October 26, 2009

Dear Landowners and Tenants,

Imperial Irrigation District’s (IID) Board of Directors has directed staff to begin the solicitation process necessary to implement the 2010-2011 Fallowing Program (FP). This will be IID’s eighth fallowing program, with the conservation yield from participating fallowed fields used to meet both the water transfer and Salton Sea mitigation requirements described in the Quantification Settlement Agreement (QSA), payback any overruns associated with IID’s 3.1 million acre-feet cap, and create water for storage. Attached to this letter are the solicitation announcement and application forms outlining the general program concepts, participation guidelines, schedule, and contact information for the 2010-2011 Fallowing Program.

Fields selected to participate in the FP from this solicitation will be paid to lie fallow from July 1, 2010 through June 30, 2011. Payments will be set at a rate of $75 per acre-foot per acre of a field’s baseline water use history\(^1\). All proposals that meet the eligibility guidelines and certain selection criterion will be offered contracts to participate in this Fallowing Program unless there is an over-solicitation. In the event that more fields apply than are necessary to meet the IID’s current fallowed water requirements, a random selection process will be utilized to determine the participants in the 2010-2011 Fallowing Program. Fields that are not offered contracts based on the random selection process may be “rolled over” and given the first opportunity to participate in the next FP.

Language to address the overlap with any IID Equitable Distribution Plan or any agricultural apportionment that might occur during the FP term is included in the FP contract, even though a supply/demand imbalance has not been declared for 2010. In an effort to facilitate tenant/owner relationships, IID will provide a general notification to each field’s tenant of record upon receipt of a FP application, issue a limited number of FP contracts with two year terms, and allow for an up to two week delay in the FP start date (with an associated payment reduction based on actual water use during this period). This information, along with previous FP data and contract templates, can be accessed at [www.iid.com](http://www.iid.com) (please click on the appropriate “Fallowing” link or go directly to [http://www.iid.com/Water/FallowingPrograms](http://www.iid.com/Water/FallowingPrograms)). Additional questions regarding any IID Fallowing Program should be directed to the Fallowing Hotline at (760) 339-9898 or emailed to fallingprogram@iid.com. IID staff will respond to all inquiries in the order they are received as time allows.

All applications must be received in the IID Water Manager’s office no later than noon on Tuesday December 15, 2009 in order to be considered for participation.

Sincerely,

MICHAEL L. KING

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\(^1\) Baseline water use history will be calculated from a field’s 10-year running average (1999-2008 for the 2010-2011 Fallowing Program) less the high and low years from that period, as approved by the IID Board of Directors on April 4, 2006. Additionally, payments may be affected by an IID trending analysis and the IID Board of Directors 6 acre-feet per acre payment cap.
The 2010-2011 Fallowing Program (FP) consists of a voluntary proposal process designed to yield the annual fallowed water requirements outlined in the Quantification Settlement Agreement (QSA) water delivery schedule. This program will consist of a contract between the IID and participating landowners and/or tenants for a one-year fallowing period, during which time no water can be delivered to the contracted field.

For this solicitation, fallowing participants will be paid a set rate of $75 per acre-foot of a field’s Baseline water use history, although this payment may be affected by IID’s trending analysis and 6 af/ac payment cap. This outline is a general description of the Fallowing Program, application deadline, and contact information, for more details see http://www.iid.com/Water/FallowingPrograms.

Program Description

Purpose
- Fulfill the annual water transfer delivery schedule to the San Diego County Water Authority (SDCWA) and the Salton Sea mitigation delivery schedule associated with this transfer, manage IID’s annual 3.1 million acre-foot Colorado River consumptive use cap, payback previous year’s overuse or inadvertent overruns of Colorado River water, and create water for storage.

Eligibility Criteria
- Only whole fields with defined boundaries at least 10 acres in size.
- Each field proposed for fallowing must have been irrigated for crop production, leaching or duck ponds the previous 3 years, accounting for the years the field was contracted for an IID Fallowing Program.
- Each field proposed must have a water use history based on the Baseline adopted by the IID Board of Directors on April 4, 2006, with the addition of a 6 acre feet per acre cap imposed. This Baseline will be determined using the average water use for each field from a 10-year running average (1999-2008 for the 2010-2011 Fallowing Program) with the maximum and minimum years eliminated from the average.
- Ability to turn off water to fields with multiple tenants.
- Multiple fields and/or tenants sharing a single headgate must have verifiable water use records.
- Charges for delivered water and water availability subject to IID’s Regulation # 11 must not be delinquent.
- Field participation in IID Fallowing Programs is limited to two of every four years and if a field is in the program for two continuous years, it is not eligible for the subsequent two years.
- If a service pipe uses water from the headgate of a proposed field, the Fallowing Party must submit a written plan outlining how the service pipe needs will be accommodated and make arrangements to implement this accommodation prior to the Program start date.
- Each proposed field must remain zoned for agriculture during the contracted fallowing period.
- Any participant who has been involved in the breach of a previous Program may be deemed ineligible.

