



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Flood Control
Department No.: 054
For Agenda Of: January 26, 2021
Placement: Set Hearing
Estimated Time: 90 minutes on
February 2, 2021
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Directors, Flood Control and Water Conservation District

FROM: Department Scott D. McGolpin, Public Works Director, 805-568-3010
Director(s)
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 805-568-3436

SUBJECT: State Water Project Contract Amendments

County Counsel Concurrence

As to form: Yes

Other Concurrence: County Executive Office

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Directors:

Set a hearing for February 2, 2021 (ESTIMATED TIME: 90 MINUTES) to consider the request of the Central Coast Water Authority (CCWA) to approve two Water Supply Contract Amendments as follows:

- a) Consider the request of the Central Coast Water Authority (CCWA) to approve Amendment 20 (Contract Extension Amendment) to the State Water Project (SWP) Contract;
 - i. Approve and authorize the Public Works Director or his designee to execute Amendment 20 (Contract Extension) to the SWP Contract contingent upon full approval and execution of the First Amendment to the Transfer of Financial Responsibility Agreement;
 - ii. Approve and authorize the Public Works Director or designee to execute the First Amendment to the Transfer of Financial Responsibility Agreement (TFRA) with CCWA to extend the term of the TFRA to match the extended term of the SWP as approved in Amendment 20;
 - iii. Certify that the Board, acting as a Responsible Agency, has reviewed and considered the information and environmental effects contained in the Final Environmental Impact Report (FEIR) for Amendment 20 to the SWP Contract, and that the California Department of Water Resources (DWR) as Lead Agency found no significant impacts and is the custodian of the records located at <https://ceqanet.opr.ca.gov/2014092036/2>;

- b) Consider the request of the Central Coast Water Authority (CCWA) to approve Amendment 21 (Water Management Amendment) to the SWP Contract;
 - i. Authorize the Public Works Director or his designee to negotiate a revenue sharing and water sales agreement with CCWA as a contingency for approval of Amendment 21 to the SWP Contract;
 - ii. Direct staff to return to the Board with both the revenue sharing and water sales agreement and Amendment 21 for approval;
- c) Provide additional direction to staff regarding the State Water Project; and
- d) Determine that the proposed actions are not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organization or administrative activities that will not result in a direct or indirect physical change in the environment.

Summary Text:

This item is on the agenda to consider the request of the Central Coast Water Authority (CCWA) to approve two proposed amendments to the State Water Project (SWP) Contract, Amendment 20, Contract Extension and; Amendment 21 Water Management. As the SWP Contract is between the Santa Barbara County Flood Control and Water Conservation District (District) and the California Department of Water Resources (DWR) your Board must approve any amendments to the Contract.

Amendment 20 (Contract Extension)

CCWA sent a letter dated November 3, 2020 (Attachment A) requesting that your Board approve Amendment 20 to the SWP Contract (Attachment B).

Amendment 20 extends the Contract term to 2085, from its current expiration in 2038, or 17 years from now. Amendment 20 makes it clear that Santa Barbara County, as well as the other SWP Contractors, would continue to receive water deliveries from the SWP past 2038. This extension would continue the SWP deliveries to 2085. These deliveries are critical for several CCWA participants where SWP deliveries are an important part of their water supplies. In addition, it must be noted that surface water reservoirs in the County are aging and suffering from siltation and other restrictions that result in less water available moving forward.

SWP deliveries are plumbed from Santa Maria to Carpinteria with participating agencies as follows:

- City of Buellton
- Carpinteria Valley Water District
- Goleta Water District
- City of Guadalupe
- La Cumbre Mutual Water Company
- Montecito Water District
- Morehart Land Company
- City of Santa Barbara
- Raytheon Systems Company (SBRC)
- City of Santa Maria
- Santa Ynez River W.C.D., ID #1 (includes City of Solvang)
- Golden State Water (SCWC)

- Vandenberg Air Force Base

CCWA reports that several financial benefits are realized associated with adoption of this amendment. DWR typically finances capital projects over a 30-year period to obtain the most favorable rates. However, because the current contract expires in less than 20 years, DWR has been forced to finance capital projects over a shorter, 15-year bonding period, which has resulted less favorable financing terms. The Contract Extension Amendment is intended to alleviate this problem and reduce costs associated with the SWP.

