



Board Agenda Item 56.1

DATE: November 16, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Permanent WIIN Act Agreement for CSA 34 Water Supply

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute the “Contract Between the United States and the County of Fresno Providing for Project Water Service and Facilities Repayment” to provide a permanent supply of water to County Service Area No. 34 and its current and future zones, including Zone A (Brighton Crest), Zone C (Bella Vista), Zone D (Renaissance at Bella Vista), Zone F (The Vistas), and Zone G (Granville).

Approval of the recommended action allows for your Board to execute the “Contract Between the United States and the County of Fresno Providing for Project Water Service and Facilities Repayment,” which is the final permanent water supply agreement with the USBR to allow up to 3,000 acre-feet (AF) per water year to serve County Service Area No. 34 (CSA 34) and its current and future zones, including Zone A (Brighton Crest), Zone C (Bella Vista), Zone D (Renaissance at Bella Vista), Zone F (The Vistas), and Zone G (Granville). This item pertains to locations in District 5.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, County Service Area (CSA 34) will have no permanent access to surface water and therefore will not be able to provide water service to residential and commercial developments in CSA 34 until such time as an alternative water supply is found. The County could request a new long-term water conveyance agreement with USBR for up to 40 years, but the County would be responsible for the financial costs associated with such an agreement, including environmental review. Also, the County would not realize the financial benefits that it will receive through the Water Infrastructure Improvements for the Nation (WIIN) Act conversion. Specifically, the County would not receive a reduced rate for water, as it would have under the proposed permanent agreement. Second, the County would not receive the discount on the Cross Valley Canal (CVC) Contractors proportional construction costs of the CVC.

FISCAL IMPACT:

There is no Net County Cost with the recommended action. All costs for administering the contracts associated with the County’s Central Valley Project (CVP) water allocation are budgeted in Department of Public Works and Planning (Department) - CSA 34, Org 9174 (Millerton New Town) and all costs for CSA 34 are paid by service fees and special benefit assessments.

DISCUSSION:

In 1975, the County entered into a three-party CVP Agreement with USBR and DWR for water supply from USBR and water conveyance by DWR, to provide for the delivery of 3,000 AF per water year of CVP water from the Delta, through the California Aqueduct, to the CVC. By separate agreement, Arvin Edison Water Storage District (AEWSD) has agreed to accept delivery of the County's CVP water in exchange for allowing the County to use 1,520 AF per water year of water from Millerton Lake to serve development in CSA 34. Under that separate agreement AEWSD pays the fees to USBR for the County's CVP water that is delivered to the CVC. The County's 1975 agreement with USBR was set to expire at the end of 1995.

In 1992, Congress passed the Central Valley Project Improvement Act (CVPIA) which addresses, among other things, renewal of the CVP water contracts, including the one three-party agreement that the County entered with USBR and DWR in 1975. By the CVPIA, Congress provided that long-term agreements such as the County's 1975 water service agreement with USBR, may be renewed for successive 25-year periods, but only after certain Federal environmental review is completed. While the environmental review and negotiation of long-term renewals was pending, the CVPIA provided for interim renewal contracts for successive two-year periods. On December 12, 1995, the Board approved the first three-party interim renewal contract. Since that time, the Board has approved further three-party interim renewal contracts for periods not exceeding two years. Your Board most recently approved a three-party interim renewal contract on February 28, 2020, which extended the contract period through February 28, 2022.

On October 19, 2021, your Board approved a Resolution adopting findings and authorizing the execution of the form of the permanent agreement by the Director of the Department of Public Works and Planning, subject to review and approval by County Counsel and the Auditor-Controller/Treasurer-Tax Collector.

Since the Board hearing on October 19, 2021, USBR has provided the final agreement for execution. Due to recent court rulings related to similar agreements, however, the Department is now recommending that the Board approve the final form of the agreement and authorize the Chairman to sign, instead of relying upon the signing authority provided in the October 19 Resolution.

All information conveyed to the Board on October 19, 2021 is still valid and correct. The item before you today is solely for the execution of the Contract Between the United States and the County of Fresno Providing for CVC Project Water Service and Facilities Repayment.

The permanent repayment agreement requires that, after the agreement is executed, the County is required to obtain a final decree of validation from court of competent jurisdiction in the State of California, confirming the proceedings on the part of the County for the authorization of the execution of the permanent repayment agreement. The October 19, 2021 Resolution authorized and directed the Director and County Counsel to take all such actions as are necessary to obtain that final decree of validation. After the United States signs the recommended agreement, those actions will be taken.

REFERENCE MATERIAL:

BAI # 36, October 19, 2021

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement

CAO ANALYST:

Ron Alexander