

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

APPROVE THE AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT OF THE VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY

Summary Statement:

With the decision of the City of Victorville to build a sub-regional wastewater reclamation plant to serve the Dr. Pepper/Snapple plant it was necessary to amend the current Joint Powers Agreement (JPA) to allow the diversion of sewer flows from the regional plant.

The notable changes in the JPA are as follows:

Section 12.1 The diversion of sewer flows is now allowed, each member entity will identify the current and future flows dedicated to VVWRA through the use of subarea maps. Subarea "A" will identify the areas to be served by VVWRA and subarea "B" will identify the areas to be served by the member entity. Also discussed is the ability of a member entity to retain its purchased capacity at the regional plant. If flows are diverted by one member entity, that entity has the right to the capacity that remained. The only cost to the member entity is the sewer user fees.

Section 41.2 The City of Victorville has retained the first right of refusal for the use of reclaimed water at the regional plant.

Section 41.3 Member entities will be offered the right of first refusal to purchase reclaimed water at the entities sub-regional plant.

Section 56 The approval for financing for any project would require approval of $\frac{3}{4}$ of the commission.

Recommended Action:

1. Approve the Amended and Restated Joint Exercise of Powers Agreement of the Victor Valley Wastewater Reclamation Authority.

Proposed by: William Pattison, Asst. Town Manager Item Number _____

T. M. Approval: _____ Budgeted Item Yes No N/A

**AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY**

THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT (the "Agreement"), dated _____, 2009 for reference purposes only, is made and entered into by, between, and among the following public agencies:

- City of Victorville, a California municipal corporation (successor to Victorville Sanitary District);
- Town of Apple Valley, a California municipal corporation (successor to Apple Valley County Water District);
- Hesperia Water District, a California municipal corporation (formerly known as Hesperia County Water District);
- County of San Bernardino, a California county, on behalf of County Service Area #42 (Oro Grande), County Service Area #64 (Spring Valley Lake) and County Service Area #70.

The City of Victorville, Town of Apple Valley, Hesperia Water District, and the County of San Bernardino are hereinafter individually referred to as a "Member Entity" or "party," or collectively referred to as "Member Entities" or "parties."

RECITALS

WHEREAS, each of the parties hereto is a public agency authorized and empowered to contract for the joint exercise of powers under Article 1, Chapter 5, Division 7, Title 1 (Sections 6500, et seq.) of the Government Code of the State of California; and

WHEREAS, each of the parties hereto has the authority and power to protect and preserve the quality of the surface and subsurface water supplies within their respective boundaries, and to exercise those other powers enumerated in this Agreement; and

WHEREAS, the parties hereto recognize the immediate and continuing necessity for planning, construction, operation, and maintenance of works and facilities for the collection, transmission, treatment, disposal, and/or reclamation of sewage, wastes, and

waste waters to meet the requirements of the National Pollution Discharge Elimination System, and other related federal and state laws, within the boundaries of the Authority; and

WHEREAS, the parties hereto and their predecessors in interest executed a Joint Exercise of Powers Agreement dated December 13, 1977 to form the Victor Valley Wastewater Reclamation Authority, a joint powers authority, which assumed responsibility for the construction, ownership, operation and maintenance, financing and every other phase and aspect of the Victor Valley Regional Wastewater Reclamation Project, all as more particularly described in the Mojave Water Agency Service Agreement dated November 23, 1976, ("Service Agreement") and in Mojave Water Agency Resolution No. 282-75, dated April 22, 1975, utilizing Mojave Water Agency ID No. 1 bond and tax funds and grants received from the Federal and State government to pay for these regional wastewater facilities; and

WHEREAS, on several occasions the parties hereto have approved amendments to the Joint Exercise of Powers Agreement dated December 13, 1977, and the parties now wish to amend and restate the terms of the Joint Exercise of Powers Agreement to update its provisions and to reflect the current status of the structure and operations of the Victor Valley Wastewater Reclamation Authority; and

WHEREAS, the Member Entities now wish to amend and incorporate the terms of the Service Agreement into the terms of the Joint Exercise of Powers Agreement so that the obligations of the Member Entities under the Service Agreement become part of the Joint Exercise of Powers Agreement; and

WHEREAS, approval of this JPA Agreement in no way constitutes a termination by the City of Victorville of the Service Agreement and, furthermore, the approval of this JPA Agreement shall in no way be deemed to cause a termination of that certain Second Amended and Restated Agreement for Water Services dated as of August 23, 2005 by and between the Victor Valley Water Reclamation Authority and the City of Victorville.

COVENANTS

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants herein contained, the parties hereto agree as follows:

I. GENERAL

1. The Recitals above are incorporated into the Covenants herein by this reference.

2. Definitions.

(a) "average dry weather flow (ADWF)" means the average flow of wastewater in a period of dry weather without any storm: flow included, said flow being the average of the said flow as measured for a period of seven consecutive days and stated in units of millions of gallons per day.

(b) "BOD" means biochemical oxygen demand (in five days at 20°C unless otherwise stated) and is the dissolved oxygen required by organisms for the aerobic decomposition of organic matter present in the water.

(c) "Commission" means the governing body of the Victor Valley Wastewater Reclamation Authority

(d) "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations, or studies, surveys, designs, plans, working drawings, specifications, procedures, environmental reviews or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the items.

(e) "CSA" means County Service Area.

(f) "Delivery and Treatment Commitment" has the meaning set forth in Section 12.1.

(g) "Delivery Point" shall mean the point at which wastewater is delivered by a Member Entity from the Member Entity Sewage System to the Regional Wastewater and Reclamation System. (h) "domestic wastewater" means wastewater (as defined herein) which does not exceed the quality or pollutant concentrations set forth in Section 51.1 of this Agreement.

(i) "EPA" means Environmental Protection Agency of the Federal government.

(j) "immediate service availability charge" means a charge levied against property within the Authority Service Area but is not being served by a community sewer system. The charge must be proportionate to the available service.

(k) "Independent Facility" is defined as a facility for the treatment of wastewater that is located within the boundaries of a Member Entity, is separately permitted by the Lahontan Regional Water Quality Control Board and requires no assistance or contribution in any way whatsoever on the Regional Wastewater and Reclamation System for the treatment, delivery or transportation of sewage, solids, sludges, or septic materials.

(l) "industrial wastewater" means wastewater which exceeds the quality and/or pollutant concentrations set forth in Section 51.1 of this Agreement.

