



Byron Bethany Public Finance Authority  
And the  
Byron Bethany Irrigation District  
Meeting of the Board of Directors

**VIDEO CONFERENCE BOARD MEETING**  
*Tuesday, January 19, 2021*  
*9:00 a.m.*

*DISTRICT HEADQUARTERS*  
*7995 Bruns Road, Byron, California 94514-1625*  
*Telephone: 209-835-0375 Facsimile: 209-835-2869*

RUSSELL KAGEHIRO  
President  
Division V

TIM MAGGIORE  
Vice President  
Division III

LARRY ENOS, JR  
Director  
Division I

MARK MAGGIORE  
Director  
Division II

VACANT  
Director  
Division IV



CHARLES TUSO  
Director  
Division VI

VACANT  
Director  
Division VII

TOM PEREIRA  
Director  
Division VIII

JACK ALVAREZ  
Director  
Division IX

## AGENDA

**Video Conference Board Meeting  
Of the Byron Bethany Public Finance Authority  
And the  
Byron Bethany Irrigation District  
Tuesday, January 19, 2021  
9:00 AM**

**Call-in Information:**

**Meeting ID: Join Zoom Meeting**  
<https://us02web.zoom.us/j/8458078863>

**Meeting ID: 845 807 8863**

**Call In Number**

**1-669-900-6833,,8458078863#**

*NOTE: In accordance with the Governor's Executive Order (N-29-20) and the declared State of Emergency as a result of the threat of COVID-19, members of the Board of Directors and staff will be participating in this meeting remotely from multiple locations. Members of the public are encouraged to use the call-in number, which will allow them to fully participate in the meeting without having to be present in person. If members of the public have any problems using the call-in number during the meeting, please contact the District office at 209-835-0375.*

**Call to Order/Roll Call.**

**Consider Corrections to the Agenda of Items, as authorized under Government Code Section 54950 et seq.**

**Opportunity for Public Comment – Any member of the public may address the Board concerning any matter not on the agenda, but within the Board's jurisdiction. Public comment is limited to no more than three minutes per person.**

**The Board of Directors will convene as the Byron Bethany Public Finance Authority to address the following:**

**BBPFA 1.** Review and consider adopting Resolution 2021-1 approving the form, execution and delivery of a Trust Agreement, Installment Sale Agreement and Assignment Agreement and any and all other documents required to cause the execution and delivery of Byron Bethany Public Finance Authority, Series 2021 Enterprise Revenue Bonds and authorizing and directing certain actions with respect thereto.

**Adjourn and convene regular meeting of the Board of Directors of Byron Bethany Irrigation District.**

## **REORGANIZATION OF THE BOARD OF DIRECTORS**

- A. Election of President
- B. Election of Vice President
- C. Ratify the Presidents' Committee Appointments

## **CONSENT CALENDAR**

The following items are expected to be routine and non-controversial and can be acted on in one consolidated motion as recommended or may be removed from the Consent Calendar and separately considered at the request of any person.

1. Approve meeting minute summary of December, 2020.
2. Accept Treasurer's Report through December 2020.
3. Approve Check Register through December 2020.
4. Approve West Side Service Area Check Register through December 2020.
5. Accept West Side Service Area Treasurer's Reports through December 2020.
6. Adopt Resolution 2021-1: Tracy Office PO Box Rental.
7. Adopt Resolution 2021-2: Authorizing a Debt Service Prepayment of \$483,579.00 from the DHCCP Reserve Account relating to the SLDMWA Delta Habitat Conservation and Conveyance Plan Activity Agreement.
8. Adopt Resolution 2021-4 approving, authorizing and directing execution and delivery of a Trust Agreement, Installment Sale Agreement and Assignment Agreement in connection with the issuance of Series 2021 Enterprise Revenue Bonds, and setting forth the terms and conditions thereof; authorizing the execution and delivery of any and all documents, instruments or certificates necessary or desirable to accomplish the foregoing; and providing for other matters properly related thereto.

## **DISCUSSION/ACTION CALENDAR**

9. Review and consider adopting Resolution 2021-3 accepting the resignation of Directors Jeff Brown (Division VII) and Felix Musco (Division IV) and, approve the restructuring of divisions within San Joaquin County.

## **REPORTS**

Directors  
General Counsel  
General Manager

## **ADJOURNMENT**

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**BYRON-BETHANY IRRIGATION DISTRICT  
BYRON-BETHANY PUBLIC FINANCE AUTHORITY  
STAFF REPORT**

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**DATE:** 14 JANUARY, 2021  
**TO:** BOARD OF DIRECTORS  
**FROM:** RICK GILMORE, GENERAL MANAGER  
**SUBJECT:** DISCUSSION / ACTION REGARDING AUTHORIZATION,  
PREPARATION, SALE AND DELIVERY OF BYRON BETHANY  
PUBLIC FINANCING AUTHORITY, SERIES 2021 ENTERPRISE  
REVENUE BONDS

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**BACKGROUND / DISCUSSION:**

The District floated a temporary line of credit (using reserves) to advance money for the lump sum payoff of its contract (the "Repayment Contract") with the United States, which, the District expects to be reimbursed from an issuance of tax-exempt municipal bonds (the "WIIN Act Obligation") issued through the Byron Bethany Public Financing Authority (the Authority).

Due to the low interest rate environment, the District would also like to finance the cost of its upcoming canal lining project (the "Canal Lining Project") along with the financing of the WIIN Act Obligation Project (collectively, the "Project"), rather than drain its reserves which are needed to finance other improvements identified in the CIP (and to pay for any unforeseen projects and expenses) over the next 10+ years.

Under this approach, the Authority will issue its Byron Bethany Public Financing Authority, Series 2021 Enterprise Revenue Bonds, in the aggregate principal amount of not to exceed \$4.5mm (the "Bonds"), the repayment of which will come from net revenues of the District's enterprise operations.

The District has a firm commitment from JPMorgan Chase Bank (the "Bank") to purchase the Bonds based upon a term of 10 years at a fixed interest rate of 1.63%. Based upon a \$4.5mm issuance, the annual payment would be approximately \$488,000.

**Attached is a draft preliminary numerical analysis setting forth details as to the estimated debt service calculations.**

If the Board desires to move forward with the issuance of the Bonds and correspondingly adopts the subject Resolutions, staff, with the assistance of Bond Counsel and the Municipal Advisor, will finalize documentation (the forms of which are being approved by the subject resolutions) and close the transaction at first possible opportunity, which is expected to occur on February 2, 2021.

The District's Municipal Advisor, Frank Soriano of Caldwell Sutter Capital, Inc., and the District's Bond Counsel, Cameron Weist of The Weist Law Firm, will be on the teleconference call to present the details of the documents being considered by the Boards, discuss the financing features and to answer any questions the Board may have.

#### **SUMMARY OF THE BONDS AND FINANCING DOCUMENTS:**

The subject resolutions essentially authorize and approve the form of all the base legal documents (the "Financing Documents") necessary to provide for the successful issuance of the Bonds. The adoption of each Resolution is a legal prerequisite to allow for the completion of the appropriate documentation necessary for the finalization of the Bonds. The accompanying Financing Documents comprise a financing structure that is considered standard for California special districts to legally incur debt secured by enterprise fund revenues, and is acceptable to the Bank, as the purchaser of the Bonds. In using this financing structure, an installment sale arrangement must be established with a third-party governmental entity. The Authority is being used to serve this purpose for this financing transaction.

The Financing Documents are being presented to both the Board of Directors of the District and the governing board of the Authority as "form-only documents." The subject resolutions authorize and direct certain District and Authority officers and the General Manager/Executive Director to finalize the Financing Documents as and when appropriate, and to do all things necessary to provide for the issuance of the Bonds.

The Financing Documents can be succinctly summarized as follows: The Authority sells the Bonds directly to the Bank, the proceeds of which are used to pay Project costs and costs of issuance. Pursuant to the Installment Sale Agreement the District is "purchasing" the Project from the Authority in exchange for making the semi-annual Installment Payments which are assigned to the "Trust Administrator" (which role is being served by the General Manager), who then makes corresponding semi-annual debt service payments directly to the Bank. The Bonds are to be issued as limited debt obligations, and therefore it is only District's enterprise fund that is being exposed to repayment risk.

The draft Financing Documents, and a brief description of each, is as follows:

Installment Sale Agreement: This agreement provides for the sale of the Project to the Authority, and then back to the District in exchange for the District's promise to make future semi-annual Installment Payments to the Authority, which semi-annual payments

are commensurate with the debt service on the Bonds. In addition to making the Installment Payments, the District covenants to acquire and construct the Project in accordance with proper plans and specifications, and then to maintain the Project throughout the term of the Installment Sale Agreement, pay taxes, if any, and to maintain various forms of insurance.

**Trust Agreement:** This document provides for execution and delivery of the Bonds to the Bank in exchange for proceeds in the par amount thereof, and further establishes the covenants and specifics of the Bonds, including (i) the application of proceeds to pay for the reimbursement, acquisition and construction costs of the proposed Project (as well as payment of the costs of issuance for the Bonds), (ii) the Trust Administrator's duties, (iii) repayment mechanisms, (iv) default and remedies provisions, and (v) the Banks rights and remedies.

**Assignment Agreement:** This document provides the terms and conditions under which the Authority assigns the District's Installment Payments to the Trust Administrator, for ultimate payment to the Bank.

**Irrevocable Prepayment Instructions:** These are irrevocable instructions pursuant to which a portion of the proceeds of the Bonds will be sent to the Bureau and used exclusively for the purpose of prepaying the WIIN Act Obligation.

In addition to approving the form of the Financing Documents, the Resolutions also authorize the President/Chairperson and the General Manager/Executive Director and the financing team to work with the Bank, and ultimately provide for the execution and consummation of the transaction.

#### **FINANCIAL IMPACTS:**

The attached Resolutions establish the legal and financial framework for the issuance of the Bonds for purposes of reimbursing the District for the payoff cost of the WIIN Act Obligation along with the project costs associated with the canal lining project. Pursuant to the Installment Sale Agreement, the District promises the owners of the Bonds (i.e., the Bank) to annually budget and appropriate from the Enterprise Fund sufficient funds to make all Installment Payments pursuant to the Installment Sale Agreement. Annual payments are expected to average approximately \$488,000 per year for 10 years. The interest rate is set at 1.63%.

#### **RECOMMENDED ACTION:**

That the Boards adopt the respective subject resolutions providing for the issuance of the Bonds and authorizing the General Manager to enter into agreements with the named consultants.

**RESOLUTION NO. 2021-1**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BYRON BETHANY PUBLIC FINANCING AUTHORITY APPROVING THE FORM, EXECUTION AND DELIVERY OF A TRUST AGREEMENT, INSTALLMENT SALE AGREEMENT, ASSIGNMENT AGREEMENT AND ANY AND ALL OTHER DOCUMENTS REQUIRED TO CAUSE THE EXECUTION AND DELIVERY OF BYRON BETHANY PUBLIC FINANCING AUTHORITY, SERIES 2021 ENTERPRISE REVENUE BONDS, AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO**

**WHEREAS**, the Byron Bethany Irrigation District (the "District") and the Town of Discovery Bay Community Services District, hereafter sometimes referred to as "Members," have heretofore approved the formation of the Ukiah Public Financing Authority (the "Authority") through the execution of a joint exercise of powers agreement, dated as of July 1, 2012 (the "JPA Agreement"); and

**WHEREAS**, the Authority, a joint exercise of powers authority organized and existing under the laws of the State of California, was formed pursuant to the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), and is authorized pursuant to Article 4 of the Act (the "Bond Law") to borrow money for the purpose of, among other things, making loans, buying securities, purchasing facilities, and providing for installment sale arrangements to assist the District further its public purposes; and

**WHEREAS**, the District desires to reimburse itself for a recent payment made on its contract obligation (the "WIIN Contract") to the US Bureau of Reclamation under Section 4011 of the Water Infrastructure Improvements for the Nation (the "WIIN Act"), in the amount of \$ 2,175,612.00 (the "WIIN Act Obligation"); and

**WHEREAS**, the District has requested the assistance of the Authority to cause Series 2021 Enterprise Revenue Bonds (WIIN Act Refinancing and Water Supply Project) (the "Bonds") to be delivered to JPMorgan Chase Bank, N.A. (the "Bank") in the aggregate principal amount of not to exceed \$4,500,000, the proceeds of which will be used to reimburse the District for the payment made on the WIIN Contract and to finance the acquisition and construction of a public improvement project that includes canal lining, canal overlay, box culvert crossings and fencing, together with all additions, extensions, expansions, improvements and betterments thereto (the "2021 Water Supply Improvement Project," and together with the WIIN Act Obligation, the "Project"); and

**WHEREAS**, the Bonds will be issued pursuant to and secured by a Trust Agreement (the "Trust Agreement"), dated as of February 1, 2021, by and among the District, the Authority and the General Manager of the District, as trust administrator (the "Trust Administrator"); and

**WHEREAS**, the District proposes to purchase the Project, from the Authority pursuant to a certain Installment Sale Agreement (the "Installment Sale Agreement"), dated as of February 1, 2021, by and between the District and the Authority; and

**WHEREAS**, the District will make installment payments pursuant to the Installment Sale Agreement (the "Installment Payments") from the Net Revenues (as defined therein) of the Enterprise (as defined therein) in order to purchase the Project from the Authority; and

**WHEREAS**, to implement the foregoing, the Authority and the Trust Administrator propose to execute and enter into an Assignment Agreement (the "Assignment Agreement"), dated as of February 1, 2021, whereby the Authority will assign to the Trust Administrator all of its rights and entitlements under the Installment Sale Agreement, including but not limited to the entitlement to receive the Installment Payments from the District; and

**WHEREAS**, the Authority is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to enter into financial arrangements for the purpose of refinancing certain outstanding obligations of its Members, including the WIIN Act Obligation; and

**WHEREAS**, the Authority proposes to sell the Bonds to the Bank pursuant to all on the terms and conditions herein set forth and as provided in the Trust Agreement and Installment Sale Agreement; and

**WHEREAS**, the Authority, with the aid of its staff, has reviewed the Trust Agreement, the Installment Sale Agreement and the Assignment Agreement, the forms of which are on file with the Secretary of the Board of Directors of the Authority (the "Secretary"), and the Board of Directors of the Authority (the "Board") wishes at this time to approve the foregoing in the public interests of the Authority; and

**WHEREAS**, the Authority desires to designate the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a "Qualified Tax-Exempt Obligation;" and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the Project in the manner and upon the terms herein provided; and

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND RESOLVED BY THE BOARD OF DIRECTORS OF THE BYRON BETHANY PUBLIC FINANCING AUTHORITY AS FOLLOWS:**

**Section 1. Recitals and Findings.** The Board hereby specifically finds and declares that each of the statements, findings and determinations of the Authority set forth in the recitals set forth above and in the preambles of the documents approved herein are true and correct.

