



**Coachella Valley Water District
Board of Directors**

Resolution No: 2024-38

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE COACHELLA VALLEY WATER DISTRICT (CVWD) (1) CONSIDERING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT (STATE CLEARINGHOUSE NO. 2020010227); (2) MAKING RESPONSIBLE AGENCY FINDINGS FOR THE DELTA CONVEYANCE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") AND STATE CEQA GUIDELINES SECTION 15096; (3) ADOPTING CEQA FINDINGS OF FACT FOR THE DELTA CONVEYANCE PROJECT UNDER STATE CEQA GUIDELINES SECTION 15091; (4) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS UNDER STATE CEQA GUIDELINES SECTION 15093 FOR PRE-CONSTRUCTION WORK RELATED TO THE DELTA CONVEYANCE PROJECT; AND (5) AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN AMENDMENT TO CVWD'S AGREEMENT FOR THE ADVANCE OR CONTRIBUTION OF MONEY TO THE DEPARTMENT OF WATER RESOURCES TO COMMIT FUNDS FOR CVWD'S SHARE OF THE DELTA CONVEYANCE PROJECT PLANNING AND PRE-CONSTRUCTION COSTS FOR CALENDAR YEARS 2026-2027 IN AN AMOUNT NOT TO EXCEED \$11,340,000.

WHEREAS, on April 29, 2019, Governor Gavin Newsom signed Executive Order N-10-19, directing the California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture to develop a comprehensive strategy to build a climate-resilient water system and ensure healthy waterways through the twenty-first century; and

WHEREAS, after a public input period, on July 28, 2020, Governor Newsom released the California Water Resilience Portfolio, which identified a suite of complementary actions to ensure safe and resilient water supplies, flood protection, and healthy waterways for the state's communities, economy, and environment; among these actions was a project (the "**Delta Conveyance Project**") entailing new diversion and conveyance facilities in the Sacramento-San Joaquin Delta ("**Delta**") to safeguard the State Water Project ("**SWP**"); and

WHEREAS, the primary purpose of the SWP is to convey water to local and regional water suppliers across California that, in turn, supply end users engaged in the beneficial uses of that water; to this end, SWP has long-term contracts to supply water to 29 public water agencies, known as State Water Contractors, that distribute that water to farms, homes, and industry; and

WHEREAS, CVWD is one of the State Water Contractors, and it possesses a long-term water supply contract with the Department of Water Resources ("**DWR**"), which is the owner and operator of the SWP, which allows for the annual importation of water via the SWP; and

WHEREAS, CVWD's allocation of imported SWP water fluctuates annually based on a variety of factors, including Delta conditions, reservoir levels, rainfall, snow pack, and pumping

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

capacity in the Delta, as well as operational limits for fish and wildlife protection, water quality, and environmental and legal restrictions; and

WHEREAS, the infrastructure that enables the conveyance, or movement, of water supply from the Delta to CVWD is great consequence to CVWD; and

WHEREAS, factors such as the continuing subsidence of lands, risk of seismic activity and levees within the Delta, sea level rise, precipitation change, warmer temperatures, and wider variations in the hydrological conditions associated with climate change threaten the reliability of the current SWP water conveyance system; and

WHEREAS, the Delta Conveyance Project involves the construction and future operation of new water intake facilities on the Sacramento River in the north Delta and a single main tunnel to divert and move water entering the north Delta from the Sacramento Valley watershed to existing SWP facilities in the south Delta, which would result in a dual conveyance system in the Delta; and

WHEREAS, DWR's fundamental purpose in proposing to develop the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries to the State Water Contractors, including CVWD; and

WHEREAS, in January 2020, DWR, as lead agency for the Delta Conveyance Project under the California Environmental Quality Act ("**CEQA**"), filed and circulated a Notice of Preparation of an Environmental Impact Report ("**EIR**") for the Delta Conveyance Project;

WHEREAS, in July 2022, DWR circulated a Draft EIR (State Clearinghouse No. 2020010227) for the Delta Conveyance Project for a 92-day review period, beginning on July 27, 2022 and closing on October 27, 2022; and

