
JOINT EXERCISE OF POWERS AGREEMENT

by and among

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT,

YUCAIPA VALLEY WATER DISTRICT,

and

THE OTHER PARTIES SET FORTH IN EXHIBIT A

creating the

**UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY**

July 20, 2021

JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated July 20, 2021, by and among the SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT, a municipal water district that is duly organized and existing under and by virtue of the laws of the State of California (the “San Bernardino Valley Municipal Water District”), the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, an independent special district that is organized and existing under and by virtue of the laws of the State of California (the “San Bernardino Valley Water Conservation District”), the YUCAIPA VALLEY WATER DISTRICT, a county water district that is organized and existing under and by virtue of the laws of the State of California (the “Yucaipa Valley Water District”), and the other parties set forth in Exhibit A as it may be revised from time to time, each a public agency that is organized and existing under and by virtue of the laws of the State of California (the “Additional Members”).

DECLARATION OF PURPOSE

A. Chapter 5 of Division 7 of Title 1 of the California Government Code, Government Code sections 6500 et seq., (the “Act”) authorizes the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District and the Additional Members to create a joint exercise of powers entity which has the power to exercise any powers common to the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District and the Additional Members and to exercise additional powers granted to it under the Act. This Agreement creates such an agency, which shall be known as the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “Authority”) for the purposes and to exercise the powers described herein.

B. The Members have determined to develop a means to facilitate the financing of the implementation of a coordinated regional water infrastructure program to provide a more reliable and affordable water supply to the Members and their respective rate payers, consisting of water-related capital improvement projects undertaken by the Members that are expected to benefit public agencies located within the vicinity of, or receiving water from, the Santa Ana River watershed (the “Upper Santa Ana River Watershed Infrastructure Program”).

C. The Members, through the development and implementation of the Upper Santa Ana River Watershed Infrastructure Program (also known as Watershed Connect), aim to invest in projects to modernize aging infrastructure and to address issues facing the region and its Members, such as the impacts of climate change, drought and the need for cooperative water management to assure safe and reliable drinking water and environmental restoration.

D. The Members are each authorized to plan for, design, construct, operate, maintain, repair and replace water-related facilities and to buy, sell, lease and use property and to incur indebtedness for public purposes pursuant to the California Water Code, the California Government Code and other laws of the State of California.

E. The Members desire to use any and every power common to them and the other powers granted to the Authority pursuant to the Act for the purpose of financing the costs of the various projects comprising Upper Santa Ana River Watershed Infrastructure Program.

F. Article 4 of the Act, Government Code sections 6584 et seq., (known as the “Marks-Roos Local Bond Pooling Act of 1985”) authorizes and empowers joint powers agencies like the Authority to issue bonds and to purchase bonds issued by, or to make loans to, the Members for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by the Authority. The Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale.

G. The Members desire to explore all financing options to fully implement the Upper Santa Ana River Watershed Infrastructure Program, including, but not limited to, entering into one or more loan agreements with the United States Environmental Protection Agency under its Water Infrastructure Finance and Innovation Act program and other funding options, including the use of the Marks Roos Local Bond Pooling Act of 1985.

TERMS OF AGREEMENT

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

“Act” shall mean Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, Government Code sections 6500 et seq., as amended.

“Additional Members” shall mean a Member other than the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District, San Bernardino Valley Water Conservation District and any other initial Members.

“Agreement” shall mean this Joint Exercise of Powers Agreement creating the Authority, as it may be amended from time to time.

“Authority” shall mean the Upper Santa Ana River Watershed Infrastructure Financing Authority created by this Agreement.

“Board” or “Board of Directors” shall mean the governing board of the Authority.

“Bonds” shall have the same meaning as in Government Code section 6585(c), and in addition shall include, without limitation, bonds, loans, notes and any other evidences of indebtedness of the Authority authorized and issued pursuant to the Act or other available financing mechanism.

“Director” shall mean a member of the Board appointed to the Board pursuant to Section 4(b) of this Agreement.

“Indenture” shall mean each indenture, trust agreement, loan agreement, resolution or other such instrument pursuant to which Bonds are issued.

“Members” shall mean San Bernardino Valley Municipal Water District, Yucaipa Valley Water District, San Bernardino Valley Water Conservation District and the Additional Members listed in Exhibit A of this Agreement.

“Project” shall mean generally water-related capital improvement projects, including, but not limited to, wastewater treatment, recycled water or water reuse, stormwater capture, water conveyance, groundwater storage, alternative energy, environmental preservation or ecosystem restoration projects, identified in a Project Agreement financed or refinanced by the Authority for the benefit of the Member or Members who are parties to such Project Agreement.

