

JOINT POWERS AGREEMENT

CREATING THE

COACHELLA VALLEY CONSERVATION COMMISSION

This Joint Powers Agreement ("Agreement") is made and entered into, this 1st day of December, 2005 for identification purposes only, pursuant to Government Code Sections 6500 et seq., by and amongst the signatories hereto. The signatories may include any of the following public agencies:

- (a) City of Cathedral City,
- (b) City of Coachella,
- (c) City of Desert Hot Springs,
- (d) City of Indian Wells,
- (e) City of Indio,
- (f) City of La Quinta,
- (g) City of Palm Desert,
- (h) City of Palm Springs,
- (i) City of Rancho Mirage,
- (j) County of Riverside,
- (k) Coachella Valley Water District, and
- (l) Imperial Irrigation District.

The foregoing public agencies, upon execution of this Agreement, are referred to hereinbelow, individually and collectively, as "Party" or "Parties," "Member" or "Members" and "Member Agency" or "Member Agencies."

The following public agencies shall be ex officio, non-voting "Participants" on CVCC's governing board:

- (m) Coachella Valley Association of Governments (CVAG);
- (n) Riverside County Flood Control and Water Conservation District;

(o) Riverside County Regional Parks and Open Space District; and

(p) Riverside County Waste Management District.

RECITALS

Each of the Parties herein is a public agency. Each is authorized and empowered to contract with the other Parties for the joint exercise of powers pursuant to California Government Code Sections 6500, et seq.

Each of the Parties has the authority and power to prepare and implement habitat conservation plans for the protection of rare, threatened and endangered species, and to acquire, own, maintain and operate habitat reserves for such species in connection with said habitat conservation plans.

The formation of a single public agency would most efficiently serve the interests of the Parties and Participants by allowing for the joint exercise of the aforementioned powers.

It is proposed that each of the Parties and Participants has or shall consider the approval of the Coachella Valley Multiple Species Habitat Conservation Plan (the MSHCP) after appropriate review and consideration, including compliance with all requirements of the California Environmental Quality Act.

The Parties and Participants are intended as "Local Permittees" pursuant to the MSHCP.

The MSHCP calls for the Members to form this joint powers authority, the Coachella Valley Conservation Commission (CVCC).

Pursuant to the MSHCP, CVCC is the venue whereby, collectively, the Member Agencies shall oversee and administer the MSHCP.

The Members desire to join together for the purposes set forth above.

NOW, THEREFORE, it is agreed by and between the Parties hereto as follows:

Article 1

Definitions

Section 1.1 Definitions. Unless otherwise defined herein, or the context requires otherwise, the terms with the initial cap letters that are used in this Agreement shall have the same meaning as set forth in the MSHCP. As used in this Agreement, unless the context requires otherwise, the meaning of the terms set forth below shall be as follows:

(a) "Accrue," in the context of the date that an obligation of CVCC accrued, shall not refer to the date of a demand or claim. Rather, where there is one act, omission or event giving rise to the obligation, the date of that one act, omission or event shall be the date the obligation accrued. However, where an obligation arises out of more than one act, omission or event, the accrual date shall refer to the entire period of time running from the first act, omission or event through the date of the last act, omission or event related to the same obligation.

(b) "Commission" shall mean the governing legislative body of CVCC.

(c) "Commissioner" shall mean the individual designated by a Member Agency to serve as the Member's

representative on the Commission. Except where the context dictates otherwise, references to "Commissioner" shall include a reference to the alternate designated by the Represented Member Agency to serve in the absence of a Commissioner.

(d) "CVAG" shall mean the Coachella Valley Association of Governments.

(e) "Law" or "the Law" shall mean the Joint Exercise of Powers Act, being Articles 1 and 2 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Sections 6500, et seq.).

(f) "Member" or "Member Agency" shall mean a public agency with voting rights in CVCC listed in subparagraph (a) through (l) in the opening paragraph of this Agreement that becomes a signatory to this Agreement or any new party as permitted pursuant to Section 13.1 (Admission of New Parties).

(g) "MSHCP" shall mean (i) the Coachella Valley Multiple Species Habitat Conservation Plan, which is a comprehensive, multiple species habitat conservation planning program in the Coachella Valley area of Riverside County, California that complies with the requirements of Section 10(a)(1) of the Federal Endangered Species Act and the California Natural Community Conservation Planning Act of 2002; as well as (ii) any agreement implementing same.

