



AGENDA
CITY OF NORCO
CITY COUNCIL/COMMUNITY REDEVELOPMENT AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
MARCH 16, 2011

CALL TO ORDER: 6:00 p.m.

ROLL CALL: Mayor Berwin Hanna
Mayor Pro Tem Kevin Bash
Council Member Kathy Azevedo
Council Member Greg Newton
Council Member Harvey C. Sullivan

THE CITY COUNCIL/CRA WILL RECESS TO CLOSED SESSION (SECTION 54954) TO CONSIDER MATTERS:

Section 54956.9(b) – Conference with Legal Counsel - Anticipated Litigation

Number of Potential Cases: 1

Section 54957.6 – Conference with Labor Negotiator

Negotiating Parties: City Manager Groves and Deputy City Manager/Director of Finance Okoro

Employee Organizations: Management
Middle Management, Professional, and Confidential Service
Norco Battalion Chiefs Association
Norco Firefighters Association
Norco General Employees Association
Norco Public Works & Parks Maintenance Workers Association

RECONVENE PUBLIC SESSION: 7:00 p.m.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Bash

INVOCATION: Assembly of God – Beacon Hill
Pastor Rene Parish

PRESENTATION: 2011 Keep America Beautiful Grant
Julie Reyes, Waste Management

REGULAR COMMUNITY REDEVELOPMENT AGENCY (CRA) AGENDA AS FOLLOWS:

1. CRA CONSENT CALENDAR ITEMS: *(All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Agency, any public comments on any of the Consent Items will be heard. There will be no separate action unless Members of the Agency Board request specific items be removed from the Consent Calendar)*

A. CRA Minutes:
Regular Meeting of March 2, 2011
Recommended Action: Approve the CRA Minutes (City Clerk)

2. OTHER CRA MATTERS:

ADJOURNMENT OF CRA:

REGULAR CITY COUNCIL AGENDA AS FOLLOWS:

3. CITY COUNCIL CONSENT CALENDAR ITEMS: *(All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Council, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Council or the audience request specific items be removed from the Consent Calendar. Items removed from the Consent Calendar will be separately considered under Item No. 4 of the Agenda)*

A. City Council Minutes:
Regular Meeting of March 2, 2011
Recommended Action: Approve the City Council Minutes (City Clerk)

B. Recap of Actions Taken at the Planning Commission Regular Meeting of March 9, 2011. **Recommended Action: Receive and File** (Planning Director)

C. Consideration of City Participation on the Four Corners Transportation Coalition. **Recommended Action: Approve the City's participation on the Four Corners Transportation Coalition and appoint Mayor Hanna to represent the City on the Coalition.** (City Manager)

D. Approval of the Chino Basin Desalter Authority Amended and Restated Water Purchase Agreement. **Recommended Action: Approve the Amended and Restated Water Purchase Agreement between the Chino Basin Desalter Authority and the City of Norco, and authorize the City Manager to execute all necessary documents on behalf of the City.** (Director of Public Works)

- E. Amendment to the Western Riverside County Regional Wastewater Authority Fiscal Year 2010/2011 Budget. **Recommended Action: Approve an Amendment to the WRCRWA 2010/2011 budget in the amount of \$500,000 to fund the planning and engineering for the expansion of the treatment facility.** (Director of Public Works)
 - F. Fourth Amended and Restated Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Authority. **Recommended Action: Approve the Fourth Amended and Restated Joint Exercise of Powers Agreement.** (Planning Director)
 - G. Dissolution of the Riverside-San Bernardino Housing and Finance Agency and Corporation. **Recommended Action: Adopt Resolution No. 2011-____, withdrawing from and terminating the Joint Exercise of Powers Agreement of the Riverside-San Bernardino Housing and Finance Agency.** (Housing Manager)
 - H. Annual Resolution Making Findings and Continuing Existing Rates for Maintaining Flood control Channels within County Service Area CSA-152. **Recommended Action: Adopt Resolution 2011-____, making findings and continuing existing rates for maintaining flood control channels within County Service Area CSA-152.** (Deputy City Manager/Director of Finance)
4. ITEMS PULLED FROM CITY COUNCIL CONSENT CALENDAR:
5. CITY COUNCIL PUBLIC HEARING:
- A. Proposition 218 Public Hearing Approving Adjustments to Water and Sewer Rates

In Compliance with Article XIID of the State of California Constitution and the Proposition 218 Omnibus Implementation Act, the City of Norco has notified all affected property owners and rate payers of the proposed water and sewer rate adjustments. The proposed rates are being recommended pursuant to a rate analysis conducted to assess the adequacy of revenues to maintain the physical integrity of the water and sewer systems; comply with all required health standards; provide adequate quality of water and wastewater treatment; to meet outstanding bonds debt coverage ratios; to provide adequate levels of system maintenance and to provide adequate levels of maintenance, upgrade and expand sewer and sewer facilities as needed to serve the City residents and businesses. The proposed rates are necessary to bridge the gap between necessary operating expenses including debt service and revenues recovered through user charges. Staff is recommending that the City Council accept written and verbal comments on the proposed rates and to approve the proposed rates after closure of the public hearing.