“*Project Agreement*” shall mean an agreement entered into by one or more Members and the Authority pursuant to which the Authority agrees to finance or refinance a Project specified in such agreement and the Member(s) is obligated to make payments to the Authority with respect to the financial obligations incurred by the Authority for purposes of financing or refinancing the applicable Project, all in accordance with the terms and conditions of any such Project Agreement.

“*State*” shall mean the State of California.

Section 2. Purpose. This Agreement is made pursuant to the Act for the purpose of assisting in the financing and refinancing of the Projects of the Members, working capital for the Members and other costs described in the Act by exercising the powers referred to in this Agreement and providing an organizational framework for the implementation of the financing of the Upper Santa Ana River Watershed Infrastructure Program. Any Bonds issued by the Authority shall be solely for Projects benefiting the Member or Members, as provided in the applicable Project Agreement.

Section 3. Term. This Agreement shall become effective as of the date hereof (the “Effective Date”) and shall continue in full force and effect until (i) the date which is the 40th anniversary of the Effective Date or (ii) the date on which the Members terminate this Agreement in writing; provided however this Agreement shall not terminate so long as any Bonds or other obligations of the Authority remain outstanding under the terms of any Indenture, Project Agreement, contract, agreement, or other instrument pursuant to which such Bonds are issued or other obligations are incurred.

Section 4. The Authority.

(a) *Creation of the Authority.* There is hereby created pursuant to the Act an authority and public entity to be known as the “Upper Santa Ana River Watershed Infrastructure Financing Authority.” As provided in the Act, the Authority shall be a public entity separate from the Members. The geographic boundaries of the Authority shall be coextensive with the boundaries of all of the Members. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members. Notwithstanding any other provision of this Agreement, the Authority shall have no power to incur any debt, liability or obligation that is not subject to and limited by the preceding sentence, including but not limited to any debt, liability or obligation to a public retirement system or otherwise for pension, health care or other retirement benefits.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State in the manner that is set forth in Section 6503.5 of the Act, and, to the extent required, with the Local Agency Formation Commission under Section 6503.8 of the Act. Such notice shall also be filed with the office of the Finance Director of the State.

(b) *Governing Board.* The Authority shall be administered by a Board of Directors, which is hereby established, consisting of one (1) Director for each Member, whom shall be designated by the Member by motion or resolution of the governing board of the Member, which motion or resolution shall be filed with the Authority.

Each Member shall, from time to time, designate a Director and an alternate, which shall be a governing board member of the Member or employee of the Member, to represent the Member on the Board. The alternate shall be entitled to all rights as a Director, including rights of voting in the absence of the Director. Directors and alternates shall serve for so long as they are either serving a term to the governing body of, or are in the active employ of, the appointing Member, unless earlier removed from such position as Director or alternate, as applicable, by the governing body of the appointing Member. Directors and alternates shall serve at the pleasure of the governing board of the appointing Member and may be removed at any time, with or without cause, in the sole discretion of the appointing Member's governing board.

Directors shall not receive any compensation by the Authority for serving as such, but shall be entitled to reimbursement for any expenses actually incurred and not reimbursed by the Member that appointed such Director in connection with serving as a Member, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose. Members may provide for per diem or other compensation for their appointed Director from the Member's own funds, provided such is not a charge against the Authority.

(c) *Meetings of Board.*

(1) The Board shall hold regular meetings on the first and third Wednesdays of each calendar month at 8:30 A.M. at the offices of the San Bernardino Valley Municipal Water District unless the Board determines to meet at an alternate time or location in accordance with California law. The Board may suspend the holding of regular meetings so long as there is no need for Authority business. The Board may hold special meetings at any time and from time to time in accordance with law, provided that, so long as required by the Act, any action taken regarding the sale of Bonds shall occur by resolution placed on a noticed and posted meeting agenda for a regular meeting of the Authority.

(2) All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

(3) The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the Members.

(4) A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time.

(d) *Voting.* Each Director representing his or her appointing Member shall have one vote. Unless specified to the contrary herein, all actions of the Board shall be approved on the affirmative vote of a majority of the quorum of Directors present at the meeting. In the event of a tie vote among the Directors voting, the matter will not be considered to have passed.

(e) *Officers; Duties; Bonds.*

(1) The officers of the Authority shall be the Chair, Vice Chair, Executive Director, Secretary and Treasurer, who will each serve at the pleasure of the Board.