**Section 2. Authorized Representatives.** The Chairperson, Executive Director, Secretary, and any other person authorized by the Board to act on behalf of the Authority shall each be an "Authorized Representative" of the Authority for the purposes of structuring and providing for the issuance of the Bonds, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the Authority, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the execution and delivery of the Bonds, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the Board has approved in this Resolution.

**Section 3. Bonds.** The Board hereby authorizes the preparation, sale and delivery of the Bonds in an aggregate principal amount not to exceed \$4,500,000 in accordance with the terms and provisions of the Trust Agreement.



**Section 4. Bond Documents.** The form of the Installment Sale Agreement, the Trust Agreement and the Assignment Agreement in substantially the form on file with the Secretary and presented at this meeting are hereby approved. Each Authorized Representative, acting singly, is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver the Installment Sale Agreement, the Trust Agreement and the Assignment Agreement in substantially said form, with such changes therein as the Authorized Representative executing the same may approve (such approval to be conclusively evidenced by such Authorized Representative's execution and delivery thereof). The Board hereby authorizes the delivery and performance of the Financing Agreement.

**Section 5. Appointment of Trust Administrator.** The Authority hereby consents to the General Manager of the District being appointed to act as Trust Administrator under the Trust Agreement unless and until replaced in accordance with the provisions of the Trust Agreement.

**Section 6. Qualified Tax-Exempt Obligation.** The Board hereby designates the Installment Sale Agreement and the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a "Qualified Tax-Exempt Obligation" and covenants that the Bonds do not constitute a private activity bond as defined in Section 141 of the Code and that the aggregate face amount of all tax-exempt obligations issued by the Authority (including all subordinate entities of the Authority and all entities which may issue obligations on behalf of the Authority) during the calendar year 2021 is not reasonably expected to exceed \$10,000,000, excluding, however, private activity bonds, as defined in Section 141 of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code) and current refunding obligations having a principal amount not in excess of the refunded obligation.

**Section 7. Good Faith Estimates.** Set forth below are good faith estimates of the Municipal Advisor, as required under Section 5852.1 of the Government Code. The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by this resolution.

(a) The true interest cost of the Bonds is estimated at 1.63%, calculated as provided in Section 5852.1(a)(1)(A) of the Government Code.

(b) The finance charge of the Bonds, including all fees and charges paid to third parties, is estimated at \$82,500.

(c) Proceeds of the Bonds received by the District of \$4,500,000.00 less the finance charge set forth in (b) above, is equal to \$4,417,500.00.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Government Code is estimated at \$4,886,961.78.

**Section 8. Other Actions.** The Chairperson, Executive Director or Secretary, and such other officers of the Authority are authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the sale and delivery of the Bonds, and the delivery of the Installment Sale Agreement, Trust Agreement and Assignment Agreement and otherwise effectuate the purposes of this Resolution.

**Section 9. Effect.** This Resolution shall take effect immediately from and after the date of its passage and adoption.

**THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED** by the members of the governing board of the Byron Bethany Public Financing Authority at its regular meeting held on January 19, 2021, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

\* \* \* \* \*

I hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the BYRON BETHANY PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California, at a regular meeting of the Board of Directors thereof duly called and held at the office of the Authority on the 19th day of January, 2021.

\_\_\_\_\_  
Secretary  
BYRON BETHANY PUBLIC FINANCING AUTHORITY

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**INSTALLMENT SALE AGREEMENT**

**Dated as of February 1, 2021**

**by and between the**

**BYRON BETHANY PUBLIC FINANCING AUTHORITY,  
as Seller**

**and the**

**BYRON BETHANY IRRIGATION DISTRICT,  
as Purchaser**

**Relating to**

**\$ \_\_\_\_\_  
BYRON BETHANY PUBLIC FINANCING AUTHORITY  
SERIES 2021 ENTERPRISE REVENUE BONDS  
(WIIN ACT REFINANCING AND WATER SUPPLY PROJECT)  
BANK QUALIFIED**

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## **INSTALLMENT SALE AGREEMENT**

**THIS INSTALLMENT SALE AGREEMENT**, dated as of February 1, 2021, by and between the BYRON BETHANY PUBLIC FINANCING AUTHORITY, a California joint powers authority duly organized and existing pursuant to the laws of the State of California, as seller (the "Authority"), and the BYRON BETHANY IRRIGATION DISTRICT, an irrigation district duly organized and validly existing under the Constitution and laws of the State of California, as purchaser (the "District");

### ***WITNESSETH:***

**WHEREAS**, the District and the Authority have each adopted a resolution agreeing to enter into certain contractual relations with each other for the purpose, among other things, of arranging financing for the acquisition and construction of improvements to the District's public irrigation system (the "Enterprise"), as more particularly described in Exhibit A hereto (the "Project"); and

**WHEREAS**, the Authority has been formed for the purpose, among others, of assisting municipalities such as the District in the financing of public capital improvements within or of benefit to the District; and

**WHEREAS**, to that end, the Authority will cause the execution and delivery of Series 2021 Enterprise Revenue Bonds in the principal amount of \$ \_\_\_\_\_ (the "Bonds"), and apply the proceeds of the sale thereof to the acquisition and construction of the Project; and

**WHEREAS**, the Bonds will be issued pursuant to the terms and conditions of a Trust Agreement by and among the Authority, the District and the General Manager of the District, as the trust administrator named therein (the "Trust Agreement"); and

**WHEREAS**, the District has determined to purchase the Project from the Authority pursuant to this Installment Sale Agreement; and

**WHEREAS**, the District will make installment payments pursuant to this Installment Sale Agreement (the "Installment Payments") from the Net Revenues (as defined herein) of the Enterprise in order to purchase the Project from the Authority; and

**WHEREAS**, the Authority will assign its right to receive Installment Payments to the General Manager of the Byron Bethany Irrigation District, as trust administrator, pursuant to an Assignment Agreement, dated as of February 1, 2021 (the "Assignment Agreement") for the benefit of the Owners (as defined herein) of the Bonds;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### GENERAL

**Section 1.01. Definitions.** Unless the context otherwise requires, the terms defined in the Trust Agreement, dated as of February 1, 2021, by and among the General Manager of the Byron Bethany Irrigation District, as Trust Administrator, the Authority and the District, shall, for all purposes of this Installment Sale Agreement, have the meanings specified therein.

**Section 1.02. Representations, Covenants and Warranties.** The District and the Authority represent, covenant and warrant to each other as follows:

(a) Each is validly organized and existing under the laws of the State.

(b) The laws of the State authorize each to enter into this Installment Sale Agreement and the Trust Agreement and to enter into the transactions contemplated by and to carry out its obligations under each of the aforesaid agreements, and each is duly authorized to execute such agreements.

(c) The execution and delivery of this Installment Sale Agreement, the Trust Agreement, the fulfillment of or compliance with the terms and conditions hereof or thereof, and the consummation of the transactions contemplated by this Installment Sale Agreement and the Trust Agreement do not conflict with and do not result in a material breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which either is now a party or by which either is bound or constitutes a default under any such agreement or instrument.

(d) Each has duly executed this Installment Sale Agreement and the Trust Agreement in accordance with the laws of the State.

(e) The Project has not been the subject of a previous conveyance by the District.

(f) The District has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Gross Revenues or the Net Revenues over the payment of the Installment Payments as provided herein.

**Section 1.03. Written Certificates.**

(a) **Contents.** Every Written Certificate provided for in this Installment Sale Agreement with respect to compliance with any provision hereof (other than Written Certificates delivered on the Closing Date) shall include (a) a statement that the person making or giving such Written Certificate or opinion has read such provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the Written Certificate is based; (c) a statement that, in the opinion of such person, he or she has made or caused to be made such examination or investigation as is necessary to enable him or her to express an informed opinion with respect to the subject matter referred to in the instrument to which his or her signature is affixed; (d) a statement of the assumptions upon which such Written Certificate is based,

and that such assumptions are reasonable; and (e) a statement as to whether, in the opinion of such person, such provision has been complied with.

**(b) Reliance.** Any such Written Certificate made or given by a District Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless such District Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such Written Certificate may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the District, as the case may be) upon a certificate or opinion of or representation by a District Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based is erroneous. The same District Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Installment Sale Agreement, but different officers, counsel or accountants may certify to different matters, respectively.

**Section 1.04. Exhibits.** The following Exhibits are attached to, and by this reference are made a part of, this Installment Sale Agreement:

- Exhibit A: Project Description**
- Exhibit B: Installment Payments Schedule**

## **ARTICLE II**

### **DEPOSITS; PAYMENTS; ACQUISITION AND CONSTRUCTION**

**Section 2.01. Deposit of Moneys.** The Authority shall cause to be deposited with the Trust Administrator, the amounts derived from the proceeds of the Bonds (to be an aggregate of \$ \_\_\_\_\_), into the funds as provided in the Trust Agreement.

**Section 2.02. Payment of Project Costs and Delivery Costs.** Payment of the Project Costs and Delivery Costs shall be made from the moneys deposited with the Trust Administrator in the Bond Proceeds Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Sections 3.02 and 3.03, respectively, of the Trust Agreement. The District hereby covenants to pay necessary Project Costs and Delivery Costs in excess of amounts available from Bonds proceeds from any legally available source of funds. The fees and disbursements of counsel to the District and the Authority and Bond Counsel, the fees and disbursements of the financial advisor to the District, fees of the California Debt and Investment Advisory Commission ("CDIAC"), fees of Bank's Counsel and other miscellaneous expenses of the District incurred in connection with this Installment Sale Agreement or the Bonds shall all be the obligation of the District. The Bank shall have no responsibility for any expenses associated with this Installment Sale Agreement or the Bonds, including, but not limited to, the expenses identified above as the obligation of the District.



**Section 2.03. Unexpended Proceeds.** In accordance with Section 3.04 of the Trust Agreement, all excess moneys remaining in the Bond Proceeds Fund and not required for payment of Project Costs and Delivery Costs shall be transferred to the Installment Payment Fund and applied to the payment of debt service on the Bonds.

**Section 2.04. Acquisition and Construction of the Project.** The Authority hereby appoints the District as its agent to cause the Acquisition and Construction of the Project.

### ARTICLE III

#### PROJECT SALE AND TITLE; INSTALLMENT PAYMENTS; NET REVENUES

**Section 3.01. Sale.** The Authority hereby sells, bargains and conveys the Project to the District, and the District hereby purchases the Project from the Authority upon the terms and conditions set forth in this Installment Sale Agreement.

**Section 3.02. Title.** The District and the Authority agree that title to the Project, and each component thereof, shall be deemed conveyed to and vested in the District upon the completion of the acquisition, construction and installation thereof. The Authority and its officers shall take all actions necessary to vest in the District all of the Authority's rights in and title to the Project.

**Section 3.03. Assignment by the Authority.** The Authority's right, title and interest in this Installment Sale Agreement, including the right to receive and enforce payment of the Installment Payments to be made by the District under this Installment Sale Agreement, have been assigned to the Trust Administrator, subject to certain exceptions, pursuant to the Assignment Agreement, to which assignment the District hereby consents. The District understands and agrees that the Authority has assigned its right, title and interest (but not its duties or obligations) in this Installment Sale Agreement to the Trust Administrator pursuant to the Assignment Agreement for the benefit of the Owners of the Bonds. The Authority hereby directs the District, and the District hereby agrees, to pay to the Trust Administrator at the Trust Administrator's Trust Office or at such other place as the Trust Administrator shall direct in writing, all payments payable by the District pursuant to this Installment Sale Agreement.

**Section 3.04. Term of the Installment Sale Agreement.** The Term of the Installment Sale Agreement shall be as provided in the Trust Agreement.