(m) "industrial user" means any non-residential discharger that generates wastewater which is classified as industrial wastewater.

(n) "Member Entity Sewage System" means the facilities owned by the Member Entity for the collection and transportation of wastewater from individual homes or buildings within a Member Entity's Service Area to an interceptor.

(o) "Operation and Maintenance (O & M)" means the activities related to the Regional Wastewater and Reclamation System and the disposal facilities and shall include labor; the procurement of supplies and parts necessary for proper operation of said facilities; the purchase of fuel, power and chemicals; the repair or replacement of facilities customarily considered as maintenance; and administration of said activities, including necessary accounting activities.

(p) "O & M User Charge" means a system of charges to assure that each community will pay its proportionate share of the costs of operation and maintenance (including replacement) of all waste treatment service provided by the Authority.

(q) "owner" means any person who owns, leases, operates, controls or supervises a source of wastewater.

(r) "Purchased Capacity" has the meaning set forth in Section 12.2

(s) "Regional Wastewater and Reclamation System" means any devices, plants and systems used in the storage, treatment, recycling and reclamation of domestic sewage, septage, municipal sewage or industrial wastes of a liquid nature as necessary to recycle or reuse water at the most economical cost over the estimated life of the works including sub-regional facilities, intercepting sewers, outfall sewers, sewage collection systems owned and operated by the Authority (not including the Member Entity Sewage Systems), pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

(t) "replacement" means those expenditures for obtaining and installing equipment, accessories or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

(u) "Recycled Water" means liquid effluent which has been treated in the Regional Wastewater and Reclamation System and is available for non-potable use.

(v) "SS" means suspended solids.

(w) "SWRCB" means State Water Resources Control Board.

(x) "Service Area" means the area located within the recognized corporate boundaries of each Member Entity.

(y) "sewage" means wastewater.

(z) "Subarea A" means the geographical area defined in Section 12.1

(aa) "Subarea B" means the geographical area defined in Section 12.2

(bb) "source" means any building, structure, facility or installation from which there is or may be the discharge of pollutants.

(cc) "State" means the State of California.

(dd) "State water pollution control agency" means the State agency designated by the Governor as having responsibility for enforcing State laws relating to the abatement of pollution.

(ee) "wastewater" means the liquid effluent waste which is discharged by domestic, municipal, commercial and industrial users of water.

3. Creation of Authority. On December 13, 1977, a public agency known as

the VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY, herein called "Authority" was created. The Authority was formed by Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 (Sections 6500, et seq.) of the Government Code of the State of California relating to the joint exercise of powers common to public agencies (hereinafter referred to as the "Act"). For the purposes of this Agreement, and from its inception, the Authority is and has been a public agency separate from the parties hereto.

4. Regional Wastewater and Reclamation System. The Authority owns either in whole or in part, and/or the Authority has certain contractual rights of use, the Regional Wastewater and Reclamation System.

5. Authority Boundaries. The geographical area originally encompassed within the territorial boundaries of the Authority was coextensive with the boundaries of Mojave Water Agency Improvement District No. 1, plus all the real property owned or utilized for the construction and operation of the Victor Valley Regional Wastewater Reclamation Project. Additional land has been added by annexation. The current territorial boundaries are more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference ("Authority Boundaries"). The Authority Boundaries shall automatically change when any of the following occur: (a) the annexation of property in accordance with Section 6 of this Agreement, (b) the addition of a new member entity in accordance with Section 13 of this Agreement, or (c) the withdrawal of the Member Entity in accordance with Section 15 of this Agreement. On the effective date of an annexation of property, the addition of a new member entity, or the withdrawal of the Member Entity, Exhibit "A" shall be automatically updated to reflect the corresponding changes to the Authority Boundaries.

6. Annexation. For purposes of this Agreement, the term "annexation" refers only to expansion of the Authority Boundaries to incorporate property not already within the Authority Boundaries after such property has been legally annexed by a Member Entity. Any other expansion of the Authority Boundaries may occur only by adding a new member entity in accordance with Section 13 of this Agreement. Annexations to the

Authority Boundaries shall be subject to the condition that the taxable property, excluding personal property, within the annexation area shall be liable for the payment of all costs incident to annexation as determined by the Authority. Upon annexation, all property shall comply with all ordinances and regulations of the Authority, including the payment of all applicable connection fees when required in compliance with the connection fee ordinance adopted by the Authority.

7. Reserve Capacity.

7.-1 Contract Service.

Subject to the approval of three-fourths (3/4) of the Commission, the Authority may provide temporary or limited contractual service from the Regional Wastewater and Reclamation System to third party applicants in areas which are not within the jurisdiction of a Member Entity, upon such terms and conditions including provision for payment of fees and charges, as the Authority may establish. Any such arrangement shall be terminable at will by the Authority on no more than one year notice upon a determination that the excess capacity is required for use by the Commission.

7.-2 Facility Management. Upon approval of three-fourths (3/4) of the Commission, the Authority may contract to operate a facility for another entity, public or private, regardless of whether the contract for services requires the Authority to use the Regional Wastewater and Reclamation Service.

8. Purpose. The purpose of this Agreement is to continue the existence and activities of the Authority by exercising the common powers of the Member Entities for the purpose of undertaking projects to meet the requirements of the National Pollution Discharge Elimination System, and other related federal and state laws, within the Authority Boundaries, including the development of waste treatment management plans for the Victor Valley and surrounding area in proximity to the Mojave River, and the construction, operation, and maintenance of works and facilities for collection, transmission, treatment, disposal, and/or reclamation of sewage, wastes, and wastewaters, and to utilize funds derived from connection fees, user fees, grants, or loans received from the Federal, State, or local government, funds obtained by issuing bonds, notes,

warrants, or other evidences of indebtedness, or funds derived from any other source, to finance the costs and expenses associated with said projects.

9. Powers. The Authority shall have the power, in its own name, to do any and all of the following:

- (a) To make and enter contracts;
- (b) To employ agents and employees;
- (c) To acquire, construct, manage, maintain, and operate any buildings, works, or improvements;
- (d) To acquire, hold, or dispose of property;
- (e) To incur debts, liabilities, or obligations;
- (f) To issue bonds, notes, warrants, and other evidence of indebtedness to finance costs and expenses incidental to the projects of the Authority;
- (g) To apply for, receive, and utilize grants and loans from the Federal, State or local government or from any other available source;
- (h) To sue and be sued in its own name;
- (i) To exercise those powers common to the Member Entities, including, specifically, the power of eminent domain available to the Member Entities;
- (j) To own and operate the Regional Wastewater and Reclamation System and any appurtenant facilities;
- (k) To have such other powers as are now, or may hereafter be, conferred by law upon Joint Powers Authorities, in general; and
- (l) To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement.

