

RESOLUTION NO. 2020-17

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SAN BENITO COUNTY WATER DISTRICT
AUTHORIZING THE FILING OF A NOTICE OF EXEMPTION
FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE
THE AMENDED AND RESTATED CONTRACT
BETWEEN THE UNITED STATES AND
SAN BENITO COUNTY WATER DISTRICT
FOR WATER SERVICE, FACILITIES REPAYMENT, AND
FOR OPERATION AND MAINTENANCE OF CERTAIN WORKS
OF THE SAN FELIPE DIVISION**

WHEREAS, the San Benito County Water District ("District" or "Contractor") and the United States entered into a contract for water service with the United States on or about April 15, 1978, Contract No. 8-07-20-W0130 ("1978 Contract"), which provided for the delivery of Central Valley Project ("Project") water to the District from June 1, 1978 through February 29, 2028; and

WHEREAS, the District and the United States entered into an amendatory water service contract on or about February 28, 1992, Contract No. 8-07-20-W0130 ("First Amendment"), which modified the terms and conditions for the delivery of Project water to the District from June 1, 1987 through February 29, 2028; and

WHEREAS, on September 30, 1997, the District and the United States entered into the Binding Agreement for Early Renewal Between the United States and San Benito County Water District, Contract No. 8-07-20-W0130A, which provide the terms and conditions for the renewal of the 1978 Contract; and

WHEREAS, the District and the United States entered into a second amendatory water service contract on or about March 28, 2007, Contract No. 8-07-20-W0130A ("Second Amendment"), which among other things established the terms and conditions for the repayment of the San Felipe Division facilities and implementation of certain Central Valley Project Improvement Act activities; and

WHEREAS, the 1978 Contract, as amended by the First Amendment and the Second Amendment, is hereinafter referred to herein as the "Existing Contract"; and

WHEREAS, the Santa Clara Valley Water District and the United States entered into a contract titled "Contract for the Transfer of the Operation and Maintenance of Certain San Felipe Division", Contract No. 6-07-20-X0290, dated September 8, 1986, which established terms and conditions for the transfer of Operation and Maintenance of San Felipe Division facilities jointly used by the District and Santa Clara Valley Water District; and

WHEREAS, the District was notified via the transfer notice of the transfer of Operation and Maintenance of Certain San Felipe Division Facilities to the District, dated September 17, 1987, October 30, 1987, and January 12, 1988; 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) 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)(4)(C) further 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, Sections 4011(d)(3) and (4) further provide 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, upon the request of a Project contractor, the WIIN Act directs the Secretary of the Interior to convert Project water service contracts into repayment contracts, amend existing repayment contracts and also allow contractors to prepay their construction cost obligations pursuant to applicable federal reclamation law; and

WHEREAS, pursuant to and consistent with the WIIN Act, the United States and the District negotiated terms and conditions that convert the Existing Contract to a repayment contract, and those terms and conditions are reflected, in the "Amended and Restated Contract Between the United States and San Benito County Water District for Water Service, Facilities Repayment, and for Operation and Maintenance of Certain Works of the San Felipe Division" ("Repayment Contract"); and

WHEREAS, a true and correct copy of the Repayment Contract is attached hereto at Exhibit A and is incorporated herein; and

WHEREAS, the Repayment Contract also reflects the current standard terms and conditions required by the Reclamation Manual: and

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

WHEREAS, under the Repayment 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 Repayment 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 Repayment Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution.

NOW, THEREFORE, 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. Execution of the Repayment Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Repayment Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing 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 charge in the source of water to be delivered, or the uses to which such supplies will be put.
3. Execution of the Repayment 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.

4. The District shall prepare and file a Notice of Exemption with the Clerk of San Benito County and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062, in substantially the form attached hereto as Exhibit B.
5. The Repayment Contract, in substantially the form presented to the Board and on file with the United States, is hereby approved.
6. The President of the District is hereby authorized to execute and deliver the Repayment 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.
7. 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.
8. 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 Hollister, California, this 28th day of October 2020.

AYES: Tobias, Bettencourt, Flores, Tonascia and Williams

NOES: None

ABSENT: None

ABSTAIN: None

/s/John Tobias
John Tobias
President

ATTEST: /s/Sara Singleton
Sara Singleton
Assistant Manager/Board Secretary