(2) The Director to the Authority from the San Bernardino Valley Municipal Water District, or his or her alternate or designee, shall serve as the first Chair of the Authority for [one-year from the Effective Date]. After such period, the Chair shall be elected by a vote of the Board for a one year term. The Chair shall preside at all meetings of the Authority.

(3) The Board shall select from its members a Vice Chair who shall serve as Vice Chair of the Authority. The term of office of the Vice Chair shall be [one year]. Following the expiration of such term, a Vice Chair shall be elected by a vote of the Board. The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In case of a vacancy in the position of the Chair, the Vice Chair shall perform the duties of the Chair, until such time as a new Chair is selected or appointed.

(4) The General Manager of the San Bernardino Valley Municipal Water District is hereby designated as the initial Executive Director of the Authority. By a vote of the Board, the Authority may give notice to San Bernardino Valley Municipal Water District of its desire to replace the initial Executive Director. The Authority and San Bernardino Valley Municipal Water District shall engage in a good faith discussion of this desire for a period of at least thirty (30) days. If following the thirty-day period the Authority and the San Bernardino Valley Municipal Water District have not been able to resolve any outstanding issues, the Board may remove or appoint a new Executive Officer pursuant to a vote.

The Executive Director shall be responsible for execution and supervision of the affairs of the Authority. Except as otherwise authorized by resolution of the Board, the Executive Director or the Executive Director's designee shall sign all contracts, deeds and other instruments executed by the Authority. In addition, subject to the applicable provisions of any Indenture providing for a trustee or other fiscal agent, the Executive Director is designated as a public officer or person who has charge of, handles or has access to any property of the Authority, and shall file an official bond if so required by the Board pursuant to Section 6505.1 of the Act. In addition to the powers, duties and responsibilities provided herein, the Executive Director shall have such powers, duties and responsibilities as may be hereinafter granted or imposed, as the case may be, by the Board.

(5) The Clerk of the Board of the San Bernardino Valley Municipal Water District shall serve as the initial Secretary until such time as the Board may appoint a replacement. The Secretary shall keep the records of the Authority, shall act as Secretary at the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

(6) The Treasurer of the San Bernardino Valley Municipal Water District shall serve as the initial Treasurer of the Authority until the Board may appoint a replacement. The Treasurer of the Authority shall have the powers, duties and responsibilities that are specified in Sections 6505 and 6505.5 of the Act. The Treasurer of the Authority is designated as a public officer

or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond as required by the Board pursuant to Section 6505.1 of the Act. The cost of the bond shall be paid by the Authority.

(7) So long as required by Sections 6505 and 6505.5 of the Act, the Treasurer of the Authority shall prepare or cause to be prepared: (a) a special audit as required pursuant to Section 6505 of the Act every year during the term of this Agreement; and (b) a report in writing on the first day of July, October, January and April of each year to the Board and the Members, which report shall describe the amount of money held by the Treasurer of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provides regular reports covering such amounts).

(8) The services of the officers shall be without compensation by the Authority. The San Bernardino Valley Municipal Water District may provide such other administrative services as required by the Authority.

(9) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

(10) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions within such Member's territorial limits, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially for or on behalf of the Authority under the provisions of this Agreement.

(11) None of the officers, agents or employees, if any, directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by a Member or, by reason of their employment by the Authority, to be subject to any of the requirements or benefits to any of the Members.

(12) The Members hereby confirm their intent and agree that, as provided in Section 4(a) hereof and in the Act, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members, and they do not intend by the following sentence to impair this provision. Notwithstanding Section 4(a) hereof, the confirmation provided immediately above, and the Act, each Member shall indemnify, defend and hold harmless the Authority and each other Member and each of the Authority and the other Member's officers, directors, employees, attorneys and agents from and against any and all costs, expenses, losses, claims, damages, and liabilities directly or indirectly arising out of or in connection with any negligent or wrongful act or omission of such Member in the performance of this Agreement, and the Members intend that each Member provide indemnity or contribution in proportion to that Member's responsibility for any such claim, damage, loss, judgment, liability, expense or other cost, as determined under principles of comparative negligence. Each Member may elect to defend itself in any such action with counsel of its choice, the reasonable fees of such counsel to be paid by such Member providing indemnification under this section. Notwithstanding the provisions of Section 895.6 of the Government Code of the State, a Member shall not have any right to contribution from the Authority. This paragraph shall survive the termination of this Agreement.