The powers of the Authority are subject to the restrictions upon the manner of exercising the powers as are applicable to a municipal corporation which has been formed as a general law city, as provided in the California Government Code.

10. Effective Date. This Agreement shall become effective when the governing bodies of all Member Entities shall have authorized execution of this Agreement and the same has been executed by all parties.

II. MEMBERSHIP

11. Member Entities. The parties listed in the introductory paragraph of this Agreement are the designated "Member Entities" of the Authority, and each shall possess all the rights and privileges, and assume all the obligations and responsibilities, associated therewith.

12. Responsibility of Member Entity.

12.1 Delivery and Treatment Commitment (Subarea A).

Each Member Entity shall commit to deliver to the Regional Wastewater and Reclamation System all of the domestic wastewater effluent that is generated within Subarea A as identified on Exhibit B attached hereto and incorporated herein by this reference (Delivery and Treatment Commitment). Industrial wastewater that has been pre-treated by a Member Entity to the quality of domestic wastewater within the Subarea A and then discharged to the Regional Wastewater and Reclamation System shall be included in the Delivery and Treatment Commitment and may not be subsequently withdrawn from the Delivery and Treatment Commitment. .

12.2 Subarea B.

(a) Domestic wastewater effluent generated by a Member Entity located within Subarea B, as identified on Exhibit "B" attached hereto and incorporated herein by this reference, may be diverted by the Member Entity for treatment and disposal at a Member Agency's Independent Facility in compliance with federal, state and local laws and regulations. Each Member Entity reserves the right to design, construct, develop, finance and/or operate an Independent Facility, and all related wastewater collection and conveyance facilities, for the treatment of all wastewater generated within Subarea B at its' own cost and expense. Each Member Entity shall be entitled to establish and retain all fees, including connection, user, or other fees, for all wastewater generated within Subarea B. Each Member Entity shall notify the Authority of the flow from Subarea B and shall provide the Authority with an annual report. Said information shall be utilized by the Authority to monitor and properly report the amount of wastewater which is being generated within its service area for regulatory and planning purposes.

(b) Each Member Entity shall retain Purchased Capacity in the Regional Wastewater and Reclamation System. Purchase Capacity is defined as the amount of equivalent flow generated by all existing connections located within Subarea B of each Member Entity. Existing connections shall be defined as those connections that have paid a connection fee to the Authority prior to the date of execution of this Amended and Restated Joint Exercise of Powers Agreement. To the extent that a Member Entity desires to deliver Purchased Capacity to the Authority for treatment, the Authority will be obligated to accept Purchased Capacity which is generated within the Subarea B of the Member Entity subject only to the payment of the then current monthly user charges applicable to the collection and treatment of such effluent, as adopted by the Commission. The Member Entity shall provide sixty (60) days written notice to the Authority prior to the diversion of flows from Subarea B to or from the Regional Wastewater and Reclamation System. During the time period the Member Entity diverts flow to the Regional Wastewater and Reclamation System, the Member Entity shall

provide monthly reporting of total estimated flow diversions to the Authority.

12.3 Failure to Achieve the Delivery and Treatment Commitment. In the event that a Member Entity intentionally diverts flow from its Subarea A for another use, then the Member Entity shall make payment to the Authority for the actual amount of flow (or the closest reasonable approximation thereof) which has been diverted. Furthermore, to the extent that a Member Entity has intentionally diverted domestic wastewater effluent in violation of its Delivery and Treatment Commitment, then the amount of treated effluent or treatment byproducts that are being purchased by the Member Entity in accordance with Section 41 shall be decreased to mitigate the full impact of the diversion on the quantity of treated effluent or treatment byproducts that are available pursuant to Section 41.3.

12.4 Delivery Obligations. Each Member Entity shall be responsible for installing, operating, and maintaining a domestic wastewater collection system within its jurisdiction to collect, carry, and deliver all of its Delivery and Treatment Commitment of wastewater to the Regional Wastewater and Reclamation System at the point(s) of delivery acceptable to the Authority, and to monitor and operate its domestic wastewater collection system to ensure the quality of domestic wastewater delivered to the Regional Wastewater and Reclamation System complies with all provisions of this Agreement (including the quality requirements set forth in Section 51.1), and all ordinances, rules, and regulations of the Authority (including Ordinance 001 and the IPP as defined in Section 51.2). Any industrial wastewater that is generated within the jurisdiction of a Member Entity that is to be discharged into the Regional Wastewater and Reclamation System shall be subject to pre-treatment in accordance with Section 51.2 to a quality level consistent with domestic wastewater unless the Authority has agreed to accept industrial wastewater from a Member Entity pursuant to a separate written agreement. The Member Entities hereby agree that ordinances, rules, and regulations of the Authority are legally binding upon each and every Member Entity, and each Member Entity shall take all steps necessary to enact and enforce such ordinances, rules, and regulations within its own jurisdiction.

13. Addition of New Member Entity.

13.1 Procedure. Any legal entity authorized and empowered to contract for the joint exercise of powers under Article 1, Chapter 5, Division 7, Title 1 (Sections 6500, *et seq.*) of the Government Code of the State of California, may request to become a member entity of the Authority. No eligible legal entity shall be admitted as a new member entity of the Authority unless (i) admission is unanimously approved by all existing Member Entities, (ii) the eligible legal entity executes this Agreement and any addendum, amendment, or supplement hereto, and (iii) the eligible legal entity satisfies all other requirements of a Member Entity set forth in this Agreement. In connection with the admission of any eligible legal entity, the Commission may require as a precondition to admission, that the eligible legal entity execute a memorandum specifying its obligations for contributions toward past and present Authority costs and

project expenditures. The admission of any eligible legal entity shall also be subject to the condition that the taxable property, excluding personal property, within the jurisdiction of the eligible legal entity shall be liable for the payment of all costs incident to admission as determined by the Authority. If the eligible legal entity already generates sewage, solids, sludge, or septic materials that will be conveyed all or in part to the Regional Wastewater and Reclamation System upon approval of membership, the eligible member entity shall comply with the prerequisites to service set forth in Section 13.2. Upon approval and execution of this Agreement, the full legal name of the new member entity shall be automatically added to the introductory paragraph of this Agreement in the list of Member Entities.

