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Imperial Irrigation District

Regulations for Equitable Distribution Plan

1.0 **Purpose.**

1.1 **Purpose.** The Imperial Irrigation District ("District") is authorized by State law to adopt rules and regulations for the equitable distribution of water within the District. The District Board has approved a plan for the equitable apportionment of water (the "Equitable Distribution Plan") in the event that in any water year, the expected demand for water is likely to exceed the supply expected to be available to the District (supply/demand imbalance or "SDI" condition). Pursuant to Resolution No. 22-2008, the Board of Directors has adopted the following Regulations establishing the rules and procedures for the Equitable Distribution Plan.

2.0 **Terms and Definitions.**

2.1 **Agricultural Water.** Water used for irrigation and related agricultural purposes, and algae farming.

2.2 **Agricultural Water User.** A District Water User that uses Agricultural Water.

2.3 **Available Water Supply.** Colorado River Water available to the District minus District system losses and efficiency conservation and minus 11,500 AF for miscellaneous Present Perfected Rights.

2.4 **Conserved Water Rate.** The rate specified in the District's Rate Schedule 13.

2.5 **Cropland.** Irrigable acreage within the District service area divided into fields based on the [proprietary] District Geospatial Data Base compiled from IID records, inspections and U.S. Consolidated Farm Service Agency (CFSA) Common Land Unit (CLU) standards.

2.6 **District.** The Imperial Irrigation District.

2.7 **District Fallowing Program.** A program administered by the District to create conserved water by entering into agreements with owners and lessees of agricultural property to fallow Cropland upon terms and conditions set forth in an Agreement for Fallowing Land in the District.

2.8 **District Water Exchange.** A program administered by the District to provide the means by which qualified Agricultural Water Users can offer to sell or buy water during an SDI Water Year pursuant to Section 4.0 herein.

2.9 **District Water User.** Any user of Agricultural or Non-Agricultural Water supplied by the District.

2.10 **Eligible Agricultural Acres.** Acreage that meets all the following tests:

- a. Farmable cropland, defined as fields, based on the [proprietary] IID Geospatial Data Base compiled from District records, inspections and CFSA Common Land Units, greater than 5 acres, used for crop production or algae farming.
- b. Current with water availability charges and water bills
- c. Connected to District water distribution system
- d. Each field must (1) have been irrigated for crop production, algae farming, leaching, or duck ponds, or under contract to the District Following Program during each of the prior three years; or (2) be the subject of a notice of intent to farm accompanied by a crop plan; or (3) be the subject of other reasonably equivalent evidence of intent to farm during the SDI Water Year.

2.11 Farm Unit. Under the Water Card process, an Agricultural Water User can aggregate some or all of the fields (leased or owned) by the water user, and for paying for water under the master water account (Farm Unit). The Farm Unit can be divided into subaccounts for billing to various entities. Fields can be added to or removed from a Farm Unit at any time but a field can only be in one Farm Unit at a time. The primary purpose of a Farm Unit is to allow an Agriculture Water User to order water on any field within the Farm Unit as long as there is a remaining water balance for the Farm Unit greater than the water order. Since fields can be added to or removed from a Farm Unit at any time, the IID must maintain a water balance by field. If a field balance is less than the order for that field, the IID must be notified concerning which field(s) within the Farm Unit the water is being transferred from within 7 days of the water order or a prorated share from all fields with a remaining balance within the Farm Unit will be transferred to cover the shortfall. The amount of apportioned water available to the Agricultural Water User on the leased fields included in the Farm Unit must be approved by the land owner of those fields through the Water Card process. Water can be added to a Farm Unit by purchasing water from the District Water Exchange but the purchase must be designated by field within the Farm Unit. An Agricultural Water User can have multiple Farm Units but cannot exchange water between Farm Units. The priority of water use within a Farm Unit is 1) Accepted apportioned water authorized for use on the field, 2) Water from other fields authorized for transfer within the Farm Unit, and 3) Water from the District Water Exchange.

