

POSSIBLE MOTION

I MOVE TO 1) approve a 10-year purchase agreement between the City and Borough of Sitka and Alaska Bulk Water, Inc. for raw water in bulk for export, and, 2) approve a 20-year purchase agreement between the City and Borough of Sitka and Alaska Bulk Water, Inc. for raw water in bulk for export as recommended by the Gary Paxton Industrial Park Board and authorize the Municipal Administrator to execute these documents.



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Monday, June 6, 2016

MEMORANDUM

To: Mark Gorman – CBS Administrator
From: Garry White, Director
Subject: Alaska Bulk Water Inc. (ABWI) Bulk Water Agreement

Introduction

The Gary Paxton Industrial Park (GPIP) Board of Directors is recommending that the CBS enter into two separate water purchase agreements with Alaska Bulk Water Inc. (ABWI) for the export of bulk water.

The GPIP Board approved the following recommendations at its 5/16/2016 meeting:

MOTION: M/S Horan/McConnell moved to recommend the CBS Assembly enter into a 20-year bulk water purchase agreement with ABWI for the purchase of 1B gallons of raw water with similar terms set forth in the revised purchase agreement developed in the fall of 2015 and the following specific terms:

1. ABWI shall make a non-refundable payment of \$128,205 dollars to the City and Borough of Sitka (CBS);
2. The CBS shall provide a letter of permission granting ABWI the right to keep and maintain currently installed water loading infrastructure within CBS owned tidelands under the condition that such infrastructure be made available for use by any other bulk water export company for a loading fee of not greater than \$0.002 per gallon loaded and that the CBS has the right to require that said infrastructure be moved or removed at its discretion.
3. ABWI shall pay the CBS \$5k annually for the right to use the tidelands under the letter of permission.
4. Letter of permission is to be reviewed every 5 years.

ACTION: Motion PASSED 4/0 on a roll call vote
Yeas: Dan Jones, Ptarmica McConnell, Charles Horan, Scott Wagner (teleconference)
Nays: None Absent: Grant Miller

MOTION: M/S Horan/McConnell moved to recommend the CBS Assembly enter into a 10-year bulk water purchase agreement with ABWI for the purchase of 1B gallons of raw water with similar terms set forth in the revised purchase agreement developed in the fall of 2015 and following specific terms:

1. ABWI shall make a non-refundable payment of \$100,000 dollars to the City and Borough of Sitka (CBS);
2. That the \$1,350,000 dollars paid to the City under previous agreements be carried forward as pre-purchased water credits on this agreement only.

ACTION: Motion PASSED 3/1 on a roll call vote
Yeas: Dan Jones, Ptarmica McConnell, Charles Horan,
Nays: Scott Wagner (teleconference) Absent: Grant Miller

Background

The City and Borough of Sitka (CBS) has permits to export 29,235 Acre-feet (~9.5 billion gallons) of raw water annually.

The CBS has entered into multiple water purchase agreements with multiple entities for bulk export since 1996.

Most recently, the CBS had a water purchase agreement with ABWI, formerly True Alaska Bottling Company to export bulk water, since 2006. The CBS agreed to revise ABWI's purchase agreement for raw water in bulk for export for the 6th time in the fall of 2015. The revised agreement required ABWI to make a \$1,000,000 non-refundable payment to Sitka no later than December 8th, 2015. ABWI was unable to make its required payment which resulted in a breach in terms of the revised agreement and contract termination.

The GPIIP Board met multiple times during the spring of 2016 to discuss bulk water proposals and directed the GPIIP Director to release a Request for Proposal (RFP) to solicit proposals for exporting water.

The RFP for bulk water sales was released in April 2016 with proposals due to the CBS the 5th of May 2016. The CBS received 4 proposals. The GPIIP Board met on the 16th of May to evaluate the proposals.