#### **Section 3.05. Installment Payments.**

(a) **Obligation to Pay.** The District agrees to pay to the Authority, its successors and assigns, as the purchase price of the Project, the Installment Payments, consisting of components of principal and interest, on the Installment Payment Dates and in the amounts specified in Exhibit B hereto.

(b) **Reduction upon Partial Prepayment.** In the event the District prepays less than all of the remaining principal components of the Installment Payments pursuant to Sections 4.02 and 4.03 hereof, the amount of such prepayment shall be applied to reduce the principal component of the subsequent remaining Installment Payments in inverse order of maturity, unless otherwise

requested by District and agreed to by Bank in its reasonable discretion, and the interest component of each subsequent remaining Installment Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds redeemed as a result of such prepayment.

(c) **Rate on Overdue Payments.** In the event the District should fail to make any of the payments required in this Section 3.05 so that there are insufficient moneys on hand in the Installment Payment Fund to pay any Installment Payment in full on an Installment Payment Date, the Installment Payment in default shall continue as an obligation of the District until the amount in default shall have been fully paid and the District agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the rate of interest payable with respect to the Bonds.

### **Section 3.06. Special Obligation of the District.**

(a) **Limitations.** The District's obligation to pay the Installment Payments shall be a special obligation limited solely to Net Revenues. Under no circumstances shall the District be required to advance any moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Installment Payments, nor shall any other funds or property of the District be liable for the payment of the Installment Payments.

(b) **Obligations Unconditional.** The obligations of the District to make the Installment Payments from Net Revenues and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach of the District, the Authority or the Trust Administrator of any obligation to the District or otherwise with respect to the Project, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the District by the Authority or the Trust Administrator.

(c) **Obligations Specified.** Until such time as all of the Installment Payments shall have been fully paid or prepaid, the District:

(i) will not suspend, abate, or discontinue any payments provided for in Section 3.05 hereof;

(ii) will perform and observe all other agreements contained in this Installment Sale Agreement; and

(iii) will not terminate the Term of the Installment Sale Agreement for any cause, including, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or temporary use of any or all of the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or any failure of the Authority or the Trust Administrator to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Trust Agreement, the Assignment Agreement or this Installment Sale Agreement.

(d) **Authority Obligations.** Nothing contained in this Section 3.06 shall be construed to release the Authority from the performance of any of the agreements on its part herein contained, and in the event the Authority shall fail to perform any such agreements on its part, the District may institute such action against the Authority as the District may deem necessary to compel performance so long as such action does not abrogate the obligations of the District contained in Section 3.06(b) above. The District may, however, at the District's own cost and expense and in the District's own name or in the name of the Authority prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to secure or protect the District's right of possession, occupancy and use hereunder, and in such event the Authority hereby agrees to cooperate fully with the District and to take such action necessary to effect the substitution of the District for the Authority in such action or proceeding if the District shall so request.

**Section 3.07. Pledge of Net Revenues; Transfer to Pay Installment Payments; Release from Lien.**

(a) **Pledge of Net Revenues.** The District hereby agrees that the payment of the Installment Payments shall be secured by a first pledge, charge and lien upon Net Revenues which pledge, charge and lien are on a parity with any Parity Obligations, and Net Revenues sufficient to pay the Installment Payments as they become due and payable are hereby pledged, charged, assigned, transferred and set over by the District to the Authority and its assigns for the purpose of securing payment of the Installment Payments. The Net Revenues shall constitute a trust fund for the security and payment of the Installment Payments.

Pursuant to Section 5451 of the Government Code of the State of California, the pledge of the Net Revenues by the District for the repayment of the principal of, premium, if any, and interest components of the Installment Payments constitutes a first lien and security interest which immediately attaches to such Net Revenues, and is effective and binding against the District and its successors and creditors and all others asserting rights therein irrespective of whether those parties have notice of the pledge, irrespective of whether such amounts are or may be deemed to be a fixture and without the need for physical delivery, recordation, filing or further act.

(b) **Transfer to Pay Installment Payments.** In order to provide for the payment of Installment Payments when due, the District shall, on or before each Installment Payment Date, transfer to the Trust Administrator for deposit into the Installment Payment Fund the amount indicated in Exhibit B attached hereto as required for the next occurring Installment Payment Date. Notwithstanding Exhibit B attached hereto, the District shall be obligated to make Installment Payments sufficient to pay all principal and interest due with respect to the Bonds.

(c) **Release from Lien.** Following the transfers described in paragraph (b) of this Section 3.07 with respect to Net Revenues allocable to such Fiscal Year in excess of amounts required for the payment of Bonds and Parity Obligations, if any issued or incurred in accordance with Section 3.09(b), in such Fiscal Year shall be released from the lien of this Installment Sale Agreement and shall be available for any lawful purpose of the District.

### **Section 3.08. Rates, Fees, and Charges.**

(a) The District will, at all times while the Bonds remains outstanding, fix, prescribe and collect rates, fees and charges in connection with the Enterprise so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts in the order set forth below:

- (1) All Operation and Maintenance Costs of the Enterprise;
- (2) The Debt Service payments and all other payments (including payments under reimbursement agreements) with respect to all Parity Obligations as they become due and payable;
- (3) All amounts, if any, required to restore the balance in any reserve accounts established for Parity Obligations in accordance with the terms of such Parity Obligations Documents, without preference or priority; and
- (4) All payments required to meet any other obligations of the District that are charges, liens, encumbrances upon, or which are otherwise payable from the Revenues during such Fiscal Year.

(b) Furthermore, the District shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty percent (120%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year. The District may make adjustments, from time to time, in its rates, fees and charges as it deems necessary, but shall not reduce its rates, fees and charges below those in effect unless the Net Revenues resulting from such reduced rates, fees and charges shall at all times be sufficient to meet the requirements set forth in this paragraph.

(c) If the District violates the covenants set forth in subsections (a) or (b) hereof, such violation shall not, in and of itself, be a default under this Installment Sale Agreement and shall not give rise to a declaration of an Event of Default so long as (i) Net Revenues (calculated without taking into account any amounts transferred into the Installment Payment Fund from the Rate Stabilization Fund pursuant to subsection (d) below), are at least equal to the Maximum Annual Debt Service coming due and payable during such Fiscal Year, and (ii) within 60 days after the date such violation is discovered, the District either (y) transfers enough moneys from the Rate Stabilization Fund sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty percent (120%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year in compliance with subsection (b) hereof, or (z) hires an Independent Financial Consultant to review the revenues and expenses of the Enterprise, and abides by such consultant's recommendations to revise the schedule of rates, fees, expenses and charges, and to revise any Operation and Maintenance Costs insofar as practicable, and to take such other actions as are necessary so as to produce Net Revenues to cure such violation for future compliance; provided, however, that, if the District does not, or cannot, transfer from the Rate Stabilization Fund the amount necessary to comply with subsection (b) hereof, or otherwise cure such violation within six (6) months after the date such violation is discovered, an Event of Default shall be deemed to have occurred under Section 7.01 hereof.

(d) The Rate Stabilization Fund is not pledged to secure payment of the Installment Payments. Amounts in the Rate Stabilization Fund shall be applied solely for the uses and purposes set forth herein. The District shall have the right to deposit into the Rate Stabilization Fund from time to time any amount of funds which are legally available therefor; provided that deposits for each Fiscal Year may be made until (but not after) one hundred twenty (120) days following the end of such Fiscal Year. In addition, the District shall be permitted to withdraw amounts on deposit in the Rate Stabilization Fund for any other lawful purpose.

For the purpose of computing the amount of Revenues for any Fiscal Year for purposes of the preceding subsection (a), or the amount of Net Revenues for any Fiscal Year for purposes of the preceding subsection (b), the District shall be permitted to transfer amounts on deposit in the Rate Stabilization Fund to the Installment Payment Fund, such transfers to be made until (but not after) one hundred twenty (120) days after the end of such Fiscal Year.

### **Section 3.09. Limitations on Future Obligations Secured by Net Revenues.**

(a) **No Obligations Superior to Installment Payments.** In order to protect further the availability of the Net Revenues and the security for the Installment Payments and any Parity Obligations, the District hereby agrees that the District shall not, so long as any Bonds are outstanding, issue or incur any obligations payable from Gross Revenues or Net Revenues senior or superior to the Installment Payments or any Parity Obligations.

(b) **Parity Obligations.** The District may at any time issue Parity Obligations payable from Net Revenues on a parity with debt service on the Bonds to provide financing or refinancing for the Enterprise in such principal amount as shall be determined by the District. The District may issue or incur any such Parity Obligations subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Obligations:

(i) The District is not in default under the terms of this Installment Sale Agreement;

(ii) The Net Revenues (calculated without taking into account any amounts transferred into the Installment Payment Fund from the Rate Stabilization Fund), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty percent (120%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued; and

(iii) Except with respect to the Bonds, and at the District's sole discretion, there may be established from the proceeds of such Parity Obligations a reserve fund for the security of such Parity Obligations.

The provisions of subsection b(ii) of this Section 3.09 shall not apply to any Parity Obligations if, and to the extent that (i) all of the proceeds of such Parity Obligations (other than proceeds applied to pay costs of issuing such Parity Obligations and to make the reserve fund deposit required pursuant to subsection b(iii) of this Section 3.09) shall be deposited in an irrevocable escrow held in cash or invested in Federal Securities for the purpose of paying the principal of and interest and premium (if any) on such outstanding Parity Obligations, and (ii) at the time of the incurring of such Parity Obligations, the District certifies in writing that maximum annual debt service on such Parity Obligations will not exceed Maximum Annual Debt Service on the outstanding Parity Obligations being refunded, and (iii) the final maturity of such Parity Obligations is not later than the final maturity of the Parity Obligations being refunded.

The District may at any time execute contracts or issue bonds or other indebtedness payable from Net Revenues or the Installment Payment Fund payable on a subordinated basis to the payment of the Debt Service payments on Parity Obligations.

**Section 3.10. Additional Payments.** In addition to the Installment Payments, the District shall pay, from Net Revenues, when due all costs and expenses incurred by the Authority to comply with the provisions of the Trust Agreement and this Installment Sale Agreement, including, without limitation all Delivery Costs (to the extent not paid from amounts on deposit in the Bond Proceeds Fund), compensation due to the Trust Administrator for its fees, costs and expenses incurred under the Trust Agreement and the Assignment Agreement and all costs and expenses of attorneys, auditors, engineers and accountants.

## ARTICLE IV

### PREPAYMENT OF INSTALLMENT PAYMENTS

**Section 4.01. Prepayment.** The District shall have the right to prepay the Installment Payments, but only in the manner, at the times and in all respects in accordance with the provisions of this Article IV.

**Section 4.02. Optional Prepayment.** Subject to the terms and conditions of this Section 4.02, the Authority hereby grants an option to District to prepay the Installment Payments in full or in part, by paying part or all, as the case may be, of the unpaid principal component of the Installment Payments as set forth in Exhibit B, but not in an amount of less than the Denomination Amount or any integral multiple thereof, at the times, penalties and manner set forth in Article IV of the Trust Agreement. Said option may be exercised on any date following written notice by the District to the Authority and the Trust Administrator of the exercise of such option at least forty-five (45) days prior to date designated for prepayment (unless waived by the Authority or Trust Administrator).

In the event of prepayment in part, the District or Authority shall revise the Exhibit B Schedule of Installment Payments, which schedule shall take into account such prepayment and shall be and become for all purposes thereafter the "Amended Exhibit B to the Installment Sale Agreement."

**Section 4.03. Mandatory Prepayment from Net Proceeds of Insurance or Condemnation and from Unexpended Proceeds.** The District shall be obligated to prepay the Installment Payments in whole or in part on any Installment Payment Date from and to the extent of (a) any Net Proceeds of any insurance or condemnation award theretofore deposited in the Installment Payment Fund for such purpose pursuant to Section 5.07 hereof or pursuant to Section 7.02 of the Trust Agreement; and (b) from any excess monies

remaining in the Bond Proceeds Fund and not required for payment of Project or Delivery Costs ("Unexpended Proceeds"). The District and the Authority hereby agree that such Net Proceeds and Unexpended Proceeds shall be credited towards the District's obligations under this Section 4.03. Except in the case of such prepayment of the Installment Payments in full, such payment shall be in addition to the Installment Payment required to be paid by the District on such date.

**Section 4.04. Credit for Amounts on Deposit.** In the event the District elects or is required to prepay the Installment Payments in full under this Article IV, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, all amounts then on deposit in the Installment Payment Fund and the Bond Proceeds Fund shall be credited towards the amounts required to be so prepaid.

