

BEFORE THE BOARD OF DIRECTORS OF THE  
DEL PUERTO WATER DISTRICT

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A  
CONTRACT BETWEEN THE UNITED STATES AND DEL PUERTO WATER  
DISTRICT PROVIDING FOR WATER SERVICE FROM DELTA DIVISION AND  
FACILITIES REPAYMENT; AND AUTHORIZING THE FILING OF A NOTICE OF  
EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR  
APPROVAL OF AND AUTHORIZATION TO EXECUTE CONTRACT

WHEREAS, the United States of America, Department of the Interior, Bureau of Reclamation ("Bureau of Reclamation"), has constructed and is operating the Central Valley Project ("Project") in California, for diversion, storage carriage, distribution and beneficial use, for flood control, irrigation, municipal domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of the waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries ("Project Water");

WHEREAS, the Bureau of Reclamation and the Del Puerto Water District ("District") have continuously, since June 10, 1953, been parties to a contract, as amended and renewed periodically, providing for water service from the Project's Delta Division Facilities to the District, Contract No. 14-06-200-922-LTR1 (the "Existing Contract");

WHEREAS, the Existing Contract provides for conversion to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, as supplemented by the Act of July 2, 1956, upon completion of the Project, anticipated by 2030;

WHEREAS, On or about December 16, 2016, the 114<sup>th</sup> Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act, (Public Law 114-322, 130 Stat. 1628) (the "WIIN Act");

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 to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions";

WHEREAS, in a letter dated February 28, 2018, the District requested that the United States convert the Existing 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 4011(a)(1)(A) of the WIIN Act;

WHEREAS, the District and the United States have agreed on the terms and conditions of a form of repayment contract consistent with the requirements of the WIIN Act, entitled "Contract Between the United States and Del Puerto Water District Providing for Project Water Service from Delta Division and Facilities Repayment", Contract No. 14-06-200-922 LTR1-P (the "Repayment Contract"), attached hereto as Exhibit "A" and incorporated herein;

WHEREAS, the Repayment Contract continues water service from the Delta Division of the Project to District and provides, among other things, that the District reserves and shall have all of the rights available to it under the Act of July 2, 1956 (70 Stat. 483), and that upon completing the repayment obligations as required therein, the acreage limitations, reporting, and full cost pricing provisions of the Reclamation Reform Act of 1982 (96 Stat. 1263) shall no longer be applicable to the District;

WHEREAS, water available to the District under the Repayment Contract will be diverted through the same Project facilities as the water provided under the Existing Contract;

WHEREAS, the District will continue to distribute Project Water received pursuant to the Repayment Contract through the same District distribution facilities used in connection with water made available under the Existing Contract;

WHEREAS, the Repayment Contract does not increase the quantity of Project Water to be made available to the District and no additional lands within the District will be irrigated as a result of the conversion to the Repayment Contract;

WHEREAS, the District intends to finance its payment obligations under the Repayment Contract through the issuance of bonds or other forms of indebtedness;

WHEREAS, the Repayment Contract requires that the District provide the United States with a final decree of a court of competent jurisdiction of the State of California confirming the validity of the Repayment Contract;

WHEREAS, consistent with the findings herein and information compiled by District officers, staff and/or consultants for the Board of Directors' consideration, the District has determined that conversion from the Existing Contract to the Repayment Contract with the Bureau of Reclamation is exempt under the California Environmental Quality Act pursuant to Sections 15261, 15301, and 15061(b)(3) of Title 14 California Code of Regulations and Public Resources Code Section 21169 because the

conversion: (i) is merely a continuation of a project previously approved, funded and operated prior to November 23, 1970 and no modification or alteration in the Project, the District distribution system, lands irrigated within the District, or the amount of water delivered is proposed; (ii) does not alter the Project Water entitlement, which was granted to the District prior to April 5, 1973, and does not involve a greater degree of responsibility than did the Existing Contract or previous water service contracts with the Bureau of Reclamation; (iii) provides for the ongoing operation and permitting of existing public facilities involving negligible or no expansion of use beyond that contemplated under the Existing Contract, and (iv) does not have the potential to cause a physical change that will have a significant effect on the environment; and