(h) "Participant" refers to a public agency that is a signatory to the MSHCP but not a party to this Agreement. A Participant may attend Commission and other meetings of CVCC to participate in discussions for implementing, overseeing and administering the MSHCP. Participants' obligations are limited to those outlined in their respective Permit requirements in the MSHCP. They are not

subject to assessment should the Commission determine additional resources are necessary to administer the MSHCP and consequently are non-voting Participants of CVCC.

(i) "Represented Member Agency" refers to the Member Agency represented by a Commissioner, i.e., the Member Agency that appointed a particular Commissioner.

(j) "Treasurer" for CVCC shall be the Treasurer of CVAG (provided CVAG's Treasurer is a Member or a certified public accountant) or any other certified public accountant or Member designated by the Commission.

Article 2

Creation of CVCC

Section 2.1 Creation. There is hereby created pursuant to the Law a public entity to be known as the "Coachella Valley Conservation Commission," which shall be an agency or entity that is separate from the Parties to this Agreement.

Section 2.2 No Precommitment To MSHCP. The parties are entering into this Agreement prior to the adoption of the MSHCP for the purpose of allowing the proposed Permittees to collectively prepare as necessary for the issuance and acceptance of the Permit to be issued if the MSHCP is ultimately adopted by the Member Agencies. However, nothing herein is intended as a precommitment by a Party to approve or adopt the MSHCP.

Article 3

Powers and Duties of CVAG

Section 3.1 CVAG's Participation. CVAG shall be a non-voting ex officio Participant of CVCC and shall have the following powers and duties:

(a) To provide, under contract with CVCC, all administrative services required by CVCC during the first five (5) years of the implementation of the MSHCP; and thereafter as the administrative services contract may be renewed from time to time by CVCC;

(b) To empower its Executive Director to serve as Secretary of CVCC;

(c) To exercise such other powers and duties as the Commission deems necessary to achieve the purposes of this Agreement.

Section 3.2 Principal Office. The principal office of CVAG shall be the principal office of CVCC. The Commission is hereby granted full power and authority to change said principal office from said location to another within the Coachella Valley.

Article 4

Term of Agreement

Section 4.1 Term. This Agreement shall become effective and CVCC shall exist at such time as this Agreement has been executed by at least a majority of the public agencies identified in the first paragraph of this Agreement. This Agreement shall be automatically terminated and considered null and void in the event that, after the Member Agencies which determine not to adopt the MSHCP have withdrawn from CVCC, the MSHCP is not approved

by the remaining Parties or the Permit contemplated thereby is not issued by the Wildlife Agencies. Upon issuance of the Permit, the term of this Agreement shall automatically expire at such time as CVCC shall have no further obligations pursuant to the MSHCP or the Permit.

Article 5

Membership

Section 5.1 Membership. Excluding ex-officio, non-voting Participants, each public agency which has executed or hereafter executes this Agreement, and any addenda, amendments or supplement thereto, and which has not, pursuant to the provisions hereof, withdrawn or been terminated, shall be a Member of CVCC.

Article 6

Purposes and Powers

Section 6.1 Purpose. The purpose of this Agreement is to create a public agency to collectively monitor the Members' compliance with their responsibilities under the MSHCP, and to do all acts related or incidental thereto, either by CVCC alone or in cooperation with the California Department of Fish and Game, U.S. Fish and Wildlife Service and other entities, and to otherwise adopt, implement, manage and administer the MSHCP. Prior to formal adoption of the MSHCP and/or execution of the Implementing Agreement, CVCC shall assist in the processing of the MSHCP for adoption, related negotiations, environmental review, editing, drafting, planning, promoting or other administration required or related thereto.

Within the jurisdictional boundaries of each Member Agency, however, the adoption and amendment of general plans, specific plans, community plans, zoning ordinances and similar land use ordinances, and the granting of land-use entitlements (collectively, "local land-use actions") are matters within the sole and absolute discretion of that Member Agency. Nothing herein shall be construed to require the approval of such local land-use actions by CVCC.