**Section 4.05. Security Deposit.** Notwithstanding any other provision of this Installment Sale Agreement, the District may, on any date, secure the payment of Installment Payments by a deposit with the Trust Administrator, as escrow holder under an escrow deposit and trust agreement as referenced in Section 14.01(d) of the Trust Agreement, of:

(a) **All Installment Payments.** in the case of a security deposit relating to all Installment Payments, either (i) an amount which, together with amounts on deposit in the Installment Payment Fund, is sufficient to pay all unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) Defeasance Obligations, together with cash, if required, in such amount as will, in the opinion of nationally-recognized bond counsel and of an independent certified public accountant, together with interest to accrue thereon and, if required, all or a portion of moneys or Defeasance Obligations then on deposit in the Installment Payment Fund, be fully sufficient to pay all unpaid Installment Payments on their Installment Payment Date; or

(b) **Portion of Installment Payments.** in the case of a security deposit relating to a portion of the Installment Payments both (i) a Written Certificate executed by a District Representative designating the portion of the Installment Payments to which the deposit pertains, and (ii) cash or Defeasance Obligations, in such amount as will, together with interest to be received thereon, if any, and an allocable portion of amounts on deposit in the Installment Payment Fund, be fully sufficient in the opinion of an independent certified public accountant, to pay the portion of the Installment Payments designated in the aforesaid District Representative's Written Certificate.

(c) **Effect.** In the event of a deposit pursuant to this Section 4.05, all obligations of the District under this Installment Sale Agreement pertaining to the portion of the Installment Payments for which the deposit has been made shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments, or the portion of Installment Payments to which the deposit pertains, from the deposit made by District pursuant to this Section 4.05. Such deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Installment Sale Agreement; and further provided that any security deposit relating to the Project shall not affect the covenant of the District contained in Section 3.09 hereof in the event such security deposit is insufficient to pay or prepay all Installment Payments relating to the Project when and as the same become due and payable. Upon said deposit, the Authority will execute or cause to be executed any and all documents as may be necessary to release the security provided hereby to the extent of such deposit.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; COVENANTS AND OTHER MATTERS

#### Section 5.01. Maintenance, Taxes and Assessments, Contests.

(a) **Operation and Maintenance.** The District covenants to operate the Enterprise in an efficient and economical manner, and operate, maintain and preserve the Enterprise in good repair and working order in accordance with customary standards and practices applicable to similar facilities

(b) **Taxes and Assessments.** The District shall also pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or the District or levied, assessed or charged against the Enterprise or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the District shall be obligated to pay only such installments as are required to be paid during the Term of the Installment Sale Agreement as and when the same become due.

(c) **Contest.** The District may, at the District's expense and in its name, in good faith contest any such taxes, assessments and charges and, in the event of any such contest, may permit the taxes, assessments or charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the District that, in the opinion of Independent Counsel, by nonpayment of any such items, the Project or any part thereof will be subject to loss or forfeiture, in which event the District shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority.

**Section 5.02. Modification of Project.** The District shall, at its own expense, have the right to remodel the Project or to make additions, modifications and improvements thereto. All such additions, modifications and improvements shall thereafter comprise part of the Project and be subject to the provisions of this Installment Sale Agreement. Such additions, modifications and improvements shall not in any way damage the Project or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Project, upon completion of any additions, modifications and improvements made pursuant to this Section 5.02, shall be of a value which is not substantially less than the value of the Project immediately prior to the making of such additions, modifications and improvements.

**Section 5.03. Installation of District's Equipment.** The District may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Project. All such items shall remain the sole property of the District, in which neither the Authority nor the Trust Administrator shall have any interest, and may be modified or removed by the District at any time provided that the District shall repair and restore any and all damage to the Project resulting from the installation, modification or removal of any such items. Nothing in this Installment Sale Agreement shall prevent the District from purchasing items to be installed pursuant to this Section 5.03 under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof.



#### **Section 5.04. Public Liability and Property Damage Insurance.**

(a) **Insurance Policies.** The District shall maintain or cause to be maintained, throughout the Term of the Installment Sale Agreement, insurance policies, including a standard comprehensive general insurance policy or policies in protection of the District, its members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the construction or operation of the Enterprise (but only if such insurance is available at reasonable cost on the open market from reputable insurance companies). Such policy or policies shall afford protection in such amounts, with such deductibles, as are usually covered in connection with operations similar to the Enterprise. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the District, and may be maintained in the form of insurance maintained through a nonprofit public benefit corporation created for such purpose or in the form of self-insurance by the District.

(b) **Self-Insurance.** If the District shall maintain self-insurance, it shall supply to the Trust Administrator a statement of sufficiency by an independent insurance consultant or the District's risk manager on an annual basis as described in Section 5.06 hereof.

(c) **Application of Net Proceeds.** The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

#### **Section 5.05. Fire and Extended Coverage Insurance.**

(a) **Insurance Policies.** The District shall procure and maintain, or cause to be procured and maintained, throughout the Term of the Installment Sale Agreement, insurance against loss or damage to any above-ground structures, including District-owned equipment and machinery housed therein, constituting any part of the Enterprise by fire and lightning, with extended coverage insurance but not including earthquake insurance. Such insurance need not include reservoirs, standpipes and elevated tanks. Such insurance shall be in an amount which is not less than 100% of the replacement cost of the Project. Such insurance may be subject to a deductible clause of not to exceed ten percent of said replacement cost for any one loss. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the District, and may be maintained in the form of insurance maintained through a nonprofit public benefit corporation created for such purpose or in the form of self-insurance by the District.

(b) **Self-Insurance.** If the District shall maintain self-insurance, it will supply to the Trust Administrator a statement of sufficiency by an independent insurance consultant or the District's risk manager on an annual basis as described in Section 5.06 hereof.

(c) **Application of Net Proceeds.** Net Proceeds of such insurance shall be applied as provided in Section 5.07 hereof.

**Section 5.06. Insurance Net Proceeds; Form of Policies.** The insurance required by Section 5.05 hereof shall provide that all applicable proceeds thereunder shall be payable to the Trust Administrator for the benefit of the Bonds Owners. The District shall pay or cause to be paid when due the premiums for all

insurance policies required by this Installment Sale Agreement. All such policies shall provide that the Authority and the Trust Administrator are named as additional insureds and that the Trust Administrator shall be given thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trust Administrator shall not be responsible for the sufficiency of any insurance herein required or for the obtaining of such insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the District. The District shall cause to be delivered to the Trust Administrator annually, no later than the end of each Fiscal Year, a Written Certificate signed by a District Representative stating that the District is in compliance with Sections 5.04 and 5.05 of this Agreement. The Trust Administrator may conclusively rely on such Written Certificates.

**Section 5.07. Application of Net Proceeds.**

(a) **From Insurance Award.** The Net Proceeds of any insurance award resulting from any damage to or destruction of the Project by fire or other casualty shall be deposited in the Insurance and Condemnation Fund by the Trust Administrator promptly upon receipt thereof and, if the District Representative notifies the Trust Administrator in writing of the District's determination that the replacement, repair, restoration, modification or improvement of the Project is not economically feasible or in the best interest of the District, then such Net Proceeds shall be promptly transferred by the Trust Administrator to the Installment Payment Fund to be applied as provided in Section 4.03 hereof. All Net Proceeds deposited in the Insurance and Condemnation Fund and not so transferred shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Project by the District, upon receipt of a requisition, signed by the District Representative and, so long as all of the Outstanding Bonds are held by the Bank, the Owner of the Bonds stating with respect to each payment to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment is due, (iii) the amount to be paid and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation. Any balance of the Net Proceeds remaining after such work has been completed shall be transferred to the Installment Payment Fund. The District covenants that it will commence such replacement, repair, restoration, modification or improvement or indicate that such replacement, repair, restoration, modification or improvement is not economically feasible within 180 days of receipt of such Net Proceeds.

(b) **From Eminent Domain Award.** The Net Proceeds of any eminent domain award shall be deposited in the Insurance and Condemnation Fund to be held and applied by the Trust Administrator pursuant to Section 7.02 of the Trust Agreement.

**Section 5.08 Advances.** If the District shall fail to perform any of its obligations under this Article V, the Authority may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the District shall be obligated to repay all such advances as soon as possible, with interest at the rate of interest with respect to the Bonds from the date of the advance to the date of repayment.

**Section 5.09 Records and Accounts; Audited Financials; Compliance Certificate.** The District shall keep proper books of records and accounts of the Enterprise, separate from all other records and

accounts, in which complete and correct entries are made of all transactions relating to the Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection of the Bank. The District shall cause the books and accounts of the Enterprise to be audited annually by an independent certified public accountant or firm of certified public accountants, not more than 270 days after the close of each Fiscal Year, and shall furnish a copy of such report to the Bank; provided, that the audit of the accounts of the Enterprise may be included as part of a general District-wide audit. Additionally, the District will provide Bank with a copy of its annual budget, as adopted or amended, within 30 days of adoption or amendment. Other reporting, such as Bank may require from time to time, could include copies of any long-term capital improvement plans.

**Section 5.10 Collection of Rates and Charges.** The District will have in effect at all times rules and regulations requiring each consumer or customer utilizing the Enterprise facilities to pay the rates, fees and charges applicable to such use or benefit received. Except in connection with the receipt of federal or State funding, the District will not permit any part of the Enterprise or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the State of California and any city, county, district, political subdivision, public corporation or agency of any thereof).

**Section 5.11. Competitive Facilities.** Except for any Enterprise facilities existing as of the date hereof, the District will not, to the extent permitted by law, acquire, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, authority, city, special district, or political subdivision or any person whomsoever to acquire, maintain or operate within the sphere of influence of the District any irrigation district system competitive with the Enterprise; provided, however, that the District may, with the written consent of the Bank first had and obtained, assign all or a portion of the Enterprise to another entity upon delivery to the Bank of an opinion of counsel experienced in the field of law relating to municipal bonds that such assignment will not adversely affect the tax-exempt status of the interest with respect to the Bonds, and provided such entity assumes the obligations of the District hereunder.

**Section 5.12. Observance of Laws and Regulations.** The District will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the District, including the District's right to exist and carry on business as a California irrigation district, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

**Section 5.13. Private Activity Bond Limitation.** The District shall assure that monies deposited pursuant to this Installment Sale Agreement are not so used as to cause Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(d) of the Code.

**Section 5.14. Federal Guarantee Prohibition.** The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds or the Interest Components of the Installment Payments to be "federally guaranteed" within the meaning of section 149(b) of the Code.

**Section 5.15. Rebate Requirement.** The District shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

**Section 5.16. No Arbitrage.** The District shall not take any action with respect to the proceeds of Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date this Installment Sale Agreement was entered into would have caused the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code.

**Section 5.17. Budget.** The District hereby covenants to take such action as may be necessary to include all Installment Payments and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Installment Payments and all other amount due hereunder.

## ARTICLE VI

### DISCLAIMER OF WARRANTIES; ACCESS; INDEMNITY

**Section 6.01. Disclaimer of Warranties.** The Authority makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the District for the Project or any item thereof, or any other representation or warranty with respect to the Project or any item thereof. In no event shall the Authority be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Installment Sale Agreement or the Trust Agreement for the existence, furnishing, functioning or District's use of the Project.

**Section 6.02. Access to the Project and Records.** To the extent permitted by law, the District agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have the right at all reasonable times to enter upon and to examine and inspect the Project. The District further agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have such rights of access to the Project as may be reasonably necessary to cause the proper maintenance of the Project in the event of failure by the District to perform its obligations hereunder. In addition, the District agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have the right at all reasonable times to inspect and examine all books, papers and records of the Authority and the District pertaining to the Project and the Bonds, to make copies thereof and to take non-privileged memoranda therefrom or with respect thereto as may be desired.

**Section 6.03. Indemnity.** The District shall and hereby agrees to indemnify and save the Authority and its successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of: (a) the use, maintenance, condition or management of, or from any work or thing done on the Project by the District; (b) any breach or default on the part of the District in the performance of any of its obligations under this Installment Sale Agreement; (c) any act or negligence of the District or of any of its agents, contractors, servants, employees or licensees with respect to the Project; (d) any act or negligence of any assignee or sublessee of the District with respect to the Project; or (e) the construction of the Project or the authorization of payment of the Project Costs or Delivery Costs by the District or the Authority. No indemnification is made under this Section 6.03, or elsewhere in this Installment Sale

Agreement for willful misconduct, negligence, or breach of duty under this Installment Sale Agreement by the Authority, its officers, agents, employees, successors or assigns.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default Defined.** The following shall be “events of default” under this Installment Sale Agreement and the terms “events of default” and “default” shall mean, whenever they are used in this Installment Sale Agreement, any one or more of the following events:

(a) Failure by the District to pay any Installment Payment by the Installment Payment Date or failure to make any other payment required to be paid hereunder at the time specified herein; or

(b) Failure by the District to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Installment Sale Agreement or the Trust Agreement, other than as referred to in clause (a) of this Section 7.01, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Authority, the Trust Administrator or the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding; *provided, however*, if the failure stated in the notice cannot be corrected within the applicable period, the Authority, the Trust Administrator or such Owners, as applicable, shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the District within the applicable period and diligently pursued until the default is corrected; or

(c) The filing by the District of a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or the approval by a court of competent jurisdiction of a petition filed with or without the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the District or of the whole or any substantial part of its property; or

(d) An event of default shall have occurred and be continuing with respect to any Parity Obligations (or Subordinate Debt which requires or permits the immediate acceleration thereof).

**Section 7.02. Remedies on Default.** Whenever any event of default referred to in Section 7.01 hereof shall have happened and be continuing, the Authority shall have the right, at its option and without any further demand or notice, to:

(a) declare all principal components of the unpaid Installment Payments, together with accrued interest at the rate or rates specified in the respective Outstanding Bonds from the immediately preceding Installment Payment Date on which payment was made, to be immediately due and payable, whereupon the same shall become due and payable; and

(b) take whatever action at law or in equity may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of the Installment Sale Agreement, or enforce performance and observance of any obligation, agreement or covenant of the District under this Installment Sale Agreement.

