IMPERIAL IRRIGATION DISTRICT
RESOLUTION NO. 19-2023

WHEREAS, the Imperial Irrigation District ("IID") is an irrigation district established under the Irrigation District Law, California Water Code section 20500, *et seq.*; and

WHEREAS, IID is the underlying fee owner of approximately 607.65 acres of real property with Assessor's Parcel Numbers 022-110-005, 022-110-007, 022-110-008, 022-110-010 located in the unincorporated area of Imperial County, California, and described in Exhibit "A," attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the Property was acquired in 2004 as part of the greater Western Farmland acquisition, and is held in trust (Water Code section 22437) by the Water Department. The Property's current use is for agricultural production and is divided by a privately-owned parcel; and

WHEREAS, IID staff has reviewed current and potential prospective uses of the Property and has determined that the Property is no longer necessary for any present and prospective IID purposes or use; and

WHEREAS, under the Surplus Land Act, Government Code section 54220, *et seq.*, ("the Act"), surplus real property is defined as "land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use"; and

WHEREAS, Government Code section 54222.3 of the Act provides that the Act does not apply to "exempt surplus land" as defined; and

WHEREAS, Government Code section 54221(f)(1)(H) of the Act defines "exempt surplus land" to include land "acquired by the local agency for trust purposes by purchase of exchange, and for which disposal of the land is authorized …subject to conditions established by statue"; and

WHEREAS, Water Code section 22437 of the Irrigation District Law provides that all real property acquired by an irrigation district, which includes IID, is "held in trust for its uses and purposes"; and

WHEREAS, the principle that IID holds real property for trust purposes has been affirmed by California courts on numerous occasions. As noted by the California Supreme Court, "[t]he property of the [irrigation] district, so far as it owns any property, constitutes a public trust and is held by the district for a public use ..." (*Moody v. Provident Irrigation Dist.* (1938) 12 Cal. 2d 389, 395.); and

WHEREAS, in discussing real property owned by the IID, the California Supreme Court noted that as "pointed out in the case of *Merchants' Nat. Bank v. Escondido Irr. Dist.*, where the court distinguishes irrigation districts from ordinary municipal corporations in the following language: 'But here, the corporation in question is distinguished from ordinary municipal corporations by the fact that 'the legal title,' only of the property of the corporation is vested in the district, 'in trust for the uses and purposes set forth in [the] act'" (*Hall v. Superior Court in and for Imperial County* (1926) 198 Cal. 373, 383.); and

WHEREAS, more recently the California Fourth District Court of Appeal acknowledged this longstanding principle in the case of *Abatti v. Imperial Irrigation Dist.* (2020) 52 Cal. App. 5th 236, as follows:

> "In *Merchants Bank v. Escondido Irr. Dist.* (1904) 144 Cal. 329, the California Supreme Court held that landowners have a beneficial and equitable interest in the irrigation district's property, consisting of a right to use or service: "[T]he [irrigation district] is distinguished from ordinary municipal corporations by the fact that 'the legal title,' only of the property of the corporation is vested in the district, **'in trust for the uses and purposes set forth in [the] act'**; and that the beneficiaries of the trust[,] who, upon familiar equitable principles, are to be regarded as the owners of the property[,] are the landowners in the district ... and in whom, indeed, is vested ... in each, the right to the several use of a definite proportion of the water of the district, and in all, in common, the equitable ownership of its water-rights ... as the means of supplying water. (Stats. 1887 ... , secs. 11, 13 [Wright Act].)"
> (*Abatti* at 258, emphasis added.)

WHEREAS, Water Code sections 22500 through 22506 of the Irrigation District Law provide for the disposal of IID owned land and establishes the conditions for such disposal; and

WHEREAS, IID now desires the declare the Property exempt surplus land and authorize its disposal pursuant to Water Code section 22500, *et seq.*

NOW, THEREFORE, THE BOARD OF DIRECTORS HEREBY FIND AS FOLLOWS

1. The above recitals are true and correct.
2. Pursuant to Water Code section 22437 of the Irrigation District Law and case law, the Property was acquired and is held by IID for trust for its uses and purposes
3. Water Code sections 22500 through 22506 of the Irrigation District Law provide for the disposal of the Property and establish the conditions for such disposal.
4. Based on the above recitals and pursuant to Water Code section 22500, *et seq.*, the IID Board of Directors finds that the Property is no longer necessary for present and prospective IID purposes or uses.

NOW, THEREFORE, BE IT RESOLVED,

1. Based on the above recitals and pursuant to Water Code section 22500, *et seq.*, the IID Board of Directors declares the Property is no longer necessary for present and prospective IID purposes or uses.
2. Based on the above recitals and pursuant Water Code sections 22437 and 22500 through 22506, and Government Code sections 54221 and 54222.3, the IID Board of Directors declares the Property exempt surplus land.
3. As exempt surplus land, pursuant to Government Code section 54222.3 the noticing requirements of Government Code section 54221(f)(2) and related provisions of the Act do not apply.
4. The Office of General Counsel, in coordination with the Real Estate Division, is authorized and directed to submit this resolution to the California Department of Housing and Community Development.
5. This Resolution is effective upon its adoption.

PASSED AND ADOPTED this 16d day of May, 2023.

IMPERIAL IRRIGATION DISTRICT ORGANIZED JULY 25, 1911 EL CENTRO, CALIFORNIA

IMPERIAL IRRIGATION DISTRICT

President

Secretary

EXHIBIT "A"

LEGAL DESCRIPTION

Section 27, Township 11 South, Range 14 East, S.B.M., County of Imperial, State of California, according to the Official Plat thereof.

EXCEPT that property conveyed to Inter-California Railway Company by deed recorded July 31, 1922 in Book 189, Page 270 of Deeds, described as follows:

A strip of land 200 feet wide equally on each side of the center line of the main Tract of Inter-California Railway Company right of way as now constructed over the Northwest Quarter of Section 27.

Also a strip of land 300 feet wide lying 200 feet on the East side and 100 feet on the West side of the center line of Main Tract of Inter-California Railway Company right of way as now constructed over the Southwest Quarter of Section 27.

ALSO EXCEPTING THEREFROM and reserving unto the Imperial Irrigation District, its successors and assigns, a One Hundred percent (100%) interest in all minerals, of every kind and character, either in solid or liquid form, including, without limitation, all oil, gas and hydrocarbons, all geothermal substances that might be produced from the Property, including (a) the natural heat of the earth, and the energy present in, resulting from, or created by, or which may be extracted from, the natural heat of the earth or the heat present below the surface of the earth, in whatever form such heat or energy naturally occurs; (b) all natural products of geothermal processes, including, without limitation, indigenous hot water, hot brine, steam and other fluids and gasses; (c) hot water, hot brine, steam and other fluids and gasses resulting from water or other substances being artificially introduced into the subsurface of the Property; and (d) all minerals, gasses, salts, chemicals, by-products and other substances in solution or mixed with geothermal effluent or otherwise produced from, through and across the Property, and/or from geothermal wells located in or on property outside the boundaries of the Property that have a production interval lying below a depth of five hundred (500) feet below the surface of the Property, including the reasonable use of the surface for exploration and development of such reserved minerals.

APN 022-110-005
022-110-007
022-110-008
022-110-010

AERIAL DEPICTION OF PROPERTY