WHEREAS, the EIR analyzed the potential environmental impacts of data collection and field work investigations, including ground-disturbing geotechnical work, water quality and hydrogeologic investigations, agronomic testing, the installation of monitoring equipment, construction test projects, pre-construction design work, and engineering work (collectively, "**Pre-Construction Work**") that would occur after certification of the EIR and that would guide the ultimate design, appropriate construction methods, and monitoring programs for the Delta Conveyance Project; and

WHEREAS, the EIR concluded that the Delta Conveyance Project, including the Pre-Construction Work, would have less than significant impacts without the implementation of mitigation as to some resources; less than significant impacts with the implementation of mitigation measures identified in a Mitigation Monitoring and Reporting Program ("**MMRP**") as to other resources; and significant and unavoidable impacts as to Agricultural Resources,

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

Aesthetics, Cultural Resources, Transportation, Air Quality, Noise, Paleontological Resources, and Tribal Cultural Resources; and

WHEREAS, on December 21, 2023, DWR certified the Final EIR for the Delta Conveyance Project, adopted the MMRP to require DWR's implementation of the mitigation measures identified therein, adopted CEQA Findings of Fact pursuant to State CEQA Guidelines section 15091, adopted a Statement of Overriding Considerations relating to the Delta Conveyance Project's significant and unavoidable environmental impacts pursuant to State CEQA Guidelines section 15093, and approved the Delta Conveyance Project; and

WHEREAS, the Final EIR certified by DWR and related CEQA documents can be found at DWR's website, located at <https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act/final-eir/final-eir-document>. A copy of these documents has also been retained in CVWD's files and has made available to, and has been reviewed by, the General Manager; and

WHEREAS, on October 8, 2024, CVWD previously entered an Agreement for the Advance or Contribution of Money to DWR for preliminary planning and design costs related to a potential Delta Conveyance Project (the "**Agreement**"); and

WHEREAS, CVWD seeks to execute an amendment ("**Amendment**") to the Agreement to provide funding for Pre-Construction Work for the Calendar Years 2026-2027 in an amount not to exceed \$11,340,000; and

WHEREAS, CVWD only seeks to provide funding for Pre-Construction Work (as defined above), and CVWD is not approving or committing to the broader Delta Conveyance Project at this time; and

WHEREAS, CVWD is a responsible agency for the Delta Conveyance Project under CEQA, and pursuant to State CEQA Guidelines section 15096, CVWD hereby intends to adopt CEQA Findings of Fact under State CEQA Guidelines section 15091 and a Statement of Overriding Considerations under State CEQA Guidelines section 15093; and

WHEREAS, CVWD has heard, been presented with, reviewed, and considered all of the information and data presented to it, including the certified EIR for the Delta Conveyance Project; DWR's findings relating to the Delta Conveyance Project under State CEQA Guidelines section 15091 and 15093; and all public comments; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred;

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE COACHELLA VALLEY WATER DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Adequacy of the EIR under CEQA. CVWD has independently reviewed and considered the certified EIR for the Delta Conveyance Project, DWR's record of proceedings, and CVWD'S record of proceedings, and CVWD finds that the EIR adequately and properly analyzes the potential environmental impacts of the Delta Conveyance Project, including Pre-Construction Work that CVWD seeks to fund.

CVWD further hereby finds that none of the conditions set forth in State CEQA Guidelines section 15162 that could potentially trigger the need for a Subsequent EIR or Subsequent Negative Declaration apply to the Pre-Construction Work. The Pre-Construction Work does not entail or propose any substantial changes to the Delta Conveyance Project that will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There have been no substantial changes that have occurred with respect to the circumstances under which the Pre-Construction Work, which was analyzed in the EIR, will be undertaken that will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, which shows that (1) the Pre-Construction Work will have one or more significant effects not discussed in the EIR; (2) significant effects previously examined will be substantially more severe than shown in the EIR; (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the Delta Conveyance Project or Pre-Construction Work; or (4) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment. None of these conditions, as set forth in State CEQA Guidelines section 15162, apply here.