(13) In any event, the Authority shall cause all records regarding the Authority's formation, existence, operations, any Bonds issued by the Authority, obligations incurred by it and proceedings pertaining to its termination to be retained for at least six (6) years following termination of the Authority or final payment of any Bonds issued by the Authority, whichever is later.

(14) Confirmation of officers shall be the first order of business at the first meeting of the Authority, regular or special, held in each calendar year.

(15) No Board member, officer, agent or employee of the Authority, without prior specific or general authority under this agreement or by a vote of the Board, shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount.

Section 5. Powers. The Authority shall have any and all powers which are common powers of the Members, and the powers separately conferred by law upon the Authority. All such powers, whether common to the Members or separately conferred by law upon the Authority, are specified as powers of the Authority, except any such powers which are specifically prohibited to the Authority by applicable law. The Authority's exercise of its powers is subject to the restrictions upon the manner of exercising the powers of the San Bernardino Valley Municipal Water District.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to issue Bonds or otherwise incur debts, liabilities or obligations, except for any debt, liability or obligation to a public retirement system or otherwise for pension, health care or other retirement benefits, to the extent authorized by the Act or any other applicable provision of law and to pledge any property or revenues or the rights thereto as security for such Bonds and other indebtedness

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Act or under applicable law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

This section shall be subject to the limitations on the powers of the Authority set forth in Section 4(a).

Section 6. Termination of Powers. The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement in accordance with Section 3 hereof.

Section 7. Fiscal Year and Budgeting. The first fiscal year of the Authority shall be the period from the effective date of this Agreement to June 30, 2022. Each subsequent fiscal year of the Authority shall be the period from July 1 of each year through June 30 of the succeeding year, unless changed by resolution of the Board.

The Authority shall develop, circulate, and approve an annual budget for the funding of its administrative and other functions. The budget shall be prepared by the Executive Director. No later than March 1 prior to the beginning of the fiscal year for which the budget is to operate, the

Executive Director shall present and circulate to all Members the proposed budget, for review and analysis. The circulated budget shall include the underlying presumptions and worksheets upon which it is based. The Executive Director or his or her designee, shall be reasonably available to respond promptly to any inquiries or information requests regarding the proposed budget. No later than thirty (30) days after presentation of the budget, the Board shall meet to deliberate and pass upon the budget. The Board may accept, reject, or modify in any way the budget as proposed by the Executive Director.

Initially, the San Bernardino Valley Municipal Water District shall perform the accounting and revenue collection functions of the Authority, tracking and securing the funding from the Members pursuant to the approved annual budget, and consistent with the approved cost allocations among the Members approved therewith. The San Bernardino Valley Municipal Water District shall perform such functions until such time as a different Member or other entity is selected by the Board to perform the accounting and revenue collection functions of the Authority and tracking and securing the funding from the Members pursuant to the approved annual budget.

In the event of any delinquency, the San Bernardino Valley Municipal Water District may request the Authority to appoint it, or any other Member or group of Members, to represent the Authority, as its agent, in securing collection of unpaid and owing amounts from any delinquent Member or Members. The reasonably incurred costs of such collection efforts may be reimbursed to the agent authorized by the Authority to go forward with them, and may be added as an administrative cost to other Members, or as a credit against future amounts owing to the Authority from such authorized agent.

Section 8. Disposition of Assets. Upon termination of this Agreement pursuant to Section 3 hereof, any surplus money in possession of the Authority or on deposit in any fund or account of the Authority shall be returned in proportion to any contributions made as required by Section 6512 of the Act. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority. After rescission or termination of this Agreement pursuant to Section 3 hereof, all property of the Authority, both real and personal (except for any surplus money, which shall be distributed pursuant to the first sentence of this Section), shall be distributed to the Members in proportion to their contributions.

Section 9. Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by a Member for any of the purposes of this Agreement. Administrative costs owed to the Authority are intended to be recovered pursuant to the terms of the Project Agreement executed by the Members. Only Members executing a Project Agreement shall be required to pay such administrative costs.

Section 10. Bonds.

(a) *Authority to Issue Bonds.* When authorized by the Act or other applicable provisions of law and by resolution of the Board, the Authority may issue Bonds for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement. Said Bonds shall have such terms and conditions as are authorized by the Board. The issuance of Bonds shall be approved by the affirmative vote of a majority of the total number of Directors of the Authority.