13.2 Prerequisites to Service. A new member entity shall not be eligible to discharge to the Regional Wastewater and Reclamation System until it is in compliance with all applicable ordinances, rules, and regulations of the Authority. In addition, prior to any discharge to the Regional Wastewater and Reclamation System from any property in the new member entity's jurisdiction that was improved on the date the new member was admitted, the new member entity shall pay in advance the applicable connection fee pursuant to the Authority's connection fee ordinance, or, in the alternative, the Authority may require the payment of appropriate connection fees through a separate agreement to remit the connection fees in installments over time with interest, if so approved by the Authority. For all property that was unimproved on the date of the new member's admission, the new member entity shall collect and remit to the Authority the applicable connection fee in accordance the procedures set forth in the Authority's connection fee ordinance.

14. Reserve Power of Member Entities.

14.1 Notwithstanding any provision of this Agreement to the contrary, and except as provided hereinafter in the provisions concerning the general budget, each Member Entity expressly possesses and reserves to itself final and absolute discretion to approve or disapprove prior to commitment, any and all expenditures or other financial obligation by the Authority which are proposed to be directly and individually chargeable against such Member Entity for a special purpose.

15. Withdrawal of Member Entity.

15.1 Notice. Notwithstanding anything to the contrary in this Agreement, and subject to the terms and conditions set forth in Section 15.2 of this Agreement, every Member Entity shall have the right to withdraw its membership from the Authority prior to the termination, expiration, or rescission of this Agreement, by delivering to each Member Entity written notice of the withdrawal at least thirty (30) years prior to the effective date of the Member Entity's withdrawal ("Notice Period").

15.2 Notice Period. During the Notice Period, the Authority shall continue to reserve capacity in its system to continue to serve the Member Entity at no less than the amount of the Delivery and Treatment Commitment of the Member Entity at the time that notice of withdrawal is given. The Authority will provide additional capacity to meet any growth in the needs of the withdrawing Member Entity on an as-available basis during the Notice Period subject to the terms of Section 12, provided, however, that the Authority shall not be obligated to take into consideration any growth in the needs of the withdrawing Member Entity when determining future capacity, system design and capital improvements.

15.3 Transition Period. No less than three (3) years prior to the effective date of a withdrawal, the Authority and the withdrawing Member Entity shall negotiate a withdrawal agreement to address transitional issues with respect to the withdrawal of the Member Entity, including without limitation, (a) the ownership and continued use by the Authority, if necessary, of any component of the Regional Wastewater and Reclamation System (including without limitation, any pipeline, treatment plant, pump station, or other facility located within the jurisdiction of the withdrawing Member Entity), it being understood that all such facilities shall remain the property of the Authority (except as set forth in Section 58) unless otherwise agreed upon by the Authority and the withdrawing Member Entity; (b) the operational transition of treatment by the Authority to treatment by the Member Entity and application for all necessary governmental permits and approval or modifications thereof; and (c) such other issues as may be necessary or appropriate to an orderly withdrawal of the Member Entity. The withdrawal agreement shall contain a written assurance by the withdrawing Member Entity, acceptable in form and content to the Authority, that (x) the withdrawing Member Entity shall remain liable and satisfy any financial obligation attributable to the withdrawing Member Entity which is known or unknown, contingent or realized, and which was incurred or initially arose prior to the effective date of the Member Entity's withdrawal, and (y) that the withdrawing Member Entity will indemnify, defend, and hold harmless the Authority from any liability, claim, demand, cause of action, or loss arising out or related to the treatment of domestic wastewater effluent by the Member Entity following withdrawal.

15.4 Early Member Entity Withdrawal from Authority. A Member Entity may request an early withdrawal from the Authority which becomes effective in a timeframe that is less than the Notice Period, provided, however, that any such early withdrawal shall be on terms which are acceptable to the withdrawing Member Entity and all of the remaining Member Entities, in their sole discretion. The terms of any early

withdrawal shall (a) take into account the obligations of the Authority under any outstanding financing arrangement and shall not result in a default by Authority under such financing or a breach of any of the Authority's covenants with respect to such financing; (b) account for the negative financial impact of the early withdrawal on the remaining Member Entities; and (c) provide for the transitional issues discussed in Section 15.3.

15.5 Effect of Member Entity Withdrawal on Authority. On the effective date of the Member Entity's withdrawal, the withdrawing Member Entity shall automatically relinquish all its rights as a Member Entity under this Agreement, including all rights to discharge to the Regional Wastewater and Reclamation System and capacity rights in any facilities owned by the Authority, except as may provided by a separate agreement between the withdrawing Member Entity and the Authority. Upon the termination, expiration, or rescission of this Agreement, any previous Member Entity that has withdrawn will be treated like all other Member Entities in accordance with Section 45 of this Agreement.

16. Vote or Assent of Member Entities. The vote, assent, or approval of Member Entities in any matter requiring such vote, assent, or approval hereunder shall be evidenced by a certified copy of the resolution or minute order of the governing body of such Member Entity, filed with the Authority.

III. COMMISSION

17. Governing Body. This Agreement and the Authority shall be administered by the governing body of the Authority which shall be known as the "Commission for the Victor Valley Wastewater Reclamation Authority" (the "Commission"). Subject to the reserved powers of the Member Entities, the powers and functions of the Authority shall be exercised by and through the Commission. Each Commissioner and alternate Commissioner must reside within the territorial boundaries of the Authority to be eligible to serve in this capacity, except if the Commissioner representing CSA #42, CSA #64 and CSA #70 is a Supervisor for the County of San Bernardino or his or her designee.

18. Designation of Commissioners. Upon the effective date of this Agreement, each Member Entity who has not already done so shall designate and appoint, by resolution or minute order of its governing body, one member of its governing body, or its General Manager or his or her designee, or in the case of CSA #42,

CSA #64 and CSA #70, which will share a single representative between them, a designated representative to act as its Commissioner on the Commission, and one such individual to act as its alternate Commissioner. During any absence of the Commissioner, the alternate Commissioner shall act in the Commissioner's place. Commissioners and alternate Commissioners shall serve at the pleasure of the governing body of the appointing Member Entity and may be removed at any time, with or without cause, at the sole discretion of said Member Entity's governing body.

19. Meetings. Regular meetings of the Commission shall be held no less than once a fiscal quarter or such greater frequency as the Commission may determine from time to time. The Commission shall provide for the time and place of its regular meetings. Special meetings may be called at the request of the Chairperson or of a majority of the Commission. Notice of all meetings shall be given as required by California law then in effect.