SECTION 3. Finding concerning Alternatives and Mitigation Measures. CVWD, as a responsible agency under CEQA, is more limited than the lead agency (i.e., DWR) when considering alternatives and mitigation measures for the Delta Conveyance Project. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of a project that the responsible agency decides to carry out, finance, or approve; moreover, a responsible agency is required to adopt a feasible alternative or feasible mitigation measures for a project only if (1) such alternative or mitigation measures are within the responsible agency's powers, and (2) the alternative or mitigation measures would substantially lessen or avoid any significant effect the project would have on the environment.

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

Here, CVWD is not approving or committing to carrying out, financing, or approving the broader Delta Conveyance Project, nor does CVWD have legal authority or powers to approve or carry out modifications or operations to the State Water Project or the Delta Conveyance Project. Instead, CVWD seeks only to assist in the funding of the Pre-Construction Work, which entails data collection, research, and resource evaluation activities that precede any physical construction of the Delta Conveyance Project. CVWD finds that the mitigation measures to be implemented by DWR, as set forth in the EIR and the MMRP adopted by DWR, mitigate and avoid the Pre-Construction Work's potential environmental impacts to the extent feasible. CVWD finds there are no feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the Pre-Construction Work would have on the environment beyond what was identified in the EIR and the MMRP.

SECTION 4. CEQA Findings of Fact under State CEQA Guidelines section 15091. CVWD adopts DWR's CEQA Findings of Fact, a true and correct copy of which is attached hereto as **Attachment "A"** and incorporated herein by reference, as to the Pre-Construction Work.

SECTION 5. Statement of Overriding Considerations. CVWD finds that the Pre-Construction Work's economic, legal, social, technological, and other benefits outweigh, both individually and collectively, the Pre-Construction Work's potentially significant and unavoidable environmental effects. Pursuant to State CEQA Guidelines section 15093, CVWD hereby adopts the Statement of Overriding Considerations attached hereto and incorporated by reference as **Attachment "B."**

SECTION 6. Approval of Funding for Pre-Construction Work. The Board of Directors of Coachella Valley Water District hereby authorizes the General Manager to execute an Amendment to the Agreement to provide funding for Pre-Construction Work for the Calendar Years 2026-2027 in an amount not to exceed \$11,340,000

SECTION 7. Notice of Determination. The Board of Directors hereby directs staff to prepare, file, and cause to be posted a Notice of Determination with the County Clerk or Clerk to the Board of Supervisors in the Counties of Alameda, Contra Costa, Sacramento, San Joaquin, Solano, and Yolo within five (5) working days of the approval of the Resolution.

SECTION 8. Custodian of Documents. The custodian of documents constituting the record of proceedings for this matter is the Clerk of the Board. The documents constituting the record of proceedings for this matter are located at 75515 Hovley Lane East, Palm Desert, CA 92211.

SECTION 9. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 10. Effective Date. This Resolution shall become effective immediately upon its adoption.

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

PASSED AND ADOPTED by the Board of Directors of Coachella Valley Water District during on this 8th day of October 2024, by the following vote:

AYES:

NOES:

ABSENT:

**Coachella Valley Water District
Board of Directors
Resolution No: 2024-38**

Attachment “A”

Department of Water Resources’

CEQA Findings of Fact

Please see separate pdf attachment



Department of
Water Resources’ CE

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

Attachment “B”

Statement of Overriding Considerations

California Public Resources Code section 21081, subdivision (b), and State CEQA Guidelines section 15093 provide that, when a public agency decision-maker approves a project that may have potentially significant, unavoidable environmental impacts identified in an environmental impact report, the decision-making body must state in writing the reasons to support its action based on the completed EIR and/or other information in the administrative record.

Here, the Coachella Valley Water District (CVWD) is considering approval of Amendment to Funding Agreement to fund data collection and field work investigations, including ground-disturbing geotechnical work, water quality and hydrogeologic investigations, agronomic testing, the installation of monitoring equipment, construction test projects, pre-construction design work, and engineering work (collectively, “**Pre-Construction Work**”) that will guide the ultimate design, appropriate construction methods, and monitoring programs for the Department of Water Resources’ (“**DWR**”) Delta Conveyance Project (“**DCP**”). The DCP entails the development of new diversion and conveyance facilities in the Sacramento-San Joaquin Delta (“**Delta**”) to safeguard the State Water Project (“**SWP**”), which provides water supplies to CVWD. CVWD is not considering approval of the DCP at this time, nor is CVWD committing to a future approval of the DCP by approving the Pre-Construction Work.