Selection and Payment Criteria
- Water yield per acre based on the water use history baseline with payment capped at 6 acre feet per acre
- Trend analysis, using more recent water history and cropping patterns, may affect payment
- Field location’s potential impact on Program’s environmental, operational, and maintenance costs
- Potential contract limitations and constraints due to previous water commitments
- Previous verification, mitigation, and contract compliance history with other programs
- Verification that all eligibility criteria has been met in the program and agreement
• If fewer proposals are received than necessary to yield the required amount of water, IID may choose to complete a second solicitation. **If the second solicitation requires a higher contract price, all 2010-2011 FP participants will receive the same payment rate.**
• If more proposals are received than necessary to yield the required water, a random selection process will be utilized to determine the 2010-2011 Fallowing Program participants. Those fields that are not offered contracts based on the random selection process may be rolled over into the next Fallowing Program.

**Contract Provisions**
- Tenants are responsible for obtaining all landowner approvals for program participation.
- Fallowing Party will consider the impact of fallowing lands subject to a Williamson Act Contract.
- Fallowing Party shall be responsible for weed control and expense as required by Imperial County’s Weed Abatement Ordinance.
- Fallowing Party shall be responsible for dust control as described in the Agreement. After proof of performance, participant will be reimbursed for pre-approved dust mitigation Best Management Practices.
- Should IID implement an Equitable Distribution Plan during any portion of the Fallowing Program term, the Fallowing Party shall be responsible for conveying to IID the contracted fallowed water volume prior to receiving any payment.
- Requisite water card required for each participating field.

**Schedule**
- **October 26, 2009** (Monday) Application solicitation period begins. Upon request, annual water history data will be sent to applicants for each field proposal submitted. (Landowner signature is required by fax or mail to release data for water history requests.)
- **December 15, 2009** (Tuesday) All proposals must be received by the IID Water Manager’s office no later than noon (12:00 p.m.) to be considered for the 2010-2011 Fallowing Program.
- **February 24, 2010** (Wednesday) IID will begin issuing contracts to those landowners and/or tenants who are eligible and satisfy the criteria above. Contracts must be completed, signed, and received by the IID Water Manager’s office within 3 weeks of postmarked issuance date. As contracts are declined or expire, additional contracts will be issued until all Fallowed Water Requirements are met. Applicants not offered Fallowing Program contracts will be notified in writing once the process has concluded.
- **July 1, 2010** (Thursday) IID will finalize and execute all 2010-2011 Fallowing Program contracts and lock the delivery gates of participating fields.

**Contact Information**
2010-2011 Fallowing Program proposal forms and related documents are available at all IID Water Division offices or can be downloaded at [www.iid.com](http://www.iid.com) (please click on the appropriate “Fallowing” link or go directly to [http://www.iid.com/Water/2010-2011FallowingProgram](http://www.iid.com/Water/2010-2011FallowingProgram)). Additional questions regarding the IID Fallowing Program should be directed to the Fallowing Hotline at (760) 339-9898 or fallowingprogram@iid.com.

Return, fax, or email completed applications on or **before** noon December 15, 2009 to:

**Mail**
IID - Resources Planning and Management
Attention: 2010-2011 Fallowing Program
333. E. Barioni Blvd.
Imperial, CA 92251

**Fax**
(760) 339-9121 attn: 2010-2011 Fallowing Program

**Email**
fallowingprogram@iid.com
Imperial Irrigation District
2010-2011 Fallowing Program
Land Fallowing Application

Submitted By

Please Print

Total Number of Fields Submitted

Please complete one FIELD APPLICATION FORM for each field. Each field will be considered separately.

Comments

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

I (we) the undersigned certify that to the best of my (our) knowledge the attached information is true and accurate. I (we) also certify that 1) I (we) am (are) current on all IID water delivery and availability charges subject to IID’s Regulation No. 11, 2) there are no prior contracts or commitments attached to the field(s) which would alter or affect my (our) ability to fallow this ground for one or two years, 3) the requisite water card has been submitted for each field, and 4) I (we) have the legal authority to fallow the proposed field(s) and execute a contract to do the same.