20. Quorum. A majority of the Commissioners shall constitute a quorum for purposes of transacting business, except that less than a quorum may adjourn from time to time.

21. Majority Vote. Except as otherwise provided herein, all actions of the Commission shall be approved upon the affirmative vote of a majority of the members of the Commission. Each Member Entity shall have one (1) equal vote, to be exercised by its designated Commissioner (or alternate as the case may be); provided, however, that, should any Member Entity merge with or assume responsibility for the services provided by another Member Entity, the votes shall also merge and shall thereafter be exercised as one vote; and, provided further, that CSA #42, CSA #64 and CSA #70, which share a single representative between them, shall likewise have only one (1) vote between them, to be exercised as a single unit by their designated Commissioner (or alternate, as the case may be).

22. Minutes. The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the

Commission and shall cause a copy of said minutes to be kept on file for access by each Member Entity, the Commission, and the public.

23. Compensation. Each Commissioner or alternate Commissioner shall receive compensation for each commission and ad hoc committee meeting attended in which they served as the designated representative of a Member Entity. The amount of compensation shall be fixed from time to time by the Commission. If allowed by the Commission, a Commissioner or alternate Commissioner shall also receive travel and other expenses incurred on Authority business at the request of the Commission.

24. Public Meetings. All meetings of the Commission shall be open to the public and shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act as set forth in Sections 54950, et seq., of the Government Code.

25. Rules. The Commission may adopt from time to time such rules and regulations for the conduct of its affairs as may be required.

26. Committees. Committees may be formed for any purpose by majority vote of all Commission members. Such vote shall designate the method for appointing committee members, the scope of the duties and responsibility of the committee, whether the committee is a standing or ad hoc committee, and such other matters as the Commission may deem appropriate. No compensation shall be payable to committee members unless approved by the Commission.

27. Technical Advisory Committee. A technical advisory committee may be appointed from time to time by the Commission to provide advice and expertise on technical matters subject to the committee procedure set forth in Section 26.

28. Powers and Limitations. All of the power and authority of the Authority shall be exercised by the Commission, subject to any expenditures or other financial obligations by the Authority which are proposed to be directly and individually

chargeable against such Member Entity for a special purpose, as described in Section 12 of this Agreement.

IV. OFFICERS

29. Officers.

29.1 Chairperson and Vice-Chairperson. There shall be selected from the membership of the Commission a Chairperson and a Vice-Chairperson who shall stand for election annually at the first regular meeting of each new fiscal year.

29.2 Treasurer. A Treasurer and an Auditor/Controller shall be appointed by the Commission on behalf of the Authority, from those persons eligible under California Government Code sections 6505.5 and 6505.6, to be the depository and have custody of all money of the Authority from whatever source and who shall draw all warrants to pay demands against the Authority approved by the Commission. Such offices may be held by separate officers or employees, or combined and held by one officer or employee, as the Commission may elect. They shall serve at the pleasure of the Commission.

29.3 Secretary. A Secretary shall be appointed by the Commission on behalf of the Authority from those persons eligible under California law. The Secretary shall serve at the pleasure of the Commission.

30. Additional Officers and Employees. The Commission shall have the power to appoint such additional officers and to employ such additional employees and assistants as may be appropriate.

31. Duties of Officers and Employees. Each and all of said officers, employees and assistants shall serve under rules established by the Commission and shall perform such duties and shall have such powers as the Commission may determine.

32. Bonds. Pursuant to Government Code section 6505.1, the public officer, officers or persons who have charge of, handle or have access to any property of the Authority shall file an official bond in an amount to be fixed by the parties to this Agreement.

V. BUDGET PROCEDURES

33. General Budget. Annually at the May meeting of the Commission, or as soon thereafter as possible, a general budget shall be adopted for the ensuing fiscal year. The budget shall be prepared in sufficient detail to constitute an operating outline for the source and amount of funds available to the Authority and expenditures to be made during the ensuing year for those administrative and study matters and for general projects involving all Member Entities ..

34. Approval of General Budget. Each general budget shall be adopted and shall be deemed effective upon the affirmative vote of a majority of the members of the Commission. Until such time as said formal approval has been received from a majority of the members of the Commission, said budget shall constitute merely a proposed budget, subject to consideration or revisions.

35. Failure to Approve General Budget. If a majority of the members of the Commission fail or refuse to approve any general budget of the Authority, said budget shall be returned to the Commission for restudy and revision. In the event a budget acceptable to a majority of the members of the Commission is not obtained prior to the start of the fiscal year, the Authority may continue to operate at the level of expenditure authorized by the last approved general budget.

36. Expenditures Within Approved Budgets. All expenditures within the designations and limitations of approved general budgets shall be made on the authorization of a majority of the Commission. No expenditures in excess of those budgeted shall be made without approval of a revised or amended budget, which may from time to time be submitted.

VI. AGENCY FUNDS

37. Sources of Funds. The sources of funds available to the Authority include but are not limited to each of the following:

- (a) Funds collected as user charges or user fees for the operation and maintenance of the entire Regional Wastewater and Reclamation System;
- (b) Funds collected as connection fees from individuals, businesses, government organizations, and others connecting to the Regional Wastewater and Reclamation System;
- (c) Grants and loans received by the Authority from local, State, or Federal government agencies;
- (d) Funds received from State and Federal disaster relief agencies;
- (e) Funds obtained by issuing bonds, notes, warrants, and other evidences of indebtedness to finance costs and expenses incidental to the activities of the Authority;
- (f) Funds from any other source derived, .

The Authority shall arrange for the receipt of such funds from the above sources as are available to the Authority and as are necessary for the conduct of Authority activities.

38. Use of Funds. All funds or revenues received or made available to the Authority shall be utilized by the Authority in accordance with the terms of the budget procedures contained in this Agreement:

(a) Connection Fees. Connection fees assessed and collected pursuant to Victor Valley Wastewater Reclamation Authority Ordinance No. 002, and any interest earned thereon, shall be deposited in a separate account designated as the "Capital Expansion Fund" and used exclusively for capital improvements which are designed and constructed for the purpose of increasing the capacity of the Regional Wastewater and Reclamation System or improving the Regional Wastewater and Reclamation System to comply with applicable laws and regulations.

(b) All Other Funds. Any other revenues or funds received or made available to the Authority from any source whatsoever, shall be deposited into accounts that may be established by the Authority, and may be expended by the Authority in any

legal manner subject to such restrictions as may be imposed by the Authority from time to time.