**Section 7.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Installment Sale Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VII it shall not be necessary to give any notice, other than such notice as may be required in this Article VII or by law.

**Section 7.04. Prosecution and Defense of Suits.** The District shall promptly, upon request of the Authority or its assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Project whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and, to the extent permitted by law, shall indemnify or cause to be indemnified the Authority and its assignee for all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceedings.

To the extent permitted by law, the District shall defend, or cause to be defended, against every suit, action or proceeding at any time brought against the Authority or its assignee upon any claim arising out of the receipt, application or disbursement of any of the Net Revenues or involving the rights or duties of the Authority or its assignee under this Installment Sale Agreement or the Trust Agreement; provided, that the Authority and its assignee at their election may appear in and defend any such suit, action or proceeding. The District shall indemnify or cause to be indemnified the Authority and its assignee against any and all liability claimed or asserted by any person, arising out of such receipt, application or disbursement. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect, even though all Installment Payments have been fully paid and satisfied, until a date which is three (3) years following the payment of the last of the Installment Payments.

**Section 7.05. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Installment Sale Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 7.06. Application of the Proceeds.** The Trust Administrator, as assignee of the Authority, shall apply all amounts received under this Article VII as set forth in Section 13.03 of the Trust Agreement.

**Section 7.07. Liability Limited to Net Revenues.** Notwithstanding any provision of this Installment Sale Agreement, the District's liability to pay the Installment Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Sections 3.06 and 3.07 hereof. In the event that Net Revenues shall be insufficient at any time to pay an Installment Payment in full, the District shall not be liable to pay or prepay such Installment Payment other than from Net Revenues.

**Section 7.08. Trust Administrator and Bond Owners to Exercise Rights.** Such rights and remedies as are given to the Authority under this Article VII have been assigned by the Authority to the Trust Administrator under the Assignment Agreement, to which assignment the District hereby consents. Such rights and remedies shall be exercised by the Trust Administrator and the Owners of the Bonds as provided in the Trust Agreement.

**Section 7.09. Pro Rata Application of Net Revenues.** If, at any time, there is a deficiency in Net Revenues available to pay the Installment Payments, any amounts due with respect to Parity Obligations, or amounts required to replenish any reserve fund established for Parity Obligations, available Net Revenues shall be applied on a pro rata basis to the payment of such Installment Payments and to the payment of amounts due with respect to Parity Obligations, then to the replenishment of any reserve fund established for Parity Obligations.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Assignment, Sale or Lease by the District.**

(a) **Assignment or Sale.** This Installment Sale Agreement may not be assigned by the District, and the Enterprise may not be sold by the District during the Term of this Installment Sale Agreement.

(b) **Lease.** The District may lease the Project, or any portion thereof, with the consent of the Owner of the Bonds so long as all of the Outstanding Bonds are held by the Bank thereof, and subject to all of the following conditions:

(i) This Installment Sale Agreement and the obligation of the District to make Installment Payments hereunder shall remain obligations of the District;

(ii) The District shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trust Administrator a true and complete copy of the documents accomplishing such lease;

(iii) No such lease by the District shall cause the Project to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State; and

(iv) No such lease shall cause the interest component of the Installment Payments to become subject to federal income taxes or State personal income taxes.

**Section 8.02. Amendment of Installment Sale Agreement.** The District will not alter, modify or cancel or agree or consent to alter, modify or cancel this Installment Sale Agreement, except as permitted by Article X of the Trust Agreement, without the written consent of the Trust Administrator and the Authority,

**Section 8.03. Binding Effect.** This Installment Sale Agreement shall inure to the benefit of and shall be binding upon the Authority and the District and their respective successors and assigns.

**Section 8.04. Applicable Law.** This Installment Sale Agreement shall be governed by and construed in accordance with the laws of the State.

**Section 8.05. Severability.** In the event any provision of this Installment Sale Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 8.06. Captions.** The captions or headings in this Installment Sale Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article or Section of this Installment Sale Agreement.

**Section 8.07. Net Contract.** This Installment Sale Agreement shall be deemed and construed to be a "net contract" and the District hereby agrees that the Installment Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

**Section 8.08. Further Assurances and Corrective Instruments.** The Authority and the District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project hereby sold or intended so to be or for carrying out the expressed intention of this Installment Sale Agreement.

**Section 8.09. Authority and District Representatives.** Whenever under the provisions of this Installment Sale Agreement the approval of the Authority or the District is required, or the Authority or the District is required to take some action at the request of the other, such approval or such request shall be given for the Authority by an Authority Representative and for the District by a District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

**Section 8.10. Notices.** All notices, Written Certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail with postage fully prepaid:

If to the District:	Byron Bethany Irrigation District 7995 Bruns Road Byron, CA 94514 Attention: General Manager
If to the Authority:	Byron Bethany Public Financing Authority 7995 Bruns Road Byron, CA 94514 Attention: Executive Director
If to the Trust Administrator:	General Manager Byron Bethany Irrigation District 7995 Bruns Road Byron, CA 94514 Attention: General Manager



The Authority, the District, the Trust Administrator and the Government, by notice given hereunder, may designate different addresses to which subsequent notices, Written Certificates or other communications will be sent.

**Section 8.11. Execution in Counterparts.** This Installment Sale Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

\*\*\*\*\*

**IN WITNESS**, the Authority has caused this Installment Sale Agreement to be executed in its corporate name by its duly authorized officer and sealed with its corporate seal; and the District has caused this Installment Sale Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

BYRON BETHANY PUBLIC FINANCING AUTHORITY,  
*as Seller*

By \_\_\_\_\_  
Executive Director

BYRON BETHANY IRRIGATION DISTRICT,  
*as Purchaser*

By \_\_\_\_\_  
General Manager

Attest

By \_\_\_\_\_  
Secretary

## **EXHIBIT A**

### **DESCRIPTION OF THE PROJECT**

The Project to be acquired and constructed with the proceeds of the Bonds, is general described as follows:

The acquisition and construction of canal lining, canal overlay, box culvert crossings and fencing, as well as any necessary lands, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

**EXHIBIT B**

**SCHEDULE OF INSTALLMENT PAYMENTS**

<u>Installment Payment Date</u>	<u>Principal Component</u>	<u>Interest Component*</u>	<u>Installment Payments</u>
04/01/2021			
10/01/2021			
04/01/2022			
10/01/2022			
04/01/2023			
10/01/2023			
04/01/2024			
10/01/2024			
04/01/2025			
10/01/2025			
04/01/2026			
10/01/2026			
04/01/2027			
10/01/2027			
04/01/2028			
10/01/2028			
04/01/2029			
10/01/2029			
04/01/2030			
10/01/2030			
<u>Totals</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

\* Interest is payable at the rate of 1.570%.

RUSSELL KAGEHIRO  
President  
Division V

TIM MAGGIORE  
Vice President  
Division III

LARRY ENOS, JR  
Director  
Division I

MARK MAGGIORE  
Director  
Division II

FELIX MUSCO  
Director  
Division IV



CHARLES TUSO  
Director  
Division VI

JEFF BROWN  
Director  
Division VII

JACK ALVAREZ  
Director  
Division VIII

TOM PEREIRA  
Director  
Division IX

RICK GILMORE  
General Manager  
Secretary

## MINUTE SUMMARY

Video Conference Board Meeting  
Tuesday, December 15, 2020 9:00 AM

### Call-in Information:

Meeting ID: Join Zoom Meeting  
<https://us02web.zoom.us/j/8458078863>

Meeting ID: 845 807 8863

Call In Number

1-669-900-6833,,8458078863#

The Board of Directors of the Byron-Bethany Irrigation District convened at approximately 9:00 a.m. This meeting was held via teleconference in accordance with the Governor's Executive Order (N-29-20) and the declared State of Emergency as a result of the threat of COVID-19, with President Kagehiro presiding.

*CALL TO ORDER – ROLL CALL 9:02 a.m.*

### *ADOPTION OF THE AGENDA*

M/S/C (Alvarez/Enos) Vote: (Ayes: Alvarez, Enos, Kagehiro, M. Maggiore, T. Maggiore, Pereira, Tusso; Noes: 0; Absent: Brown, Muso; Abstain: 0): Adopt the Agenda

### *CONSENT CALENDAR*

The following items are expected to be routine and non-controversial and can be acted on in one consolidated motion as recommended or may be removed from the Consent Calendar and separately considered at the request of any person.

1. Approve meeting minute summary of November, 2020.
2. Accept Treasurer's Report through November 2020.
3. Approve Check Register through November 2020.
4. Approve West Side Service Area Check Register through November 2020.
5. Accept West Side Service Area Treasurer's Reports through November 2020.
6. Adopt Resolution 2020-14: Consolidation of Oak Valley Community Bank Accounts.

M/S/C (T. Maggiore/Enos) Vote: (Ayes: Alvarez, Enos, Kagehiro, M. Maggiore, T. Maggiore, Musco, Pereira, Tusso; Noes: 0; Absent: Brown; Abstain: 0): Adopt Consent Calendar

### *DISCUSSION/ACTION CALENDAR*

7. Review and consider adopting Resolution 2020-15 Allowing Preliminary Project Expenditures to be Reimbursed from Bond Revenue.

**M/S/C (T. Maggiore/Pereira) Vote: (Ayes: Alvarez, Enos, Kagehiro, M. Maggiore, T. Maggiore, Musco, Pereira, Tuso; Noes: 0; Absent: Brown; Abstain: 0): After reviewing the move to adopt Resolution 2020-15 Allowing Preliminary Project Expenditures to be Reimbursed from Bond Revenue.**

8. Review and consider adopting Resolution 2020-16 Authorizing the Use of Undesignated Reserves to Fund Repayments under Section 4011 (a) (2) of the WIIN Act.

**M/S/C (T. Maggiore/Pereira) Vote: (Ayes: Alvarez, Enos, Kagehiro, M. Maggiore, T. Maggiore, Musco, Pereira, Tuso; Noes: 0; Absent: Brown; Abstain: 0): After discussion the following vote to adopt 2020-16 Authorizing the General Manager to withdraw \$2,175,612.00 from Undesignated Reserves to fund the Repayment Obligation pursuant to Contract 14-06-200-785-LTR1-P. Additionally Authorizing the General Manager to withdraw \$344,018 from the Oak Valley Community Bank West Side Irrigation District account to fund the Repayment Obligation pursuant to Contract No. 7-07-20-W0045-LTR1-P.**

## REPORTS

The General Manager advised the Board that with the paying off of the construction obligation of the Delta Mendota Canal the District would be relieved of the Reclamation Reform Act (RRA) paperwork.

Nick Janes gave a report the upcoming PG&E tariffs and that California Municipal Utilities Association (CMUA) are pushing against the PG&E tariffs.

## ADJOURNMENT 9:37 a.m.

Submitted on January 11, 2021

Approved on January 19, 2021

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Ms. Kelley Geyer, Deputy Secretary

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Mr. Russell Kagehiro, President

## ATTENDANCE

### Directors Present:

Russell Kagehiro	Division V
Mark Maggiore	Division II
Tim Maggiore	Division III
Charles Tuso	Division VI
Larry Enos	Division I
Jack Alvarez	Division IX
Tom Pereira	Division VIII

### Directors Absent:

Jeff Brown	Division VII
Felix Musco	Division IV

### Staff/Consultants/Present:

Rick Gilmore, General Manager  
 Kelley Geyer, AGM/Director of Admin  
 Michael Vergara, SSD Law  
 Alyson Ackermen, SSD Law  
 Nick Janes, J-COMM, Inc.

**RESOLUTION 2021-1  
APPLICATION FOR POST OFFICE BOX SERVICE**

WHEREAS, on August 13, 2020, the San Joaquin Local Agency Formation Commission (LAFCO) adopted Resolution 1435 ordering the consolidation of Byron-Bethany Irrigation District (BBID) and The West Side Irrigation District (TWSID) with Byron-Bethany Irrigation District as the Successor District; and,

WHEREAS, LAFCO's Certificate of Completion was completed on August 31, 2020 and filed with the San Joaquin County Recorder's Office on September 2, 2020; and,

WHEREAS, TWSID has PO Box service at the Tracy Post Office.

WHEREAS, BBID desires to retain said PO Box service.

NOW THEREFORE BE IT RESOLVED, the Board of Directors of Byron-Bethany Irrigation District finds as follows:

1. Authorizes Carol Petz, former TWSID Secretary and current Clerk of the Tracy Office, to take any and all action necessary to complete the Application for Post Office Box service on BBID's behalf.

\*\*\*\*\*

PASSED AND ADOPTED at a Meeting of the Board of Directors of Byron-Bethany Irrigation District on 19 January 2021 by the following vote:

AYES: ALVAREZ, ENOS, KAGEHIRO, M. MAGGIORE, T. MAGGIORE, PEREIRA, TUSO

NOES:

ABSENT:

ABSTAIN:

/s/ Russell Kagehiro

Mr. Russell Kagehiro, President

Secretary's Certification

I, Kelley Geyer, Deputy Secretary of the Board of Directors of Byron-Bethany Irrigation District, do hereby certify that the foregoing Resolution is a true and correct copy entered into the Minutes of the Meeting of 19 January, 2021, at which time a quorum was present, and no motion to amend or rescind the above resolution was made.

