RESOLUTION NO. 11-2020-778

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT (1) AUTHORIZING A LEVEL OF PARTICIPATION IN THE DELTA CONVEYANCE PROJECT; (2) AUTHORIZING THE GENERAL MANAGER TO ENTER INTO A FUNDING AGREEMENT FOR ENVIRONMENTAL PLANNING COSTS FOR THE PROJECT; (3) AUTHORIZE ENTERING INTO THE DELTA CONVEYANCE DESIGN AND CONSTRUCTION AUTHORITY JOINT POWERS AGREEMENT; AND (4) DETERMINING THAT THE FOREGOING ACTIONS ARE EXEMPT FROM CEQA.

WHEREAS, San Gabriel Valley Municipal Water District (District) has a long-term water supply contract with the State of California Department of Water Resources (DWR) for the delivery of State Water Project (SWP) water; and

WHEREAS, on July 21, 2017, DWR approved the project known as the California WaterFix, which was a dual conveyance project that involved two new diversion points and two tunnels moving water from the Sacramento River north of the Delta under the Delta to State Water Project and Central Project water pumping facilities in the South Delta; and

WHEREAS, the purpose of the WaterFix project was to improve the reliability of SWP water for the District and other SWP contractors; and

WHEREAS, in 2019, Governor Newsom announced that he did not support the WaterFix project but he instead supported a one tunnel conveyance project. DWR subsequently rescinded its approvals of the WaterFix project and began planning for a single tunnel option; and

WHEREAS, DWR began public negotiations with the SWP contractors to agree upon a framework, referred to as an Agreement in Principle (AIP), for the amendment of the SWP water supply contracts to allocate costs and benefits in the event that a potential single tunnel facility is ultimately approved; and

WHEREAS, In January 2020, DWR released a Notice of Preparation of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) for a proposed single tunnel project with 6,000 cfs of capacity, referred to as the Delta Conveyance Project (DCP), and DWR is currently conducting environmental review of the DCP; and

WHEREAS, after fifteen public negotiation sessions, DWR and the SWP contractors have developed a draft AIP that contains provisions for the allocation of costs and benefits for a potential Delta Conveyance Project; and

WHEREAS, DWR has requested that the District identify the level of its desired participation in the DCP assuming a 6,000 cfs facility, which will be used to inform the percentage of planning funding allocated to the District; and

WHEREAS, DWR has also requested that the District enter into a new funding agreement with DWR for an amount equal to the District's participation percentage of the preliminary design, environmental planning, and other preconstruction activities for DCP, which is up to $2,678,173.00; and

WHEREAS, the Delta Conveyance Design and Construction Authority (DCA) was created by certain SWP contractors to actively participate with DWR in the design and construction of California WaterFix. The DCA subsequently entered into a Joint Powers Agreement with DWR; and

WHEREAS, given the shift from a two tunnel WaterFix project to the potential single-tunnel DCP and a significant change in the anticipated participation for DCP, the existing and prospective members of the DCA desire to amend the DCA Joint Powers Agreement to better align representation with Public Water Agency (PWA) participation; and

WHEREAS, the recommended actions do not qualify as a "project" subject to CEQA because the actions constitute (1) continuing administrative or maintenance activities, such as general policy and procedure making; (2) government fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment; and (3) organizational or administrative activities of a public agency that will not result in direct or indirect physical changes in the environment (State CEQA Guidelines, § 15060(c)(3)). The recommended actions do not constitute an approval by the District of the DCP nor do the actions authorize or approve construction of the DCP. The recommended actions do not authorize any amendment to the long-term water supply contract with DWR. Further, the recommended actions do not authorize or approve any actions by the DCA that may cause direct or reasonably foreseeable indirect environmental impacts. As such, the actions recommended herein are not a "project" requiring environmental review under CEQA pursuant to State CEQA Guideline § 15378, subdivisions (a) and (b)(2), (b)(4) and (b)(5); and

WHEREAS, even if the actions were considered a CEQA "project," these actions would be statutorily exempt from environmental review pursuant to CEQA Guideline § 15262 because the actions merely call for the funding and completion of feasibility and planning studies, including the completion of CEQA review itself. In addition, the actions are exempt under the "common sense" exemption in CEQA Guidelines § 15061, subdivision (b)(3) because it can be seen with certainty that there is no possibility that the actions may have a significant effect on the environment. Finally, none of the exceptions to the use of the "common sense" exemption as identified in CEQA Guidelines § 15300.2 exist here.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT:

1. The above recitals are true and correct and are incorporated herein by reference as an operative portion of this Resolution.

2. The District's General Manager is authorized to inform DWR that the District desires to participate in the Delta Conveyance Project at a .79% participation level of the State Water Project Table A amount.

3. The District's General Manager is authorized to execute a funding agreement with DWR for environmental planning costs associated with the Delta Conveyance Project in the amount of up to $2,678,173.00. The funding agreement is attached as Exhibit A.

4. The District's General Manager is authorized to execute a Joint Powers Agreement for the District to become a member of the Delta Conveyance Design and Construction Authority. The joint powers agreement is attached as Exhibit B.

5. For the reasons set forth above, the District's actions do not constitute a "project" requiring environmental review pursuant to State CEQA Guidelines § 15060, subdivision (c)(3) and §15378, subdivisions (a), (b)(2), (b)(4) and (b)(5). Alternatively, the actions are statutorily exempt from CEQA review pursuant to State CEQA Guidelines § 15262 and exempt under the "common sense" exemption identified in State CEQA Guidelines § 15061, subdivision (b)(3). None of the exceptions to the use of the "common sense" exemption as identified in Government Code § 15300.2 exist.

6. District staff is directed to prepare and file a Notice of Exemption within five working days of the approval of this Resolution.

7. The custodian of the records upon which this Resolution is based is the District's General Manager, Darin Kasamoto, who may be contacted at the District's office, located at 1402 East Vosburg Drive, Azusa, California 91702, by telephone at (626) 969-7911, or by e-mail at dkasamoto@sgvmwd.com.

PASSED, APPROVED AND ADOPTED on November 16, 2020.

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President

ATTEST:

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Secretary