Section 6.2 General Powers. CVCC shall have the power to exercise any power common to all the Members as authorized by the Law and is hereby authorized to do all acts necessary for the exercise of these common powers, including, if adopted, any powers or authority implied or expressed in the MSHCP and Implementing Agreement, including, but not limited to, any of the following:

- (a) To coordinate the finalization, adoption, implementation, management and administration of the MSHCP;
- (b) To make and enter into contracts, leases and other agreements;
- (c) To incur debt, liabilities or obligations;
- (d) To acquire, hold and dispose of property by purchase, lease, lease purchase or sale as necessary to the full exercise of its powers;
- (e) To lease, acquire, construct, manage, maintain and operate any buildings, works or improvements;
- (f) To sue and be sued in its own name;
- (g) To contract for the services of engineers, attorneys, planners, educators, scientists, technical specialists, financial consultants and, separate and apart therefrom, to employ such other agents, employees,

consultants, advisors, independent contractors and other staff as it deems necessary;

(h) To issue bonds, notes and other indebtednesses, and to enter into installment sale and installment purchase contracts, all as provided for in Section 11.9 (Issuance of Bonds, Notes and Other Indebtedness);

(i) To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States of America, the State of California or other public or private entities;

(j) To receive gifts, contributions and donations of property, funds, services and other forms of financial assistance from persons, firms, corporations and any governmental entity;

(k) To adopt rules, regulations, policies, bylaws and procedures governing the operation of CVCC;

(l) To perform all acts necessary or proper to carry out fully the purposes of this Agreement;

(m) To invest any money in the treasury pursuant to California Government Code Section 6505.5 that is not required for the immediate necessities of CVCC, as CVCC determines is advisable, in the same manner and upon the same conditions as local agencies pursuant to California Government Code Section 53601;

(n) To the extent not hereinafter specially provided for, to exercise any powers in the manner and according to the methods provided under the laws applicable to the County of Riverside; and

(o) Notwithstanding the powers described in this Section 6.2, nothing in this Agreement shall limit the local land-use actions or powers granted to a Member under state law or charter and nothing in this Agreement shall be

interpreted as a limitation on those local land-use actions or powers.

Section 6.3 Implementation of the MSHCP. CVCC shall provide guidance to Members on the implementation of the MSHCP and will provide opportunities for public participation in the decision-making process. Those duties shall include but are not limited to the following:

(a) Upon due consideration and approval, sign the Implementing Agreement and act as a Permittee under the Permit;

(b) Consistent with the terms of the MSHCP, hire, appoint, designate and/or contract with an Executive Director, Land Manager and Monitoring Program Administrator.

(c) Establish the Acquisition and Funding Coordinating Committee, the Reserve Management Oversight Committee, the Reserve Management Unit Committees and designate the Monitoring Program Administrator;

(d) Establish a Trails Management Subcommittee to the Reserve Management Unit Committee for the Santa Rosa and San Jacinto Mountains Conservation Area;

(e) Establish policies as appropriate under which the Acquisition and Funding Coordinating Committee will make recommendations to CVCC;

(f) Identify and make decisions on Local Permittee MSHCP Reserve System acquisitions where such decision is to be made by CVCC pursuant to the MSHCP;

(g) Ensure adequate management of locally managed Reserve Lands;

(h) Assist in the development of Reserve Management Unit Plans;

- (i) Contract with outside entities for specific services, such as land management and law enforcement, as needed;
- (j) Manage and coordinate the MSHCP local funding plan as set forth in the MSHCP;
- (k) Develop and implement financing strategies to maximize funding sources;
- (l) Develop an investment policy and review said policy on an annual basis;
- (m) Adopt an annual budget, including but not limited to expenses associated with land acquisition, and the Monitoring Program, Management Program and Adaptive Management Program, consistent with the annual work plans for same;
- (n) Annually review development mitigation fee remittance for compliance and accuracy;
- (o) Prepare annual reports assessing the status of the Permittees' compliance with the MSHCP and hold public workshops to present the findings;
- (p) Conduct an annual Rough Step analysis to ensure the Reserve System is being assembled, over time, in a configuration consistent with the MSHCP;
- (q) Act as custodian of records for information concerning MSHCP implementation;
- (r) Maintain a record of the amount of Take and habitat loss for each Local Permittee;
- (s) Maintain a record of the amount of Take Authorization to Participating Special Entities as set forth in the Implementing Agreement;
- (t) Grant Take Authorization to Participating Special Entities and others as set forth in the Implementing Agreement;

(u) Acquire land and administer grant programs to non-profit organizations and Permittees to conserve lands that contribute to MSHCP Reserve Assembly;

(v) Coordinate conservation easement agreements with landowners, seek grants and other funding sources to assist with acquisition, and coordinate with other state and federal acquisition programs in the Plan Area to ensure efficiency and consistency among acquisition programs; and

(w) Hold regularly scheduled public meetings.