\_\_\_\_\_  
Kelley Geyer, Deputy Secretary

**RESOLUTION 2021-2  
AUTHORIZING DEBT SERVICE PREPAYMENT  
FROM THE DHCCP RESERVE ACCOUNT**

WHEREAS, in September 2020, the Board of Directors approved the debt service prepayment of the District's financial obligation relating to the Delta Habitat Conservation and Conveyance Plan.

NOW THEREFORE BE IT RESOLVED, the Board of Directors of Byron-Bethany Irrigation District finds as follows:

1. Authorizes the debt service prepayment of \$483,579.00 from the District's DHCCP Reserve Account.
2. Authorizes the fund balance of the DHCCP Reserve to be placed into the General Account and the DHCCP Reserve closed.

\*\*\*\*\*

PASSED AND ADOPTED at a Meeting of the Board of Directors of Byron-Bethany Irrigation District on 19 January 2021 by the following vote:

AYES: ALVAREZ, ENOS, KAGEHIRO, M. MAGGIORE, T. MAGGIORE, PEREIRA, TUSO

NOES:

ABSENT:

ABSTAIN:

/s/ Russell Kagehiro

Mr. Russell Kagehiro, President

Secretary's Certification

I, Kelley Geyer, Deputy Secretary of the Board of Directors of Byron-Bethany Irrigation District, do hereby certify that the foregoing Resolution is a true and correct copy entered into the Minutes of the Meeting of 19 January, 2021, at which time a quorum was present, and no motion to amend or rescind the above resolution was made.

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Kelley Geyer, Deputy Secretary



**RESOLUTION 2021-4**

**APPROVING, AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY OF A TRUST AGREEMENT, INSTALLMENT SALE AGREEMENT AND ASSIGNMENT AGREEMENT IN CONNECTION WITH THE ISSUANCE OF SERIES 2021 ENTERPRISE REVENUE BONDS, AND SETTING FORTH THE TERMS AND CONDITIONS THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF ANY AND ALL DOCUMENTS, INSTRUMENTS OR CERTIFICATES NECESSARY OR DESIRABLE TO ACCOMPLISH THE FOREGOING; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO**

**WHEREAS**, the Byron Bethany Irrigation District (the "District"), working together with the Byron Bethany Public Financing Authority, a California joint powers authority duly organized and existing under and by virtue of the laws of the State of California (the "Authority"), have agreed to enter into certain contractual relations for the purpose, among other things, of providing financing for public capital improvements of the District; and

**WHEREAS**, the District and the Town of Discovery Bay Community Services District, hereafter sometimes referred to as "Members," have heretofore approved the formation of the Authority through the execution of a joint exercise of powers agreement, dated as of July 1, 2012 (the "JPA Agreement"); and

**WHEREAS**, the District desires to reimburse itself for a recent payment made on its contract obligation (the "WIIN Contract") to the US Bureau of Reclamation under Section 4011 of the Water Infrastructure Improvements for the Nation (the "WIIN Act"), which is presently outstanding in the approximate amount of \$ 2,175,612.00 (the "WIIN Act Obligation"); and

**WHEREAS**, the District is also desirous of financing the acquisition and construction of a public improvement project that includes canal lining, canal overlay, box culvert crossings and fencing, together with all additions, extensions, expansions, improvements and betterments thereto (the "2021 Water Supply Improvement Project," and together with the WIIN Act Obligation, the "Project"); and

**WHEREAS**, for the purpose of providing financing for the Project, the District is hereby requesting the Authority to issue its Byron Bethany Public Financing Authority, Series 2021 Enterprise Revenue Bonds (WIIN Act Refinancing and Water Supply Project), in the aggregate principal amount of not to exceed \$4,500,000 (the "Bonds"), all pursuant to and secured by a Trust Agreement (the "Trust Agreement"), dated as of February 1, 2021, by and among the District, the Authority and the General Manager of the District, as trust administrator (the "Trustee Administrator"); and

**WHEREAS**, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to enter into financial arrangements for the purpose of refinancing certain outstanding obligations of the District, including the WIIN Act Obligation; and

**WHEREAS**, the District proposes to purchase the Project from the Authority pursuant to a certain Installment Sale Agreement (the "Installment Sale Agreement"), dated as of February 1, 2021, by and between the Authority and the District, whereby the District will make prescribed installment payments (the "Installment Payments") from the Net Revenues (as defined in the Installment Sale Agreement) derived from the District's enterprise operations, commensurate with the debt service scheduled for the repayment of the Bonds; and

**WHEREAS**, to further implement the foregoing, the Authority and the Trustee Administrator propose to execute and enter into an Assignment Agreement (the "Assignment Agreement"), dated as of February 1, 2021, whereby the Authority will assign to the Trustee Administrator all of its rights and entitlements under the Installment Sale Agreement, including but not limited to the entitlement to receive the Installment Payments from the District; and

**WHEREAS**, the District and Authority propose to sell the Bonds to JPMorgan Chase Bank (the "Bank"), pursuant to all on the terms and conditions herein set forth and as provided in the Trust Agreement and Installment Sale Agreement; and

**WHEREAS**, the Board desires to designate the Installment Sale Agreement and Bonds as a "Qualified Tax-Exempt Obligation" for purposes of Paragraph (3) of Section 265(b) of the Code; and

**WHEREAS**, pursuant to California Government Code (the "Government Code") Section 5852.1, certain good faith information relating to the Bonds is set forth herein and made public; and

**WHEREAS**, the District, with the aid of its staff, has reviewed the Trust Agreement, the Installment Sale Agreement and the Assignment Agreement, the forms of which are on file with the Secretary, and the Board wishes at this time to approve the foregoing in the public interests of the District; and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the Project in the manner and upon the terms herein provided; and

**WHEREAS**, the Board wishes at this time to authorize all proceedings relating to the Project and the issuance of the Bonds and the execution and delivery of all agreements and documents relating thereto; and

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Byron Bethany Irrigation District as follows:

**Section 1. Recitals and Findings.** The Board hereby specifically finds and declares that each of the statements, findings and determinations of the District set forth in the recitals set forth above and in

the preambles of the documents approved herein are true and correct and that the financing of the Project will result in significant public benefits for the residents of the District. The Board hereby further finds and determines that the total installment payments to be paid under the Installment Sale Agreement does not exceed the fair market value of the Project as set forth in the Installment Sale Agreement.

**Section 2. Authorized Representatives.** The President, Vice President, General Manager and Secretary or Deputy Secretary, and any other person authorized by the Board to act on behalf of the District shall each be an "Authorized Representative" of the District for the purposes of structuring and providing for the issuance of the Bonds, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the District, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the sale of the Bonds (including the investment of proceeds of the Bonds), and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the District has approved in this Resolution.

**Section 3. Approval of the Issuance of the Bonds: Significant Public Benefits.** The Board hereby approves the issuance of the Bonds by the Authority in a principal amount of not to exceed \$4,500,000, all as above described. The Board hereby finds and determines that the issuance and sale of the Bonds by the Authority to Bank will result in savings in effective interest rates, underwriting costs and issuance costs and thereby result in significant public benefits to the District and Authority.

**Section 4. Appointment of Trustee Administrator.** The General Manager is hereby appointed to act as Trustee Administrator under the Trust Agreement unless and until replaced in accordance with the provisions of the Trust Agreement.

**Section 5. Approval of Installment Sale Agreement.** The Board hereby authorizes and approves the purchase of the Project by the District pursuant to the Installment Sale Agreement. The Board hereby approves the Installment Sale Agreement in substantially the form on file with the Secretary together with any additions thereto or changes therein (including, but not limited to, the final amount of the sale price for the Project and the final debt service payment schedule) deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the District to, the final form of the Installment Sale Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Installment Sale Agreement.

**Section 6. Approval of Trust Agreement.** The Board hereby approves the Trust Agreement in substantially the form on file with the Secretary and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative of the District. Any Authorized Representative of the District is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the District to, the final form of the Trust Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Trust Agreement.

**Section 7. Approval of Assignment Agreement.** The form of the Assignment Agreement presented to this meeting and on file with the Secretary, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to the Authority the Assignment Agreement in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Assignment Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives.

**Section 8. Appointment of Consultants.** In connection with the transactions contemplated in this Resolution, the District hereby designates and appoints The Weist Law Firm to serve as bond counsel, and Caldwell Sutter Capital, Inc. to serve as municipal advisor. The General Manager is authorized and directed to execute an agreement with such firms in the respective forms on file with the Secretary to the Board.

**Section 9. Qualified Tax-Exempt Obligation.** The Board hereby designates the Installment Sale Agreement and the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a "Qualified Tax-Exempt Obligation" and covenants that the Installment Sale Agreement and the Bonds do not constitute a private activity bond as defined in Section 141 of the Code and that the aggregate face amount of all tax-exempt obligations issued by the District (including all subordinate entities of the District and all entities which may issue obligations on behalf of the District) during the calendar year 2017 is not reasonably expected to exceed \$10,000,000, excluding, however, private activity bonds, as defined in Section 141 of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code) and current refunding obligations having a principal amount not in excess of the refunded obligation.

**Section 10. Good Faith Estimates.** Set forth below are good faith estimates of the Municipal Advisor, as required under Section 5852.1 of the Government Code. The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by this resolution.

(a) The true interest cost of the Bonds is estimated at 1.63%, calculated as provided in Section 5852.1(a)(1)(A) of the Government Code.

(b) The finance charge of the Bonds, including all fees and charges paid to third parties, is estimated at \$82,500.

(c) Proceeds of the Bonds received by the District of \$4,500,000.00 less the finance charge set forth in (b) above, is equal to \$4,417,500.00.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Government Code is estimated at \$4,886,961.78.

**Section 11. Official Actions.** Each Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices,

consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution.

**Section 12. Effective Date.** This Resolution shall take effect from and after the date of its passage and adoption.

\*\*\*\*\*

PASSED AND ADOPTED at a Meeting of the Board of Directors of Byron-Bethany Irrigation District on 19 January 2021 by the following vote:

AYES: ALVAREZ, ENOS, KAGEHIRO, M. MAGGIORE, T. MAGGIORE, PEREIRA, TUSO

NOES:

ABSENT:

ABSTAIN:

*/s/ Russell Kagehiro*  
Mr. Russell Kagehiro, President

Secretary's Certification

I, Kelley Geyer, Deputy Secretary of the Board of Directors of Byron-Bethany Irrigation District, do hereby certify that the foregoing Resolution is a true and correct copy entered into the Minutes of the Meeting of 19 January, 2021, at which time a quorum was present, and no motion to amend or rescind the above resolution was made.

\_\_\_\_\_  
Kelley Geyer, Deputy Secretary

**RESOLUTION 2021-3  
ACCEPTANCE OF DIRECTOR RESIGNATIONS  
APPROVE REVISING DIRECTOR BOUNDARIES  
(San Joaquin County)**

WHEREAS, on August 13, 2020, the San Joaquin Local Agency Formation Commission (LAFCO) adopted Resolution 1435 ordering the consolidation of Byron-Bethany Irrigation District (BBID) and The West Side Irrigation District (TWSID) with Byron-Bethany Irrigation District as the Successor District; and,

WHEREAS, LAFCO's Certificate of Completion was completed on August 31, 2020 and filed with the San Joaquin County Recorder's Office on September 2, 2020; and,

WHEREAS, as a result of the consolidation, TWSID Directors Jack Alvarez and Tom Pereira to serve as Directors of BBID representing areas of the former boundary of TWSID; and,

WHEREAS, Directors Jack Alvarez and Tom Pereira temporarily represented BBID Divisions VIII and IX, as described in Exhibit A as attached; and,

WHEREAS, on December 22, 2020, a vacancy occurred on the Board of Directors as a result of the resignation of Division VII Director Jeff Brown (Govt. Code Section 1780); and,

WHEREAS, on January 15, 2021, a vacancy occurred on the Board of Directors as a result of the resignation of Division IV Director Felix Musco (Govt. Code Section 1780); and,

WHEREAS, Water Code Section 21552.1 (c) authorizes the Board of Directors of a consolidated or reorganized District with greater than five directors to choose not to fill a vacancy; and,

WHEREAS, on June 8, 2010, a "Measure B" election was held, within the shared Counties of Alameda, Contra Costa and San Joaquin, and the electorate approved to set the number of Directors to seven Divisions.

NOW THEREFORE BE IT RESOLVED, the Board of Directors of Byron-Bethany Irrigation District finds as follows:

1. The Board of Directors has determined not to fill the vacancies within Division IV and VII and to reduce the total membership of the Board of Directors, pursuant to the 2010 passage of "Measure B".