VI. FINANCING OF ANNUAL COSTS OF OPERATIONS AND MAINTENANCE

OF THE REGIONAL WASTEWATER SYSTEM

39. Reimbursement and Payment. The annual costs of the Authority incurred in the operation and maintenance of the Regional Wastewater and Reclamation System shall be reimbursed through the revenues from one or a combination of the following charges and collections where applicable by Authority:

- (a) A user charge levied on the Member Entities hooked up to the regional wastewater system.
- (b) A charge for septic tank pumpings discharged into said system.
- (c) Sale of treated effluent and byproducts from said system.
- (d) Other system of charges that may be agreed upon between the contracting member entities and Authority.

40. Septic Tank Discharge and Pumping Fees. Authority shall establish rules and regulations for the proper discharge of septic tank effluent into the Regional Wastewater and Reclamation System and shall levy and collect fees from persons making such discharge. The revenues shall be deposited and credited as funds of the Authority. The charge shall be reviewed and set by Authority each year as a part of the annual budget process.

41. Treated Effluent and Byproducts.

41.1 Ownership. All treated effluent and treatment byproducts, including Recycled Water, which are produced by the Authority in the operation of the Regional Wastewater and Reclamation System shall be the property of Authority except as otherwise agreed in writing between the Authority and a Member Entity. All treated effluent and treatment byproducts which result from industrial wastewater which has been pre-treated by a Member Entity and then discharged to the Regional Wastewater and Reclamation System shall further be the property of the Authority.

41.2 Member Entity Purchase Right – Regional Reclamation Facility. The sale and delivery of all reclaimed water from the Regional Reclamation Facility shall be in accordance with the Second Amended and Restated Agreement for Reclaimed Water Service with the City of Victorville, made and entered into on August 23, 2005.

41.3 Member Entity Purchase Right – All Facilities other than Regional Reclamation Facility. Member Entities will be offered the right of first refusal to purchase treated effluent and treatment byproducts (“Purchase Right”). Each Member

Entity will be allowed to purchase treated effluent and treatment byproducts at the unit price established by the Commission. Unless otherwise agreed in writing with the Authority and approved by the Member Entities, the quantity of treated effluent and treatment byproducts available for purchase by each Member Entity will be limited to its proportionate contribution to the total quantity of treated effluent and treatment byproducts made available for purchase by the Commission as calculated in accordance with this Section. If a Member Entity has fully utilized its Purchase Right or has contracted with the Authority to take more than its Purchase Right, then the Member Entities which have not fully utilized their Purchase Right shall have first priority to purchase any increased capacity in available treated effluent and treatment byproducts that becomes available until all Member Entities have fully utilized their Purchase Right. If treated effluent and treatment byproducts remain unpurchased after each Member Entity has exercised its Purchase Right, and if only one Member Entity desires to purchase additional treated effluent and treatment byproducts, said Member Entity may purchase all or a portion of the remaining treated effluent and treatment byproducts. If treated effluent and treatment byproducts remain unpurchased after each Member Entity has exercised its Purchase Right, and if more than one Member Entity desires to purchase additional treated effluent and treatment byproducts, said Member Entities may purchase the remaining treated effluent and treatment byproducts in quantities proportionate to their respective Purchase Right. The intention of this Section is allow each Member Entity to purchase as much recycled water as they want, unless or until all of the Recycled Water made available for purchase by the Commission has been purchased.

41.4 Quantity of Recycled Water. The quantity of Recycled Water available for purchase by the Member Entities is limited to the excess quantity of Recycled Water which is available after the deduction of (i) all flows required for discharge in accordance with the regulatory requirements applicable to Authority and any contractual commitments made in connection therewith, including without limitation, any required discharge into the Mojave River transition zone; and (ii) all previous contractual commitments to provide Recycled Water which remain in effect with Member Entities and third parties. All contractual deliveries of Recycled Water to Member Entities and third parties shall be subject to the prior satisfaction of the Authority's regulatory obligations for the discharge of Recycled Water. Contractual deliveries to a Member Entity are subject to reduction in connection with an unauthorized diversion as set forth in Section 12.3.

41.5 Sales to Third Parties. Subject to the Purchase Right of the Member Entities, the Authority shall have the authority to enter into agreements with third parties to sell treated effluent and treatment byproducts at prices which shall both encourage the reclamation and reuse of said products and provide additional revenues for the Authority.

41.6 Energy Production. Notwithstanding the Purchase Right, the Authority shall have the priority right to use treatment byproducts for the production of electrical energy to operate the Regional Wastewater and Reclamation System and to sell or receive credits for any excess electrical energy which is generated and transmitted back to the electrical grid.

42. O & M User Charge for Regional Wastewater and Reclamation System—Calculations. The Authority shall levy and collect a user charge from each Member Entity which is connected to and discharging wastewater into the Regional Wastewater and Reclamation System. This user charge is to be based on the volume and quality of the wastewater delivered by the community into the Regional Wastewater and

Reclamation System as described in this Agreement. The total user charges to be levied for a fiscal year on all communities connected to the Regional Wastewater and Reclamation System shall be computed by the Authority each year by March 1 preceding the next fiscal year. These charges will be computed by determining the estimated total costs to the Authority for operation and maintenance of the Regional Wastewater and Reclamation System for the next fiscal year and deducting therefrom revenues estimated from charges collected for the discharge of septic tank wastes into the regional system and from sales of treated effluent or byproducts. The calculation of the O & M portion of total user charges to be levied can be illustrated by the following formula:

Total O & M User Charges Estimated to be levied On All Communities Connected to Regional System in Coming Year in dollars	=	Total Estimated Authority Operation & Maintenance Costs for Coming Year in dollars	minus	Estimated Revenues from Discharge of Septic Tank Pumpings and Sale of Effluent and Byproducts in dollars
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The unit user charge for O & M of the regional facility is the total estimated user charge, described above, divided by the estimated number of million gallon increments of wastewater that will be processed through the system in the following year. The user charge will be expressed in dollars per million gallons.

Calculation of the unit user charge is illustrated by the following formula:

Unit User Charge Expressed In Dollars for Million Gallons	=	Total Estimated O & M User Charges in Dollars divided by Total Estimated Volume of Flow Thru Treatment Plant In Coming Year In Millions of Gallons.
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The total user charges and unit user charge shall be established annually, prior to March 1 preceding the next fiscal year, based on the Authority's actual cost for the preceding 12-month period and the estimate of costs and wastewater flows for the next 12-month period. The charges shall be computed by the Authority in accordance with generally accepted accounting practices and principles.

