

## **RESOLUTION NO. 18-9**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE PALMDALE WATER DISTRICT ESTABLISHING A RESERVE FUND FOR REPAIR OR REPLACEMENT OF PVC PIPE MANUFACTURED BY J-M MANUFACTURING COMPANY, INC.**

**WHEREAS**, Palmdale Water District is an irrigation district operating under the Irrigation District law, commencing with Section 20500 of the California Water;

**WHEREAS**, during the period from 1996 to 2006, Palmdale Water District acquired, purchased and/or installed as a part of its water delivery facilities PVC pipe (hereinafter “J-M Pipe”) manufactured by J-M Manufacturing Company, Inc. (hereinafter “J-M”) currently doing business as JM Eagle™;

**WHEREAS**, Palmdale Water District, along with other governmental entities and agencies (the “Government Entities”), filed a legal action in United States District Court for the Central District of California, Case No. ED CV06-00055-GW (the “J-M Litigation”) to recover damages and civil penalties from J-M arising from false statements and claims made, and caused to be made, about the J-M Pipe;

**WHEREAS**, on November 14, 2013, a Jury found J-M liable for making false representations to the Palmdale Water District regarding the uniform compliance of J-M Pipe with certain industry standards required to be met by the Palmdale Water District in certain of the Palmdale Water District’s projects as set forth in the Jury’s Verdict (the “Projects”).

**WHEREAS**, a trial is scheduled to commence on October 9, 2018 to determine the damages to be awarded to the Palmdale Water District as a result of J-M’s false representations (“Damages Trial”);

**WHEREAS**, Palmdale Water District may establish and maintain reserve funds for capital improvement and replacement projects; and

**WHEREAS**, Palmdale Water District desires to establish a reserve fund to place the damages awarded by the jury in the Damages Trial and received by the Palmdale Water District (the “Damages”) for the purpose of repair and/or replacement of J-M Pipe installed in the Projects;

**NOW, THEREFORE**, Palmdale Water District does resolve, declare, determine, and order as follows:

1. The matters set forth in the recitals to this Resolution are true and correct statements.

2. Palmdale Water District shall create a separate reserve account entitled the "the J-M Pipe Replacement Reserve Account."

3. The Damages recovered in connection with the JM Litigation shall be retained by Palmdale Water District and placed in the J-M Pipe Replacement Reserve Account to be used exclusively to pay for the repair and/or replacement of J-M Pipe in the Projects.

4. The J-M Replacement Reserve Account shall be maintained until depleted.

5. This Resolution shall become effective September 20, 2018.

**PASSED, SIGNED AND ADOPTED** at a meeting of the Board of Directors of the Palmdale Water District held on the 10<sup>th</sup> day of September 2018, by the following vote, to wit:

AYES: President Dino, Director Mac Laren, Director Alvarado

NOES: None

ABSENT: Director Estes, Director Henriquez

ABSTAIN: None

APPROVED:

By: 

Title: President, Board of Directors

ATTEST:

By: 

Assistant Secretary

APPROVED AS TO FORM:

By: 

Aleshire & Wynder, General Counsel