WHEREAS, the Board of Directors has reviewed the Repayment Contract and finds that conversion from the Existing contract to the Repayment Contract is in the best interest of the District, its landowners and water users, and that the Repayment Contract should be executed in the form attached as Exhibit "A" hereto.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF DIRECTORS AS FOLLOWS:

1. The foregoing findings are true and correct.
2. The Repayment Contract attached hereto as Exhibit "A" and incorporated herein is hereby approved, and the Board acknowledges that changes to the amount of the Repayment Obligation set forth in Exhibit "C" will be finalized and adjusted to reflect a discount of  $\frac{1}{2}$  the Treasury rate as it exists on the effective date of the Repayment Contract, as required by Section 4011(a)(2)(A) of the WIIN Act.
3. The District's President and Secretary are authorized to execute the Repayment Contract attached hereto as Exhibit "A" and incorporated herein.
4. The execution of the Repayment Contract and its conversion from the Existing Contract is exempt from CEQA for the reasons set forth above, and District staff is authorized and directed to file the Notice of Exemption attached hereto as Exhibit "B" and incorporated herein.
5. District staff is authorized to and directed to provide two signed originals of the Repayment Contract and a certified copy of this Resolution to the Bureau of Reclamation.
6. District staff and legal counsel are authorized and directed to take all such

additional actions as may be necessary or appropriate to facilitate the conversion of the Existing Contract to the Repayment Contract, to obtain a final decree confirming validity of the Repayment Contract, to obtain funding necessary to satisfy the Repayment Obligation and to ensure continued and uninterrupted water service to the District under its water service contract.

ALL THE FOREGOING, being on motion of Director \_\_\_\_\_, \_\_\_\_\_ and seconded by Director \_\_\_\_\_, was authorized by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing is the Resolution of said District as duly passed and adopted by said Board of Directors on this 16<sup>th</sup> day of September, 2020.

WITNESS my hand and seal of said Board of Directors this 16th day of September, 2020.

\_\_\_\_\_  
Secretary/Treasurer of the Board of Directors

(DISTRICT SEAL)

EXHIBIT "A"  
REPAYMENT CONTRACT

EXHIBIT "B"  
NOTICE OF EXEMPTION

## **NOTICE OF EXEMPTION**

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**To:** Office of Planning & Research  
1400 Tenth Street  
Sacramento, CA 95814

**To:** Stanislaus County Clerk  
1021 "I" Street, Suite 101  
Modesto, CA 95354

**Lead Agency/Applicant Name:**

Del Puerto Water District  
17840 Ward Avenue  
P.O. Box 1596  
Patterson, CA 95363  
(209) 892-4470

**Project Title:** Conversion of Del Puerto Water District's Existing Long-Term Renewal of Central Valley Project Water Service Contract with the United States Bureau of Reclamation, Contract No. 14-06-200-922-LTR1.

**Location -- Specific:** Within the boundaries of the Del Puerto Water District.

**Location -- County:** Stanislaus, Merced, San Joaquin.

**Description of Activity:** The District has an existing long-term renewal contract with the United States Bureau of Reclamation ("Bureau"), for delivery of Central Valley Project ("CVP") water to, or on behalf of, the District ("Existing Contract"). The Project involves the authorization of the conversion of the District's Existing Contract, which has a 25-year term with a right of successive renewal, to a repayment contract with the Bureau for delivery of such water to, or on behalf of, the District not subject to renewal ("Repayment Contract"). The conversion of the Existing Contract to the Repayment contract was originally provided for in Section 9(d) of the Reclamation Act of 1939, as supplemented in 1956. On or about December 16, 2016, the 114<sup>th</sup> Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act, (Public Law 114-322, 130 Stat. 1628) (the "WIIN Act"), which provided that the Secretary of the Interior shall "convert any water service contract in effect on the date of enactment" of the WIIN Act to a repayment contract upon the request of a contractor. The conversion of the Existing Contract to the Repayment Contract was originally provided for in 1939, and the WIIN Act accelerates that conversion and repayment. Upon the District making the accelerated and discounted repayment of its share of current CVP capital obligations, the Repayment Contract provides, among other things, that the District will no longer be subject to acreage limitations, reporting, and full costs pricing provisions of the Reclamation Reform Act of 1982 (96 Stat. 1263), and that the District reserves and shall have all of the rights available to it under the Act of July 2, 1956 (70 Stat. 483).