Print Name

Signature

Address

Phone(s)

Fax

Email

Print Name

Signature

Address

Phone(s)

Fax

Email

Attach more sheets if necessary for additional signatures and/or contact information.
2010-2011 Fallowing Program
FIELD APPLICATION FORM
(one form required for each field)

Submitted By
Please Print □ Owner □ Tenant

Canal
APN(s)

Gate

Account No.

Owner

Tenant

LAST 3 CALENDAR YEARS

2009 2008 2007

Crops Grown

Total Acreage

Estimated farmable acreage

Is this field contracted under the Williamson Act? □ Yes □ No

A limited number of two year contracts will be offered, please indicate Fallowing Term preference:

□ 1 year □ 2 year □ either (no preference)

Was this field in previous IID Fallowing Programs?

□ 03-04 EFP □ 04-05 FP □ 05-06 FP
□ 06-07 FP □ 07-08 FP □ 08-09 FP
□ 09-10 FP □ 09-11 FP (2 year contract)

Does the headgate for this field supply water to any other fields or structures? □ Yes □ No

If yes, what is your plan to continue service to any structures or buildings?

Is there any other information relevant to this field and/or field history that IID should be aware of?

(ownership change, parcel split, on-site structures, non-cropped portions of field, change in field history, etc.)

Please note that IID will notify the tenant of record for all fields submitting FP applications.

Attached more sheets if necessary for additional explanation.
AGREEMENT FOR FALLOWING LAND
IN THE IMPERIAL IRRIGATION DISTRICT

THIS AGREEMENT FOR FALLOWING LAND IN THE IMPERIAL IRRIGATION DISTRICT ("Agreement") is made and entered into as of the 1st day of July 2010, by the Imperial Irrigation District ("IID") and the person(s) or entity referred to as “Fallowing Party” listed on the signature page of this Agreement (collectively, “Parties”), each of which is at times referred to individually as Party.

RECITALS

A. IID, as a trustee under the California Irrigation District Law, holds water rights to and diverts water from the Colorado River for distribution and use within its service area.

B. IID has completed an environmental assessment of proposed water conservation and transfer activities pursuant to the California Environmental Quality Act ("CEQA"), as set forth in a Final EIR/EIS for the IID Water Conservation and Transfer Project certified by IID in June 2003, as supplemented by an Amended and Restated Addendum thereto certified by IID in October 2003 (collectively, "Transfer EIR").

C. IID has entered into a conserved water transfer agreement with the San Diego County Water Authority ("SDCWA"), which involves the creation of conserved water by fallowing until 2017 for transfer to SDCWA and/or use for environmental mitigation of impacts of reduced inflow to the Salton Sea. In addition, IID has entered into an agreement with the United States and others to limit its diversions under Priority 3 and to repay inadvertent overruns on a certain schedule. For purposes of meeting these agreements, IID will create conserved water by fallowing for transfer and mitigation purposes as well as for use as Inadvertent Overrun Payback and Intentionally Created Surplus.

D. Fallowing Party owns or leases agricultural property within the IID service area described and/or depicted on Exhibit A attached hereto ("Fallow Lands").

E. If Fallowing Party is a lessee or joint fee owner of the Fallow Lands, the identity of the fee owner or joint fee owners, lessor, any sublessor, and the remaining term of the lease or sublease is identified on Exhibit B attached hereto.

F. Fallowing Party is willing to fallow the Fallow Lands for the limited time period and in accordance with the other terms and conditions set forth herein, in order to assist IID in meeting its obligations described above.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE RECITALS AND THE COVENANTS AND OBLIGATIONS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:
1. **Term**

   The term of this Agreement ("Term") shall commence on July 1, 2010 ("Start Date") and expire on June 30, 2011.

2. **Conserved Water Yield and Payment**

   A. **Conserved Water Yield and Adjustments Thereto**

   Payments by IID to Fallowing Party shall be based on the Conserved Water Yield of Fallowing Party’s Fallowed Lands. The Conserved Water Yield is determined from the following water use history formula adopted by the IID Board of Directors and adjusted as necessary to account for each field’s more recent water use changes or trends as determined during an analysis of the water use data:

   Water use history is calculated from a field’s ten-year running average annual water use adjusted for prior fallowing program participation (1999-2008 for the 2010-2011 Fallowing Program) less the high and low years from that period.