Article 7

Commission

Section 7.1 Governing Body. CVCC shall be governed by a Commission consisting of a Commissioner representing each Member Agency; except that each Supervisor's District of the County of Riverside shall be represented by a Commissioner. An alternate for each Commissioner may be appointed by the Represented Member Agency, which alternate shall meet the same qualifications as a Commissioner, except that an alternate for a County Supervisor may be any official elected to serve in any elected, county-wide position. In the absence of the Commissioner, the alternate shall have the same authority and power as the Commissioner. Each Participant may also appoint a Commissioner and alternate. Excluding ex officio Participants, each Commissioner shall have the voting rights provided for in Section 7.13 (Voting). Ex officio Participants shall be non-voting members of the Commission. The Commission shall exercise all powers and conduct all business of CVCC, either directly or by delegation to other

bodies or persons pursuant to this Agreement, the MSHCP and applicable law.

Section 7.2 Qualifications. Excluding ex officio Participants, each Commissioner shall be a current member of the governing body of the appointing Member Agency. Termination of office with the Represented Member Agency shall automatically terminate membership on the Commission. Except as to County Supervisors serving as Commissioners, each Commissioner (and alternate, including any alternate designated by the County) shall serve at the pleasure of the governing body of the appointing Member (or appointing Participant) and may be removed at any time, with or without cause, in the sole discretion of said Member's (or Participant's) governing body.

Section 7.3 Regular Commission Meetings. The Commission shall hold at least one regular annual meeting and shall provide for such other regular meetings as it deems necessary. Meetings of the Commission shall be held at such locations in the Coachella Valley and at such times as may be designated from time to time by the Commission.

Section 7.4 Special Meetings of the Commission. Subject to all noticing requirements of The Brown Act, special meetings of the Commission may be called by the Chair, to be held at such times and places within the Coachella Valley as may be ordered by the Chair. A majority of the Commissioners may also call a special meeting for any purpose.

Section 7.5 Quorum. Except as otherwise provided in this Agreement, CVCC shall act only upon a majority of a quorum of the Commission. A quorum of any meeting of Commissioners shall consist of a majority of the Commissioners then designated by and serving on behalf of

the Members. Ex officio, non-voting Participants shall not be included when calculating the number of Commissioners necessary to constitute a quorum or the number of votes necessary to approve an action. In the event that a Member Agency has failed to designate a Commissioner, or a Member Agency's designated Commissioner has died, resigned, left office, been terminated or is otherwise unwilling or unable to act as the designating Member Agency's representative, and a replacement Commissioner has not yet been designated, and there is no designated alternate, such that a Member Agency has no duly acting representative on the Commission, that Member Agency's vacant Commission seat shall not be included when calculating the number of Commissioners necessary to constitute a quorum or the number of votes necessary to approve an action. Except as otherwise provided in this Agreement, every act or decision made by a majority of the Commissioners present at a meeting duly held at which a quorum is present is the act of the Commission. In the absence of a quorum, any meeting of the Commissioners may be adjourned from time to time by a vote of the majority present, but no other business may be transacted except as provided for in this Section. The Commissioners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough Commissioners to leave less than a quorum, if any action taken, other than adjournment, is approved by at least that number of Commissioners required to constitute a majority of a quorum.

Section 7.6 Chair and Vice-Chair. The Commission shall annually elect from its membership a Chair and Vice-Chair to serve for a one-year term.

Section 7.7 Conduct of Meetings. The Chair or, in the absence of the Chair, the Vice-Chair, shall preside at all meetings of the Commissioners.

Section 7.8 Resignation of a Commissioner. Any Commissioner may resign effective on giving written notice to the Commission and the other Member Agencies, unless the notice specifies a later time for the effectiveness of such resignation. A successor shall be appointed by the Represented Member Agency as provided for in this Agreement.

Section 7.9 Vacancies on the Commission. A vacancy on the Commission shall exist (a) on the death or resignation of any Commissioner, (b) at the end of any Commissioner's term on the governing body of the Represented Member Agency, (c) whenever the number of Commissioners is increased, (d) upon termination by the Represented Member Agency, or (d) on the failure of the Member Agencies to appoint the full number of Commissioners authorized. A vacancy shall be filled only by the Represented Member Agency for whom a Commissioner is not then serving. Absent notice to the contrary from the Represented Member Agency, the alternate for the Represented Member Agency may continue to act in the place of the vacating Commissioner.