The water available to the District under the Repayment Contract will be diverted through the same CVP facilities as the water provided under the Existing Contract. The District will continue to distribute CVP water received pursuant to the Repayment Contract through the same District distribution facilities used in connection with water made available under the Existing Contract. The Repayment Contract does not increase the quantity of CVP water to be made available to the District, and no additional lands within the District will be irrigated as a result of the conversion to the Repayment Contract.

The Project's beneficiaries are the District and its landowners and water users.

**Name of Public Agency Approving or Carrying Out Activity:** Del Puerto Water District.

**Exempt Status:**

- Ministerial
- Declared Emergency
- Emergency Project
- Categorical Exemption.** State type and section number: Class 1-Operation of Existing Facilities (14 CCR §15301); Common Sense Exemption (14 CCR §15061(b)(3)).
- Statutory Exemption.** Ongoing Project (14 CCR §15261; Pub. Resources Code §121169).

**Reasons Why Project is Exempt:** Assuming that the Project (conversion of the District's Existing Contract to a Repayment Contract) is subject to CEQA, the Project is exempt from CEQA on the basis of the following three (3) authorized exemptions:

First, the Project is exempt as an ongoing project which was originally approved and authorized prior to the implementation of CEQA. (See 14 CCR §15261; Public Resources Code § 21169.) The District has had a water service contract from the United States Bureau of Reclamation in place since 1953 ("Original Contract"), which has been renewed on several occasions since that date. The conversion which is occurring is from a long-term water service contract subject to successive renewal (the Existing Contract) to a permanent water service contract (the Repayment Contract). The Repayment Contract will not require successive renewals. Such conversion has been authorized under federal law since the enactment of the Reclamation Project Act of 1939 (Act of August 4<sup>th</sup>, 1939, Chapter 418, 53 stat. 1187), as supplemented by the Act of July 2, 1956, Chapter 492, Stat. 483. The District is required to pay off its capital obligations in their entirety to the United States no later than 2030 under its Existing Contract. Under the authority of the WIIN Act, the Repayment Contract will require the District to pay off its current capital obligations, at a discount, either immediately in lump sum, or installments within three years of the Repayment Contract becoming effective. Under the Repayment Contract, the CVP and the District's water distribution system will be administered within the same range of operations and with the same facilities as specified under the Original Contract and all renewal contracts including the Existing Contract. There will be no expansion or enlargement of entitlement to CVP water, no expansion or enlargement of facilities, and no irrigation of additional lands, as a result of the Repayment Contract. (See *Nacimiento Regional Water Management Advisory Committee v. Monterey County Water Resources Agency* (1993) 15 Cal.App.4<sup>th</sup> 200; *Bloom v. McGurk* (1994) 26 Cal.App.4<sup>th</sup> 1307.)

Second, the Project is exempt from CEQA as a Class 1 Categorical Exemption under 14 CCR §15301. The Repayment Contract provides for continuing operation and maintenance of existing facilities which will continue delivery of irrigation or M&I water on a permanent basis, consistent with annual water allocations. No construction, reconstruction, expansion or extension of existing District facilities will result from this action, nor will there be any expansion or a change in the irrigated lands within the District. The Repayment Contract will allow the District to continue providing the same water service through the same facilities as the