   Additionally, the IID Board of Directors has capped the average annual water use of any field at six acre-feet per acre for payment purposes ("cap"). Collectively the water use history, any adjustments, and cap are referred to as Fallowed Lands’ Annual Fallowing Baseline, “Annual Baseline.” The Annual Baseline applies to the Term of this Agreement.

   If an SDI Declaration is made by IID and an Equitable Distribution Plan is implemented during all or any part of the Term, then the Fallowing Party is deemed to have assigned to IID an amount of the Fallowed Lands’ SDI Apportionment equal to the Fallowed Lands’ Annual Baseline during the relevant SDI Water Year. If a Fallowed Lands’ Annual Baseline is less than the SDI Apportionment for the Fallow Lands, then any amount in excess of the Annual Baseline may be assigned to other lands through the District Water Exchange, returned to the IID, or used by the Fallowing Party on other lands of the Fallowing Party not included in the IID Fallowing Program. Any SDI Apportionment in excess of the Annual Baseline may also be used on the participating Fallow Lands provided it is not during the Term of the Fallowing Program and does not conflict with any other program requirements. Similarly, if the Fallowed Lands’ Annual Baseline is greater than the SDI Apportionment for the Fallowed Lands, then the Fallowing Party must either assign a portion of any SDI Apportionment for the applicable SDI Water Year from other lands of the Fallowing Party to IID or purchase the additional necessary water through the District Water Exchange and assign that purchased water to IID before the applicable payment deadlines.

   If an Equitable Distribution Plan is in effect for less than the Term, then the Fallowing Party is deemed to have assigned only the portion of the Fallowed Lands’ SDI Apportionment equal to the Fallowed Lands’ Annual Baseline divided by 12 and multiplied by the number of months that the Equitable Distribution Plan is in effect.
B. Payment and Assignment of Annual Baseline Obligations

As consideration for the Fallowing Party’s performance of its obligations hereunder, IID shall make payments to the Fallowing Party in the following manner.

(1) Payment for Fallowing: The total amount of $_____________ ($75/acre-foot x ## Irrigable acres defined by FSA x #.# Annual Baseline in acre-feet/acre) shall be divided into three (3) equal payments on or before August 31, 2010, January 15, 2011 and August 31, 2011:

(a) In addition to the timely satisfaction of all other obligations of the Fallowing Party under this Agreement, payment of the first payment by IID on or before August 31, 2010 is expressly conditioned on Fallowing Party’s satisfaction of the following:

i. If an Equitable Distribution Plan is in effect for the 2010 SDI Water Year and if the Fallowed Lands’ Annual Baseline is less than or equal to the Fallowed Lands’ 2010 SDI Apportionment, the Fallowing Party shall assign to the IID a portion of the Fallowed Lands’ 2010 SDI Apportionment (or a portion of Fallowing Party’s 2010 SDI Apportionment from Fallowing Party’s Non-Fallowed Lands or water purchased through the District Water Exchange, as needed) equal to 50% of the Fallowed Lands’ Annual Baseline on or before the Start Date (July 1, 2010).

ii. If an Equitable Distribution Plan is in effect for the 2010 SDI Water Year and if the Fallowed Lands’ Annual Baseline exceeds the Fallowed Lands’ 2010 SDI Apportionment, the Fallowing Party shall assign to the IID the portion of the Fallowed Lands’ 2010 SDI Apportionment (or a portion of Fallowing Party’s 2010 SDI Apportionment from Fallowing Party’s Non-Fallowed Lands or water purchased through the District Water Exchange, as needed) equal to 50% of the Fallowed Lands’ 2010 SDI Apportionment on or before the Start Date (July 1, 2010).

(b) In addition to the timely satisfaction of all other obligations of the Fallowing Party under this Agreement, payment of the second payment by IID on or before January 15, 2011 is expressly conditioned on the Fallowing Party’s satisfaction of the following:

i. If the SDI Declaration for 2010 has not been terminated as of November 1, 2010 and the Fallowed Lands’ Annual Baseline exceeds the Fallowed Lands’ 2010 SDI Apportionment, the Fallowing Party shall additionally assign to the IID that portion of the Fallowed Lands’ 2010 SDI Apportionment (or a portion of Fallowing Party’s 2010 SDI Apportionment from Fallowing Party’s Non-Fallowed Lands or water purchased through the District Water Exchange, as needed) equal to the balance of 50% of the Fallowed Lands’ Annual Baseline on or before November 30, 2010.

ii. If an Equitable Distribution Plan is in effect for the 2011 SDI Water Year, the Fallowing Party is deemed to have assigned to the IID a
portion of the Fallowed Lands’ SDI Apportionment equal to 50% of the Fallowed Lands’ Annual Baseline as of January 1, 2011.