2. Approve the Division Boundaries as described in Exhibit B within San Joaquin County.

3. The Directors representing the San Joaquin County portion of BBID are as follows:

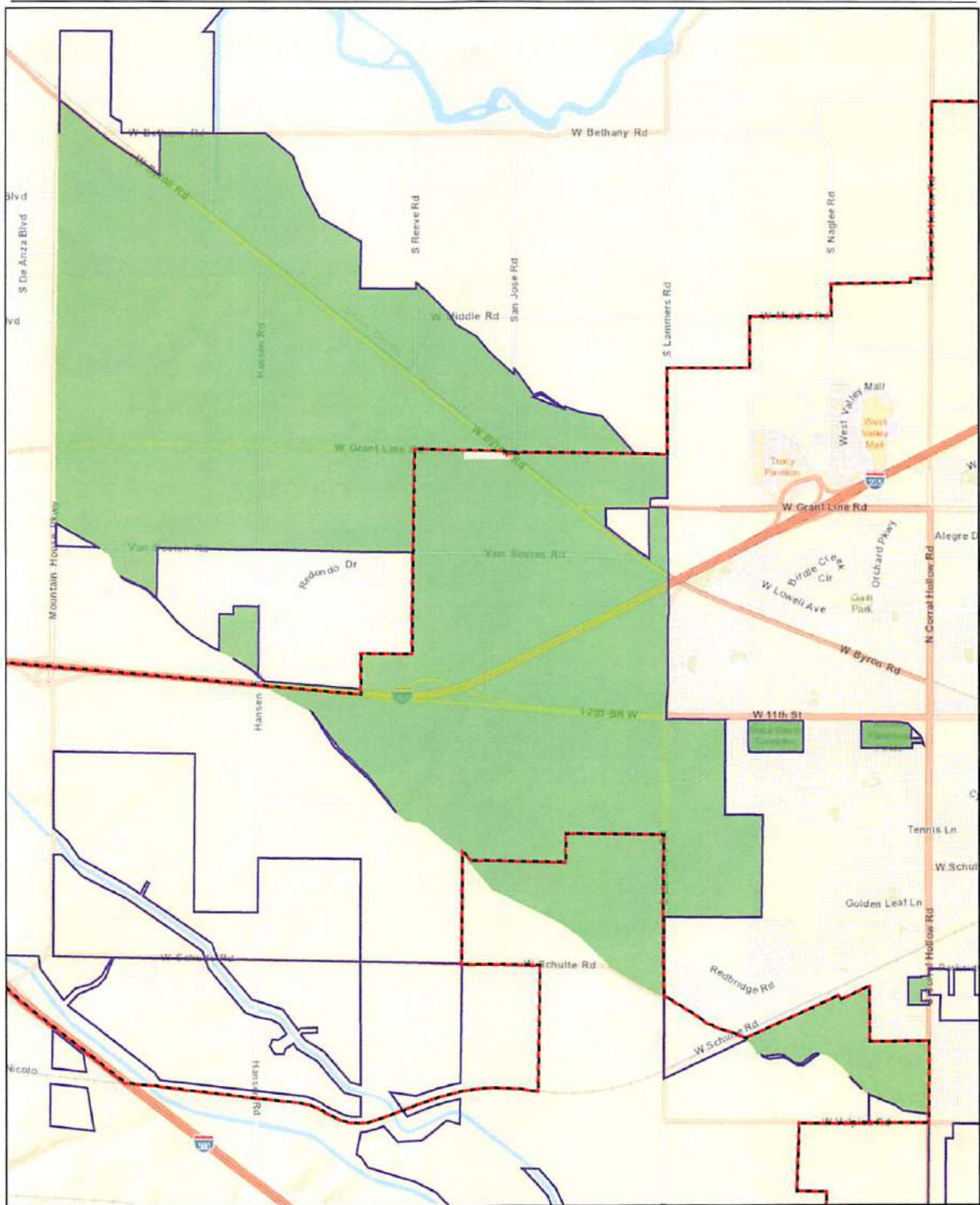
Division IV – Russell Kagehiro

Division V – Charles Tusso

Division VI – Tom Pereira

Division VII – Jack Alvarez

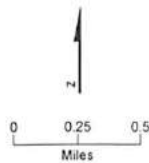




- LEGEND**
- Consolidated Boundary
  - Division 8
  - Spheres of Influence**
  - Tracy

• BBID Resolution 2021-3 Exhibit A

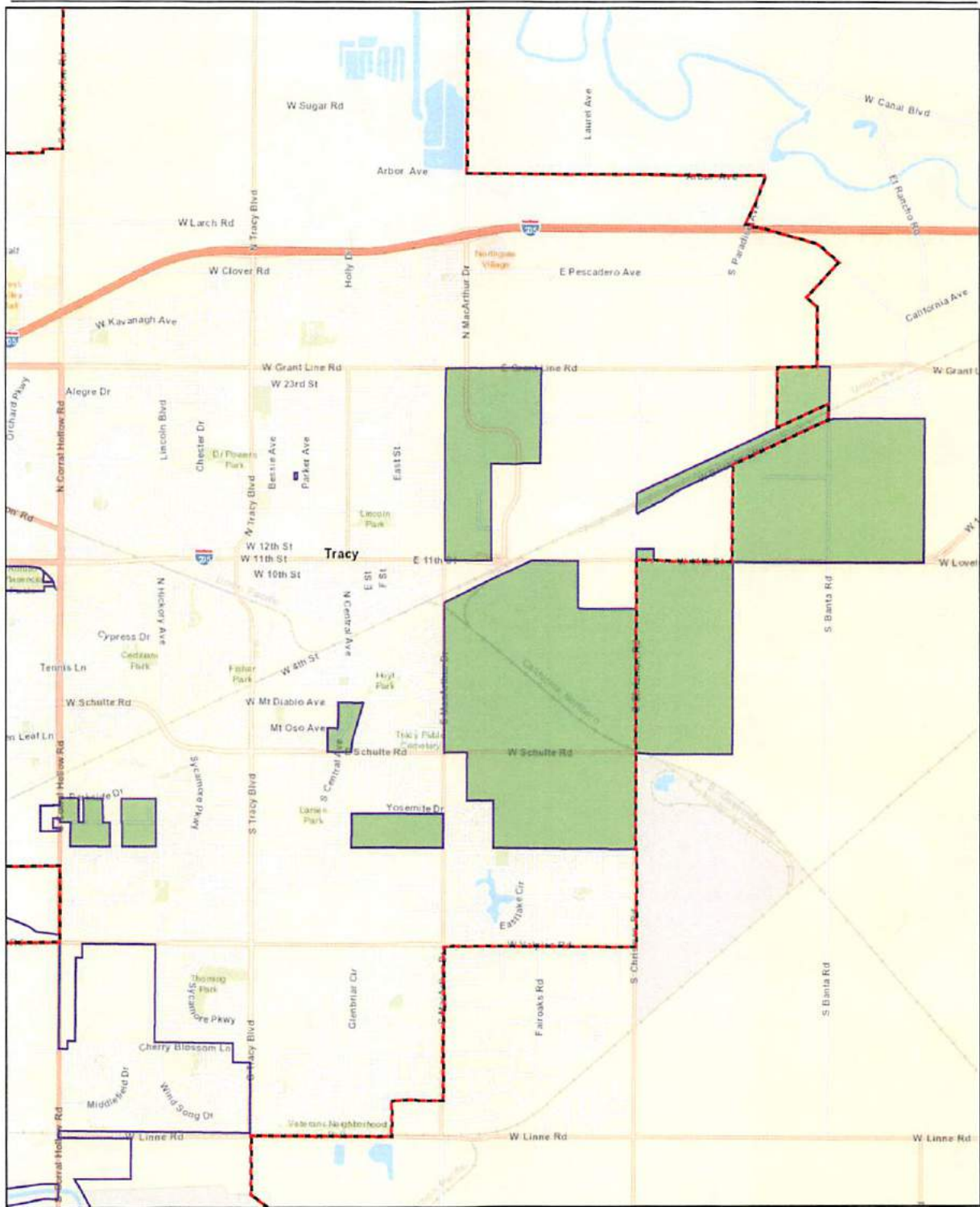
Service Layer Credits. Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community  
 Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom



Figure

Byron Bethany Irrigation District, California





- LEGEND**
- Consolidated Boundary
  - Division 9
  - Spheres of Influence**
  - Tracy

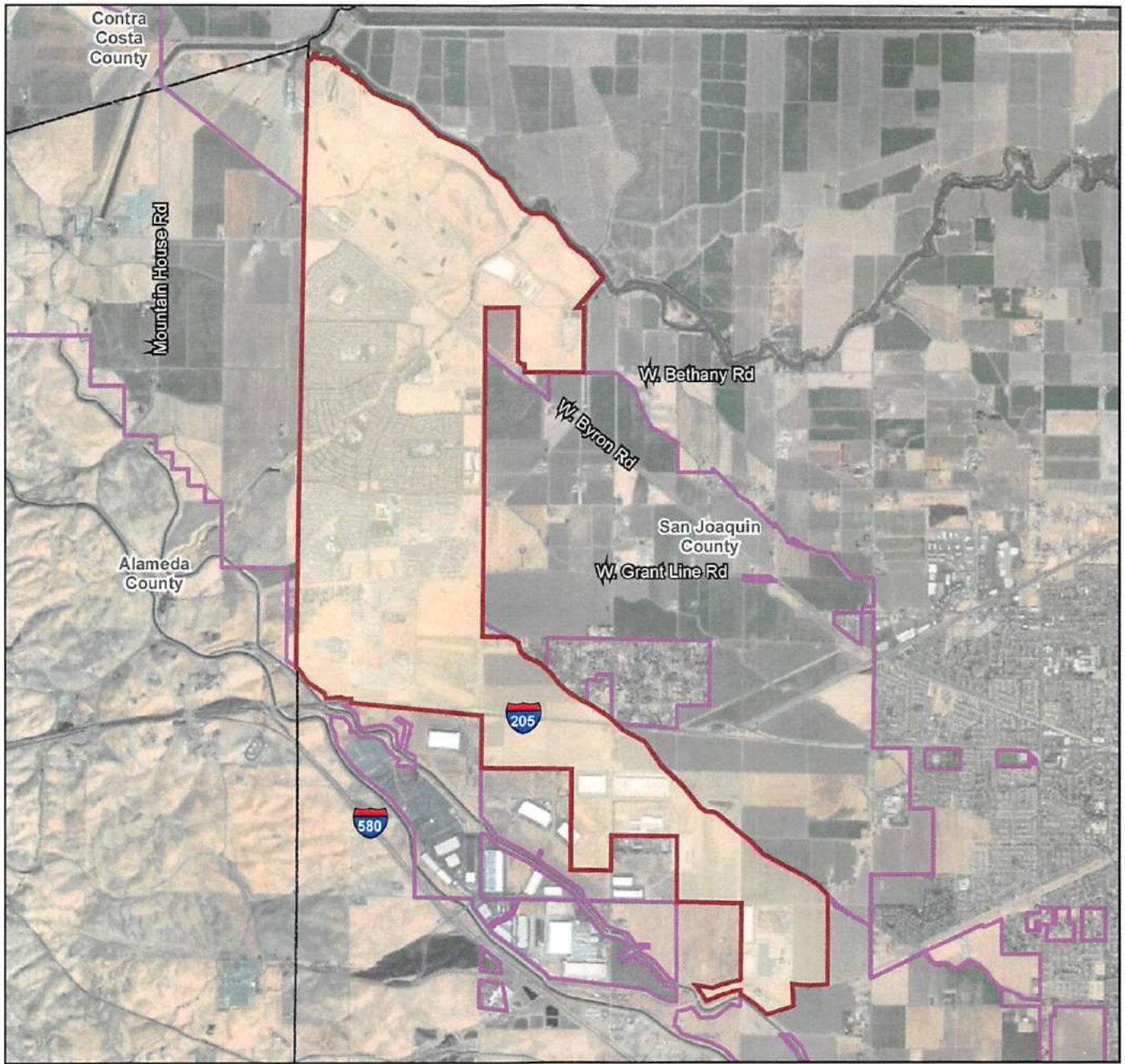
BBID Resolution 2021-3 Exhibit A



Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community  
Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom

Figure Byron Bethany Irrigation District, California

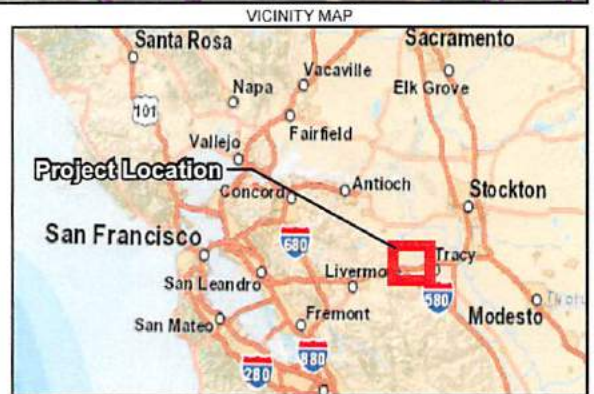
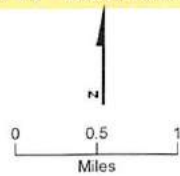




