RESOLUTION NO. 2015-5

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ARMONA COMMUNITY SERVICES DISTRICT APPROVING WATER BOARD FUNDING AGREEMENT FOR WELL NO. 3 PROJECT AND AUTHORIZING EXECUTION OF WATER BOARD FUNDING AGREEMENT AND PREPARATION, EXECUTION AND SUBMISSION OF DOCUMENTS IN FURTHERANCE THEREOF

The Board of Directors of the Armona Community Services District ("District") does hereby find and determine as follows:

A. WHEREAS, the District is a California community services district formed and existing under the provisions of the California Community Services District Law, codified at Government Code §§ 61000-61144, and all acts and laws amendatory thereof or supplementary thereto, and possessing all the powers thereof; and

B. WHEREAS, the District provides potable water to the residents in its service area; and

C. WHEREAS, the District water supply is exclusively obtained from percolating groundwater occurring beneath the District; and

D. WHEREAS, said ground water is supplied to the District by two ground water wells designated Well No. 1 and Well No. 2; and

E. WHEREAS, Well No. 1 is the primary water supply well for the District; and

F. WHEREAS, Well No. 2 is used as a back up water supply well, and to supply water during times of heavy demand; and

G. WHEREAS, groundwater contains naturally occurring constituents dissolved over time by the presence of the water; and

H. WHEREAS, among said dissolved constituents are metals including arsenic; and

I. WHEREAS, providing drinking water is subject to state and federal laws, rules, and regulations, including the Federal Safe Drinking Water Act of 1974 as amended, codified at 42 U.S.C. §§ 300f -- 300j-26 (SDWA), and the national primary and secondary drinking water standards setting maximum contaminant levels for certain identified constituents, promulgated under authority of the SDWA pursuant to the Administrative Procedure Act; and

J. WHEREAS, on January 22, 2001, the Environmental Protection Agency (EPA) published the Final Rule for National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (66 Fed. Reg. 6976) (Final Rule); and

K. WHEREAS, the Final Rule established a 10 ppb MCL for arsenic in drinking water, the former MCL having been 50 parts per billion; and

L. WHEREAS, the effective date for purposes of compliance with the new MCL was January 23, 2006 (see 66 Fed. Reg. 6992-6993; 40 CFR § 141.6(j)); and

M. WHEREAS, on October 28, 2008, the EPA issued an administrative order to the District, USEPA docket No. PWS-AO-2008-6023, for water exceeding the new MCL (the "AO"); and

N. WHEREAS, on November 19, 2008 the Board of Directors approved Resolution No. 2008-4, entitled "Resolution of the Board of Directors of the Armona Community Services District Approving Mitigated Negative Declaration For Safe Drinking Water Project SCH No. 2008101087" ("MND") for the Safe Drinking Water Project ("Project"); and

O. WHEREAS, the Project is planned to provide a new public drinking water well, designated Well No. 3, to provide water meeting the new MCL, to replace Well No. 2; and

P. WHEREAS, the District has been in compliance with the new MCL since June 30, 2012; and

Q. WHEREAS, notwithstanding District compliance with the new MCL, the EPA has refused to lift the AO or to extend the compliance deadline beyond December 31, 2014, the EPA furthermore having refused to respond to District requests for such an extension; and

R. WHEREAS, the District has heretofore acquired property for the Well No. 3 site, drilled a test well on the property, and performed zone sampling at selected locations in the test well; and

S. WHEREAS, the State Water Resources Control Board ("SWRCB") has agreed to finance construction of the Well No. 3 Project with a zero interest loan in the amount of up to $7,415,500.00, of which $5,000,000.00 is forgiven and tantamount to a grant, and the remainder of which, $2,415,5000.00, is payable over 30 years in equal annual installments at 0% interest; and

T. WHEREAS, the SWRCB has approved and provided the following agreement entitled: "Armona Community Services District and State Water Resources Control Board Loan Public Water System Construction Financing Arsenic Treatment Drinking Water State Revolving Fund Project No. 1610001-007C Proposition 1 Project No. 1610001-007C Agreement No. D15-02023" referred to herein as the Water Board Funding Agreement ("WBFA").

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Board hereby adopts all of the findings set forth in the above Recitals and on the basis of its independent judgment and analysis finds that they are true and correct and supported by substantial evidence.

2. The Board authorizes the Board President to sign the Water Board Funding Agreement on behalf of the District, and to authorize the preparation, execution and submission of such documents or other instruments by the staff and consultants of the District such as are reasonably necessary, recommended or advisable to carry out the purposes hereof.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Armona Community Services District on December 8, 2015, by the following vote:

AYES: CAMACHO, BITTNER, MACIEL, VANEGAS, DILLON

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

JAMES MACIEL, PRESIDENT,
BOARD OF DIRECTORS

ATTEST:

CANDIDA VANEGAS, SECRETARY

CERTIFICATE OF SECRETARY

I, Candida Vanegas, the duly appointed and acting Secretary of the Board of Directors of Armona Community Services District, do hereby declare that the foregoing is a full, true and complete copy of a Resolution that was duly passed and adopted at a Regular Meeting of the Board of Directors of the Armona Community Services District, duly called and held at the Armona Community Center located at 11115 "C" Street, Armona, CA 93202, on December 8, 2015.

DATED: December 8, 2015.

CANDIDA VANEGAS, SECRETARY