43. Quality Component of O & M User Charge. In the event that any Member Entity consistently discharges wastewater to the Regional Wastewater and Reclamation System in excess of the Target Quality (as defined in Section 50.1) or in violation of the requirements of Section 50.2, the Authority may, at its option after public hearing, revise the determination of user charge, as adopted in Ordinance 001, to a multi-component rate which takes into account the strength or quality as well as the volume of wastewater delivered to the Regional Wastewater and Reclamation System. Such change in the user charge shall be reviewed and put into effect by the Authority at the beginning of the next billing period. The O & M user charge shall be designed to recover the costs to serve each Entity and be consistent with the SWRCB Revenue Program Guidelines.

44. Billing Period for User Charge. The billing period for the Authority shall be monthly and the Member Entities shall pay the user charge to the Authority not later than thirty (30) days after the billing date, and if not paid in that time shall be considered delinquent. Payments that are more than thirty (30) days past due will be charged late charges on the unpaid principal balance at the interest rate set by the Authority from time to time, not to exceed the maximum legal rate of interest.

45. Extraordinary Costs of Operation & Maintenance. In the event a Member Entity delivers or discharges a volume, substance, chemical or wastewater whose characteristics are such that it causes a disruption of the wastewater treatment process or causes damage to the facilities, the Member Entity shall pay the reasonable and necessary costs imposed on the Authority as a result of the disruption, including any fines for improper discharges which may be levied on the Regional Wastewater and Reclamation System over and above the ordinary costs of operation and maintenance that would be required to restore the facilities and maintain them in proper operating condition.

VIII. DELIVERY POINTS

46. Point of Delivery. Each Member Entity shall collect and deliver wastewater at the Delivery Points which are currently being used or are included within any approved system expansion plan as of July 1, 2009, or such other Delivery Points as may mutually be agreed upon by the Authority and the Member Entity. The Authority shall accept delivery of said wastewater into the Regional Wastewater and Reclamation System at the Delivery Point for treatment and disposal.

IX. MEASUREMENT OF FLOW

47. Measurement by Authority.

47.1 The Authority shall measure, record and/or sample all wastewater delivered into the Regional Wastewater and Reclamation System by all Member Entities and third party customers, if any, and shall maintain accurate and complete records of its measurement and/or sampling program. The Authority shall purchase, maintain, calibrate and operate at its expense, all flow measuring devices and equipment necessary to carry out such monitoring. The flow measuring devices and equipment used by the Authority shall be of sufficient capacity to measure the quantity of wastewater contemplated by this agreement and shall be of type and quality agreed upon by parties hereto. The Authority shall have the right to contract with an independent third party to carry out the functions and responsibilities set forth in this Section 47.1

47.2 As of the date of this Agreement, it is acknowledged that the Authority does not measure flow on a continuous basis at the Delivery Points and that such flow is established based on periodic benchmarks taken during the year and then extrapolated to establish the proportion of flow which is coming from each Member Entity. The total extrapolated flow amounts from each Member Entity are then compared to the continuous inflow meter at the treatment facility to establish the accuracy of the flows attributable to each Member Entity. The proportion of flow attributable to each Member Entity is subject to review and approval by the Commission. Until such time as it is feasible to efficiently and cost effectively monitor flow from each Member Entity on a continuous basis, each Member Entity agrees that the foregoing procedure shall be used to extrapolate actual flows.

48. Meter Test. The Authority shall inspect and test the flow meters no less than once per quarter or such greater frequency as may be required by its operating permits or such other rules and regulations as may be applicable to the Authority. On written request of a Member Entity, the Authority and the Member Entity representative shall make additional tests of any or all meters at the Delivery Point. The cost of such additional tests shall be borne by the Member Entity if the percentage error is found to vary by less than five (5) percent from the meter's rated accuracy.

X. MUTUAL RIGHTS OF ENTRY AND INSPECTION

49. Entry and Inspection. The Authority and the Member Entities each agree that the other shall be allowed to reasonably enter onto the property of the other, and may inspect the facilities and operation of the Regional Wastewater and Reclamation System and the Member Entity Sewage Systems and the records of operation and maintenance of each of them at reasonable times.

XI. QUALITY OF WASTEWATER DISCHARGED INTO REGIONAL WASTEWATER AND RECLAMATION SYSTEM

50. Quality of Wastewater.

50.1 Target Quality. The target quality for wastewater which is discharged into the Regional Wastewater and Reclamation System shall not exceed a

strength greater than that determined by the Authority in a duly adopted Fee Ordinance (“Target Quality”).

50.2 Source Control Regulation and Industrial Pre-Treatment Plan. As a component of Ordinance 001, the Authority has adopted a waste source control regulation restricting and controlling the quality of wastewater being discharged into the Regional Wastewater and Reclamation System. Said regulation, as amended and replaced from time to time, shall be consistent with the Authority’s NPDES permit and any similar permitting requirements, and shall include the industrial pre-treatment plan (“IPP”) which is adopted by the Authority for the purpose of monitoring, mitigating and pre-treating industrial wastewater. The IPP, as amended and replaced from time to time, shall include appropriate mitigation and pre-treatment measures such as (i) a fats, oils and grease program to reduce discharge of industrial wastewater by restaurants and other food preparation facilities; and (ii) an emerging contaminant monitoring and removal program for contaminants such as pharmaceuticals and personal care products.

51. Member Entities Obligations.

51.1 The Member Entities agree to monitor and control the quality of wastewaters being discharged into the Member Entity Sewage System so as to insure compliance with said regulation and the IPP. If the wastewater discharged by a Member Entity to the Regional Wastewater and Reclamation System does not comply with provisions of the regulation and/or the IPP, thereby causing the Authority to be in violation of its waste discharge requirements as established by the appropriate State and Federal authorities, the Member Entity shall be liable and shall pay for its equitable share of any costs incurred by the Authority for such violation, including any civil fines or penalties, or cleanup costs which may be imposed on Authority for such violation. The quality criteria established in the said proposed waste source control regulation may be amended from time to time, provided that such modifications shall be applicable throughout the area served by the Regional Wastewater and Reclamation System.

51.2 In addition to the obligations of the Member Entities under Section 52.1, each Member Entity agrees that it shall assist and cooperate with the Authority and make personnel and equipment available to the Authority as reasonably necessary to address emergency repairs and maintenance to the collection and transportation facilities within the Regional Wastewater and Reclamation System which convey wastewater from the Member Entity to the Authority.

