



Staff Reports

File #: 258-2020, **Version:** 1

To: Honorable Mayor and Members of City Council

From: Phil Brun, Utilities Director

Prepared By: Phil Brun, Utilities Director

TITLE:

Water Supply Contract with Congress Valley Water District

RECOMMENDED ACTION:

Consider options for continuing water service to the Congress Valley Water District area, and direct staff to negotiate an amendment to the Water Supply Contract with the Congress Valley Water District (City Agreement No. 5387).

DISCUSSION:

The City has supplied wholesale water to the Congress Valley Water District (the “District”) since 1951 (see maps of the District area on Attachments 2 and 4). The current terms of supply are documented in the “Contract” (City Agreement No. 5387) which includes the comprehensive update that was approved in 1987, as well as the First Amendment (approved in May 2017) and the Second Amendment (approved in May 2018) (see Attachment 1).

The Contract expires on July 1, 2022, and it requires the District to initiate discussions with the City (and other relevant parties, including the Local Agency Formation Commission [“LAFCO”] and Napa County) by July 2020 to establish a transition plan for the ongoing provision of water to properties in the District. On July 14, 2020, the District notified the City of its interest in negotiating terms of an extension of the Contract. This report summarizes options available to the City in response to the District’s request, with a recommendation that the Council direct staff to negotiate terms of an amended Contract to extend the term of water supply to the District. Upon receiving direction from Council, City staff plans to engage in initial discussions with the District, and return to Council for further direction and approval for the terms of an extended Contract.

Under the current Contract, the City provides no more than 100 acre-feet of wholesale water to the District at the City’s “Outside City” water rates, which the District is authorized to deliver to no more than 140 service connections within the specified service area (see Attachment 2). Within those limits, in 2019, the City provided the District 50 acre-feet of water for 101 active connections. In addition to providing wholesale water to the District, the Contract also provides for the City to directly bill customers on the District’s behalf. The City bills the District’s customers at the “Inside City” water rates, and the District directly pays the City the differential between the total “Outside City” water rates owed by the District to the City, and the “Inside City” water rates paid to the City by the District’s

customers. The City also collects and retains capacity fees and other fees; and, in return, operates, maintains, repairs and replaces all District infrastructure (pipes, valves, fire hydrants, services, etc.).

The request from the District for a long-term extension to the Contract comes at a time when the draft LAFCO Water and Wastewater Municipal Service (MSR) is scheduled for Commission consideration on October 6, 2020. The draft report (see Attachment 3) presents several governance structure options available as the District moves forward with considering its long-term service arrangement, including the following:

- 1) Maintaining the status quo,
- 2) Expansion of the City's SOI and annexation of District territory,
- 3) Formation of a subsidiary district of the City of Napa,
- 4) Transition to a county service area, and
- 5) Dissolution of District and continued service by City of Napa.

Ultimately, the draft LAFCO report recommends that the City of Napa, the District, and the County begin discussions regarding moving forward with dissolution of the District and continued water service by City of Napa as extended services outside the City's jurisdictional area. However, the report acknowledges several challenges to this recommendation; and, for reasons summarized below, City staff recommends against pursuing a potential dissolution of the District.

In addition, the City's General Plan update process is ongoing, with the proposed land use element scheduled to be brought before Council in October 2020. At this time, land outside the City's existing Sphere of Influence ("SOI"), like the properties served by the District, are not being considered as part of the land use element. If the City desired to seek expansion of the SOI and future annexation of the District territory, this possibility should be evaluated as a part of the General Plan update process.

Given the complexity of the policy issues related to the LAFCO recommendations summarized above, City staff is seeking Council direction as to which option is preferred in response to the District's request to negotiate an extended term of the Contract to provide water service to the District area. Three options are provided below with considerations identified for each.

Option 1 - Status Quo

The City would negotiate a contract extension to continue providing wholesale water service to the District.

- This would be the most efficient option for the City, with contractual clarifications to the respective administrative responsibilities of the City and the District.
- This is the District's preferred option.
- This would allow property owners within the District boundaries to maintain a directly elected District Board to represent their interests related to water service concerns.
- With a wholesale water contract between the City and the District, the City has the authority to impose contractual limitations on the use of water. The current Contract restricts use to defined service area, 100 acre-feet of water annually, maximum of 140 service connections to

existing parcels of record and limits property use to domestic, agricultural and winery purposes only.

Option 2 - Expansion of the City's SOI and Annexation of District Territory

The District would dissolve, and LAFCO would amend the City's Sphere of Influence ("SOI") to encompass the area served by the District.

- This would positively align the City's land use authority with the City's obligation to deliver municipal services.
- This could complicate the General Plan update process, regarding the analysis of a potential SOI expansion for the District property and property outside the District, such as: (a) property between the boundaries of the District and the City (see Attachment 4); and (b) other similarly situated properties outside the SOI receiving City services such as Silverado and Monticello Park.
- Since property within an expanded SOI would need to be planned for future annexation to the City, the annexation would require a tax sharing agreement with the County, and any urban development of that property following annexation would require voter approval to move the Rural Urban Limit ("RUL") line (per City Charter Section 180, similar to what was done in 2014 for the Napa Pipe Property).

Option 3 - Dissolution of District and Continued Service by City of Napa

The City would serve water to customers as an extended service outside City limits.

- The City would have an obligation to provide City water without any land use authority over the property using the City water, and the City would not have the protection of a wholesale water contract with another governmental agency.
- Requires individual agreements between each customer and City.
- The property tax currently received by the District (approximately \$85,000 per year), which is used to offset the differential between "Outside City" water rates paid by the District and "Inside City" water rates paid by the District's customers, would likely be transferred to the County following dissolution of the District.
- The District has indicated no interest in dissolution.

Staff recommends City Council direct staff to proceed with Option 1 to negotiate an extension to the Water Supply Contract with the District to continue providing wholesale water to the District. While Option 2 may be desirable to align the City's land use authority with the obligation to provide municipal services, the General Plan update does not currently include analysis for lands outside the SOI. While Option 3 is the recommendation in the draft LAFCO MSR, staff recommends against Option 3 for the reasons summarized above.

FINANCIAL IMPACTS:

There are no financial impacts directly associated with the action requested in this item.

CEQA:

The Utilities Director has determined that the recommended actions described in this agenda report are not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

DOCUMENTS ATTACHED:

ATCH 1 - Water Supply Contract Between the City of Napa and the Congress Valley Water District
(City Agreement No. 5387 with First and Second Amendments)

ATCH 2 - Map of Congress Valley Service Area

ATCH 3 - Congress Valley Water District Chapter from LAFCO Water and Wastewater Municipal
Service Review, draft dated May 18, 2020

ATCH 4 - Map of parcels in Congress Valley Area.

NOTIFICATION:

Congress Valley Water District, Kiersten Bjorkman

Coombs & Dunlap, LLP, Valerie Clemen

Napa County LAFCO, Brendon Freeman

Napa County Planning, Building and Environmental Services, David Morrison