The GPIIP Board recommended that the CBS enter into an agreement for raw water export with the following entities:

- Arctic Blue Water Inc. for 20,869 Acre-feet (~6.8 billion gallons) annually for 20 years.
- ABWI for 3,069 Acre-feet (1 billion gallons) annually for 20 years
- ABWI for another 3,069 Acre-feet (1 billion gallons) annually for 10 years

**all RFP results can be found at <http://www.sawmillcove.com/board/2016/051616/UB-1%20Bulk%20Water%20RFP.pdf>*

Basic Terms of ABWI's 20-year Bulk Water Export Agreement

- Requires ABWI to make a non-refundable fee of \$128,205 that can be used as water credits.

- Requires ABWI to export 50 million gallons of water within a 36-month period or CBS can terminate contract.
- The agreement defines Stages of water volume export to retain water allocation amounts. (Section 3.2)
 - ABWI gains more allocations by exporting more water and can lose allocation amounts by failing to export specified amounts.
- Ensures municipal water uses retain first right and priority to the water. (Section 4a)
- The agreement allows for hydroelectric dam and water system maintenance. (Section 4c)
- Protects the CBS from water quality issues with human consumption uses. (Section 4.3 & 13.3)
- The price for water has been set at \$3,258.51/Acre-feet or \$0.01/US gallon. (Section 7.1)
- Allows and defines terms of a license for ABWI to install, construct, maintain water loading infrastructure.
 - Charges a \$5,000 payment for license to use CBS tidelands for this purpose.
 - Defines terms on how much ABWI can charge other bulk water customers for using its water loading infrastructure.
- Defines requirements for ballast water discharges and water loading.
- Other standard terms and conditions.

Basic Terms of ABWI's 10-year Bulk Water Export Agreement

The terms of ABWI's 10-year bulk water export are the same as the 20-year agreement except the following changes:

- Requires ABWI to make an additional, non-refundable fee of \$100,000 that can be used as water credits.
- Allows ABWI to retain \$1,350,000 in credits towards water export payments that ABWI had paid and accumulated in previous bulk water agreements from 2009-2015

Additional Information

- The GPIIP Board choose to recommend two separate bulk water agreements instead of one to allowing ABWI to use previous non-refundable payments as water credits within 10 years instead of 20 years.
 - A separate 20-year contract would allow ABWI to still be able to attract long term investment.
- ABWI obtained a tidelands lease from the CBS in 2014 for 18 acres directly seaward of the CBS bulk water pipeline for a lease amount of \$5,292 annually.
 - The tideland lease was terminated when the ABWI water purchase agreement was terminated.
 - A license to allow for this infrastructure to remain in the tidelands has been incorporated into new agreement in lieu of a tidelands leases.
 - A license was deemed to be better contractual documentation than a “letter of permission” as directed by the GPIIP Board.
- ABWI installed two mooring buoys in its tideland lease in June 2015.
 - Section 10 of the agreement defines ABWI’s use and removal of this infrastructure.
- ABWI constructed a valve at the end of the CBS bulk water pipeline and assembled a floating pipeline system to the mooring buoy in June 2015.
 - Section 10 of the agreement defines ABWI’s use and removal of this infrastructure.
- The CBS is moving forward with potentially constructing a multipurpose dock in the tidelands of Sawmill Cove.
 - Section 10 addresses the CBS ability to require ABWI or Arctic to move existing infrastructure and use CBS infrastructure.
- The CBS retains 2,228 Acre-feet (~726 million gallons) of water annually to support future water bottling operations with the execution of all water purchase agreements recommended to ABWI and ARCTIC.

Attachments

- ABWI’s letters to the CBS dated March 10, 2016 & April 26th, 2016.
- The RFP the CBS released to solicit bulk water proposals.
- ABWI’s submittal to the RFP.
- Water purchase agreement between the CBS and ABWI for a 10-year term.
- Water purchase agreement between the CBS and ABWI for a 20-year term.

Action

The GPIIP Board requests that the CBS Assembly approve the recommended water purchase agreements.