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CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 27, 2018

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Authorized Representatives For The Cachuma Contract Process

RECOMMENDATION:

That Council adopt a resolution authorizing representatives of the City of Santa Barbara to participate and negotiate in contracting sessions for the renewal of the Cachuma Project Water Service Contract with the United States Bureau of Reclamation

DISCUSSION:

The existing Cachuma Project Water Service Contract (Master Contract) between the United States Bureau of Reclamation (Reclamation) and Santa Barbara County Water Agency (SBCWA) is set to expire on September 30, 2020. The contract establishes the right to use Cachuma Project water and sets the terms of payment to Reclamation for the operation and maintenance of Cachuma Reservoir and Bradbury Dam. Water from Lake Cachuma (the Cachuma Project) serves as the main water supply to the South Coast of Santa Barbara County, including the City of Santa Barbara (City). As such, it is important that the City of Santa Barbara participate in the contracting process. Reclamation requires that participants in negotiation sessions be formally designated by the City Council. Staff is recommending Council adopt a resolution authorizing appropriate legal and technical staff to the City's interests during the contract negotiations.

The original Master Contract was signed in 1949. In the early 1990s, the SBCWA on behalf of the Cachuma Member Units, along with each of the respective Member Units, collectively requested renewal of the Original Master Contract. Discussions included the term of the contract, type of contract (repayment versus water service), interest rate on unpaid capital costs, definitions of service area, definitions of municipal and industrial versus agricultural use, and other provisions. Reclamation currently administers the Cachuma Project under a 1996 Water Service Contract (175r-1802R), or Master Contract, with the SBCWA. In turn, the SBCWA holds identical subcontracts with five Cachuma Member Units which include the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District, and Santa Ynez River Water Conservation District, Improvement District No 1 (ID#1). The Cachuma Member Units are the recipients of the water and are responsible for associated payments for the Cachuma Project. As a Cachuma Member Unit, the City's contracted share of water for the Cachuma Project is 32.19 percent.

The current Master Contract is a 25-year contract with a capital component that was paid off by the Cachuma Member Units on September 30, 2015. According to the terms of the Master Contract, a request for renewal must be submitted no less than two years prior to the contract expiration, which would be September 30, 2018. On May 2, 2017, the County Board of Supervisors, acting as Board of Directors of the SBCWA, directed its staff to initiate renewal of the Master Contract. On record from the meeting is a letter from the City of Santa Barbara, at the direction of City Council, requesting clarification on how the Cachuma Member Unit staff and elected officials would be involved in the contracting process. Among other things, the letter specifically requested that Cachuma Member Units be included in all discussions with Reclamation. Subsequently, staff from the City and ID#1 met with Reclamation on May 11, 2017 to reiterate the request that Cachuma Member Units be included in all discussions related to the contracting process.

On May 25, 2017, the Cachuma Member Units received an email from Reclamation regarding participation in Technical and Negotiation Sessions. Reclamation stated that they generally conduct the contract renewal process only with the direct contractor (which is currently the SBCWA). However, given the unique connection the Master Contract has with the Cachuma Member Units (e.g. Member Units are the recipients of the water and are responsible for the associated payments to Reclamation through sub-agreements with the SBCWA), Reclamation found it appropriate for Cachuma Member Units to participate alongside the SBCWA in Technical and Negotiation Sessions, with certain limitations:

1. These are Reclamation-convened sessions and will be unburdened by roll-call, motions, and votes typical of State agencies that must follow Brown Act protocols.
2. Participants in negotiation must be formally authorized by the respective board of the entity that the participant is representing.
3. No more than two participants per entity may sit at the negotiation table for the purpose of actively engaging in the negotiation. Others may observe, but must remain silent.