Section 7.10 Other Officers. The Executive Director of CVAG shall be the secretary of CVCC. Any officer, employee or agent of any Member of CVCC may also be an officer, employee, or agent of any of the Member Agencies. CVCC shall have the power to appoint such additional officers and to employ such employees and assistants as may be appropriate. Each and all of said officers, employees and assistants shall serve at the pleasure of CVCC and shall perform such duties and shall have such powers as

CVCC may, from time to time, determine. Any officer may resign at any time by giving written notice to the Secretary. Any such resignation shall be effective upon receipt of such notice or at any later time specified in the notice. Officers shall assume the duties of their offices immediately after their appointment and shall hold office until their successors are appointed, except in the case of their removal or resignation. Vacancies shall be filled by appointment of the Commissioners and such appointee shall hold office until the appointment of his or her successor.

Section 7.11 Minutes. The secretary of CVCC shall cause to be kept minutes of regular, adjourned regular and special meetings of the Commission. The Secretary shall cause a copy of all minutes, along with copies of all ordinances and resolutions, to be forwarded to each of the Parties hereto.

Section 7.12 Rules. A majority of Commissioners may adopt rules governing meetings if not inconsistent or in conflict with this Agreement. In the absence of rules adopted by the Commissioners, Roberts' Rules of Order, as they may be amended from time to time, shall govern the meetings of the Commission in so far as they are not inconsistent or in conflict with this Agreement or any CVCC bylaws.

Section 7.13 Voting. Except as otherwise provided by this Agreement, each Commissioner shall have one vote.

Section 7.14 Compensation. Commissioners shall serve without compensation from CVCC. For purposes of this Section, "compensation" does not include reimbursement of actual expenses or per diem.

Article 8

Committees

Section 8.1 Committees. From time to time, and in addition to the committees to be established pursuant to the MSHCP, the Commission may create by majority vote various other committees to carry on the business of CVCC.

Article 9

Conduct of Meetings

Section 9.1 Compliance with Brown Act. All meetings of the Commission and other CVCC committees, including, without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with applicable provisions of the Ralph M. Brown Act, California Government Code Sections 54950, et seq.

Article 10

Employees

Section 10.1 CVCC Staff. CVCC may contract with CVAG for staff services, retain its own staff, or contract with another entity for services. Unless other employment is approved by the Commission, the CVCC Executive Director may utilize CVAG staff as may be necessary to accomplish the purposes of CVCC. CVAG staff time, as well as office expenses, direct and indirect overhead, shall be charged to CVCC utilizing direct billing and other accounting practices that provide for a clear separation of funds.

Section 10.2 Status. Where CVAG's or other Member Agency's staff are utilized to accomplish the purposes of CVCC, all of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension,

relief, disability, worker's compensation and other benefits which apply to the activity of officers, agents or employees of any of the Members when performing their respective functions shall apply to them to the same degree and extent when engaged in the performance of any of the functions and other duties under this Agreement. However, no staff employed directly by CVCC, if any, shall be deemed, by reason of their employment by CVCC, to be employed by any of the Members or, by reason of their employment by CVCC, to be subject to any of the employment requirements of the Member Agencies.

Section 10.3 Legal Counsel. CVCC may appoint General Counsel who shall provide legal advice and perform such other duties as may be prescribed by the Commission. Counsel to one or more of the Members shall be eligible to serve as General Counsel to CVCC and such appointment shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with or inimical to his or her duties as counsel to the Member Agency or Agencies, consistent with all applicable conflict-of-interest statutes and regulations.

Article 11

Financial Provisions

Section 11.1 Fiscal Year. The fiscal year of CVCC shall be from July 1 of each year to the succeeding June 30.

Section 11.2 Depositary. The Treasurer shall be the depositary and have custody of all money of CVCC from whatever source and shall perform the duties specified in Government Code Section 6505.5. All funds of CVCC shall be

strictly and separately accounted for, and regular reports shall be rendered to the Commission and the Members of all receipts and disbursements at least quarterly during the fiscal year. The books and records of CVCC shall be open to inspection by a Member or Commissioner at all reasonable times upon reasonable notice. The Treasurer shall contract with an independent certified public accountant to make an annual audit of the accounts and records of CVCC, which shall be conducted, at a minimum, in accordance with the requirements of the State Controller under Section 26909 of the California Government Code, and shall conform to generally accepted auditing standards.