LEGEND

- Division 4
- Other Divisions
- County

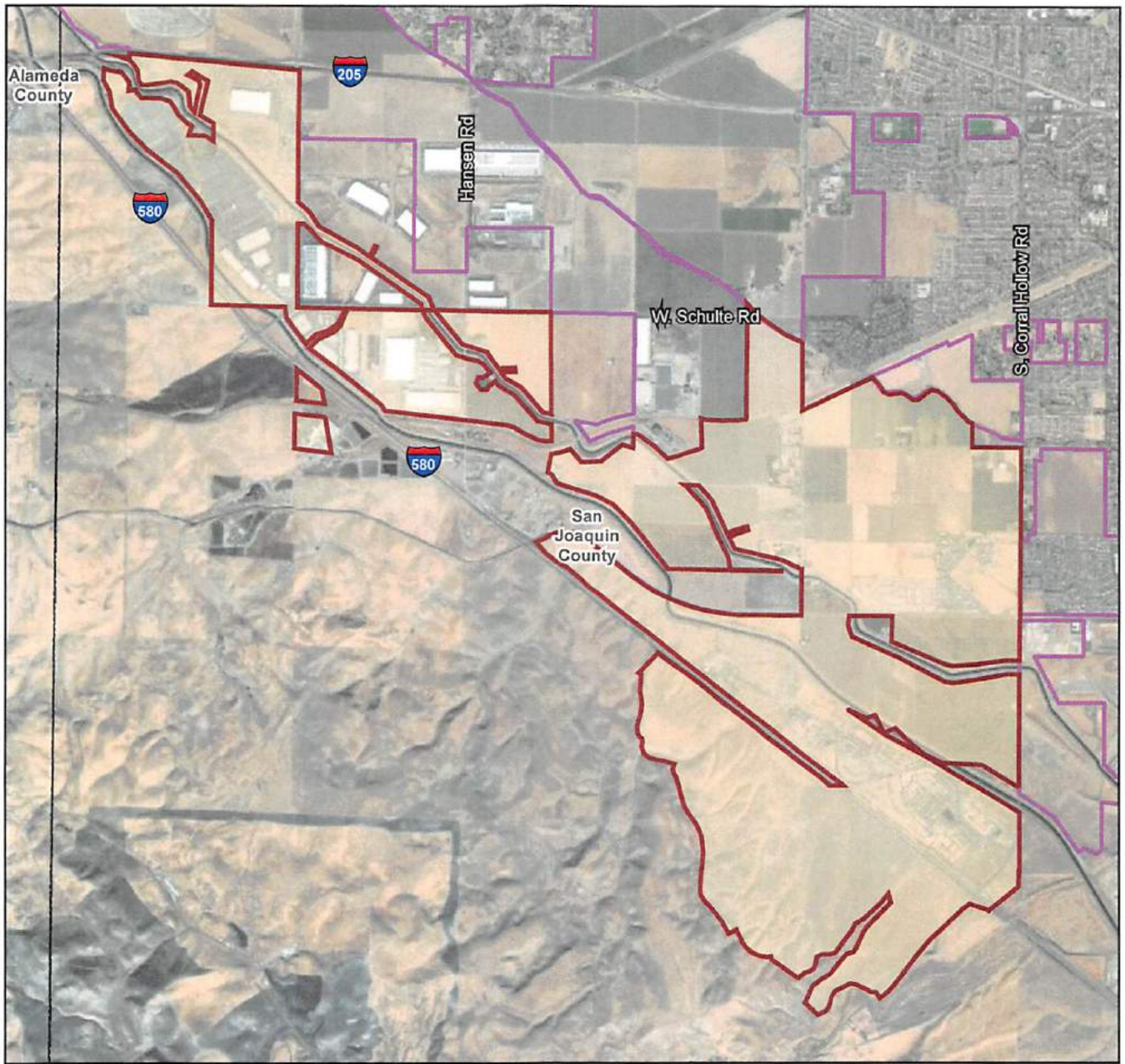
Resolution 2021-3, Exhibit B: Revised Div. IV Boundary



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom

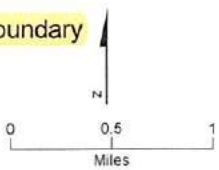
**FIGURE 4**  
 Division 4 Boundary  
 Byron-Bethany Irrigation District





- LEGEND**
- Division 5
  - Other Divisions
  - County

Resolution 2021-3, Exhibit B: Revised Div. V Boundary

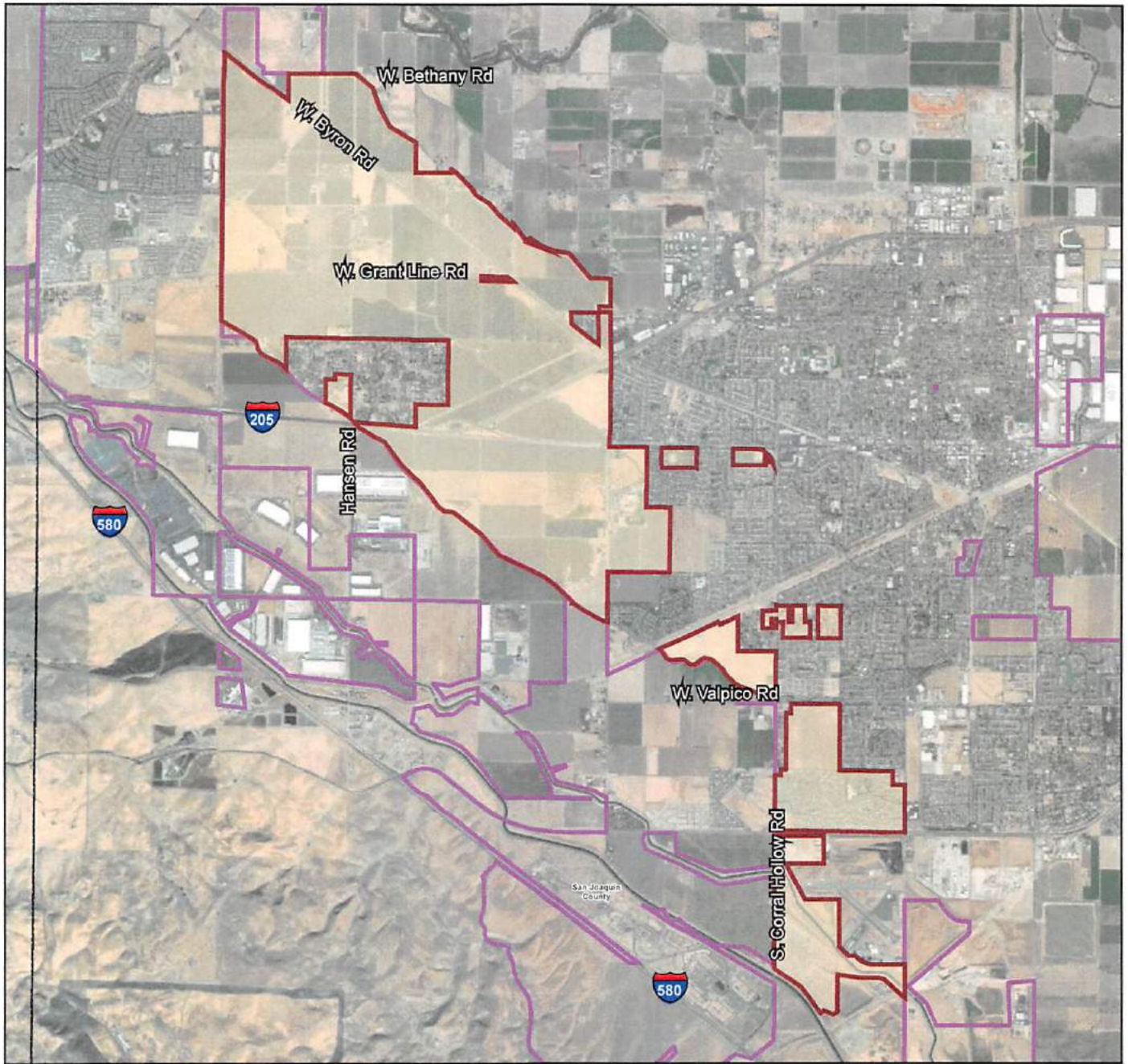


Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom

**FIGURE 5**  
 Division 5 Boundary  
 Byron-Bethany Irrigation District



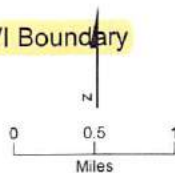




LEGEND

- Division 6
- Other Divisions
- County

Resolution 2021-3, Exhibit B: Revised Division VI Boundary



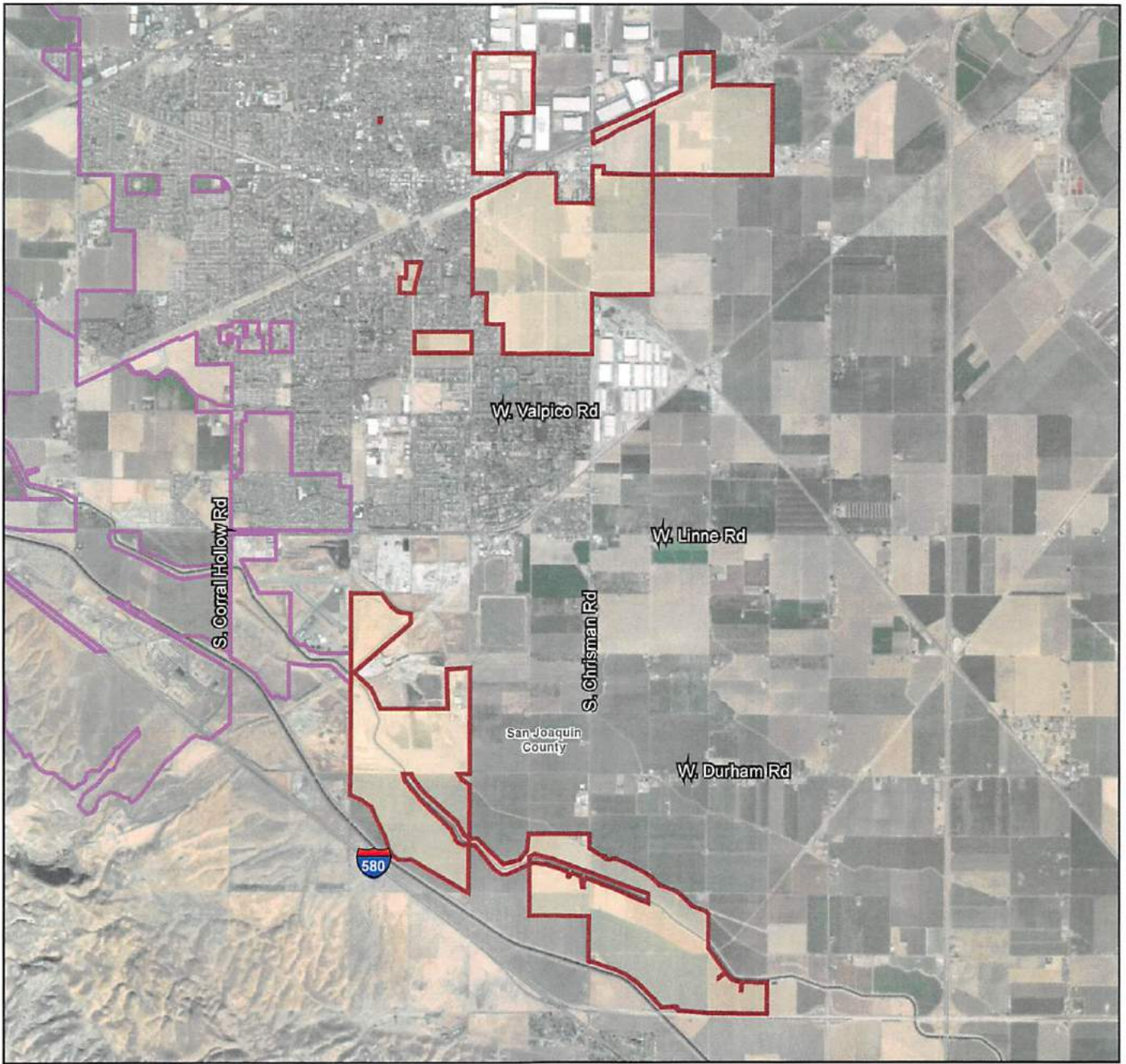
VICINITY MAP



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom

**FIGURE 6**  
**Division 6 Boundary**  
*Byron-Bethany Irrigation District*

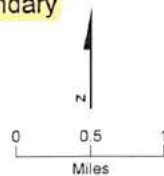




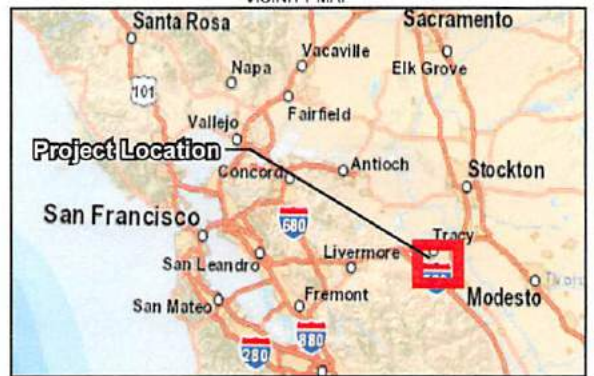
LEGEND

- Division 7
- Other Divisions
- County

Resolution 2021-3, Exhibit B: Revised Div. VII Boundary



VICINITY MAP



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 Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom

**FIGURE 7**  
 Division 7 Boundary  
 Byron-Bethany Irrigation District

