



# Santa Clara Valley Water District

**File No.:** 18-0966

**Agenda Date:** 12/12/2018

**Item No.:** 2.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Authorization to Execute the State Water Project Contract Extension Amendment and Resolution Making Responsible Agency Findings.

### **RECOMMENDATION:**

- A. Consider the Final Environmental Impact Report for the Water Supply Contract Extension Project prepared by the California Department of Water Resources as the Lead Agency;
- B. Adopt a Resolution MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT TO USE THE DEPARTMENT OF WATER RESOURCES' FINAL ENVIRONMENTAL IMPACT REPORT FOR THE WATER SUPPLY CONTRACT EXTENSION PROJECT TO AUTHORIZE EXECUTION OF THE CONTRACT AMENDMENT BETWEEN DEPARTMENT OF WATER RESOURCES AND THE SANTA CLARA VALLEY WATER DISTRICT; and
- C. Authorize the Chief Executive Officer to execute Amendment No. 24 to Water Supply Contract Between the State of California Department of Water Resources and Santa Clara Valley Water District for Continued Service and the Terms and Conditions Thereof (Extension Amendment).

### **SUMMARY:**

The Department of Water Resources (DWR) and the Public Water Agencies receiving water service from the State Water Project (SWP) have finalized Amendment No. 24 to Water Supply Contract Between the State of California Department of Water Resources and Santa Clara Valley Water District for Continued Service and the Terms and Conditions Thereof (Extension Amendment) provided in Attachment 3. The Extension Amendment will extend the SWP contracts from 2035 to 2085 and provide for cost-effective financial management.

On August 26, 2014, the Board of Directors approved and authorized the Chief Executive Officer (CEO) to sign the Agreement in Principle Concerning Extension of the State Water Project Water Supply Contracts (AIP) (Attachment 4). The AIP described the terms of agreement between the Public Water Agencies and the Department of Water Resources (DWR) and was used to develop contract language for the Extension Amendment. The Extension Amendment, once executed, will extend the term of the District's SWP contract through 2085, maintain affordability of the SWP supply, and improve the fiscal health of the SWP.

The Extension Amendment does not address cost allocation or other issues related to the California WaterFix (WaterFix) and is needed regardless of whether WaterFix moves forward or not.

As the California Environmental Quality Act (CEQA) lead agency, DWR certified a Final Environmental Impact Report (FEIR) for the Water Supply Contract Extension Project (Project) on November 13, 2018 (Attachment 1). The FEIR concludes that the Project would not result in any physical environmental impacts because it would amend and add financial provisions to the contracts and would not create new water management measures, alter existing authority to build or modify existing facilities, or change water allocation provisions of the contracts. District staff has determined that DWR's FEIR is adequate for the District's use to approve the amendment between DWR and the District. In addition, because the FEIR did not disclose any significant impacts, the District would not be required to make any written findings regarding any impacts.

### **Background**

On November 20, 1961, the Water Supply Contract Between the State of California Department of Water Resources and Santa Clara Valley Water District (Water Supply Contract) was executed to provide up to 100,000 acre-feet annually from the SWP. Deliveries began through the South Bay Aqueduct in 1965. Since that time, the Water Supply Contract has been amended 23 times; however, the original 75-year term, which ends in 2035, has never been extended.

To begin the contract extension process, formal public negotiations between DWR and the 29 water contractors were initiated in May 2013, culminating in June 2014 with the AIP. The AIP provided the framework from which contract language was developed, which is now reflected in the Extension Amendment. The District Board approved the AIP on August 26, 2014.

The Extension Amendment is being pursued in advance of 2035 primarily to alleviate a compaction in SWP costs resulting from the repayment provisions in the contract that currently require that all capital debt be repaid by 2035. Absent the Extension Amendment, SWP contractors are obligated to pay down the debt in the time window ending in 2035. Extending the term would maintain the affordability of SWP supplies both for existing project obligations and for needed future capital investment. It would also allow DWR to issue new debt for terms extending past 2035. The Extension Amendment extends the existing contract term by 50 years to December 31, 2085.

The Extension Amendment includes modifications and terms aimed at improving the fiscal health of the SWP and increasing SWP contractor participation in its financial management. Key elements include:

1. The simplification of DWR's billing methodology and the implementation of a modernized Pay-as-You-Go system for capital costs and certain operations and maintenance costs that were formerly amortized.
2. The creation of a Finance Committee that will provide a forum for SWP contractors to participate in the development of financial policy for the SWP and all of the State Water Resources Development System. (The Draft Final Charter Agreement related to this is included as Attachment 5.)
3. The implementation of a financial structure that creates a revenue stream to allow for continual

reinvestment in the SWP and to fund non-reimbursable costs, and to improve reporting requirements to insure prudent financial management of the SWP.

California Water Code Section 147.5 requires that an informational public hearing be held 60 days prior the SWP contracts being extended. On September 11, 2018, the Joint Legislative Budget Committee held this hearing, satisfying the requirements of the water code.

***Relation of the Extension Amendment to a Subsequent Amendment for the WaterFix***

The Extension Amendment does not address cost allocation or other issues related to the WaterFix and is necessary regardless of whether WaterFix proceeds or not. The Extension Amendment is necessary to affordably finance significant repair projects that maintain the operational reliability of the State's largest water conveyance system. Some of these costly projects include the Oroville Dam spillway repair, the repair of subsidence damage to the California Aqueduct, and many other repairs throughout the system, including the South Bay Aqueduct, which is the primary conveyance for delivering SWP water to Santa Clara County.

DWR and the Public Water Agencies are developing the WaterFix amendments separately from the Extension Amendment. The WaterFix amendments will require a separate CEQA process before they would be ready for adoption by DWR and the Public Water Agencies that contract with DWR for SWP water supplies.

**FINANCIAL IMPACT:**

Execution of Amendment No. 24 will obligate the District to its share of SWP costs through 2085. These costs will be recovered through DWR's annual Statement of Charges in the same manner in which current costs are recovered. During the past five years, the District's SWP costs have averaged approximately \$25 million per year.

If the Extension Amendment is not executed, the impacts of the compression in capital charges will not be alleviated, and the District will see a significant increase in its Statement of Charges. The Extension Amendment will allow DWR to issue traditional 30-year bonds, rather than the current process of recovering additional capital costs over a much shorter timeframe.

**CEQA:**

As described above, DWR certified its FEIR for the Project on November 13, 2018. The District, as a CEQA responsible agency, must consider the environmental impacts of the Project as analyzed in the FEIR prior to reaching its own conclusions on whether and how to approve the Project. District staff has determined that DWR's FEIR is adequate for District's use to approve the amendment between DWR and the District. Because the FEIR did not disclose any significant impacts from the Project, the District would not be required to make any written findings regarding any impacts. Attachment 2 is a resolution for the Board's adoption to make the finding that DWR's FEIR is adequate for the District's use to approve the Project.

**ATTACHMENTS:**

- Attachment 1: Final Environmental Impact Report
- Attachment 2: Board CEQA Resolution
- Attachment 3: Extension Amendment
- Attachment 4: Agreement in Principle
- Attachment 5: Draft Final Charter Agreement
- Attachment 6: PowerPoint

**UNCLASSIFIED MANAGER:**

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