DWR prepared and certified an Environmental Impact Report (“**EIR**”) (State Clearinghouse Number 2020010227) that analyzed the potential environmental impacts of the DCP, inclusive of potential impacts associated with the Pre-Construction Work. The EIR concluded that the DCP, inclusive of the Pre-Construction Work, may have significant and unavoidable impacts on the environment, and these impacts are listed below and prefaced by their identification number from the EIR:

- Impact AG-1: Convert a Substantial Amount of Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance as a Result of Construction of Water Conveyance Facilities
- Impact AG-2: Convert a Substantial Amount of Land Subject to Williamson Act Contract or under Contract in Farmland Security Zones to a Nonagricultural Use as a Result of Construction of Water Conveyance Facilities
- Impact AES-1: Substantially Degrade the Existing Visual Character or Quality of Public Views (from Publicly Accessible Vantage Points) of the Construction Sites and Visible Permanent Facilities and Their Surroundings in Nonurbanized Areas
- Impact AES-2: Substantially Damage Scenic Resources including, but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings Visible from a State Scenic Highway
- Impact AES-3: Have Substantial Significant Impacts on Scenic Vistas
- Impact CUL-1: Impacts on Built-Environment Historical Resources Resulting from Construction and Operation of the Project

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

- Impact CUL-2: Impacts on Unidentified and Unevaluated Built-Environment Historical Resources Resulting from Construction and Operation of the Project
- Impact CUL-3: Impacts on Identified Archaeological Resources Resulting from the Project
- Impact CUL-4: Impacts on Unidentified Archaeological Resources That May Be Encountered in the Course of the Project
- Impact CUL-5: Impacts on Buried Human Remains
- Impact TRANS-1: Increased Average VMT Per Construction Employee versus Regional Average
- Impact AQ-5: Result in Exposure of Sensitive Receptors to Substantial Localized Criteria Pollutant Emissions
- Impact NOI-1: Generate a Substantial Temporary or Permanent Increase in Ambient Noise Levels in the Vicinity of the Project in Excess of Standards Established in the Local General Plan or Noise Ordinance, or Applicable Standards of Other Agencies
- Impact PALEO-2: Cause Destruction of a Unique Paleontological Resource as a Result of Tunnel Construction and Ground Improvement
- Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives
- Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives

In the judgment of the Board of Directors, each benefit of the Pre-Construction Work, as set forth below, outweighs – both individually and collectively – each of these potentially significant and unavoidable impacts for the reasons set forth below.

1. **The Pre-Construction Work is necessary for the safe and efficient design of the DCP.** The information collected from and generated by the Pre-Construction Work would be used to develop the DCP safely, efficiently, and in manner that minimizes impacts to the environment. For example, the information collected would be used to develop, among other things, detailed design of the DCP's structure and bridge foundations, new or modified levee cross sections, and ground improvement methodology. Moreover, information from the Pre-Construction Work would determine selection of tunnel boring machine methods, dewatering methods and quantities, below-grade construction methods (such as at the shafts and the pumping plant), need for impact pile driving, and methods to reduce ground settlement risk at all construction sites and along the tunnel alignment. The information would also be used to determine the specific depths and widths of groundwater cutoff walls to be installed at select construction sites. Additionally, soil samples obtained during soil borings would be analyzed to determine the structural capabilities of the soil to construct tunnel shaft pads and levee improvements, among other things. Soil and water quality tests would also be conducted to determine the potential for the presence of high concentrations of metals, organic materials, or hazardous materials that would require specific treatment

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

and/or disposal methods. Thus, the Pre-Construction Work would generate information necessary to guide any construction of the DCP in a manner that would minimize its potential environmental impacts and most efficiently achieve the DCP's objectives.

2. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of SWP Water Deliveries South of the Delta.** The primary purpose of the SWP is to convey water to local and regional water suppliers, including CVWD, across California that, in turn, supply end users engaged in the beneficial uses of that water. Protection of the SWP is thus important to CVWD. The Pre-Construction Work will help ensure that the DCP, if constructed, will help protect SWP water deliveries to CVWD by addressing seismic risks. Notably, the current SWP system relies heavily on natural channels within the Delta to convey water and is extremely vulnerable to seismic events because most land in the central Delta has subsided well below sea level. If levees fail because of a seismic event, seawater intrusion from the western Delta could create salinity conditions that could require ceasing diversions from the SWP's current point of diversion in the south Delta. The capability of the DCP to continue operations would improve the ability of SWP Delta facilities to function after a seismic event by operating diversion facilities north of existing SWP facilities. The operations of the DCP would allow continued water supply diversions should south Delta export facilities become inoperable.

The DCP cannot proceed without the Pre-Construction Work, and the DCP would allow continued water deliveries to CVWD and operational flexibility in the event of a catastrophic levee failure from seismic activity that could temporarily disrupt water supply or affect water quality.

3. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of SWP Water Deliveries South of the Delta by addressing reasonably foreseeable consequences of climate change and extreme weather events.** The DCP is part of the State of California's strategy to adapt the SWP water supply to climate change. As described in the Final EIR certified for the DCP, Volume 1, Chapter 30, *Climate Change*, projected future conditions under climate change, such as higher average temperature and more extreme variability in annual precipitation patterns, is anticipated to further diminish overall water supply and reliability of water delivery to CVWD. Climate change is already taking a toll on California's water supplies in the form of more frequent and more severe droughts. A warmer atmosphere would modify precipitation and runoff patterns and affect extreme hydrologic events like floods and droughts. It is anticipated that droughts would increase in severity and duration, resulting in periods of critical dryness, further reducing Delta inflows during these dry periods. At the same time, associated increases in the frequency and severity of flashy storms in the cool season could increase high-flow events and flood risk in the Delta. These trends point to the need for alternate methods of water diversion and conveyance to effectively respond to changing water flow regimes under future climate change. In this context, CVWD considers capture and conveyance in the Delta as important potential adaptations in protecting the SWP from future climatic change and mitigating system losses due to changing precipitation patterns and seasonal runoff. Having alternative points of diversion in the north Delta would increase resiliency in managing combined effects of sea level rise, including potential impacts on Delta morphology, and changes to timing and quantity of seasonal runoff. As water demand and supply challenges continue to increase, the DCP is designed to enhance resilience to climate change impacts and ensure that safe and

Coachella Valley Water District
Board of Directors
Resolution No: 2024-38

reliable water deliveries to CVWD continue far into the future (California Department of Water Resources 2023b).

4. **The DCP, which cannot be developed without the Pre-Construction Work, would restore and protect the reliability of State Water Project Water Deliveries South of the Delta by addressing sea level rise.** The DCP would protect CVWD's SWP water supplies by facilitating adaption to sea level rise and potential changes in hydrologic conditions associated with climate change. As described in Final EIR, Volume 1, Appendix 6A, *Water Supply 2040 Analysis*, the DCP would improve SWP water supply reliability under current and future conditions, including extreme high sea level rise. As CVWD relies on SWP water supply, the Pre-Construction Work, and the DCP that it would enable, would provide significant benefits to CVWD.
5. **The Pre-Construction Work is necessary to obtain a more accurate cost estimate in relation to prudent financial planning and decision making of CVWD.** The ultimate financial costs of the DCP continue to be refined as further feasibility, planning, and design information is obtained. Until more information is known regarding the precise construction techniques, unique localized conditions that may increase or decrease construction costs, and potential schedule for any future construction, the financial cost of the DCP will continue to evolve. CVWD wishes to further confirm the ultimate DCP costs, in order to allow for better disclosure to its rate-payers and in relation to prudent financial planning and decision making. The Pre-Construction Work is necessary to achieve those ends.

Through this Statement of Overriding Considerations, and based on the substantial evidence in the administrative record, CVWD's Board of Directors has weighed the Pre-Construction Work's benefits against its environmental impacts and finds that the Pre-Construction Work's potentially significant and unavoidable environmental impacts are "acceptable" in light of the environmental, economic, legal, social, technological, and/or other considerations set forth herein, and that each benefit of the Pre-Construction Work outweighs, both individually and collectively, the potentially significant and unavoidable environmental impacts.