(c) The third and final payment shall be made no later than August 31, 2011, provided that IID has verified that Fallowing Party has satisfied all of its obligations under this Agreement.

Attached as Exhibit “E” is a schedule of SDI assignment and payment deadlines. If at any time the IID determines that Fallowing Party is in noncompliance with this Agreement or delinquent on any water accounts, payments may be suspended as provided in Section 12.

(2) Payment for Dust Control and Mitigation: Fallowing Party shall be reimbursed for the costs of IID pre-approved Best Management Practices (BMPs) for dust control and mitigation compliance in conformance with Exhibit D in two (2) equal payments. The first payment shall be made before December 31, 2010, provided that IID has verified that Fallowing Party is in compliance with this Agreement. The second and final payment shall be made no later than August 31, 2011, provided that IID has verified that Fallowing Party has fulfilled all of its obligations under this Agreement. If at any time the IID determines that Fallowing Party is in noncompliance with this Agreement or has not implemented the IID pre-approved Dust Control BMP reported as per Exhibit D, payments may be suspended as provided in Section 12. For purposes of dust control and mitigation cost reimbursement under this subsection, costs shall be based upon the Dust Control BMP Reimbursement Schedule issued annually by the IID and associated with the pre-selected and IID-approved Dust Control BMP implemented by the Fallowing Party, as required by Exhibit D, that would not have been incurred by Fallowing Party if Fallowing Party had not been a Party to this Agreement. All dust control measures must be pre-approved in writing by the IID before reimbursement considerations will be made.

3. Applicability of Williamson Act

Fallowing Party represents that, either:

A. No portion of the Fallow Lands is subject to a contract pursuant to the California Land Conservation Act of 1965 ("Williamson Act") with the County of Imperial or other agency; or

B. If all or any portion of the Fallow Lands is subject to a Williamson Act contract, said contract does not prohibit fallowing of the Fallow Lands as required pursuant to this Agreement.

This Agreement is not intended to impede or prevent compliance with any Williamson Act contract applicable to the Fallow Lands or to adversely affect any rights or benefits accruing thereunder.
4. **Fallowing Party Representations and Warranties**

Fallowing Party represents and warrants to IID the following and acknowledges that IID is relying on the following representations and warranties:

A. The Fallow Lands are within the IID Service Area receiving water and the requisite IID Water Cards have been signed and presented to IID in a form acceptable to IID.

B. Fallowing Party is the sole fee title owner of the Fallow Lands, a joint fee owner of the Fallow Lands, or the lessee of the Fallow Lands, and has the full right, power and authority to execute this Agreement and to carry out each and every obligation hereunder. To the best of Fallowing Party's knowledge, no legal impediment exists regarding the Fallow Lands to prevent Fallowing Party from entering into or performing under this Agreement; this Agreement will be a legal and binding obligation of Fallowing Party enforceable against Fallowing Party in accordance with its terms and will not violate any provisions of any agreement to which Fallowing Party is a party or to which Fallowing Party is subject; and Fallowing Party’s agreement to fallow the Fallow Lands does not and will not violate applicable laws or recorded documents affecting the Fallow Lands.

C. The Fallow Lands have not been contracted for fallowing for two of the three previous fallowing programs.

D. The Fallow Lands are whole fields equal to or greater than (10) acres with defined historic boundaries.

E. The Fallow Lands have been irrigated for crop production or leaching, or used as duck ponds the previous three (3) years, excluding the years contracted for fallowing.

F. The Fallow Lands would have been planted for agricultural production in the crop(s) identified on Exhibit C, leached or used as duck ponds during the Term of this Agreement had the lands not been fallowed pursuant to this Agreement.

G. All information submitted by the Fallowing Party to the IID in Fallowing Party's Proposal to Fallow is true and correct as of the time of submittal and as of July 1, 2010. This contract is only valid for the Fallowing Party submitting the Proposal to Fallow and is not transferable prior to execution.

H. The Fallow Lands are zoned agriculture and Fallowing Party will take no action to cause or support a change in such zoning during the contracted-for fallowing period.

I. Fallowing Party acknowledges that IID retains all water rights to the Colorado River in its name and control as a trustee under the California Irrigation District Law, and no water rights or other rights to water are created by this Agreement.
J. Fallowing Party has provided IID with an accurate and complete written plan and schedule to accommodate service pipes.

