



## Legislation Details (With Text)

**File #:** ID 23-418      **Version:** 1      **Name:**

**Type:** Action Item      **Status:** Passed

**File created:** 3/6/2023      **In control:** City Council

**On agenda:** 3/30/2023      **Final action:** 3/30/2023

**Title:** Actions pertaining to purchase of United States Central Valley Project waters:  
1. Adopt a finding of statutory exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15282(u).  
2. \*\*\*RESOLUTION - Authorizing the execution of contracts annually for Uncontrolled Season water, Section 215 water, Recovered Water Account water, and Recaptured water between the United States and the City of Fresno through February 28, 2025, and authorizing the Director of Public Utilities to purchase and accept the aforementioned water annually in an amount not to exceed \$4 million. (Subject to Mayor's Veto)

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. UPDATED TITLE RESOLUTION 9D Other Water Types 2025

| Date      | Ver. | Action By    | Action  | Result |
|-----------|------|--------------|---------|--------|
| 3/30/2023 | 1    | City Council | ADOPTED | Pass   |

## REPORT TO THE CITY COUNCIL

**FROM:** BROCK D. BUCHE, PE, PLS, Director  
Department of Public Utilities

## SUBJECT

Actions pertaining to purchase of United States Central Valley Project waters:

1. Adopt a finding of statutory exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15282(u).
2. \*\*\*RESOLUTION - Authorizing the execution of contracts annually for Uncontrolled Season water, Section 215 water, Recovered Water Account water, and Recaptured water between the United States and the City of Fresno through February 28, 2025, and authorizing the Director of Public Utilities to purchase and accept the aforementioned water annually in an amount not to exceed \$4 million. (Subject to Mayor's Veto)

## RECOMMENDATION

The Department of Public Utilities recommends that Council adopt findings of a statutory exemption pursuant to CEQA Guidelines Section 15282(u), and adopt a resolution authorizing the Director of Public Utilities or designee to execute contracts annually with the United States Bureau of Reclamation (Bureau) for Uncontrolled Season water, Section 215 water, Recovered Water Account water, and Recaptured water, and to purchase and accept the aforementioned water from the (Bureau) annually through February 28, 2025, should they become available and the City is able to

take them, in an amount not to exceed \$4 million.

## **EXECUTIVE SUMMARY**

The City entered into a contract (9D Contract) with the Bureau providing for a Class 1 allocation of Central Valley Project Water from Millerton Lake ("Project Water"). Through the 9D Contract a variety of additional types of water supplies may become available based on precipitation and high Sierra snow-pack. These additional types of water supply include: Uncontrolled Season water (preemptive flood releases); Section 215 water (non-storable flood flows); Recovered Water Account (RWA) water; Unreleased Restoration Flows (URFs) water; and Recaptured Water. Due to the usual short time of response to execute agreements, this action will position the City to expeditiously purchase and receive these supplies to meet ongoing municipal demands and aid groundwater replenishment.

This resolution is required by the Bureau for the City to receive these additional water supply types. The Department of Public Utilities (DPU) recommends that the City Council adopt the attached resolution authorizing the Director to purchase the additional supplies as they are needed. Although these contracts are only provided at the time such additional water supplies are made available, the contracts when provided will be subject to review and approval as to form by the City Attorney's Office.

## **BACKGROUND**

In accordance with the 9D Contract, on an annual basis the Bureau shall make available for delivery to the City 60,000 acre-feet of Class 1 water for municipal and industrial purposes, subject to the terms and conditions of the 9D Contract and regional hydrologic conditions. The Bureau's water year for Millerton Lake operations runs from March 1 to February 28 each year.

On or about February 20 of each year, the 9D Contract requires the Bureau announces an initial declaration of Project Water to be made available to the City and other Friant Division contractors. The annual declaration can be adjusted during the year depending upon Central Valley Project operational conditions and regional hydrologic conditions. Once the annual declaration is made, the 9D Contract requires the City to submit to the Bureau a written schedule defining when the City will take delivery of surface water from Millerton Lake. The 9D Contract requires the City to submit its delivery schedule by March 1 of each year.

Through the 9D Contract a variety of additional types of water supplies may become available based on precipitation and high Sierra snow-pack. In the case of abundant rainfall and snow-pack accumulation, Uncontrolled Season water (preemptive flood releases), Section 215 water (non-storable flood flows), and Recovered Water Account (RWA) water may become available. Typically, these temporary supplies are available for a limited duration and require the expedited execution of temporary purchase agreements with the Bureau. On January 19, 2023, Council approved a resolution authorizing the purchase of 215 water should it become available. The following day in fact, the Bureau made 215 water available and the City was able to purchase this water at a cost of \$42 per acre-foot.

Also dependent on rainfall and snow-pack is the Bureau's San Joaquin River Restoration Program (SJRRP) water supply to ensure satisfactory river flows downstream of Friant Dam to aid in the reestablishment of salmon runs. Each year the Bureau's SJRRP Administrator determines the water supply required to accommodate SJRRP demands; and if all of the water allocated to the SJRRP is

not required to meet the demands, then the SJRRP Administrator may issue a declaration announcing that Unreleased Restoration Flows (URFs) may be released to Friant Division Contractors from Millerton Lake. The City has requested URFs for Water Year 2022-2023 and each year will request URFs if they are needed and would be beneficial to the City. Additionally, in relation to the restoration water, it is possible to capture a portion of these releases downstream in the San Joaquin River after it has met environmental flow requirements. This water is referred to as Recaptured Water and may also be purchased should the City have use for it.

The Bureau has historically requested that the Council adopt a resolution of intent to enter into temporary water purchase Contracts. Although these contracts are only made available for the then current water year, such contracts when provided will be subject to review and approval as to form by the City Attorney's Office.

In March of 2018, City Council approved a resolution authorizing the Director of Public Utilities to purchase Unreleased Restoration Flows through February 28, 2025. After this date, it is the intent of DPU to bring to City Council a single all-inclusive resolution authorizing the purchase of all water types available through the Bureau 9D contract.

The Department of Public Utilities recommends City Council adopt the attached resolution authorizing purchase and acceptance of various water supplies, so the City may have ready access to these water supplies as they become available. The purchased supplies will in large be delivered to the City's surface water treatment facilities and to a variety of recharge facilities throughout the city.

## **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 CEQA Guideline Section 15282(u), which exempts temporary changes in the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code, because the purchased water will be temporarily diverted from its standard path in the San Joaquin River to senior water rights holders.

## **LOCAL PREFERENCE**

Local preference was not considered because the purchase of surface water does not include a bid or award of a construction or services contract.

## **FISCAL IMPACT**

There is no financial obligation for the General Fund for these surface water purchases. The funding source for this surface water purchase will be the Water Division Enterprise Fund.

Attachment: Resolution