



## MEMORANDUM

**TO:** City Council

**FROM:** Bill Robeson, Assistant City Manager/Public Works Director

**BY:** Shane Taylor, Utilities Manager

**SUBJECT:** Consideration of Adoption of a Resolution Approving the Amended and Restated Contract Between San Luis Obispo County Flood Control and Water Conservation District and the City of Arroyo Grande for Water Supply from Lopez Reservoir

**DATE:** September 27, 2022

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### **SUMMARY OF ACTION:**

Adoption of the proposed Resolution will approve the amended and restated contract between San Luis Obispo County Flood Control and Water Conservation District (District) and the City of Arroyo Grande for a water supply from Lopez Reservoir.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The Fiscal Year 2022-23 budget includes \$3,828,355 for the operation and maintenance, and debt service, for the Lopez Project. The amended and restated contract will have no impact on the current City debt obligation to the project. The contract will allow the District to move forward with refunding the bonds associated with the completed Lopez Dam Seismic Retrofit Project, so long as the refunding will not negatively impact the City's repayment obligations. The refunding process will save an estimated minimum of \$50,000/year for the District. The staff time required to administer the contract should be similar to the current contract.

### **RECOMMENDATION:**

Adopt a Resolution approving execution of the amended and restated water supply contract with the San Luis Obispo County Flood Control and Water Conservation District.

### **BACKGROUND:**

The Lopez Water System is comprised of Lopez Dam, Reservoir, water treatment facility, and distribution pipeline. The Lopez Water System supplies water to various south County municipalities via Water Supply Contracts (Contracts) within Zone 3 of the District. The existing Contracts between the District and the Zone 3 Contractors (Contractors) were restated and amended in 2000 from the terms of the original 1966 Contracts in response

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to the need for obtaining bonds for the State-mandated Lopez Dam Seismic Retrofit Project. The Contracts were further amended in 2010 to allow for bond refinancing. The Contracts establish the annual water entitlements for each of the Contractors and downstream releases, which are based on the safe yield of the reservoir and the reservoir capacity.

On August 23, 2022, the San Luis Obispo County Board of Supervisors approved an Amended and Restated Zone 3 Contract. Once all other Zone 3 Contractors, including the City, approve the amended contract, the District will move forward implementing the new contract, including refunding the existing bonds to obtain more favorable terms for the District and the Contractors.

#### **ANALYSIS OF ISSUES:**

The Contractors wish to again restate and amend the Contracts to provide storage rights for each of the Contractors to store their unused entitlement, surplus water, and State Water Project water year over year in Lopez Reservoir and to permit the refunding of the bonds associated with the completed Lopez Dam Seismic Retrofit Project in order to reduce the costs of debt service.

The current Contracts operate under a “use it or lose it” principle. If a contractor does not use their annual entitlement of water during the water year, their unused entitlement becomes surplus water that is available for all Contractors to purchase in the following water year. If the surplus water is not used within the following water year, it reverts back to the District, forfeiting the fixed costs paid by the Contractors associated with their full entitlement.

A subcommittee of the Zone 3 Technical Advisory Committee worked to develop the proposed amended and restated contract to improve management of the Lopez Water Supply System. The proposed contract provisions will provide the Contractors with the following management tools:

- The ability for each Contractor to store unused entitlement water, or surplus water, for their use in future years;
- Improve flexibility of multi-year water resource planning;
- Allow the Contractors greater opportunities for enhanced conjunctive use (the coordinated use of groundwater and surface water supplies to meet demand) of their water supply portfolios;
- Provide incentives for State Water sub-contractors to import State Water and preserve water in Lopez Lake; and
- The ability of the District to move forward with refunding the bonds associated with the completed Lopez Dam Seismic Retrofit Project to lower costs.

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#### Significant Revisions

The following items were modified in the proposed Contract to incorporate language to allow Contractor storage rights, to address re-financing of the Lopez Dam Seismic Retrofit Project bonds, as well as to clarify and modernize the terminology of the Contracts and several of their basic provisions:

- Individual Contractor storage – added (Articles 4, 7, 9, 15, 21)
  - Provides storage rights to Contractors for unused entitlements. At the end of the water year, the Contractors will have the option to place unused entitlements into the Contractor's storage account. While Contractors will continue to be required to pay for their full entitlement costs at the beginning of the water year, including operations and maintenance, capital reserve, and debt service costs, the District will issue a credit to the Contractors for the variable costs of any unused water that they placed into storage. Variable costs are discussed further below and defined in more detail in Article 14. When the stored water is used, the Contractor will pay the variable costs for that water at that time.
  - Stored water is subject to evaporation losses, as addressed in Article 7.
  - Stored water is subject to continuous spillway losses, as described in Articles 4 and 7 and discussed in more detail below.
- Surplus Water cost calculations – modified (Article 4)
  - Clarifies that Surplus Water is defined as the remaining portion of the annual Safe Yield of the Reservoir after distribution of entitlements, downstream releases, and calculated stored water. Surplus water is offered to Contractors first and may be purchased proportionately to the Contractor's share of project water.
  - The cost of surplus water to Contractors is limited to the variable charge calculated to cover the costs to the District for pumping and chemicals, as described in more detail below.
- Storage of State Water Project Water through in-lieu exchange – added (Article 7)
  - Allows Contractors to store State Water at Lopez Reservoir through the initiation of an exchange of State Water Project Water for Lopez Water. In these instances, State Water stored through Contractor-initiated exchanges are subject specific water loss events, such as evaporation and spillway losses or force majeure events.
  - In the case of a disruption of water delivery, the District may deliver State Water to Contractors in-lieu of Lopez Water.
- Address downstream release obligations – modified (Articles 4, 7, 17)
  - Unused downstream releases will be declared surplus and then offered up for sale to the Contractors based on entitlement percentages. When this water is stored, the Contractor will pay only the delivery charge that is calculated for that water year when the agency takes delivery of stored water.

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- Turnout delivery capacity limitations – modified (Article 9)
- Variable charges calculation changes – modified (Article 14)
  - Variable charges will be determined each year by, first, dividing the District's actual cost of pumping energy and chemical charges during the fiscal year by the total acre-feet of Lopez water delivered to all Contractors and then, second, multiplying this acre-foot charge by the number of acre-feet of Lopez water delivered to the Contractor during that fiscal year.
- Bond re-financing legal language – added (Article 34)

The new storage provisions incorporated into the revised agreement enable Contractors to store unused allocations of Lopez Project water, as well as exchanged State Water Project Water, indefinitely. The proposed Amended and Restated Agreement does not contain caps or volumetric limits on storage rights but instead allow the Contractors to store unused Lopez Project allocations or exchanged State Water Project Water until continuous spillover occurs, at which point any stored water rights are reduced by the amount of water lost to spillover with stored State Water lost first and stored Lopez Water lost second.

The result of these contract revisions will likely increase the amount of water available within Lopez Reservoir at any given time as Contractors are provided contractual incentives to store rather than use their allocations. This approach will increase water resiliency in times of drought as Contractors will no longer face the need to pay for their entire Lopez Project allocations if they choose to utilize other water sources to meet demand.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Adopt the proposed Resolution to approve the amended and restated contract;
2. Do not adopt the proposed Resolution to approve the amended and restated contract and propose revisions to the contract to be presented for consideration by the Zone 3 Advisory Committee and to the District;
3. Do not adopt the proposed Resolution to approve the amended and restated contract; or
4. Provide other direction to staff.

#### **ADVANTAGES:**

Approval and execution of the Amended and Restated Contract is intended to enhance the Contractors' ability to manage their water supplies, improve multi-year water planning, and provide opportunities to re-finance bonds. These actions will ensure that the water supplies from Lopez Lake are managed in as prudent a manner as possible.

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**DISADVANTAGES:**

Increased record keeping, tracking of water storage, evaporation, and variable costs are considerations when stored water is delivered.

**ENVIRONMENTAL REVIEW:**

A Negative Declaration (ND) for this contract was completed by the District Environmental Division staff, and the Board of Supervisors adopted the ND on August 23, 2022. It is recommended that the City Council rely on the ND adopted by the Board of Supervisors for consideration and approval of the Amended and Restated Contract, as proposed in the attached Resolution (Attachment 1).

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachments:

1. Proposed Resolution making Responsible Agency Findings Pursuant to the California Environmental Quality Act (CEQA) for the Amended and Restated Water Supply Contract Project for Zone 3 and Approving Execution of an Amended and Restated Water Supply Contract between the City of Arroyo Grande and the San Luis Obispo County Flood Control and Water Conservation District.
2. Zone 3 Amended and Restated Contract
3. County of San Luis Obispo Notice of Intent and Negative Declaration
4. County of San Luis Obispo Resolution Approving Execution of Amended and Restated Water Supply Contracts with the Zone 3 Contractors and Adopting a Negative Declaration Pursuant to Public Resources Code Section 21000 Et Seq. (CEQA)
5. Response to Comments on the Lopez Water Project Contract Changes Draft Negative Declaration