Amendment 20 also increases the maximum amount of “rate management credits” which are applied to charges roughly in proportion to the capital charges paid by each SWP contractor. Amendment 20 increases the maximum rate management credits from \$40.5 million per year available for all contractors, to \$48 million per year, an increase of \$7.5 million per year. According to CCWA, its share of the increase is projected to be approximately \$520,000 per year, or roughly \$7.8 million between 2020 and the year 2035. This would be a significant financial benefit to project participants.

This amendment also eliminates a fixed interest rate for amortizing capital and operations and maintenance costs known as the project interest rate (PIR). The PIR, set at 4.16% for many years, is also used to collect interest on underpayments or pay interest on overpayments by contractors. Recently, under collection by DWR to CCWA resulted in interested rate payments at the PIR of roughly \$1.2 million. Elimination of the PIR would result in avoidance of these types of charges in the future.

Extending the contract is unrelated to the Delta Conveyance Project. DWR has allowed contractors to choose to opt-out of this project, and CCWA has elected to do so. No planning or constructions costs for the Delta Conveyance would accrue to CCWA as a result of approving Amendment 20.

Transfer of Financial Responsibility (TFRA)

While extension of the contract ensures continued deliveries from the SWP, the Staff is also proposing extension of the Transfer of Financial Responsibility Agreement (Attachment C) between the District and CCWA to limit the financial liability to the Flood Control District. In 1991, the TFRA was executed to address administration and financial responsibilities for the SWP Contract. Because the current Contract runs to 2038, the proposed amendment to the TFRA makes it clear that the provisions of the TFRA continue past 2038 should the Board approve Amendment 20. One concern staff has raised on contract extension with DWR and with CCWA is how it impacts Article 34(a) post-Proposition 13 limitations. DWR has filed a validation action on the Contract Extension which is currently pending in the Sacramento Superior Court. The Contract Extension Amendment provides that if it is determined by a court of competent jurisdiction determines that nay part of the amendment is invalid or unenforceable then the amendment will be of no force and effect unless waived in writing by DWR and 15 SWP Contractors.

Amendment 21 (Water Management Amendment)

In a letter dated October 28, 2020, CCWA requested that your Board execute Amendment 21 (Attachment D). This amendment (Attachment E) to the SWP Contract was negotiated by the State and various SWP Contractors, would allow individual contractors the ability to sell and buy water without a commitment to return or receive water in exchange.

The current State Water Contract does not allow outright sales of water, but only allows exchanges, with repayment of water in future water years. These exchanges are allowed to be unbalanced, with a higher repayment in future years in order to receive urgently needed water in the short term. This exchange mechanism is not well defined in the current contract and is used infrequently. Amendment 21 clarifies existing exchange practices, provides for single and multi-year water transfers with compensation to be determined by the participants, and allows for transfers of water stored outside of a contractor's service area. The amendment also requires that a selling agency confirm to the State that the transfer not cause harm to the SWP and other contractors, and that DWR approve the transfer and ensure that these conditions are met. A more detailed technical explanation of the mechanisms included in Amendment 21 are included in the attached CCWA Request Letter (Attachment D).

Amendment 21 has the potential to provide benefits to CCWA members. The flexibility to acquire water without the need to repay a water debt in future years could be beneficial to an agency in urgent need of additional supplies. Similarly, a SWP Contractor with excess supply in a given year could offset costs by selling unneeded water. Participating in the water market could provide CCWA members flexibility in managing their supply portfolios.