2.12 Environmental Resources Water. Water that the District agrees to provide to habitat or other resource areas pursuant to regulatory permits (excluding water to the Salton Sea for the IID Transfer Project) and water that the District provides pursuant to contract or voluntarily to habitat or other resource areas.

2.13 Non-Agricultural Water. Water used for municipal needs, industrial needs, feed lots, fish farms, dairies, or Environmental Resources Water.

2.14 Non-Agricultural Water User. A District Water User that uses Non-Agricultural Water within the District.

2.15 Straight Line Apportionment. The method used to determine the amount of water available for Agricultural Water Users during an SDI Water Year based on a proration by Eligible Agricultural Acres pursuant to Subsection 3.2 e herein.

2.16 SDI Apportionment. The equitable apportionment of water among District Water Users pursuant to Section 3.2 herein.

2.17 SDI Declaration. A declaration by the District Board that the expected demand for District water for a future Water Year exceeds the expected District supply for the same future Water Year.

2.18 SDI Water Year. A Water Year for which the District Board has made an SDI Declaration.

2.19 Supply/Demand Imbalance (SDI). The imbalance created when expected demand for District water exceeds the expected supply.

2.20 System Loss. Either a direct loss or a reduction in water available for apportionment because of seepage, evaporation or other losses in the District distribution system.

2.21 Water Card. The common term for the "Certificate of Ownership and Authorization of Agent or Tenant" described in Regulation No. 3 of the District's Rules and Regulations Governing the Distribution and Use of Water. The Water Card provides information i.e., cropland, name and address of owner and any lessees, APN, gate and canal providing water service, identity of person authorized to order water/receive notices from District, who is obligated to pay, and similar information.

2.22 Water Year. Each 12-month period that begins on January 1 and ends on December 31.

3.0 **Equitable Distribution.**

3.1 **Declaration/Termination of Supply/Demand Imbalance.**

a. District shall track actual supply and demand during each Water Year and, based upon District staff's estimates of water supply and demand for the coming Water Year, determine whether the probability of total demand exceeding District's Colorado water supply is greater than fifty percent (50%). If the probability is greater than fifty percent (50%), then District may declare an SDI for the coming Water Year. Such SDI Declaration must be made on or before October 1 and can be withdrawn on or before December 31.

b. District shall track actual supply and demand during the SDI Water Year. If cumulative consumptive use through June of the SDI Water Year is less than 1.575 MAF, District may terminate the SDI Declaration for that year.

3.2 Apportionment of Supply. Upon SDI Declaration, District shall apportion the Available Water Supply among the types of water users in the District using the following criteria:

a. Municipal Users – Base amount of 2006 usage plus current District-wide average use per capita multiplied by the increase in population since 2006;

b. Industrial Users – For existing contracts, estimated based on past use, not to exceed contracted amount and contract terms. For new contracts, estimated based on anticipated use, not to exceed contract amount and contract terms, taking into consideration the Integrated Water Resources Management Plan.

c. Feed Lots, Dairies and Fish Farms – Estimated based upon past use and consideration of future changes;

d. Environmental Resources Water—Estimated based upon the amount reasonably necessary to achieve the purposes of the District's commitments, taking past use into account; and

e. Agricultural Lands – Straight Line Apportionment used. Subtract the estimated demand for categories a through d above from Available Water Supply, and then divide the remaining supply by the total number of Eligible Agricultural Acres pursuant to Subsections 2.10 a through c to determine the apportionment per Eligible Agricultural Acre. The amount apportioned to acreage that does not comply with Subsection 2.10 d will be placed in the District Water Exchange.

3.3 Non-Agricultural Water Users

a. District shall notify Non-Agricultural Users of their apportionment no later than December 1, prior to the beginning of the SDI Water Year.

b. Non-Agricultural Water Users shall be allowed to use that amount of water needed for reasonable and beneficial use. If a Non-Agricultural Water User exceeds the amount of apportionment quantified for its usage, the fee for the excess amount of water shall be the Water User's standard water rate plus the Conserved Water Rate.