Section 11.3 Property Bonds. The Commission shall from time to time designate the officers and persons, in addition to the Treasurer, who shall have charge of, handle, or have access to any property of CVCC. Each such officer and person, including the Treasurer, shall file a bond in an amount designated by the Commission. When fixing the amount of such bonds, the Commission shall be deemed to be acting for and on behalf of the Represented Member Agencies in compliance with Government Code Section 6505.1

Section 11.4 Budget. As soon as practicable after the effective date of this Agreement, and thereafter at least thirty (30) days prior to the commencement of each fiscal year, the Executive Director shall present a proposed budget to the Commission for the forthcoming fiscal year. Prior to the commencement of the fiscal year, the Commission shall adopt a budget for the new fiscal year. No expenditures in excess of those provided for in the current, duly adopted budget shall be made without the approval of the Commission.

Section 11.5 Working Capital Account. A Working Capital account, which is to be used for the purpose of funding general overhead and administrative expenses for the ongoing operations of CVCC, shall be established by the Commission in an amount approved in connection with the annual budget process.

Section 11.6 Additional Funding. In the event that the Commission proposes to seek funding for a budget in excess of the funds available from the funding mechanisms set out in the Plan, an advance or grant may be requested from CVAG and/or any Member Agency. Should such request be declined, the Commission, by three-fourths (3/4) vote of the Member Agencies, meaning an affirmative vote by three-fourths (3/4) of the total number of Member Agencies, may levy an assessment on Member Agencies. Said vote shall include a determination as to the amount deemed necessary and the manner of apportionment. Thus, notwithstanding the fact that the County shall be represented by five Commissioners, the County shall have only one vote on issues of assessments or apportionment thereof.

The determination as to the apportionment of an assessment shall be fair and reasonable given the purpose for which the assessment is required and the degree to which each Member is affected and/or benefited by the contemplated expenditure. A Member Agency unable to immediately fund an assessment shall be permitted to pay an assessment in installments. Subject only to the arbitration rights set out at Section 11.7, the determination of the assessment to be paid by each Member and the due date shall be final, binding and enforceable as a term of this Agreement.

Nothing in this Agreement shall be construed by the Parties to require the expenditure of any money from the general funds of a Party unless expressly authorized by the appropriate governing body of that Party.

Section 11.7 Arbitration. Notwithstanding any other provision herein, the parties agree as follows: Any determination with respect to an assessment levied pursuant to Section 11.6, 13.4 or 15.3 shall be subject to binding arbitration at the request of any Party to which liability is assigned; provided, however, that the request for arbitration shall be made within ninety days of the date that the Commission votes to impose the assessment. If the Parties cannot agree on the method of arbitration and selection of the arbitrator within ninety days of notice of the request for arbitration, the arbitration shall be administered by JAMS, or its successor, pursuant to its Comprehensive Arbitration Rules and Procedures. The arbitrator shall exercise his or her independent judgment as to whether or not the Commission has abused its discretion when it determined the manner of apportionment of an assessment. The arbitrator may, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party. Judgment on the arbitration award may be entered in any court having jurisdiction.

Section 11.8 [Reserved.]

Section 11.9 Issuance of Bonds, Notes and Other Indebtedness. CVCC may issue bonds, notes or other forms of indebtedness if such issuance is approved by two-thirds (2/3) vote of the Commission.

Section 11.10 Disbursements. The Executive Director shall request warrants from the Treasurer in accordance with budgets approved by the Commission subject to quarterly review by the Commission. The Treasurer shall pay such claims or disbursements and such requisition for payment in accordance with rules, regulations, policies, procedures and bylaws adopted by the Commission.

Section 11.11 Accounts. All funds will be placed in accounts and the receipt, transfer or disbursement of such funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities and pursuant to Government Code Section 6505 et seq. and any other applicable laws. All revenues and expenditures shall be reported to the Commission.

Section 11.12 Expenditures Within Approved Annual Budget. All expenditures shall be made within the approved annual budget. No expenditures in excess of those budgeted shall be made without the approval of the Commission.

Article 12

Relationship of CVCC and Its Members

Section 12.1 Separate Entity. CVCC shall be a public entity separate from the Parties to this Agreement and the debts, liabilities and obligations of CVCC shall not be the debts, liabilities or obligations of the Members. No Member shall be jointly or severally liable for any debt or obligation of CVCC or any of its Members. Specifically, nothing herein is intended to give rise to any right in any third party to enforce an obligation set out herein of one Party to another Party to this Agreement. All property,

equipment, supplies, funds and records of CVCC shall be owned by CVCC, except as otherwise provided in this Agreement.