Attendance at Technical and Negotiation Sessions will involve travel when meetings are located at Reclamation offices in Fresno, CA. This effort is anticipated to be time-consuming once the process is underway. Staff are recommending that authorized City representatives at negotiation table include both legal and technical staff, with alternates authorized in the event that primary representatives are unable to attend. Primary representatives are the Assistant City Attorney who supports the Water Fund (Daniel Hentschke) the Water Supply Manager (Kelley Dyer). Alternates are the Water Resources Manager (Joshua Haggmark), Public Works Director (Rebecca Bjork), Assistant City Attorney (Sarah Knecht), City Attorney (Ariel Calonne), and City Administrator (Paul Casey).

As of December 2017, there have been three Technical Sessions with Reclamation. The SBCWA staff participated in all three. The Cachuma Member Unit staff participated in the two held on June 29, 2017 (in Fresno, CA), and August 18, 2017 (in Santa Barbara, CA). Any additional Technical Sessions or Negotiation Sessions have yet to be scheduled.

The process for the contract renewal will take several years to complete, and will include environmental review per the National Environmental Policy Act and California Environmental Quality Act.

On February 15, 2018, the Water Commission reviewed the draft resolution and voted **X-X** to recommend its adoption.

PREPARED BY: Kelley A. Dyer, Water Supply Manager/DC/sp

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AUTHORIZING REPRESENTATIVES TO
PARTICIPATE AND NEGOTIATE IN CONTRACTING
SESSIONS FOR THE 2020 CACHUMA PROJECT WATER
SERVICE CONTRACT WITH THE UNITED STATES
BUREAU OF RECLAMATION

WHEREAS, on September 12, 1949, the United States Bureau of Reclamation entered into Contract No. 175r-1802 (“Original Master Contract”) with the Santa Barbara County Water Agency (SBCWA), and the SBCWA concurrently entered into a Contract for Furnishing of Water to Member Units (“Original Member Unit Contract”);

WHEREAS, the City of Santa Barbara is currently a Cachuma Member Unit, with a proportional share of 32.19 percent of costs and yield of the Cachuma Project;

WHEREAS, the Original master Contact and Member Unit Contracts expired in 1995 and renewed pursuant to Contract no. 175r-1802R – Renewal Contract for Water Service and the Cachuma Project Member Unit Contracts dated March 12, 1996 which run concurrently through September 30, 2020;

WHEREAS, according to Article 2 (a) in the Renewal Master Contract for Water Service, request for renewal is given no later than two years prior to the expiration of the existing Renewal Master Contract;

WHEREAS, on May 2, 2017, Santa Barbara County (County) Board of Supervisors, acting as the Board of Directors of the SBCWA, approved a letter to the United States Bureau of Reclamation initiating a request to renew Contract No 175r-1802R;

WHEREAS, the United States Bureau of Reclamation has given consideration to the unique connection that the Cachuma Master Contract has with the Member Units (e.g. Member Units are the recipients of the water and are responsible for the associated payments to Reclamation through sub-agreements with the County), and believes it is appropriate to afford the Member Units the opportunity to participate in the technical and negotiation sessions alongside of the County; and

WHEREAS, the City of Santa Barbara desires to negotiate a water service contact with the United States Bureau of Reclamation, have representation at any technical or negotiation session between all parties involved in the water service contract process, participate in any and all activities and actions related contract arrangements with the United States Bureau of Reclamation for water service, and authorize representatives that will act in the sole and best interest of the City of Santa Barbara.

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NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT the Council of the City of Santa Barbara formally authorizes the following representatives to negotiate a water service contract with the United States Bureau of Reclamation, participate in all technical or negotiation sessions between all parties involved in the water service contract process, and represent the interests and rights of the City of Santa Barbara in any and all activities and actions related to contract arrangements with the United States Bureau of Reclamation:

Primary Representatives:

Daniel S. Hentschke, Assistant City Attorney
Kelley A. Dyer, Water Supply Manager

Alternate Representatives:

Paul Casey, City Administrator
Ariel Calonne, City Attorney
Sarah Knecht, Assistant City Attorney
Rebecca J. Bjork, Public Works Director
Joshua Haggmark, Water Resources Manager