3.4 Agricultural Water Users.

a. Agricultural Water Users must complete and keep current the Water Card to receive an apportionment and delivery of water. As part of this process, Farm Units must be identified and kept current.

b. A written notice of the apportionment per Eligible Agricultural Acre and the number of Eligible Agricultural Acres per owner shall be sent to the land owner and the authorized representative no later than December 1 prior to the beginning of the SDI Water Year.

c. The owner or authorized representative of Eligible Agricultural Acres must accept or reject in writing some or all of the SDI Apportionment on a take-or-pay basis within sixty (60) days of the notice of the SDI Apportionment. Payment for the accepted apportioned water shall be made monthly based on actual use. On December 31 of the SDI year, any remaining amount of the unused water part of the take-or-pay obligation will be included in the year end invoice.

4.0 **District Water Exchange.**

4.1 **Eligibility.** Any Agricultural Water User can be a Buyer. Any Agricultural Water User with an SDI Apportionment may be a Seller.

4.2 **Offers to Sell.**

a. An Agricultural Water User with acres eligible for SDI Apportionment pursuant to Section 4.1 may send a "Notice of Intention to Sell" to the District indicating the number of Acre Feet of water being offered to the District Water Exchange for immediate sale.

b. Potential Seller must be current on his take-or-pay obligation.

c. An Agricultural Water User that has sent a Notice of Intention to Sell to the District may subsequently send a "Notice of Withdrawal of Offer to Sell". The District will honor the Notice of Withdrawal only if the water that was the subject of the original Notice of Intention to Sell has not been sold prior to receipt of the Notice of Withdrawal of Offer to Sell.

4.3 **Offers to Buy.**

a. An Agricultural Water User may send a "Notice of Intention to Buy" to the District that states the number of acre/feet of water he wishes to acquire from the District Water Exchange.

b. An Agricultural Water User that has previously sent a Notice of Intention to Buy may subsequently send the District a "Notice of Withdrawal of Offer to Buy." The District will honor the Notice of Withdrawal of Offer to Buy if the District has not previously purchased water from sellers to satisfy the Notice of Intention to Buy.

4.4 **Priority of Execution of Sell/Buy Offers.** Priority of offers to Sell and/or Buy will be based upon the date of receipt of the Notice of Intention to Sell or Buy. The District will periodically publish on its website the aggregate volume of water from pending Notices of Intention to Sell and/or Buy.

4.5 **Payment for Water from the Water Exchange.** After the District sells the water that Seller has offered for sale through his Notice of Intention to Sell, the Seller shall have no further take-or-pay obligation for payment of that water. If Seller's water does not sell, he is responsible for his take-or-pay obligation. The buyer shall pay

the District the total purchase amount due before receiving the purchased water. The total amount due is based on the Acre Feet of water purchased (not to exceed buyer's Notice of Intention to Buy) multiplied by the purchase price defined as the current District agricultural water rate plus a transaction processing fee derived from the estimated cost of administration of the Water Exchange and to be determined by December 1 prior to the beginning of the SDI water year.

5.0 **Interface With District Agricultural Land Fallowing Program.**

5.1 An Agricultural Water User that participates in District's Fallowing Program must assign to the District an amount of the Agricultural Water User's accepted SDI Apportionment equal to the amount of water conserved by fallowing for which the Agricultural Water User is contracted.

a. If the Agricultural Water User's accepted apportionment is less than his Fallowing Program contracted amount, he may procure this difference from the following sources for which the Agricultural Water User qualifies pursuant to these regulations: the Agricultural Water User's accepted SDI Apportionment on other Eligible Agricultural Acres, or the District Water Exchange.

6.0 **Miscellaneous**

6.1 The General Manager is authorized and directed to do any and all things necessary to implement and effectuate these Regulations.

6.2 The General Manager shall provide notice of any changes or revisions to these Regulations to all District landowners and water users.