



Resource Management Agency COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: February 26, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010

SUBJECT: Cross Valley Canal Contract Conversion

REQUEST(S):

That the Board of Supervisors:

1. Authorize the Director of the Resource Management Agency and designee to serve as an authorized negotiator for Tulare County in negotiations of a long term repayment contract under section 9e of the Reclamation Project Act of 1939 for the Cross Valley Canal; and
2. Authorize Dennis R. Keller to serve as an authorized negotiator for Tulare County in negotiations of a long term repayment contract under section 9e of the Reclamation Project Act of 1939 for the Cross Valley Canal; and
3. Authorize the Director of the Resource Management Agency to submit a letter to the U.S. Bureau of Reclamation appointing said negotiators for Tulare County in negotiations of a long term repayment contract under section 9e of the Reclamation Project Act of 1939 for the Cross Valley Canal.

SUMMARY:

On November 10, 1975, the County of Tulare entered into a "Contract between the United States, State of California and the County of Tulare, providing for water service from the Central Valley Project." This contract expired on December 31, 1995, and was initially extended for two months under an Amendatory Contract. Upon the expiration of the Amendatory Contract, the County entered into a series of interim

SUBJECT: Cross Valley Canal Contract Conversion

DATE: February 26, 2019

renewal agreements, which extended the ability to receive water service from the Central Valley Project (CVP).

The purpose of these agreements is to allow the County to receive CVP water, in its role as Cross Valley Canal (CVC) Contractor, on behalf of County subcontractors. The County is intended to be a pass-through agency for these subcontractors. All but one of the current subcontractors are in a perpetual agreement that requires the approval of the subcontractor and the County to terminate. The Saucelito Irrigation District contract can be unilaterally reduced or terminated by the County.

Since the passage of the Reclamation Act of 1902, reclamation law has been based on the concept of project repayment—reimbursement of federal construction costs—by project water and power users. Agreements between the federal government (through Reclamation) and water users for delivering water generally are governed by one of two contract types: water service contracts or repayment contracts. The terms of repayment and water service contracts differ. Repayment contracts generally are made for terms of 40 years, with capital costs amortized over the long-term period and repaid in annual installments along with costs for project operations and maintenance. For water service contracts, contractors pay a combined capital repayment and operations and maintenance rate for each acre-foot of water actually delivered (i.e., water service).

All Project Water contracts within the CVP are water service contracts authorized under Sections 9c (2) (municipal and industrial contracts) and 9e (irrigation contracts) of the Reclamation Project Act of 1939, with the exception of the CVP's Friant Division contractors. The Friant division contractors executed repayment contracts as authorized by the San Joaquin River Restoration Settlement Act.

On December 16, 2016, President Obama signed the Water Infrastructure for the Nation (WIIN) Act into law. Among the authorizations under this legislation was the opportunity to convert water service contracts to repayment contracts upon the request of the CVP contractor.

On May 8, 2018 under resolution 2018-0321 the Board determined that the value of a permanent contract was worth investigating. Pursuant to Section 4011(a)(I) of Public Law 114-322 a letter was sent to the Bureau of Reclamation initializing the contract conversion process. The U.S. Bureau of Reclamation (USBR) communicated to the County that negotiations are set to take place on March 13, 2019 and that they would need an official letter identifying the County's authorized negotiators. Negotiations will focus on specific contract provisions related to water delivery terms and responsibilities, water availability periods and notifications and operational cost reimbursement terms.

The County has an existing Agreement No. 26662 with Dennis R. Keller and James H. Wegley Consulting Engineers to provide watermaster services for the CVC. The Resource Management Agency (RMA) believes it is in the best interest of the CVC subcontractors and Tulare County for Mr. Keller to assist the County with these negotiations as an authorized negotiator. Additionally, RMA staff will be identified as authorized negotiators on behalf of the County. Negotiations are mandated to be

SUBJECT: Cross Valley Canal Contract Conversion
DATE: February 26, 2019

completed by December 6, 2019. Agreement No. 26662 currently allows for Mr. Keller to serve in this role without amendment.

The cost estimate of conversion to a repayment contract by the USBR is approximately \$400,000. 95% of this conversion cost could be paid in installments over 4 years with interest at a 3.050% rate. All costs associated with the conversion will be covered by the CVC subcontractors at no cost to the County.

The benefits of conversion include the elimination of CVP acreage limitations (960 acres) on acres owned and leased, and the reporting that is a part of that requirement, as well as the increased ability to assign the main contract. All of these benefits make the CVC subcontracts more attractive to existing and potential subcontractors. All existing subcontractors have indicated their desire to explore conversion to a repayment contract.

FISCAL IMPACT/FINANCING:

There is No Net County Cost to the General Fund.

All expenses for administration of the CVC contract incurred by County staff and consultant are recouped through the billing of the water charges to the subcontractors.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Economic well-being. The approval of this agreement will promote economic development opportunities in the County.

ADMINISTRATIVE SIGN-OFF:



Sherman Dix
Assistant Director—Fiscal Services



Reed Schenke, P.E.
Director

cc: County Administrative Office

Attachment(s) Attachment A – Letter to USBR

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF CROSS VALLEY) Resolution No. _____
CANAL CONTRACT CONVERSION)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD OF
SUPERVISORS, AT AN OFFICIAL MEETING HELD FEBRUARY 26, 2019, BY THE
FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

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Attachment “A”

Letter to USBR



RESOURCE MANAGEMENT AGENCY

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VISALIA, CA 93277

PHONE (559) 624-7000

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Michael Washam

Reed Schenke

Sherman Dix

Economic Development and Planning

Public Works

Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

February 26, 2019

Mr. Michael E. Jackson
Area Manager
U.S. Bureau of Reclamation Mid-Pacific Region
1243 "N" Street
Fresno, CA 93721-1813

RE: TULARE COUNTY REQUEST FOR CONVERSION OF CONTRACT

Dear Mr. Jackson:

The County of Tulare (County) and the United States through the Bureau of Reclamation are parties to that certain *Contract between the United States and the County Providing for [Project Water Service]*, Contract No. 14-06-200-8293A-IR5 (together with interim renewal contracts currently in effect and providing for continued water service, the "Contracts"). Currently the County is in the process of converting the Contract entered into under section (e) of the Act of August 4, 1939, (53. Stat. 1195), to a repayment contract under Section 9(d) of that act pursuant to Section 401 l(a)(l)(A) of the Act.

Correspondence from your agency has requested that an official letter indicating the County's authorized negotiators be sent to you prior to March 19, 2019. Please take this letter as official notice that the Board of Supervisors of the County has authorized the following individuals to negotiate on its behalf:

Dennis R. Keller

Reed Schenke

Other designees of the Tulare County Resource Management Agency Director

Please direct any questions or concerns to Mr. Sherman Dix of the County's Resource Management Agency at (559) 624-7030. Thank you for your assistance in this regard.

Very truly yours,

Reed Schenke, P.E.
Director

cc: Mr. Dennis Keller