Article 13

Admission and Withdrawal of Parties

Section 13.1 Admission of New Parties. Any public agency identified in the first paragraph of this Agreement, which public agency did not execute the Agreement when it first went into effect, shall subsequently be admitted as a Member upon request by that public agency's legislative body and without further approval of the then existing Member Agencies. The admission of said new Member shall be evidenced by the execution of a written addendum to this Agreement signed by the new Member. Additional public entities not identified in the first paragraph of this Agreement may become Members of CVCC upon such terms and conditions as provided in the MSHCP. Admission of such additional public entities shall be evidenced by the execution of a written addendum to this Agreement signed by all the Parties including the new Parties

Section 13.2 Withdrawal of Membership.

(a) Prior to Permit Issuance. A Member may withdraw from CVCC at any time prior to the issuance of a Permit pursuant to the MSHCP, and notwithstanding any other provision herein, that Member shall have no continuing liability for any assessments levied by CVCC after the effective date specified in the notice of withdrawal.

(b) After Permit Issuance. After Permit issuance a Member may withdraw by delivering written notice to the Commission's secretary that the Member's legislative body

has approved withdrawal and such withdrawal shall be effective 90 days thereafter. Withdrawal after Permit issuance shall not relieve the Member of its proportionate share of any debt or other liability of CVCC that accrued prior to the effective date of the Member's withdrawal, provided notice of the potential liability was given by CVCC to the Member prior to or within the first four years of said Member's withdrawal from the CVCC. Withdrawal shall result in the forfeiture of that Member's rights and claims relating to the distribution of property and funds upon termination of CVCC as set forth in Section 13.3 (Disposition of Property Upon Termination).

Section 13.3 Disposition of Property Upon Termination.

In the event of the termination of this Agreement, any property interest remaining in CVCC following the discharge of all obligations shall be disposed of as the Commission shall determine with the objective of returning to each Member a proportionate return on the contributions made by each, less previous returns if any.

Section 13.4 Continuing Liability. Notwithstanding a withdrawal of membership, a past Member Agency shall be responsible to CVCC for its proportionate share, as determined and approved by a three-fourths (3/4) vote of the Member Agencies, of any liability of the CVCC Accruing during the withdrawn Member's period of participation in CVCC, provided notice of the potential liability was given by CVCC to the Member prior to or within the first four years of said Member's withdrawal from the CVCC. The determination as to the apportionment of such an assessment shall be fair and reasonable given the purpose for which the assessment is required and the degree to which each Member is affected and/or benefited by the contemplated

expenditure. The Members acknowledge that, given the possible variables, determination of a proper apportionment may be difficult. Therefore, subject only to arbitration rights set out at Section 11.7, the Members agree that the Commission's good faith determination of a fair apportionment shall be final, binding and enforceable as a term of this Agreement. Any such assessment shall be paid to CVCC within thirty (30) days of billing by CVCC.

Article 14

Provision for Bylaws

Section 14.1. Bylaws. As soon as practicable after the first meeting of the Commission, the Commission shall cause to be developed bylaws to govern the day-to-day operation of CVCC.

Article 15

Contribution and Indemnity Among Members

Section 15.1 No Third Party Beneficiaries. This Article shall reflect the Parties' rights and obligations as by and among themselves. Nothing herein shall create any right in any third party to enforce any right or obligation set out in this Agreement as against any Party hereto.

Section 15.2 Hold Harmless and Indemnity. Subject to the provisions of Section 15.3 and provided that a Party has acted in good faith and in accordance with this Agreement, the MSHCP, the Implementing Agreement and the Permit, CVCC shall defend with counsel acceptable to said Party, indemnify and hold such Party free and harmless from

any loss, liability or damage incurred or suffered by such Party by reason of litigation arising from or as a result of any of the following: the Party's development mitigation fee ordinance; the Party's participation in CVCC; action taken to approve and/or implement the MSHCP; claims of inverse condemnation or unconstitutional takings against a Party as a result of or related to its participation in the MSHCP; or any other act performed or to be performed by the Party pursuant to this Agreement, the MSHCP, the Implementing Agreement or the Permit; provided, however that such indemnification or agreement to hold harmless pursuant to this section shall be recoverable only out of CVCC assets and not from other Parties. To the extent CVCC's assets are insufficient to satisfy its obligations under this Section, any Member Agency forced to expend its own funds to satisfy what would otherwise be CVCC's obligations shall be entitled to reimbursement from CVCC.

