



Santa Clara Valley Water District

File No.: 20-0873

Agenda Date: 11/17/2020

Item No.: 2.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Resolution Making Responsible Agency Findings and Approving State Water Project Contract Amendment for Water Management, and Authorize the Chief Executive Officer to Execute the Amendment and File Notice of Determination.

RECOMMENDATION:

- A. Receive information and discuss the proposed State Water Project Water Supply Contract Amendment for Water Management (Water Management Tools Amendment);
- B. Adopt the Resolution (1) MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO CEQA FOR THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND ADOPTING CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (2) APPROVING THE PROPOSED STATE WATER PROJECT CONTRACT AMENDMENT FOR WATER MANAGEMENT, AMENDMENT NO. 25 TO VALLEY WATER'S WATER SUPPLY CONTRACT WITH THE DEPARTMENT OF WATER RESOURCES; and
- C. Authorize the Chief Executive Officer to execute Amendment No. 25 to Valley Water's State Water Project Water Supply Contract and file Notice of Determination.

SUMMARY:

The State Water Project Water Supply Contract Amendment for Water Management, often called the Water Management Tools Amendment, will provide greater flexibility for transfers and exchanges among State Water Project (SWP) contractors and will improve Valley Water's access to supplemental dry year supplies. The primary benefit of the Water Management Tools Amendment is that it provides the ability to transfer SWP water among SWP contractors, which is not currently allowed under the SWP contract. The key elements of the amendment include:

- Direct single and multiple-year transfers
- Financial compensation determined by SWP contractors
- Ability to transfer water stored in San Luis Reservoir
- Ability to transfer water from groundwater banks
- Updated rules for water exchanges
- Process for improved transparency

The Water Management Tools Amendment does not result in the construction of new facilities or modify existing SWP facilities. It will not change the water supply delivered by the SWP, as SWP water would continue to be delivered consistent with current SWP Water Supply Contract terms and all regulatory requirements.

Background

Valley Water's long-term water supply contract with DWR was first executed in 1961 and has been amended 24 times. Previous amendments included provisions for the transfer and exchange of SWP water under limited circumstances, but these rules have proven to be ineffective and are rarely used. The Water Management Tools Amendment would remove these limitations and provide the ability to transfer and exchange water among SWP contractors more freely.

The provisions in the Water Management Tools Amendment were initially developed as part of the SWP contract amendment negotiation process for the California WaterFix, which concluded on June 27, 2018. When DWR rescinded the California WaterFix on May 2, 2019, DWR and the SWP contractors agreed to remove the negotiation points related to California WaterFix and instead move forward with the Water Management Tools components as a standalone amendment.

Transfers of State Water Project Water

The SWP contract currently does not allow SWP contractors to enter into agreements to transfer their SWP supplies water among themselves. The Water Management Tools Amendment addresses this limitation by allowing the direct transfer of SWP water from one contractor to another using single year or multiple year transfers. With the new rules, SWP contractors can now buy and sell water in the same year, which was not previously allowed, and financial compensation will now be determined solely by the parties involved in each transfer, allowing for a greater degree of cost recovery in line with the market value of the water at the time of transfer.

The Water Management Tools Amendment also provides for the transfer of SWP water carried over in San Luis Reservoir from prior years, helping to redistribute water to areas with greater need. This could protect against the risk of spill in San Luis Reservoir and at the same time allow for significant cost recovery when otherwise this water would be lost to the selling contractor.

In addition, the new contract provisions will provide for the direct transfer of any future SWP water stored in groundwater banks to other SWP contractors. As a result, Valley Water will have the ability to sell or exchange any SWP water it delivers for storage in the Semitropic Groundwater Bank after the date of this amendment. This will allow for more flexible management of Valley Water's water and will help recover some of the costs of this storage.

The SWP contract allows for the delivery of interruptible, or "surplus" Article 21 water, which is occasionally available for direct delivery, separate from, and in addition to, a contractor's annual Table A amount. The Water Management Tools Amendment will provide certain small agricultural

water districts the ability to transfer their share of Article 21 water, while DWR may also approve the transfer of Article 21 water for other SWP contractors under special circumstances.

Exchanges of State Water Project Water

The Water Management Tools Amendment revises contract provisions relating to water exchanges by amending and clarifying DWR's existing administrative process for exchanges. The maximum amount of water that can be exchanged in any year will be determined by a ratio that fluctuates along with the annual SWP allocation. Exchanged water must be returned within 10 years, and costs associated with exchanges are limited to the fixed costs that the exchanging contractor would normally pay for delivery to its service area.

Criteria for Transfers and Exchanges

The Water Management Tools Amendment contains clearly defined criteria required for DWR to approve a transfer or exchange, which increases transparency and streamlines the approval process. These include not harming or adversely affecting other SWP contractors or SWP operations, not impacting the financial integrity of the SWP, and complying with all applicable laws and regulations. The Water Management Tools Amendment also includes a process to resolve disputes among SWP contractors related to transfers and exchanges, should any arise.

FINANCIAL IMPACT:

There is no financial impact associated with execution of the Water Management Tools Amendment. Any costs associated with transferring or exchanging SWP water pursuant to these new contract provisions would occur through separate future agreements.

CEQA:

In October of 2018, the DWR circulated the State Water Project Water Supply Contract Amendments for Water Management and California WaterFix Draft Environmental Impact Report. On May 2, 2019, the Director of DWR issued a memo withdrawing approval of California WaterFix. In response, DWR and the SWP Contractors agreed to move forward with the Water Management Tools Amendment as a separate stand-alone project.

On February 28, 2020 DWR published its Partially Recirculated Draft Environmental Impact Report for the water management tools alone, removing provisions related to the California WaterFix. On August 28, 2020, DWR released its FEIR and Notice of Determination for the Water Management Tools Amendment, State Clearinghouse Number 2018072033. Both documents can be found at the following website:

<https://water.ca.gov/News/Public-Notices/2020/August/SWP-Water-Supply-Contract-EIR>.

As a responsible agency under CEQA, Valley Water staff has reviewed and considered DWR's FEIR and agree with its Findings of Fact and Statement of Overriding Considerations. Staff is requesting

that Valley Water's Board independently adopt CEQA Findings and Statement of Fact and Overriding Considerations and authorize the Chief Executive Officer to file a Notice of Determination. A draft Notice of Determination is included as Attachment 2 to this memo.

ATTACHMENTS:

Attachment 1: Resolution

Attachment 2: Draft Notice of Determination

Attachment 3: PowerPoint

UNCLASSIFIED MANAGER:

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