



IMPERIAL IRRIGATION DISTRICT RESOLUTION NO. 29-2022

WHEREAS, the Imperial Irrigation District (IID) is a California irrigation district formed and governed under the Irrigation District Law, California Water Code Sections 20500, et seq.

WHEREAS, IID holds water rights to and diverts water from the Colorado River for distribution and use within its service area.

WHEREAS, IID is required to generate conserved water to meet the requirements and obligations set forth in the 1998 IID/SDCWA Water Conservation and Transfer Agreement and the 2003 Quantification Settlement Agreement and Related Agreements (QSA), as well as other IID water management, supply and storage programs.

WHEREAS, IID is a leader in implementing innovative, large-scale agricultural water conservation programs, generating nearly 500,000 acre-feet of savings annually through system conservation improvements and by providing nearly \$500 million in funding to IID landowners and growers to implement on-farm conservation measures that collectively have generated more than 7 million acre-feet of conserved water over the past two decades.

WHEREAS, IID manages a voluntary On-Farm Efficiency Conservation Program (OFECF) in which it provides conservation payments to participants who implement certain conservation measures and achieve verified water savings quantified through a technical analysis.

WHEREAS, the 2021 OFECF includes participants implementing conservation measures on crops harvested in 2021 and perennials grown during the 2021 calendar year.

WHEREAS, the IID Board of Directors authorized a \$39,589,600 2021 OFECF program budget on December 1, 2020 that included a two-tiered payment structure, with OFECF payments calculated by prorating this budget over the total program conservation yield.

WHEREAS, conservation generated by implementing Tier A conservation measures (drip, tailwater return and sprinkler systems) will be paid at one payment rate and conservation generated by implementing Tier B conservation measures (field reconfiguration and land leveling) will be paid at 50 percent of the Tier A payment rate.

WHEREAS, the IID Board imposed a Tier A payment rate cap of \$289.68/AF, with any remaining funds used to increase the Tier B payment rate (provided it does not exceed the Tier A payment rate).

WHEREAS, the Tier A and Tier B payments are paid by IID in two installments.

WHEREAS, a program contract template is not yet available for the 2021 OFECP, causing delays in issuing conservation payments to participating growers with verified conservation yields.

WHEREAS, the IID/SDCWA Water Conservation and Transfer Agreement requires landowner contracts for conserved water generated on-farm to satisfy contractual obligations.

WHEREAS, the IID Board of Directors has given direction to expedite the first payment installment notwithstanding delays to the completion of the program contract.

NOW, THEREFORE, BE IT RESOLVED that the Board authorizes the following:

- 1) The first payment installment is to be paid to participants in the 2021 OFECP conditioned on the following:
 - a. Submittal of a signed Landowner Consent and Assumption Agreement, Exhibit D of the On-Farm Efficiency Conservation Agreement, for participating fields, attached hereto as Attachment 1 and incorporated herein by reference; and
 - b. First payment of \$150/AF for participating fields with verified conserved water generated by Tier A conservation measures (drip, tailwater return and sprinkler system); and
 - c. First payment of \$75/AF for participating fields with verified conserved water generated by Tier B conservation measures (field reconfiguration and land leveling).
- 2) The second payment installment is to be paid to participants in the 2021 OFECP after execution of the On-Farm Efficiency Conservation Agreement.

PASSED AND ADOPTED this 7th day of June, 2022.



IMPERIAL IRRIGATION DISTRICT

James C. Hanks
President

Raquel Najera
Secretary

ATTACHMENT 1

LANDOWNER CONSENT AND ASSUMPTION AGREEMENT

- e. If Owner is not Conserving Party, that Conserving Party's entry into and performance of its obligations under the Conservation Agreement do not and will not constitute a breach of the Lease.

2. If Owner is not Conserving Party, Owner hereby consents to the Conserving Party's execution of the Conservation Agreement and implementation and operation of the Conservation Measure on the Participating Field(s) in accordance with the Conservation Agreement and Program Description.

3. The term of this Consent Agreement is coterminous with the Term of the Conservation Agreement, identified in Section 1 of the Conservation Agreement.

4. If Owner is not Conserving Party, Owner hereby agrees that, in the event that the Lease is terminated before the Term of the Conservation Agreement, Owner will assume all obligations of the Conserving Party under the Conservation Agreement for the remainder of the Term of the Conservation Agreement including, but not limited to, implementation, operation and maintenance of the Conservation Measure. All payments, if any, accruing to Conserving Party from performance of the Conserving Party's obligation under the Conservation Agreement shall accrue to Owner following Lease termination, unless otherwise agreed to by Owner and Conserving Party. If the Lease is terminated in the middle of the Conservation Period or a Calendar Year, any benefits accruing for that Conservation Period or Calendar Year shall be equitably apportioned between Conserving Party and Owner as determined by IID based on the proportionate amount of Actual Delivered Water Reduction achieved before and after Lease termination, unless otherwise agreed to by Owner and Conserving Party. Owner shall immediately notify IID in writing of any such Lease termination, and of any agreement between Owner and Conserving Party concerning apportionment of payments, by delivering or mailing notice to IID as set forth in the Conservation Agreement.

5. If Owner is not Conserving Party, following termination of the Lease of the Participating Field(s), ownership of improvements to the Participating Field, if any, to implement the Conservation Measure shall be determined by agreement between Conserving Party and Owner, or as otherwise provided by law. IID shall have no liability for any such improvement made to the Participating Field(s) or any damages caused thereby, and shall not be responsible for the removal of any such improvement or for any damages caused by such removal.

6. If there is any change in the ownership of the Participating Field(s) during the term of this Consent Agreement, the new owner shall be bound by and perform all obligations of Owner provided in this Consent Agreement as if a signatory. Except as otherwise expressly stated herein, nothing herein shall be construed as affecting the legal status of the Participating Field(s) including, but not limited to, the effect of liens, encumbrances, statutory or regulatory requirements, or entitlements. Owner 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 Owner's and Conserving Party's decisions regarding implementation of the Conservation Agreement on the Participating Field (s).

7. If ownership of the Participating Field(s), or any portion thereof, is transferred from Owner to a third party ("**Transferee**") during any portion of the term of this Consent Agreement, Owner shall notify the Transferee of the terms and conditions of this Consent Agreement prior to the change in ownership. In the event of a change in ownership of the Participating Field(s), Owner shall notify IID in writing within ten (10) days prior to the effective date of the change in ownership, by delivering or mailing notice to IID as set forth in the Conservation Agreement. Owner remains liable and personally obligated to perform all obligations of Owner under this Consent Agreement, and all obligations of Conserving Party under the Conservation Agreement should Owner assume such obligations pursuant to paragraph 4 above, unless and until Owner enters into an assignment and assumption of this Consent Agreement with Transferee and IID (the "**Consent Assignment**"). IID's consent to the Consent Assignment shall not be unreasonably withheld. Entry by all parties into a Consent Assignment shall release Owner from all liability under this Consent Agreement first arising from and after execution of the Consent Assignment. Owner may only assign this Consent Agreement to a successor owner of the Participating Field(s).

8. This Agreement shall be interpreted in accordance with the substantive and procedural laws of the State of California.

9. This Consent 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 legal instrument with the same force and effect as though all signatures appeared on a single document.

10. This Consent Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have entered this Landowner Consent and Assumption Agreement made and effective as of the latest date written below.

DATED: _____

IMPERIAL IRRIGATION DISTRICT

Manager, Water Department

DATED: _____

OWNER or Owner's Legal Representative

Signature _____

Print Name _____

Title _____