedures for regular communication between the Agencies during the emergency concerning implementation of and possible revisions of the plan.

#### **C. INTERTIE OPERATION PROCEDURE:**

1. Opening of Valve for Emergency Water Service – Appropriate representatives of both the City and SSWD will meet at the intertie site(s), and then open the valve slowly until fully open.
2. Closing of Valve to End Emergency Water Service – Both the City and SSWD representatives will meet at the intertie site(s), and then close the valve slowly.

#### **D. WATER QUALITY**

It is assumed that the water in both Agencies' water distribution systems meets or exceeds the safe drinking water levels for drinking water as established by the Department of Health Services and/or Environmental Protection Agency. However, if any water quality problem results from implementing this Agreement, the Agency that requested emergency water service shall bear the sole and full responsibility for resolving any water quality impact. Further, the Agency requesting water service shall perform all evaluation, monitoring, testing, sampling and reporting that may be required of a consecutive water system under applicable federal and/or state regulations, and shall bear sole responsibility for compliance, at no cost to the Agency providing emergency water service, with all federal and state drinking water standards applicable to the distribution of water by the Agency requesting emergency water service.

#### **E. WATER RIGHT LIMITATIONS**

The Agencies shall take into consideration any place of use limitations or other applicable water right conditions or requirements in developing the emergency plan. SSWD understands and agrees that SSWD's rights hereunder will at all times be subject to, and exercised in accordance with, any applicable limitation, requirement, modification or other condition that applies, or that may in the future be applied, to any of the City's water rights and entitlements, which include pre-1914 rights, water right permits issued by the State Water Resources Control Board and a water rights settlement contract entered into in 1957 with the United States Bureau of Reclamation.

## **F. EMERGENCY WATER SERVICE ONLY**

The New Intertie shall be used to provide emergency water service only, as specified in this Agreement, and under no circumstances shall the New Intertie be used to provide water to either Agency on a non-emergency basis, unless and until the Agencies enter into a separate agreement that authorizes use of the New Intertie for that purpose.

## **SECTION 6. COST**

### **A. COST of WATER**

In consideration of both agencies making emergency water service available in accordance with this Agreement, the agencies shall not charge any volumetric rate for emergency water service.

### **B. COMPENSATION FOR EQUIPMENT AND/OR PERSONNEL**

The Agency requesting emergency water service shall reimburse the Agency providing emergency water service for the cost of any materials, supplies or personnel utilized during the billing period by the Agency providing emergency water service in connection with its provision of emergency water service. The providing Agency's invoice for such reimbursement shall include a cost breakdown of the material(s) and supply(ies) used, the date and location where the material(s) and supply(ies) were used and a supervisor's signature certifying the correctness of the breakdown. Such cost shall also include the Agency's standard overhead charges. Payment shall be made not later than 30 days after the Agency receiving the emergency water service receives an invoice from the Agency providing the emergency water service.

## **SECTION 7. NO WARRANTY OR LIABILITY**

It is understood and agreed that, while each Agency will use all reasonable efforts to provide emergency water service pursuant to the terms of this Agreement, neither Agency is warranting or guaranteeing that it will be able to provide emergency water service when and as requested by the other Agency. Neither Agency will be liable to the other Agency for any failure to provide emergency water service for any reason.

## **SECTION 8. FLUORIDATION**

SSWD acknowledges that water delivered to SSWD by City may contain fluoride, and agrees that SSWD will be solely responsible for: (1) any public notification to all or any portion of SSWD's service area that such water contains fluoride; and (2) for all costs associated with or resulting from the introduction of fluoridated water into SSWD's water distribution system, including monitoring and testing costs.

**SECTION 9. HOLD HARMLESS, INDEMNIFICATION**

Except as provided in this section, each Agency shall, to the fullest extent permitted by law, indemnify, hold harmless and defend the other Agency, its directors, officers, employees, or authorized volunteers from and against any claims, actions or liability for any damage, any injury to persons or property, any violation of any law or regulation, or any cost (including attorney's fees and cost of defense), to the extent arising or resulting from any negligent or wrongful acts or omissions by the indemnifying Agency, its directors, officers, employees, or authorized volunteers, under this Agreement. Notwithstanding the foregoing, the Agency receiving emergency water service under this Agreement also shall indemnify, hold harmless and defend the other Agency, and its directors, officers, employees, or authorized volunteers, from and against any and all claims, actions or liability arising due to any failure of the other Agency to provide emergency water service or due to the water quality of the emergency water service provided by the other Agency.

**SECTION 10. NO THIRD PARTY BENEFICIARIES**

This agreement creates no benefit or rights whatsoever, nor any basis for a claim for damages, in favor of any third party.

**SECTION 11. TERMINATION**

This Agreement may be terminated, without any penalty or further liability, on thirty days' written notice by either Agency, except that the provisions of sections 6, 9, 10 and 12 of this Agreement shall survive any termination.

**SECTION 12. GENERAL PROVISIONS**

- A. This Agreement will be construed in accordance with, and governed by, the laws of the State of California. The place where this Agreement is to be performed and its situs or forum will at all times be in the County of Sacramento.
- B. This Agreement is the result of the joint efforts and negotiations of both Parties, and this Agreement will be interpreted as though each of the Parties participated equally in the drafting and composition of this Agreement and each and every part hereof.
- C. This Agreement may not be assigned by either party without the written consent of the non-assigning party, and any purported assignment without such consent will be void.
- D. The provisions of this Agreement shall bind the Parties' successor entities and authorized assigns.
- E. Neither City nor SSWD, nor their respective agents, consultants or contractors are

or shall be considered to be agents of the other party in connection with the performance of this Agreement. Nothing in this Agreement shall be construed to create a joint venture, partnership or other relationship between the City and SSWD.

- F. The waiver by either party to this Agreement of the other party's breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of the Agreement.
- G. No amendment or modification to this Agreement will be valid unless executed in writing and duly approved by both the City and SSWD.
- H. All Exhibits referred to herein and attached hereto are fully incorporated into this Agreement as if such Exhibits were set forth in their entirety at this place.

**CITY OF SACRAMENTO**

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APPROVED AS TO FORM:

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City Attorney

ATTEST:

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City Clerk

**SACRAMENTO SUBURBAN WATER  
DISTRICT**

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Sacramento Suburban Water District  
Board of Directors

ATTEST:

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Robert S. Roscoe  
Secretary / General Manager  
Sacramento Suburban Water District

**EXHIBIT A**