However, the amendment raises several policy issues. When the SWP was extended to Santa Barbara County, the entire County tax base paid for capital costs until 1986, in recognition that the entire County required a stable external supply of water for residents and businesses. If water is sold out of the County, a given purveyor may benefit financially, but the regional water supply situation may deteriorate. The County as a whole has a distinct financial investment in the SWP and as such should a sale be proposed, how the County's investment is addressed is needed. To this end your Board may wish to direct staff to negotiate a revenue sharing agreement with CCWA so that the District to can recoup its costs in revenue from any sales of SWP water to entities outside of the County.

Currently, within CCWA if a member wishes to exchange water, other CCWA members have a right of first refusal before the water is offered outside of the County. There are currently no such provisions on the water transfers provided for in Amendment 21, and CCWA has not yet developed administrative procedures to ensure that local needs are met first.

The SWP was originally signed in 1963 to provide for secure water supplies for the County. In 1991, following a significant drought, the voters in several areas of the County voted to begin importing SWP Supplies. In addition, overall groundwater conditions in the County were cited as another need for the SWP. In the most recent drought, the SWP was an important supply and several exchanges were executed to increase deliveries to the County. The drought also highlighted concerns on the overall water supply in the County.

If your Board approves Amendment 21, it should be noted that all sales of Santa Barbara County SWP water to entities outside the County would need approval by the County Flood Control District as the SWP Contractor and as such any proposed sales or purchase would come back to your Board for approval.

Background:

The District entered into a contract with DWR in 1963 to receive an allocation of up to 57,700 acre-feet per year (AFY) of water from the State Water Project. The District then began making annual payments to DWR for its share of the capital costs of the project.

The SWP is an important element of the County's overall water supplies and deliveries of SWP water helps offset use/overuse of groundwater and compliments other local supplies. Delivery of high quality water (low in Total Dissolved Solids) provides additional benefits to water purveyors as well. As other existing supplies, such as surface reservoirs, are now and will continue to deliver far less water than originally developed. For example, the Cachuma Project now has shown its inability to provide its original planned allocations through a drought period.

In the early 1980s, after an unsuccessful bond election to pay for local facilities, several water purveyors opted to assume responsibility for payment for 45,486 AFY of the District's allocation through a series of Water Supply Retention Agreements (WSRAs). Up until approximately 1986 the District made all payments to DWR for the capital costs of the SWP.

In 1991, CCWA was formed by various water purveyors to manage the delivery of State Water to Santa Barbara County. Under the management of CCWA, the Coastal Branch connection to the SWP was studied, as required by CEQA, and completed in 1995 with a design capacity of 39,078 AFY. Since then, CCWA has operated the Coastal Branch and distributed water to its member water purveyors. In addition, with the execution of the Transfer of Financial Responsibility Agreement (TFRA) with the District, CCWA has been responsible for fiscal matters relating to State Water, including all the payments to DWR and protecting the District in the event that one or more of its member units fail to meet its financial obligations. To date neither CCWA nor the District have ever defaulted on SWP payments.

Fiscal and Facilities Impacts:

Budgeted: Yes

Narrative:

Management of the water supply agreements are ongoing programs and staff time is included every year in the budget in the Water Resources Division of the Public Works Department. However, pursuant to the TFRA costs relating to management of the SWP are reimbursed by CCWA.

Special Instructions:

Direct the Clerk of the Board to email the minute order of these actions to clopez@cosbpw.net.

Attachments:

- Attachment A - CCWA Request for Amendment 20
- Attachment B - Copy of SWP Contract Amendment No. 20 (FINAL)
- Attachment C - Draft First Amendment to the Transfer of Financial Responsibility Agreement
- Attachment D - CCWA Request for Amendment No. 21
- Attachment E - Copy of SWP Contract Amendment No. 21 (FINAL)
- Attachment F - EIR for SWP Amendment No. 20
- Attachment G - EIR for SWP Amendment No. 21

State Water Project Contract Amendments

Agenda Date: January 26, 2021

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Authored by:

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cc: Jeff Frapwell, Assistant CEO