5. **Obligations of Fallowing Party**

A. **Fallowing**

Fallowing Party shall fallow the Fallow Lands during the Term defined in this Agreement, which requires that there be no irrigation, application or use of water thereon during the Term.

B. **Dust Control and Mitigation Requirements**

Fallowing Party shall be responsible for and undertake the timely control of all dust on the Fallow Lands as described on Exhibit D, and shall provide to IID proof of performance and evidence of the costs and expenses incurred for dust control and mitigation requirements. Fallowing Party must complete and return the mitigation reporting forms according to the deadlines established in Exhibit D, and Dust Control BMPs must be selected and approved by IID prior to implementation or July 1, 2010, whichever is earlier.

C. **Weed Control**

Fallowing Party shall be responsible for and undertake the timely control of all weeds on the Fallow Lands as required by the Imperial County Ordinance, Title 9, Division 18; “ABATEMENT OF WEEDS AND OTHER VEGETATION.”

D. **Water Charges and Fees**

Fallowing Party shall continue to be responsible for all water delivery and water availability charges on lands owned and leased within the IID service area subject to IID’s Regulation No. 11 as if this Agreement were not in effect, and all such charges shall be timely paid before they become delinquent or IID may withhold Fallowing Payments until such time that the Fallowing Party is current on such charges.

E. **Taxes**

All real and personal property taxes, assessments or other charges of every description levied on or assessed against the Fallow Lands or improvements on the Fallow Lands shall remain the sole responsibility of the Fallowing Party and/or Fallowing Party's Lessor, if applicable. All tax payments shall be made directly to the charging authority prior to delinquency.

F. **Insurance**

Fallowing Party shall acquire and maintain liability insurance coverage on the Fallow Lands in the amount of $1,000,000 and shall name IID as an additional insured on each such policy. Proof of such insurance coverage shall be provided to IID by a copy of
an applicable document from the insurer at the time of execution of this Agreement and upon renewal of the policy during the fallowing period. Each proof of insurance shall also specifically identify the Fallow Lands by its canal and gate delivery point.

G. Right of Entry

Fallowing Party agrees that IID and its designees shall have the right to enter the Fallow Lands and, to the extent necessary, other land owned or leased by Fallowing Party for the purpose of verification, monitoring, and enforcement of compliance with this Agreement.

H. Joint Ownership of Fallow Lands or if Land is Already Subject to Leases or Contracts

Fallowing Party shall be responsible for compliance with the terms, covenants and conditions of any existing leases and/or contracts and/or the real property rights of any third parties to this Contract (including but not limited to the fee or joint fee owners of the Fallow Lands) affecting the Fallow Lands, and shall defend, indemnify and hold IID harmless from any and all claims by third parties for damages allegedly related to this agreement or to the performance thereof.

If Fallowing Party is a lessee or joint fee owner of the Fallow Lands, the identity of the fee owner or joint fee owners, lessor, any sublessee, and the remaining term of the lease or sublease must be identified on Exhibit B attached hereto.

I. Assignment of Annual Baseline in the Event of SDI Declaration and Implementation of Equitable Distribution Plan

Fallowing Party agrees to take the actions set forth in Section 2.A above if the IID implements an Equitable Distribution Plan and the SDI Apportionment for the Fallow Lands is greater than or less than the Fallowed Lands’ Annual Baseline.

J. Rules Compliance

Fallowing Party must comply with all IID requirements, including, regulations, resolutions, policies and procedures, with regard to the Fallow Lands. The failure to comply with such rules shall be independent grounds for IID to terminate this Agreement and disqualify Fallowing Party and/or the Fallow Lands from participation in the instant and future fallowing programs.

6. Governing Law

This Agreement shall be interpreted, governed by and construed under the laws of the State of California.

7. No Third-Party Rights
The Parties do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Agreement.

8. Assignment of Agreement

This Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns. No Party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Party hereto. Formal consent shall require that the parties fully execute a separate agreement as provided by the IID.

9. Change in Legal Status Affecting Fallow Lands

Notwithstanding that which is provided in Section 8, any activity affecting the legal status of the Fallow Lands during the term of this Agreement shall not negate any obligations in this Agreement. Any party acquiring title to the Fallow Lands or taking assignment or sublease of the lease of the Fallow Lands shall be bound to the Term of this Agreement as if a signatory. Fallowing Party shall give notice of this obligation to any such party prior to effecting any change in the legal status of the Fallow Lands. In the event of any change affecting the legal status of the Fallow Lands, Fallowing Party shall notify IID in writing within ten (10) days of such change.

