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Title: Actions related to a Revised, Amended, and Restated Cooperative Agreement Between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance:
 1. Adopt findings of a Statutory Exemption pursuant to section 15261 and a Class 1 Categorical Exemption pursuant to section 15301 of the CEQA Guidelines.
 2. Approve Revised, Amended, and Restated Cooperative Agreement Between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance, and Authorize the City Manager, or Designee, to sign the Agreement on behalf of the City.

Sponsors: Department of Public Utilities

Indexes:

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Attachments: 1. Supplement 16-1475 - Agreement.pdf

Date	Ver.	Action By	Action	Result
12/15/2016	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

December 15, 2016

FROM: THOMAS C. ESQUEDA, Director
Department of Public Works

SUBJECT

Actions related to a Revised, Amended, and Restated Cooperative Agreement Between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance:

1. Adopt findings of a Statutory Exemption pursuant to section 15261 and a Class 1 Categorical Exemption pursuant to section 15301 of the CEQA Guidelines.
2. Approve Revised, Amended, and Restated Cooperative Agreement Between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance, and Authorize the City Manager, or Designee, to sign the Agreement on behalf of the City.

RECOMMENDATION

The Administration recommends Council adopt findings of a Statutory Exemption pursuant to section 15261 and a Class 1 Categorical Exemption pursuant to section 15301 of the CEQA Guidelines;

approve the Revised, Amended, and Restated Cooperative Agreement between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance (Agreement); and authorize the City Manager, or designee, to sign the Agreement on behalf of the City of Fresno.

EXECUTIVE SUMMARY

The City's surface water supplies are delivered (i.e. conveyed) to the City's surface water treatment facilities, as well as recharge basins located in and around the City, through a series of channels, ditches, and canals owned and operated by the Fresno Irrigation District (District). The City and District have cooperated and collaborated on surface water conveyance since August 1970, four years after the City executed a contract with the United States Bureau of Reclamation (Bureau) for the delivery of surface water from Millerton Lake to the City for groundwater recharge. The City and the District have previously entered into two conveyance agreements: (a) the first on August 12, 1970, and (b) the second on May 25, 1976. The District is currently providing conveyance services to the City under the terms, conditions, and compensation method described in the Conveyance Agreement dated May 25, 1976, which expires December 31 of this year.

On February 26, 2015, the City Council adopted a five-year water utility rate plan to finance the construction of a five-year water capital plan totaling approximately \$429 million (Recharge Fresno). The five-year capital plan is intended specifically to implement a more robust conjunctive-use water resource management strategy that will allow the City to use more surface water, in lieu of groundwater, to meet the many and varied water demands of the residents, businesses, industries, and institutions in the City's service area. This transition from groundwater to surface water as the primary water supply source is driven by the regulatory requirements of the Sustainable Groundwater Management Act (SGMA) and increased groundwater contaminant regulations requiring wells be removed from service.

The sharply different water management approach mandated by the SGMA requires the City to work closely with the District, as the City's surface water supply provider, to update the services provided by the District. City staff and District staff have undertaken extensive negotiations to present the proposed Agreement, which reflects necessary changes in how the District provides water to the City by ensuring year-round delivery of surface water for the City's surface water treatment facilities.

Staff recommends Council approve the proposed Agreement, thereby allowing the District to provide continuous surface water deliveries to the City so the City may implement the Recharge Fresno program to comply with the SGMA and water quality regulations.

BACKGROUND

The City of Fresno owns, operates, and maintains surface water treatment facilities, groundwater recharge facilities, groundwater pumping facilities, water storage reservoirs, and water distribution pipelines, valves, fire hydrants, and water meters. The City relies on both groundwater and surface water to serve the daily water supply needs of approximately 130,000 existing ratepayers. During calendar years 2013, 2014, and 2015, the City delivered 47.8, 42.5, and 36.4 billion gallons of water to existing ratepayers, respectively. The City's surface water supply resources are stored in Pine Flat Reservoir and Millerton Lake, and the total surface water supply available to the City is 180,000 acre-feet (AF) per year, during normal-year precipitation, snow pack, and watershed-yield.

The Proposed Agreement Addresses Changing Conditions

The proposed Agreement reflects updates necessary for the City and District to comply with changing regulatory and water supply frameworks, including:

a. Change in Law: Sustainable Groundwater Management Act. The SGMA requires the water agencies in the Kings Subbasin collaboratively implement measures to eliminate “undesirable results” to the aquifer, including groundwater overdrafting. The SGMA necessitates limitations on groundwater pumping will be established, and encourages “conjunctive use” (using surface and groundwater to manage impacts to aquifers) water supply strategies. Further, the SGMA requires water agencies employ a standardized process to determine the adequacy of existing and planned future water supplies to meet existing and planned future demands (i.e. link land use decisions with available water supply).

b. Change in Water Supply: Restrictions on south-of-delta pumping to protect endangered fish species and reductions in north-of-delta water delivered to Exchange Contractors from the San Joaquin/Sacramento River Delta increase the likelihood the Bureau will release water from Millerton Lake to compensate for lower flows. In turn, the reliability of the City’s Millerton Lake allocation (60,000 acre-feet per year) is reduced, and the City must anticipate increasing competition and costs for surface water both regionally and statewide.