XII. ACCOUNTING AND AUDITS

52. Fiscal Year. The fiscal year of the Authority shall be from July 1, to and including June 30, of the following year.

53 Accounting Procedures. Full books and accounts shall be maintained by the Authority in accordance with the applicable provisions of the Government Accounting Standards Board and the practices established by or consistent with those

utilized by the Controller of the State of California for like public agencies. In particular, the Controller and Treasurer of the Authority shall comply strictly with the requirements of the statutes governing joint powers agencies, Chapter 5, Division 7, Title 1, of the Government Code, commencing with Section 6500. The Authority shall further adopt and maintain policies related to the investment of financial reserves and surplus funds in accordance with any bond requirements applicable to Authority and the requirements of the Government Code. Finally, the Authority shall comply with all public bidding requirements which are applicable to the Authority.

54. Audit. The records and accounts of the Authority shall be audited annually by an independent certified public accountant and copies of such audit report shall be filed with the County Auditor, State Controller, and each Member Entity no later than fifteen (15) days after receipt of said audit by the Commission.

55. Auditing of Member Entities. The Member Entities agree to maintain records of all connection fees collected on behalf of the Authority in accordance with State standards for records retention. Upon reasonable notice from the Authority, the Member Entities agree to provide the Authority with the right to audit those records and provide the Authority with copies of such records.

VIII. FINANCING

56. Financing. The Authority shall have the power and authority to financing for any project which serves the purposes specified in Section 8 of this Agreement. Any such financing shall be subject to the approval of $\frac{3}{4}$ of the Commission and to any other approval required by law, and may include, but not be limited to, revenue bonds, certificates of participation, State Revolving Funds, or other forms of loans.

IX. PROPERTY RIGHTS AND LIABILITIES

57. Property Rights.

57.1 General Rule. Except as provided herein, the assets acquired by the Authority during the course of its operations under the terms of this Agreement shall be the assets of the Authority alone, and not of the parties to this Agreement.

57.2 Facilities on Member Entity Property. In the event that any facility which is part of the Regional Wastewater and Reclamation System is located on land which is owned by a Member Entity, such as a sub-regional treatment facility, then the Authority shall be the owner of the facility subject to a long term ground lease for the land on terms and conditions which are negotiated between the Authority and the Member Entity. Any such ground lease shall provide that upon the expiration of any such ground lease or the exercise of a termination right by the Member Entity, the Authority and the Member Entity shall undertake one of the following options: (a) a renewal of the ground lease on terms acceptable to the Authority and the Member Entity; or (b) a buyout of the facility by the Member Entity if the parties cannot agree on a renewal and the Authority determines that the facility is required for the operation of the Regional Wastewater and Reclamation System. Any buyout of a facility by the Member Entity shall be based upon a reasonable valuation of the facility which takes into account the value of the facility over its remaining useful life and any ancillary incremental impact on the cost to the Authority to replace the existing facility at a new location, including the costs of permitting a new facility and constructing new collection and transportation facilities for the new facility.

58. Liabilities. Except as provided herein, the debts, liabilities, and obligations of the Authority shall be the debts, liabilities, and obligations of the Authority alone, and not of the parties to this Agreement.

X. RESCISSION OR TERMINATION

59. Term. The term of this agreement shall be perpetual, subject to rescission or termination by the Member Entities in accordance with Section 61, provided, however, that no such rescission or termination shall become effective for a period of thirty (30) years from the date of the written consent of the Member Entities.

60. Rescission or Termination. This Agreement may be rescinded and the Authority terminated by written consent of a majority of the Member Entities, evidenced by a certified copy of a resolution of their governing bodies. No such termination, however, shall relieve the Authority from any financial obligations theretofore incurred by it while operating under this Agreement.

61. Disposition of Assets on Termination. Upon termination, all assets of the Authority, including any charges then due, shall be transferred, subject to any outstanding Authority obligations, to whatever entity shall have been formed and is ready to perform the services of wastewater treatment disposal and wastewater reclamation for the constituent members and users of the Regional Wastewater and Reclamation System.

XI. MISCELLANEOUS

62. Notices. All notices, statements, demands, requests, consents, approvals, authorizations, agreements, appointments, or designations hereunder shall be given in writing and addressed to the principal place of business of each Member Entity and the Authority.

63. Validity. If any one or more of the terms, provisions, 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, 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.

64. Amendment. This Agreement shall contain all of the terms and conditions made between the parties hereto and shall not be amended except by an agreement in writing signed by all parties.

65. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

66. Assignment. The parties hereto shall not assign any rights or obligations under this Agreement without the prior written consent of all other parties.

67. Additional Documents. The parties hereto agree upon request to execute, acknowledge, and deliver all additional papers and documents necessary or desirable to carry out the intent of this Agreement.

68. Law Governing. This Agreement is made in the State of California under the Constitution and Laws of such State and is to be so construed.

69. Effect on Service Agreement. Upon the execution of this Agreement by all of the Member Entities, the Service Agreement and any amendments thereto shall terminate and be of no further force or effect, it being understood that the material terms thereof have been incorporated into this Agreement. Notwithstanding anything to the contrary herein, the parties hereto agree that the Second Amended and Restated Agreement for Reclaimed Water dated August, 2005 by and between the Victor Valley Water Reclamation Authority and the City of Victorville shall remain in full force and effect, and any potential termination of the Service Agreement pursuant hereto shall not cause a termination of the Second Amended and Restated Agreement for Reclaimed Water.

70. Other Agreements. Except for the Service Agreement or as otherwise set forth herein, all written contracts and agreements between the Authority and the Member Entities or any third party shall remain in full force and effect unless terminated or amended in accordance with their respective terms.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this AMENDED AND RESTATED JOINT POWERS AGREEMENT on the day and year hereinafter indicated making the same effective upon the date signed by the last of all parties hereto.

CITY OF VICTORVILLE

DATED: _____

By: _____
Signature of Member

TOWN OF APPLE VALLEY

DATED: _____

By: _____
Signature of Member

HESPERIA WATER DISTRICT

DATED: _____

By: _____
Signature of Member

behalf of

COUNTY OF SAN BERNARDINO, on

COUNTY SERVICE AREA #42, COUNTY SERVICE AREA #64 and COUNTY SERVICE AREA #70

DATED: _____

By: _____
Signature of Member