10. Legal Effect on Fallow Lands

Except as otherwise expressly stated herein, nothing herein shall be construed as affecting the legal status of the Fallow Lands, including, but not limited to, the effect of liens, encumbrances, statutory or regulatory requirements, or entitlements. Fallowing Party agrees that IID is not responsible for, and no action or conduct of IID, its staff or other representatives, shall be construed as advice or identification of the legal effect or consequences, if any, of the Fallowing Party’s decision regarding fallowing.

11. Non-precedent

Neither the terms and conditions in this Agreement, nor the execution of this Agreement, shall be deemed to give the Fallowing Party any rights to obtain any similar agreement after the expiration of the Term. In addition, IID reserves the right to change any rules governing the fallowing of land to create conserved water in any future agreement and to determine the provisions of any future agreement relating to the fallowing of land to create conserved water.

12. Noncompliance with Terms of Agreement

If IID determines at any time that the Fallowing Party is in noncompliance with or has breached this Agreement, the Fallowing Party will be provided notice of such noncompliance or breach at the address or contact information provided in Section 16, and shall have twenty-four (24) hours from the time of such notice to cure the noncompliance or breach. If the noncompliance or breach is not timely cured, remaining payments may be withheld by IID. In addition, Fallowing Party will be responsible for any other losses suffered by IID as a result of the noncompliance or breach, including reimbursement of staff time and administrative expenses associated with the remedy of any noncompliance or breach as well as financial penalties and
costs associated with the replacement of lost water conservation yield as a result of the noncompliance or breach. Nothing contained herein shall preclude the IID from exercising any other available remedy in law or equity, including specific performance.

13. **Termination**

This Agreement may be terminated at any time with the consent of both Parties under mutually acceptable terms executed in writing by the Parties.

14. **Entire Agreement**

This Agreement constitutes the entire understanding of the Parties hereto.

15. **Amendment**

This Agreement may not be modified or amended except in writing executed by the Parties.

16. **Contacts**

A. All notices, requests, demands, payments, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been received either when delivered or on the fifth (5th) business day following the mailing, by registered or certified mail, postage prepaid return receipt requested, whichever is earlier, addressed as set forth below:

1) If to IID:

Manager, Water Department
Imperial Irrigation District
333 East Baroni Boulevard
P.O. Box 937
Imperial, CA 92251

2) If to Fallowing Party (please print):

Name __________________________________________

Address __________________________________________

Phone __________________________________________

Fax __________________________________________
B. Any Party may change the addressee or address to which communications or copies are to be sent by giving notice of such change of addressee or address in conformity with the provision of this Paragraph 16 for the giving of notice.

17. Counterparts

This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument with the same force and effect as though all signatures appeared on a single document.

18. Recording of Memorandum of Agreement.

Fallowing Party agrees that IID may, and Fallowing Party will cooperate to permit, a memorandum identifying the existence and summary of this Agreement to be recorded in the real property records for the County of Imperial.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written.

IMPERIAL IRRIGATION DISTRICT

______________________________
Manager, Water Department

FALLOWING PARTY as
□ Lessee of Fallow Lands
□ Joint Owner of Fallow Lands
□ Sole Owner of Fallow Lands

Signature ______________________________
Print Name_____________________________

Signature ______________________________
Print Name_____________________________
EXHIBIT A

FALLOW LANDS

Canal

Gate

Farm Services Agency (FSA)
Acreage = #.## acres

DRAIN

---
EXHIBIT B

CONSENT OF FEE OWNER, LESSOR, SUBLESSOR AND LEASE TERM (AS APPLICABLE)

If Fallowing Party is either a lessee or joint fee owner of the Fallow Lands, the identity of the fee owner or joint fee owners, lessor, any sublessor, and the remaining term of the lease or sublease must be identified on Exhibit B.

Fee Owner

Name _______________________________________________
Address _______________________________________________

Joint Fee Owner(s) (If Applicable)

Name _______________________________________________
Address _______________________________________________

Lessor (If Applicable)

Name _______________________________________________
Address _______________________________________________

Sublessor (If Applicable)

Name _______________________________________________
Address _______________________________________________

Remaining Term of Lease (If Applicable) ______________________________________

Remaining Term of Sublease (If Applicable) ______________________________________
EXHIBIT C

CROP(S) THAT WOULD HAVE BEEN GROWN ON THE FALLOW LANDS

The information submitted below may be utilized in the Local Entity mitigation program to offset certain socioeconomic impacts of land fallowing resulting from the creation of conserved water for transfer to the San Diego County Water Authority. Please be as specific as possible; accuracy is a critical element in the determination of impacts and award of mitigation funding.