(b) *Bonds Limited Obligations.* The Bonds, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets that are pledged therefor under the applicable Indenture(s), and shall not constitute a charge against the general credit of the Authority or the Members. The Bonds shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any Members (other than property of the Member executing a Project Agreement to secure such Bonds, and only to the extent set forth in such Project Agreement) or any Authority income or receipts or any Member's income or receipts (other than income or receipts of the Member executing a Project Agreement and only to the extent set forth in such Project Agreement) except the property, income and receipts pledged therefor under the applicable Indenture(s). The Bonds shall not constitute a debt, liability or obligation of the State or any public agency thereof, including any Member, other than the special obligation of the Authority as described above. Neither the faith and credit nor the taxing power of the State or any public agency thereof, including any Member, shall be pledged to the payment of the principal or purchase price of, or the premium, if any, or interest on the Bonds, nor shall the State or any public agency or instrumentality thereof, including any Member, in any manner be obligated to make any appropriation for such payment. The Authority shall have no taxing power.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any director, officer, agent or employee of the Authority or a Member, in his or her individual capacity, and no director or officer of the Authority executing a Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance of such Bond.

Section 11. Agreement not Exclusive. This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between the Members, except as the terms of this Agreement shall conflict therewith, in which case the terms of this Agreement shall prevail.

Section 12. Project Agreements. The rights and obligations of the Members and the Authority with respect to any Bonds issued by the Authority shall be set forth in the respective Project Agreements to be authorized by the Board of the Authority and the governing board of the participating Members and executed and delivered by the Authority and the participating Members. Each Project Agreement shall include (i) a confirmation of the Member that such Member has the legal authority to carry out the project activities related to the applicable Project and (ii) provisions to ensure that such Member will comply with the provisions of any Indenture related to such Project Agreement.

Section 13. Additional Members. It is recognized that public agencies other than the original Members to this Agreement may wish to participate in the Authority. As determined by the Board of Directors, in its sole discretion, any such public agency must have the common powers specified in the Declaration of Purpose, above, must be credit worthy, and must provide benefits to the Upper Santa Ana River Watershed Infrastructure Program and to the other Members. Any proposed Additional Member must meet all established principles or requirements adopted by any Member with respect to potential participation in the Upper Santa Ana River Watershed Infrastructure Program that are in effect at the time the proposed Additional Member applies to become a Member. Additional public agencies may become Members upon such terms and conditions as approved by a unanimous vote of the Board, including establishment of an appropriate

cost allocation for that Additional Member and payment by the Additional Member of an acceptable financial contribution to offset prior expenses or obligations incurred by the existing Members, if any. The Authority shall revise Exhibit A to reflect such Additional Member and shall attach the revised Exhibit A as a replacement exhibit. Such replacement Exhibit A shall not constitute an amendment to this Agreement.

Section 14. Withdrawal of a Member. Any Member seeking to withdraw from the Authority shall give at least one hundred eighty (180) days written notice of its election to do so. Such written notice must state the date on which the withdrawal shall be effective. Notice must be given to each Director of the Board and to the Executive Director. The application of the withdrawing Member shall include a plan for the allocation to the withdrawing Member any reimbursement or payment to the Authority of any appropriate costs, expenses, or obligations of the Authority, assumed by or benefitting such withdrawing Member, previously incurred by the Authority. Upon withdrawal, the withdrawing Member shall no longer be a Member, and shall no longer have any obligations under this Agreement; provided that the withdrawing Member shall remain liable for its share of debt service with respect to any outstanding Bonds or amounts payable under a Project Agreement. Any Member that withdraws shall remain subject to the provisions of Section 4(e)(12) with respect to any event or occurrence taking place before such Member withdraws.

Section 15. Accounts and Reports. All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Bonds (to the extent that such duties are not assigned to a trustee for owners of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by the Members and their representatives.

The Authority shall require that each Indenture shall provide that if a trustee is appointed thereunder, such trustee shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section 15.

(a) *Audits.* The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the Act. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 15, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

(b) *Audit Reports.* The Treasurer of the Authority, as soon as practicable after the close of each fiscal year but in any event within the time necessary to comply with the requirements of the Act, shall file a report of the audit performed pursuant to this Section 15(b) as required by the Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the Act.

Section 16. Funds. Subject to the provisions of each Indenture for outstanding Bonds providing for a trustee to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds

pursuant to accounting procedures approved by the Board and shall make the disbursements required by this Agreement or otherwise necessary to carry out the provisions and purposes of this Agreement.

Section 17. Technical Advisory Committee. The Authority shall establish a Technical Advisory Committee. The Technical Advisory Committee shall be comprised of one representative of each Member that is an employee of the Member or a consultant appointed by such Member with expertise in water and/or wastewater capital improvement projects. The Technical Advisory Committee will meet from time to time to review materials relevant to Projects to be financed by the Authority, including draft Project Agreements, and shall periodically report to the Board regarding its review of such materials.

