

RESOLUTION NO. 2025-_____

A RESOLUTION OF NECESSITY OF THE BOARD OF DIRECTORS OF THE COACHELLA VALLEY WATER DISTRICT FOR THE ACQUISITION BY EMINENT DOMAIN OF AN EASEMENT INTEREST WITHIN CERTAIN REAL PROPERTY LOCATED IN THE UNINCORPORATED AREA OF RIVERSIDE COUNTY, CALIFORNIA, AND IDENTIFIED AS PORTIONS OF ASSESSOR PARCEL NOS. 729-140-011 and 729-140-012, FOR THE PALM DESERT GROUNDWATER REPLENISHMENT, PHASE 2 MITIGATION PROJECT

WHEREAS, pursuant to section 31040 of the California Water Code and section 1240.040 of the California Code of Civil Procedure, the Coachella Valley Water District ("CVWD") has the power to acquire property by eminent domain;

WHEREAS, CVWD has proposed to acquire certain easement rights within land located in the Unincorporated Area of Riverside County, California, designated as Assessor Parcel Nos. 729-140-011 and 729-140-012 (the "Subject Property") for its Palm Desert Groundwater Replenishment, Phase 2 Mitigation Project;

WHEREAS, CVWD has been advised by the State of California Fair Political Practices Commission ("FPPC") that under the prohibitions in the Political Reform Act and Government Code section 1090, et seq., CVWD Board Director Anthony Bianco's financial interest in Anthony Vineyards, Inc., precludes the Board from entering into an agreement to acquire the Subject Property, but the Board may use its power of eminent domain to acquire the easement through a court-supervised condemnation proceeding without triggering a Section 1090 violation, so long as Director Bianco recuses himself from any participation in the decisions to initiate the condemnation proceeding as well as the purchase agreement;

WHEREAS, as a result, CVWD has been unable to acquire the Subject Property through negotiations and now seeks to acquire it by eminent domain pursuant to section 31040 of the California Water Code, and sections 1240.010, 1240.020, 1240.030 and 1240.040 of the California Code of Civil Procedure;

WHEREAS, pursuant to Section 1245.220 of the California Code of Civil Procedure, CVWD is required to adopt a resolution of necessity prior to commencing an eminent domain proceeding;

WHEREAS, section 1245.235 of the California Code of Civil Procedure, requires CVWD to give notice to each person whose property rights are to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030;

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, CVWD scheduled a public hearing for Wednesday, May 28, 2025, at 8:00 a.m., to be held in CVWD's Coachella Campus, 51501 Tyler Street, Coachella, California;

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, CVWD gave notice of the public hearing pursuant to section 1245.235(a) of the California Code of Civil Procedure to the owners of record and other interested parties under the last equalized county assessment roll;

WHEREAS, the notice stated all of the following: (1) The intent of the governing body to adopt the resolution; (2) The right of persons to appear and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and (3) Failure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard;

WHEREAS, on Wednesday, May 28, 2025, at 8:00 a.m., the Board of Directors of CVWD held a public hearing and each person whose property rights were proposed to be acquired by eminent domain was afforded an opportunity to appear and be heard on matters referred to in Section 1240.030 of the California Code of Civil Procedure;

WHEREAS, the Board of Directors of CVWD, having heard the evidence presented and considered the matters referred to in Section 1240.030 of the California Code of Civil Procedure now adopts this Resolution of Necessity.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF CVWD DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. CVWD has complied with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act in connection with the Project.

SECTION 2. Notice & Hearing Compliance. CVWD provided notice of the hearing as required by Section 1245.235 of the California Code of Civil Procedure and a reasonable opportunity for persons to appear and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure;

SECTION 3. Public Use. The public use for which the real property is to be acquired is for the Palm Desert Groundwater Replenishment, Phase 2 Mitigation Project, which requires the construction of a pipeline to convey water to the Mitigation Project Site within the Unincorporated Area of Riverside County, California. CVWD is authorized to acquire by eminent domain real property rights necessary for such purposes.

SECTION 4. Description of Property. Attached and marked as Exhibit "A"

and Exhibit "B" are the legal description and plat depiction of the Subject Property to be acquired by CVWD, which describes the general location and extent of the property rights to be acquired with sufficient detail for reasonable identification.

SECTION 5. Findings. CVWD hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The Subject Property described in Exhibit "A" is necessary for the proposed project;
- (d) An offer to purchase the property was made pursuant to Section 7267.2 of the California Government Code.

SECTION 6. Use Not Unreasonably Interfering with Existing Public Uses. Some or all of the real property rights to be acquired may be subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with CVWD and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for CVWD is authorized to acquire the real property rights subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

SECTION 7. More Necessary Public Use. Some or all of the real property rights to be acquired may be subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, CVWD finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for CVWD is authorized to acquire the real property rights appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property rights being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 8. Further Activities. Best Best & Krieger LLP, as legal counsel for CVWD, is hereby authorized to commence a legal proceeding to acquire the hereinabove described real property rights in the name of and on behalf of CVWD by eminent domain, and counsel is authorized to institute and prosecute such legal

proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit CVWD to take possession of and use said real property rights at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property rights that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the subject real property rights. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property rights are being acquired. Furthermore, CVWD's General Manager is hereby authorized to execute any and all documents in the name of the Coachella Valley Water District needed to commence and process an eminent domain proceeding to acquire easement rights within portions of Assessor Parcel Nos. 729-140-011 and 729-140-012 for the Palm Desert Groundwater Replenishment, Phase 2 Mitigation Project.

SECTION 9. Effective Date. This Resolution shall take effect upon adoption.

The Clerk of the Board of Directors shall certify as to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 28th day of May, 2025.

President, Board of Directors

ATTEST:

APPROVED:

Sylvia Bermudez
Clerk of the Board of
Directors

Best Best & Krieger LLP
General Counsel

CERTIFICATION

I, Sylvia Bermudez, Clerk of the Board of Directors of Coachella Valley Water District, certify that the foregoing resolution was adopted by the Board of Directors at a regular meeting held on the 28th day of May, 2025, by the following vote of the Directors:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Coachella Valley Water District this 28th day of May, 2025.

Sylvia Bermudez
Clerk of the Board of Directors of
Coachella Valley Water District