Recommended Action: Open the Public Hearing, take comments and at the end of the Public Hearing, adopt Resolution No. 2011-____, adopting adjustments to water and sewer rates. (Deputy City Manager/Director of Finance)

6. PUBLIC COMMENTS OR QUESTIONS - THIS IS THE TIME WHEN PERSONS IN THE AUDIENCE WISHING TO ADDRESS THE CITY COUNCIL REGARDING MATTERS NOT ON THE AGENDA MAY SPEAK. PLEASE BE SURE TO COMPLETE THE CARD IN THE BACK OF THE ROOM AND PRESENT IT TO THE CITY CLERK SO THAT YOU MAY BE RECOGNIZED.
7. OTHER MATTERS – COUNCIL:
8. OTHER MATTERS – STAFF:
9. ADJOURNMENT:

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's office, (951) 270-5623. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

Staff reports are on file in the Office of the City Clerk. Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be available for public inspection at the City Clerk's Counter in City Hall located at 2870 Clark Avenue.

/bj-77659



MINUTES
CITY OF NORCO
CITY COUNCIL/COMMUNITY REDEVELOPMENT AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
MARCH 2, 2011

CALL TO ORDER: Mayor Hanna called the meeting to order at 6:03 p.m.

ROLL CALL: Mayor Berwin Hanna, **Present**
Mayor Pro Tem Kevin Bash, **Present**
Council Member Kathy Azevedo, **Present**
Council Member Greg Newton, **Present**
Council Member Harvey C. Sullivan, **Present**

Staff Present: Carlson, Cooper, Grody, Groves, Jacobs, King, Milano, Okoro, Petree, and Thompson

City Attorney Harper – **Present**

THE CITY COUNCIL/CRA RECESSED TO CLOSED SESSION (SECTION 54954) TO CONSIDER MATTERS:

Section 54957.6 – Conference with Labor Negotiator

Negotiating Parties: City Manager Groves and Deputy City Manager/Director of Finance Okoro

Employee Organizations: Norco Firefighters Association

REPORT FROM CLOSED SESSION: City Attorney Harper stated that there is nothing to report from Closed Session.

RECONVENE PUBLIC SESSION: Mayor Hanna reconvened the meeting at 7:10 p.m.

PLEDGE OF ALLEGIANCE: Council Member Newton

INVOCATION: Corona Church of the Open Doors
Pastor Fred Griffin

REGULAR COMMUNITY REDEVELOPMENT AGENCY (CRA) AGENDA AS FOLLOWS:

1. CRA CONSENT CALENDAR ITEMS:

M/S Bash/Azevedo to approve the item as recommended on the CRA Consent Calendar. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

- A. CRA Minutes:
Regular Meeting of February 16, 2011
Recommended Action: Approve the CRA Minutes (City Clerk)

2. OTHER CRA MATTERS: No other CRA matters.

ADJOURNMENT OF CRA: 7:16 p.m.

REGULAR CITY COUNCIL AGENDA AS FOLLOWS:

City Manager Groves pulled Item 3.G. Members of the public pulled Item 3.H, Item 3.C. and Item 3.J.

3. CITY COUNCIL CONSENT CALENDAR ITEMS:

M/S Bash/Sullivan to approve the remaining items as recommended on the City Council Consent Calendar. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

- A. City Council Minutes:
Regular Meeting of February 16, 2011
Recommended Action: Approve the City Council Minutes (City Clerk)
- B. Recap of Actions Taken at the Planning Commission Regular Meeting of February 23, 2011. **Recommended Action: Receive and File (Planning Director)**
- C. Termination of the Declaration of a Local Emergency Dated December 22, 2010. **Recommended Action: That the City Council terminate the declaration of the existence of a Local Emergency dated December 22, 2010 as conditions no longer warrant the extension of that term. (City Manager) PULLED FOR DISCUSSION**