Section 15.3 Limitations on Liability. CVCC shall be authorized to defend, indemnify and hold harmless any Commissioner, officer, agent or employee for actions taken or not taken within the scope of authority given or granted by CVCC and from and against any claim or suit arising out of any act or omission of CVCC, the Commission or any Commissioner, officer, agent or employee in connection with this Agreement and may purchase insurance as the Commission may deem appropriate for this purpose.

The Parties acknowledge that Section 895.2 of the California Government Code provides that a Member is jointly and severally liable for the torts of the joint powers agency, but that Sections 895.4 and 895.6 of that Code allow the members of a joint powers agency to

contractually agree to indemnity and contribution provisions that allow such liability to be apportioned among the members based on their respective degree of fault giving rise to the liability. The parties further acknowledge that they have agreed at Section 15.2 above to indemnify and defend those Member agencies against loss, liability or damage suffered by a Member Agency individually as a result of that Agency's good faith acts taken pursuant to this Agreement or the MSHCP. Now, therefore, in contemplation of such authority, the Parties agree that, as among themselves, each shall assume that portion of the liability imposed upon CVCC or any of its Members, officers, agents or employees by law for injury caused by any negligent or wrongful act or omission occurring during the performance of this Agreement that is not covered by insurance, that is determined by the Commission to be that Member's proportionate share Accruing during the Member's period of participation in CVCC. Said determination shall be by three-fourths (3/4) vote of the Member Agencies, meaning an affirmative vote of three-fourths (3/4) of the total number of Member Agencies. The Members acknowledge that, given the possible variables, determination of a proper apportionment may be difficult. Therefore, subject only to arbitration rights set out at Section 11.7, the Members agree that the Commission's good faith determination of a fair apportionment shall be final, binding and enforceable as a term of this Agreement. Each Member shall to the extent provided herein indemnify and hold harmless the other Members for any loss, costs or expenses that may be imposed on such other Members solely by virtue of Section 895.2.

Article 16

Miscellaneous Provisions

Section 16.1 Notices. Notices to Members hereunder shall be sufficient if delivered to the principal office of the respective Member.

Section 16.2 Amendments. This Agreement may be amended or terminated, provided such amendment or termination is consistent with the provisions of the MSHCP and has been approved by each Member. The vote, assent or approval of each Member shall be evidenced by a certified copy of a resolution, minute order or similar writing of the governing body of the Member Agency, filed with CVCC.

Section 16.3 Prohibition Against Assignment. No Member may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee, or third-party beneficiary of any Member shall have any right, claim or title to any part, share, interest, fund, or asset of CVCC. This Agreement shall be binding upon, and shall inure to, the benefit of the successors of each Party.

Section 16.4 Agreement Complete. The foregoing constitutes the full and complete Agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

Section 16.5 Severability. If any one or more of the terms, provisions, sections, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

Section 16.6 Multiple Originals. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 16.7 Execution. The governing legislative body of each Member has each authorized execution of this Agreement, as evidenced by the authorized signatures below.

CITY OF CATHEDRAL CITY

Mayor Kathy De Rosa
City of Cathedral City

DATE _____

CITY OF COACHELLA

Mayor Jesse Villarreal
City of Coachella

DATE _____

CITY OF DESERT HOT SPRINGS

Mayor Matt Weyker
City of Desert Hot Springs

DATE _____

CITY OF INDIAN WELLS

Mayor Ed Monarch
City of Indian Wells

DATE _____

CITY OF INDIO

Mayor Melanie Fesmire
City of Indio

DATE _____

CITY OF LA QUINTA

Mayor Don Adolph
City of La Quinta

DATE _____

CITY OF PALM DESERT

Mayor Buford Crites
City of Palm Desert

DATE _____

CITY OF PALM SPRINGS

Mayor Ron Oden
City of Palm Springs

DATE _____

CITY OF RANCHO MIRAGE

Mayor ALAN SEMAN
City of Rancho Mirage

DATE _____

COUNTY OF RIVERSIDE

Marion Ashley, Chair
Board of Supervisors
County of Riverside

DATE _____

COACHELLA VALLEY WATER DISTRICT

Peter G. Nelson, President
Coachella Valley Water District
Coachella, California

DATE _____

IMPERIAL IRRIGATION DISTRICT

Rudy Maldonado, President
Imperial Irrigation District
Imperial, California

DATE _____