If the Fallowing Party is not the grower, please coordinate your responses with the last tenant in order to verify the crop rotation information requested below. All information submitted in this Agreement is subject to validation by IID.

Canal and Gate: ________________________________________________________________
Acreage (FSA): ________________________________________________________________
Current crop (or if idle last crop grown prior to entering this Fallowing Program): ____________

1st crop that would have been grown on the Fallow Lands if not for participation in the 2010-2011 Fallowing Program:

Established alfalfa? Yes □ No □ If yes, seed crop? Yes □ No □
Established bermuda? Yes □ No □ If yes, seed crop? Yes □ No □
Other crop: ________________________________________________________________
Estimated plant date: _________________________________________________________

2nd crop that would have been grown on the Fallow Lands if not for participation in the 2010-2011 Fallowing Program (if applicable):

Crop: ________________________________________________________________
Estimated Plant date: _________________________________________________________
EXHIBIT D

DUST CONTROL AND MITIGATION REPORTING REQUIREMENTS APPLICABLE TO CONSERVATION BY FALLOWING FOR 2010-2011

In order to satisfy mitigation and reporting requirements in accordance with the Transfer EIR (defined in Recital B), the Fallowing Party shall be responsible for and comply with the following requirements:

1. **MITIGATION REQUIREMENTS**

   A. In order to mitigate air quality impacts on Fallow Lands, only the Best Management Practices ("BMPs") recommended by the US Department of Agriculture Natural Resources Conservation Service and listed below will be considered for payment reimbursement. The Dust Control BMP(s) must be selected and approved by IID prior to implementation on or after July 1, 2010, whichever is earlier. Payment will be based on the Dust Control BMP Reimbursement Schedule issued annually by the IID.

   1) Plan ahead to start with plenty of vegetation residue, and maintain as much residue on fallowed fields as possible. Residue is more effective for wind erosion protection if left standing.

   2) Avoid any tillage if possible.

   3) Avoid any traffic on the field or tillage when fields are extremely dry to avoid pulverization.

   4) If residues are not adequate, either small grain can be seeded about the first of the year to take advantage of winter rains or soil stabilization chemicals may be applied to fallowed lands.

   B. In addition to the above BMPs, in order to satisfy Imperial County dust control and mitigation requirements, Fallowing Party will comply with any lawful conditions required by the Imperial County Air Pollution Control District.

2. **REPORTING REQUIREMENTS**

Complete and return a Fallowing Program Mitigation Reporting Form (to be provided by IID) to the Manager of the Water Department of IID on or before July 31, 2010, and update the form before November 30, 2010, and July 31, 2011, verifying the method(s) used to satisfy the mitigation requirements set forth in Section 1 above and the total costs incurred by Fallowing Party therefore, including written documentation evidencing such costs.
## EXHIBIT E

### SCHEDULE OF SDI ASSIGNMENT AND PAYMENT DEADLINES

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<tr>
<th>EVENT</th>
<th>DEADLINE</th>
</tr>
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<tr>
<td>Assign 50% of Fallowed Lands Annual Baseline (if less than 2010 SDI Apportionment) or 50% of Fallowed Lands 2010 SDI Apportionment (if less than Fallowed Lands Annual Baseline)</td>
<td>Not Applicable (no 2010 SDI Apportionment)</td>
</tr>
<tr>
<td>First payment by IID.</td>
<td>August 31, 2010</td>
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<tr>
<td>Assign additional portion of Fallowed Lands 2010 SDI Apportionment sufficient to make total 2010 assignment equal to 50% of Fallowed Lands Annual Baseline (if 2010 SDI Declaration not terminated by November 1, 2010).</td>
<td>Not Applicable (no 2010 SDI Apportionment)</td>
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<td>Third payment by IID.</td>
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## Imperial Irrigation District
### 2010-2011 Fallowing Program Participants
#### July 1, 2010 - June 30, 2011

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</table>

### 2010-2011 Fallowing Program Total Acreage = 9,330.6
### 2010-2011 Fallowing Program Provisional Water Yield at-Farm (AF) = 50,265.9
### 2010-2011 Fallowing Program Provisional Water Yield at-River (AF) = 54,708.2
### 2010-2011 Fallowing Program Contracts Expense = $3,589,735