CITY OF ST. HELENA

RESOLUTION NO. 2010-123

APPROVING AMENDMENT NO. 2 TO RESOLUTION 2006-131 AUTHORIZING WATER SUPPLY AGREEMENT BETWEEN THE CITY OF NAPA AND THE CITY OF ST. HELENA AND ADJUSTMENT TO THE WATER ENTERPRISE BUDGET

RECITALS

A. Resolution 2006-131 adopted Water Supply Agreement between the City of Napa and the City of St. Helena is September 2006 to provide a minimum annual delivery of 200 acre-feet of water to St. Helena; and

B. Resolution 2009-40 approved Amendment No. 1 to the Water Supply agreement between the City of Napa and the City St. Helena where the City requested an additional minimum annual delivery of 200 acre-feet of water in order to meet dry year demand deficits as specified in the 2050 Study; and

C. During the 2010 water year the City of St. Helena performed major upgrades to its pipeline infrastructure and the Cities of Napa and St. Helena did not make temporary accommodations to deliver and receive the water per the agreement.; and

D. As a result the City of St. Helena was not able to receive delivery of 511 AF of the 600 AF water made available by the City of Napa for the delivery year; and

E. Subsequently the City requested that the City of Napa make available the 511 AF of water that was not delivered in water year 2010; and

F. The City of Napa operations does have sufficient capacity to make the water available.

RESOLUTION

NOW, THEREFORE, The City Council for the City of St. Helena resolves as follows:

1. Amendment No. 2 to the Water Supply Agreement between the City of Napa and the City of St. Helena is approved; and

2. Approves the budget adjustment of $486,691 from Water Enterprise Reserves to the Water Enterprise Budget to cover the City’s water purchase obligation to the City of Napa.

Approved at a Regular Meeting of the St. Helena City Council on November 23, 2010, by the following vote:
AYES: Councilmembers Schoch, Sanchez, Sklar, Crull, Mayor Britton
NOES: None
ABSENT: None

APPROVED:

[Signature]
Delford Britton
Mayor

ATTEST:

[Signature]
Delia Guijosa
City Clerk
AMENDMENT NO. 2 TO  
WATER SUPPLY AGREEMENT BETWEEN  
CITY OF NAPA AND CITY OF ST HELENA  
(City of Napa Agreement No. 9381  
City of St Helena Agreement No. 2006-131)

THIS AMENDMENT NO. 2 TO WATER SUPPLY AGREEMENT BETWEEN CITY OF NAPA AND CITY OF ST HELENA (City of Napa Agreement No. 9381; and City of St Helena Agreement No. 2006-131), “Amendment No. 2”, is made and entered into this  
11 day of January, 2010, by and between the City of Napa, a municipal corporation (hereinafter referred to as “Napa”) and the City of St. Helena, a municipal corporation (hereinafter referred to as “St. Helena”).

RECITALS

A. Napa and St. Helena entered into the Water Supply Agreement (City of Napa Agreement No. 9381; and City of St. Helena Agreement No. 2006-131) on September 12, 2006 ("2006 Agreement") to provide St. Helena with a minimum delivery of 200 acre-feet annually (afa) of water from Napa; and

B. Napa and St. Helena entered into Amendment No. 1 to 2006 Agreement on April 17, 2009 ("Amendment No. 1") to increase the minimum delivery of water (from Napa to St. Helena) from 200 acre-feet annually (afa) to 400 afa; and

C. The State Water Project Allocation as of April 15, 2009 was 30%, therefore according to Amendment No. 1, Paragraph 4 Napa shall deliver and St. Helena shall accept Tier B water, (600 af) in fiscal year (FY) 2010.

D. The 2006 Agreement and Amendment No. 1 states that St. Helena shall be obligated to pay Napa for all water delivered by Napa to the point of delivery (which amount shall be no less than the combined Tier A, Tier B, and Tier C quantities described therein) whether or not St. Helena is able to make beneficial use of the total quantity of such water.

E. The 2006 Agreement and Amendment No. 1 states St. Helena’s failure or refusal to accept delivery of water to which it is entitled under said Agreement shall in no way relieve St. Helena of its obligation to make payments to Napa as provided for in said Agreement. In June of each year, Napa shall bill St. Helena for the difference between metered usage and the amount of water entitled or requested pursuant to the provision in paragraph 4 of said Agreement.

F. St. Helena performed major construction upgrades on its pipeline infrastructure during the 2010 water year, did not make temporary accommodations to receive the Amendment No. 1 water and did not take beneficial use of 511 af of the 600 af water made available by Napa.

G. St. Helena requested Napa make available the 511 af of water that was undelivered during FY 10.
H. Napa water operations have sufficient capacity in order to make available to St. Helena up to 250 af of undelivered water per fiscal year (under the limited terms of this Amendment No. 2), due to the status of local surface water reservoirs and available SWP supplies.

NOW THEREFORE, the parties mutually agree as follows:

The 2006 Agreement, as previously amended by Amendment No. 1, is hereby amended by this Amendment No. 2 as set forth herein. All terms and conditions of the 2006 Agreement (as previously amended by Amendment No. 1) which are not specifically modified by this Amendment No. 2 shall remain in full force and effect.

1. Napa hereby characterizes the unused 511 af of water from FY 2010 as ‘Undelivered Water’. Napa will make the ‘Undelivered Water’ available to St. Helena under the terms of this Amendment No. 2 over the course of three years: Fiscal Years 2011, 2012, and 2013. No more than 250 af of ‘Undelivered Water’ shall be made available in any one fiscal year. No more than 511 af of ‘Undelivered Water’ shall be made available in all three years combined.

2. St Helena shall make a written request to Napa identifying the amount of ‘Undelivered Water’ requested for each fiscal year pursuant to the following schedule: by January 1, 2011 for FY 2011 water, by September 20, 2011 for FY 2012 water, and by September 20, 2012 for 2013 water. Compliance with these timing requirements is essential so that Napa can incorporate the request into its annual water supply planning.

3. St. Helena will pay Napa the water rate in effect at the time of receipt of ‘Undelivered Water’.

4. The ‘Undelivered Water’ is in addition to the quantity to be delivered in accordance with paragraph 4 of Amendment No. 1.

5. At the end of FY 2013, to the extent that St. Helena has not submitted a timely request to Napa or failed to take delivery of all or any portion of the ‘Undelivered Water’, Napa will bill St. Helena for the remaining balance of the 511 af of ‘Undelivered Water’, and St. Helena will pay Napa the water rate in effect on June 30, 2013.
IN WITNESS WHEREOF, St. Helena and Napa do hereby agree to the full performance of the terms set forth herein.

By St. Helena this 23rd day of November, 2010
and by Napa this 12th day of January, 2011.

CITY OF NAPA, a municipal corporation
BY: Jacques R. LaRochelle, Public Works Director
ATTEST: Dorothy Roberts, City Clerk
APPROVED AS TO FORM: Michael Barrett, City Attorney
COUNTERSIGNED: Ann Mehta, City Auditor

CITY OF ST. HELENA, a municipal corporation
BY: Del Britton, Mayor
ATTEST: Delia Guijosa, City Clerk
APPROVED AS TO FORM: John Truxaw, City Attorney
COUNTERSIGNED: Karen Scalabrini, Finance Director