Representatives on the Technical Advisory Committee shall serve in such capacity for so long as they are in the active employ of, or contracted by, the appointing Member, unless earlier removed from such position by the governing board of the appointing Member. Representatives on the Technical Advisory Committee shall serve at the pleasure of the governing board of the appointing Member and may be removed at any time, with or without cause, in the sole discretion of the appointing Member's governing board.

The Board shall appoint a Chair and Vice Chair of the Technical Advisory Committee. The term of each of the Chair and Vice Chair of the Technical Advisory Committee shall be [one year].

All regular and special meetings of the Technical Advisory Committee shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

Section 18. Adoption of Certain Codes and Policies. The Authority shall, by resolution, adopt a Conflict of Interest Code, an investment policy and a debt management policy to the extent required by law. Such Conflict of Interest Code, investment policy and debt management policy may initially be the respective code or policies of the San Bernardino Valley Municipal Water District.

Section 19. Notices. Notices and other communications hereunder to the parties shall be sufficient if delivered to the clerk or secretary of the governing body of each party.

Section 20. Effectiveness. This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of the Members when each party has executed a counterpart of this Agreement.

Section 21. Severability. Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

Section 22. Successors; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

Section 23. Amendment of Agreement. This Agreement may be amended by supplemental agreement executed by all of the Members at that time; provided, however, that this Agreement may be terminated only in accordance with Section 3 hereof and, provided further, that such supplemental agreement shall be subject to any restrictions contained in any Bonds or documents related to any Bonds to which the Authority is a party.

Section 24. Waiver of Personal Liability. No Member, member of the Board, officer, counsel, employee or other agent of the Authority or the Members shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the Authority shall defend such Members, members of the Board, officers, counsel, employees or other agent of the Authority against any such claims, losses, damages, costs, injury and liability. Without limiting the generality of the foregoing, no Member, member of the Board, officer, counsel, employee or other agent of the Authority or of any Member shall be personally liable on any Bonds or be subject to any personal liability or accountability by reason of the issuance of Bonds pursuant to the Act and this Agreement. To the full extent permitted by law, the Board shall provide for indemnification by the Authority of any person who is or was a member of the Board, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in the course and scope of his or her office, employment or agency. In the case of a criminal proceeding, the Board may provide for indemnification and defense of a member of the Board, or an officer, employee or other agent of the Authority to the extent permitted by law.

Section 25. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 26. Miscellaneous. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 27. Duties. Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant. Where reference is made to actions to be taken by a Member, such action may be exercised through the officers, staff or employees of such Member in the manner provided by law.

Section 28. Principal Office. The principal office of the Authority shall be the principal office of the San Bernardino Valley Municipal Water District unless the Board designates a different principal office by motion or resolution.

Section 29. Controlling Law. THIS AGREEMENT IS MADE IN THE STATE, UNDER THE CONSTITUTION AND LAWS OF THE STATE AND IS TO BE CONSTRUED AS A CONTRACT MADE AND TO BE PERFORMED IN THE STATE.

Section 30. Complete Agreement. Except as provided in Section 11 hereof, this Agreement is the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof, which supersedes and merges all prior proposals, understandings, and

other agreements, whether oral, written, or implied in conduct, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers or officials thereunto duly authorized, as of the day and year first above written.

SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT

By _____
President

ATTEST:

Secretary

YUCAIPA VALLEY WATER DISTRICT

By: _____
President

ATTEST:

Secretary

SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

By: _____
Authorized Representative

ATTEST:

Secretary

CITY OF COLTON

By: _____
Authorized Representative

ATTEST:

Secretary

BIG BEAR REGIONAL WASTEWATER AGENCY

By: _____
Authorized Representative

ATTEST:

Secretary

SAN BERNARDINO MUNICIPAL WATER
DEPARTMENT

By: _____
Authorized Representative

ATTEST:

Secretary

WESTERN MUNICIPAL WATER DISTRICT

By: _____
Authorized Representative

ATTEST:

Secretary

EXHIBIT A

AUTHORITY MEMBERS

1. San Bernardino Valley Municipal Water District
2. Yucaipa Valley Water District
3. Big Bear Regional Wastewater Agency
4. City of Colton
5. San Bernardino Municipal Water Department
6. San Bernardino Valley Water Conservation District
7. Western Municipal Water District