In light of the above changing regulations and water supply challenges, the City must focus on improving its long term surface water availability, reliability, and drought resiliency to utilize the surface water treatment facilities and distribution system set forth by Recharge Fresno. Specifically, the City must focus on:

- a. Water Conservation
- b. Maximizing Flood Release Captures
- c. Optimizing Existing Water Supply Storage Assets
- d. Developing New Water Supply Storage Assets
- e. Expanding Groundwater Recharge Capacity
- f. Executing Strategic Water Supply Sales, Transfers, and Exchanges
- g. Enhancing Recycled Water Utilization

Key Features of Revised Conveyance Agreement

The key features of the proposed Agreement will address the long-term water supply challenges that must be addressed by the City and District collaboratively:

1. The District shall provide the City with continuous year-round deliveries of surface water to the City’s public water supply system and facilities.
2. The City will pay an Out-of-Season Delivery Fee for water delivers made to the City when the District is not delivering irrigation water to its other water users. This fee would compensate District for additional costs and risks incurred for operating its system to make Out of Season Deliveries.
3. The District shall provide the City with the opportunity to reschedule up to 10,000 acre-feet of the City’s Kings River surface water supply from one Water Year to the succeeding Water Year, and the City will pay a Rescheduled Water Fee for such service. This provision allows the City to

reschedule water in both Millerton Lake and Pine Flat reservoir when water supply and storage capacity are available.

4. The City authorizes the District to serve as the City's exclusive agent for the management of City's San Joaquin River and Kings River water supply entitlements, subject to the terms of the revised Agreement. As exclusive agent, the District shall be authorized to (i) direct the storage and release of City's two surface water supplies, (ii) schedule, order and provide for the delivery of City's surface water supplies to the District's points of diversion; (iii) optimize the reasonable and beneficial use of the City's surface water supplies and other available water supplies, and (iv) pursue and implement, water sales, transfers and exchanges ("Transfers") using the City's surface water supplies.
5. The net-revenue resulting from Transfers of the City's Friant Water Supply shall be shared with the District: 25 percent shall be deposited into the City's water enterprise fund, 25-percent shall be deposited with FID for water system operations and maintenance, and 50-percent shall be deposited into a Water Supply Development Fund. The Water Supply Development Fund is a restricted-use fund to be used exclusively for water supply programs and projects that improve water supply availability, reliability and drought resiliency for both the District and City. Expenditures from the Water Supply Development Fund must be agreed upon by the City and District.
6. The City's Kings River Water Supply entitlement shall remain a percentage of the District's total Kings River Water Supply right, which can change from year to year based on hydrologic conditions in the Kings River watershed. The City's percentage shall continue to remain based on the ratio of Included-Acres within the City's Water Service Area to the total acres within the District's Water Service Area. However, at such time when the ratio of Included-Acres within the City's Water Service Area to the total acres within the District's Water Service Area equals 29 percent, the City's Kings River Supply entitlement shall remain fixed at 29 percent until the City and District agree to adjust the City's percentage of the District's total Kings River Water Supply right. The purpose of this provision is to provide greater water supply certainty for agriculture, municipal, industrial, and domestic users. The City and District agree the increase in the City's surface water entitlement as a percentage of the District's total Kings River Supply includes an allowance for moderate growth in Development Area 1 of the City's Sphere-of-Influence, as published in the most recent Fresno General Plan.
7. In recognition of No. 6 above, for the term of the Agreement, the City shall require the proponent of any proposed development project located outside of City's existing Water Service Area boundary to obtain a perpetual surface water supply allocation, right, entitlement or similar from the District or other surface water supply agency acceptable to the City, to meet the peak water demands, plus fire protection demands, at build out conditions for the proposed development. The development proponent shall be required to dedicate, transfer or assign the perpetual surface water supply allocation, right, entitlement or similar to the City.

Implementation of the conjunctive use strategy set forth in the Proposed Agreement to comply with the requirements of the SGMA, and address groundwater contamination, will require the City to work closely with the District, as the City's surface water supply provider, to increase the services provided by the District. City and District staff have completed the negotiations for the Agreement to reflect necessary changes in service and compensation.

RECOMMENDATION

Staff recommends Council approve the proposed Revised, Amended, and Restated Cooperative Agreement between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance. The Agreement has been reviewed as to form by the City Attorney's Office.

ENVIRONMENTAL FINDINGS

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Statutory Exemption set forth in section 15261 which exempts projects carried out by public agencies approved prior to November 23, 1970, because the proposed Agreement is a continuation of an agreement first entered into on August 12, 1970, which has continued uninterrupted and remains fundamentally the same.

Further, staff has determined the proposed Agreement falls within the Categorical Exemption set forth in section 15301 which exempts existing facilities, because the proposed Agreement consists of the operation of existing structures and facilities. Staff has determined none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

LOCAL PREFERENCE

Not applicable because the proposed Agreement is not a competitive bid award.

FISCAL IMPACT

There is no financial obligation for the General Fund for this Agreement. The funding source for this Agreement will be the Water Division Enterprise Fund.

Attachments:

Revised, Amended, and Restated Cooperative Agreement between the Fresno Irrigation District and the City of Fresno for Water Utilization and Conveyance