MERCY SPRINGS WATER DISTRICT

52027 WEST ALTHEA AVE, FIREBAUGH, CA 93622 • TELEPHONE (209) 364-6136 • FAX (209) 364-6122

2020100415

NOTICE OF EXEMPTION

To: Office of Planning and Research
Post Office Box 3044, Room 212
Sacramento, CA 95812-3044

Fresno County Clerk
2221 Kern Street
Fresno, CA 93721

From: Mercy Springs Water District
52027 West Althea Avenue
Firebaugh, CA 93632

Project Title: WIIN Act Conversion Contract

Project Location – Specific: Mercy Springs Water District

Project Location – City: Firebaugh **Project Location – County:** Fresno

Description of Nature, Purpose and Beneficiaries of Project:

This project is for the execution of a contract to amend and convert the Mercy Springs Water District's ("District") existing contract with the United States, by and through the United States Bureau of Reclamation, for the delivery of Central Valley Project ("CVP") water ("Conversion Contract"). Authorized by the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (the "WIIN Act"), the Conversion Contract continues water service to the District in the same amounts as the District's CVP contract dating back to 1967, less the amount partially assigned to other water contractors, and is in the same scope and nature as ongoing District and CVP operations. The Conversion Contract allows the District to repay in one lump sum the capital construction costs incurred by the United States Bureau of Reclamation ("Reclamation") for the existing CVP facilities. The purpose of this Conversion Contract is to continue long-term availability of CVP water to the District.

The direct beneficiaries of this project are the District's landowners and water users, whose activities help support the economies of neighboring communities, most of which are disadvantaged. By converting its existing contract, the District will ensure continued water availability of CVP water to the District. The District owns, operates, and maintains facilities that supply CVP water from and deliver it to the District's landowners and water users. Without the District, the landowners and water users now receiving CVP water would have a difficult time diverting and receiving this important supply.

Name of Public Agency Approving Project: Mercy Springs Water District

Name of Person or Agency Carrying Out Project: Mercy Springs Water District

Board of Directors: Michael Linneman, *President* Brad Gleason, *Vice-President* Juan Cadena, *Director*
Richard Wathen, *Director* Vacant, *Director* Ara Azhderian, *General Manager*

Exempt Status: (check one)

- ☐ **Ministerial (Sec. 21080(b)(1); 15268);**
- ☐ **Declared Emergency (Sec. 21080(b)(3); 15269(a));**
- ☐ **Emergency Project (Sec. 21080(b)(4); 15269(b)(c));**
- ■ **Categorical Exemption. State type and section number:** Existing Facilities – Cal. Code Regs., tit. 14, § 15301; and Common Sense Exemption – Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)
- ■ **Statutory Exemption. State code number:** Ongoing Project – Cal. Code Regs., tit. 14, § 15261; Rates, Tolls, Fares, and Charges – Cal. Code Regs., tit. 14, § 15273, subd. (a)(4)

Reasons why project is exempt:

CEQA Guidelines, § 15261 – Executing the Conversion Contract is statutorily exempt from CEQA because the water deliveries currently under contract were approved prior to November 23, 1970. The District entered into Contract No. 14-06-200-3365A ("Original Contract") with the United States on July 21, 1967 for the delivery of 13,300 AF of CVP water ("Contract Supply").

The Original Contract for Contract Supply was extended pursuant to Subsection 3404(c)(1) of the Central Valley Project Improvement Act, whereby the United States and the District entered into interim renewal contracts identified as Contract Nos. 14-06-200-3365A-IR1 through 14-06-200-3365A-IR8 (collectively, "Interim Contracts"), which provided for the delivery of Contract Supply to the District from March 1, 1995, through February 28, 2006.

The United States and the District then entered into a long-term water contract identified as Contract No. 14-06-200-3365A-LTR1 ("Existing Contract"), which provided for continued water service to the District following expiration of the Interim Contracts.

The District has partially assigned, with Reclamation's approval, a total of 10,458 AF of the Contract Supply to other federal water contractors, leaving 2,842 AF ("Project Water") currently addressed by the Existing Contract, and therefore the Conversion Contract. The Existing Contract was still in place as the Conversion Contract was being negotiated.

As in the Original, Interim, and Existing Contracts, the quantity and timing of Project Water delivered to the District in any given year depends on a number of conditions. The Conversion Contract would not change those terms and thus would not result in any increase or decrease in the amount of Project Water the District receives. The District will continue to receive Project Water through the same CVP – Delta Division facilities it currently uses, and no new construction, expansion, or modification is contemplated as part of the project. The District would continue to use the amount of up-to 2,842 AF of Project Water received annually for irrigation and transfer consistent with California law. Therefore, because the Conversion Contract represents the ongoing availability of Project Water to the District in the same nature and scope as the Original 1967 Contract, this statutory exemption applies.

CEQA Guidelines, § 15301 – A Class 1 exemption "consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alternation of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination . . . . The key consideration is whether the project involves negligible or no expansion of existing use." (CEQA Guidelines, § 15301.) This categorical

exemption applies because the Project Water the District receives pursuant to the Conversion Contract will be through existing facilities and involves no expansion of use beyond that already existing.

Moreover, this is a single contract conversion which will not result in successive similar projects. Entering into the Conversion Contract will merely ensure continued availability of Project Water to the District, in the same amounts and through the same facilities as the Original, Interim, and Existing Contracts.

Common Sense Exemption – The "Common Sense Exemption" applies to this project. As described above, the Conversion Contract contemplates delivery in the same nature and scope as prior contracts which have been in place for over fifty years. The District's landowners and water users have relied on this water for the same amount of time and in similar amounts. While the Project Water actually delivered will, as always, depend on seasonal and annual availability, the Conversion Contract does not change the contracted quantity, purpose of use, timing, or facilities used. Therefore, there is no possibility the Conversion Contract may have a significant effect on the environment within the District's service area or in neighboring areas.

CEQA Guidelines § 15273 – This statutory exemption applies because part of the purpose of the Conversion Contract is to provide for the lump sum repayment of construction costs for the development of existing CVP facilities that provide water to the District. Since the passage of the Reclamation Act of 1902, federal water contractors have been required to repay an allocated portion of the construction costs for those water projects. Converting the Existing Contract to a repayment contract allows the District to repay the capital construction costs allocated to the District in one lump sum, which would normally be repaid annually. Thus, the District is "modifying" or "restructuring" the payment of the capital construction charges it would annually be charging to its irrigation customers. This restructuring is necessary to maintain water services throughout the District. However, the District will not be charging its landowners and water rights holders any more for the payout costs, as those funds are already held within the District's prudent reserves. Therefore, to the extent that this project may involve a change in rates, tolls, fares, or other charges necessary to repay the capital costs for the CVP facilities, this statutory exemption applies.

Lead Agency
Contact Person: Ara Azhderian **Area Code/Telephone/Ext:** (209) 364-6136

If filed by applicant:

1. **Attach certified document of exemption finding.**
2. **Has a Notice of Exemption been filed by the public agency approving the project?** ■ **Yes** ☐ **No**

Signature: _____ **Date: October 16, 2020** **Title: General Manager**

■ **Signed by Lead Agency**
☐ **Signed by Applicant**

Governor's Office of Planning & Research
OCT 22 2020
STATE CLEARINGHOUSE