

RESOLUTION NO. 101-20

WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 2

A RESOLUTION OF THE BOARD OF DIRECTORS:

AUTHORIZING THE FILING OF NOTICES OF STATUTORY EXEMPTION AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 2 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT,

AUTHORIZING APPROVAL, EXECUTION, AND DELIVERY OF THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 2 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT, AND

AUTHORIZING ACTIONS IN FURTHERANCE THEREOF

WHEREAS, Mercy Springs Water District (MSWD) entered into a contract for water service with the United States on September 28, 1959, Contract No. 14-06-200-3365 (the "Original Contract"), which provided for the delivery of up to 13,300 acre-feet of water diverted through Central Valley Project facilities. Upon expiration of the Original Contract, MSWD entered into successive interim renewal contracts with the United States of America providing for water service, including Contract No. 14-06-200-3365A IR8, ending on February 28, 2006; and

WHEREAS, On March 2, 2004, Westlands Water District Distribution District No. 2 (District) and the United States through the Bureau of Reclamation entered into an agreement for partial assignment (Assignment Contract 14-06-200-3365A-IR8-C) of MSWD's water service contract. Under this Assignment Contract, MSWD assigned its right, title and interest to 4,198 acre-feet of its water service contract to the District; and

WHEREAS, the District has entered into a successive interim renewal contracts with the United States of America providing for water service including the current Contract No. 14-06-200-3365-IR16-C (Existing Interim Renewal Contract) ending on February 29, 2020; and

WHEREAS, the United States has tendered a form of an interim renewal contract to the District, Renewal Contract No. 14-06-200-3365-IR17-C, (Interim Renewal Contract) which provides for the delivery of water diverted through Central Valley Project facilities under terms that are substantially the same as the Existing Interim Renewal Contract, which if executed, would remain in effect through February 28, 2022; and

WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (WIIN Act); and

WHEREAS, Section 4011(a)(1) of the WIIN Act provides that “upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions.”; and

WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”;

and “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”;

and

WHEREAS, Section 4011(a)(4)(C) provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment, exchange and transfer contractual rights between the water users’ association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’ association [Contractor] and their landowners as provided under State law.”; and

WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that “implementation of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”; and

WHEREAS, on or about April 23, 2018, pursuant to WIIN Act, 4011(a)(1), the District requested that United States Bureau of Reclamation initiate the process to convert its water service contract to a repayment contract.

WHEREAS, pursuant to and consistent with the WIIN Act, the United States and the District negotiated terms and conditions that convert the Existing Interim Renewal Contract to a repayment contract, and those terms and conditions are reflected in the attached Converted Contract between the United States and Westlands Water District Distribution District No. 2 providing for Project Water Service and Facilities Repayment, which is incorporated herein by this reference (Converted Contract); and

WHEREAS, the Converted Contract also reflects the current standard terms and conditions required by the Reclamation Manual; and

WHEREAS, the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; and

WHEREAS, the United States has determined that the District has fulfilled all of its obligations under the Existing Interim Renewal Contract; and

WHEREAS, the District has demonstrated to the satisfaction of the Contracting Officer that the District has utilized the Project Water supplies available to it for reasonable and beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to the Converted Contract; and

WHEREAS, water obtained from the Project has been relied upon by urban and agricultural areas within California for more than 50 years, and is considered by the District as an essential portion of its water supply; and

WHEREAS, the economies of regions within the Project, including the District's, depend upon the continued availability of water, including water service from the Project; and

WHEREAS, it is imperative to the District and its landowners that the District continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Converted Contract; and

WHEREAS, under the Converted Contract, ongoing receipt and delivery of water will continue with no expansion of service and no new facilities constructed because the District will deliver the water received under the Converted Contract: (1) to lands within the District's boundaries for beneficial use and that have been in production, and (2) through existing facilities; and

WHEREAS, the District has reviewed the terms and conditions of the Converted Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, the District maintains in its records copies of contracts, water delivery reports, crop information and other data supporting these factual findings.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.

2. The Converted Contract will not create any effects specified in Title 14 of the California Code of Regulations, Section 15300.2.
3. Executing the Converted Contract is statutorily exempt from compliance with the California Environmental Quality Act as provided in the California Public Resources Code and implemented through Title 14 of the California Code of Regulations, Sections 15260 through 15285, with particular reference to Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.
4. Execution of the Converted Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; it involves no increase in existing service; and no new construction, expansion, or any modification to the existing distribution system; nor any change in the source of water to be delivered, or the uses to which such supplies will be put.
5. Execution of the Converted Contract is categorically exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15300 through 15333, with particular reference to Section 15301, because it merely provides for continued operation of existing facilities.
6. The District shall prepare and file a Notice of Exemption with the Clerks of Fresno and Kings Counties and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062(b), in substantially the forms attached hereto as Exhibit A.
7. The Converted Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.
8. The President of the District is hereby authorized to execute and deliver the Converted Contract in substantially the form attached hereto, with such additional changes and/or modifications as are approved by the President of the District, its General Manager, and its General Counsel.
9. The District's officers, staff, and consultants are authorized and directed to take all additional actions they deem necessary or appropriate in order to carry out the intent of this resolution.

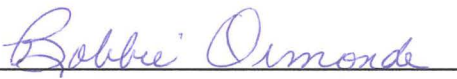
10.A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the United States Bureau of Reclamation.

Adopted at a regular meeting of the Board of Directors, at Fresno, California, this 21st day of January, 2020.

AYES: Directors Anderson, Bourdeau, Coelho, Errotabere, Enos, Ferguson, Neves, Nunn and Peracchi

NOES: None

ABSENT: None


Bobbie Ormonde
Bobbie Ormonde, District Secretary