- D. 2011 Vacant Parcel Spring Weed Abatement Program. **Recommended Action: Adopt Resolution No. 2011-13, setting the Public Hearing for May 4, 2011.** (Fire Chief)
 - E. Approval of a Lease Agreement between T-Mobile West Corporation, a Delaware corporation, and the City of Norco to Construct a Telecommunications Facility at Parmenter Park. **Recommended Action: Approval** (Director of Parks, Recreation and Community Services)
 - F. Approval of a Lease Agreement between Metro PCS Networks California LLC, a Delaware limited liability company, and the City of Norco to Construct a Telecommunications Facility at Ted Brooks Park. **Recommended Action: Approval** (Director of Parks, Recreation and Community Services)
 - G. Resolution Opposing the Proposed Interstate 15 Draft Alignment of the High-Speed Rail System through the City of Norco and Supporting the Proposed Interstate 215 Draft Alignment of the California High-Speed Rail System. **Recommended Action: Adopt Resolution No. 2011-14.** (City Council) **PULLED FOR DISCUSSION**
 - H. Acceptance of Bid and Award of Contract for the LMD No. 4 Equestrian Trail Drainage Improvements Project. **Recommended Action: Accept bids submitted for the installation of drainage devices in LMD No. 4 (Norco Ridge Ranch) and award a contract to Valley Crest Landscape Maintenance, Inc. in the amount of \$188,638 and authorize the City Council to approve contract change orders up to 10 percent of the contract amount.** (Contract City Engineer) **PULLED FOR DISCUSSION**
 - I. Authorization to Install a Three-Way Stop Condition at the Intersection of Hillside Avenue and El Paso Drive. **Recommended Action: Approval** (Director of Public Works)
 - J. Authorization to Install a Three-Way Stop Condition at the Intersection of Detroit Street and Woodward Avenue. **Recommended Action: Approval** (Director of Public Works) **PULLED FOR DISCUSSION**
4. ITEMS PULLED FROM CITY COUNCIL CONSENT CALENDAR:
- 3.C. Termination of the Declaration of a Local Emergency Dated December 22, 2010. **Recommended Action: That the City Council terminate the declaration of the existence of a Local Emergency dated December 22, 2010 as conditions no longer warrant the extension of that term.** (City Manager)

Vern Showalter. Mr. Showalter asked if there were any results to report from the FEMA claims submitted.

City Manager Groves responded that under the policy of declaring a local emergency, the agency makes the decision when to terminate it. She added that the City kept the declaration in place until FEMA physically came to the City, noting that this has taken place. Next week is the deadline to submit all information to FEMA and then they will come back to the City again for a final review. She stated that this is an approximate 60-day process and when completed, a report will be presented to the Council for its review.

M/S Azevedo/Bash to terminate the declaration of the existence of a Local Emergency dated December 22, 2010 as conditions no longer warrant the extension of that term. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

G. Resolution Opposing the Proposed Interstate 15 Draft Alignment of the High-Speed Rail System through the City of Norco and Supporting the Proposed Interstate 215 Draft Alignment of the California High-Speed Rail System.
Recommended Action: Adopt Resolution No. 2011-__. (City Council)

City Manager Groves stated that this resolution was requested by the Council at its February 16, 2011 meeting. She added that the California High-Speed Rail Authority Board is recommending withdrawing the Milliken Avenue alignment, which is the alignment that would have taken out Hamner Avenue. They are instead recommending the alignment that runs at grade level on the Interstate 15 Freeway. City Manager Groves stated that the resolution has been updated to remove the reference to the Hamner Avenue alignment and the negative impacts to the City were added to reflect that new alignment.

Council Member Azevedo stated that she sent an email to the California High-Speed Rail Authority Board and received a response back from a person that serves as the public outreach liaison for Riverside County. She distributed that email to the City Clerk requesting that a copy of this resolution be sent to that individual.

M/S Azevedo/Newton to adopt Resolution No. 2011-14. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

- H. Acceptance of Bid and Award of Contract for the LMD No. 4 Equestrian Trail Drainage Improvements Project. **Recommended Action: Accept bids submitted for the installation of drainage devices in LMD No. 4 (Norco Ridge Ranch) and award a contract to Valley Crest Landscape Maintenance, Inc. in the amount of \$188,638 and authorize the City Council to approve contract change orders up to 10 percent of the contract amount.** (Contract City Engineer)

Don Bowker. Mr. Bowker stated that he supports this action and thanked City Engineer Milano for his support through the holding of community meetings. He added that the sandbag plan is still a work in process. Mr. Bowker stated that there was enough money to do all the priority 1 drains, with money left over. He also noted that he did not want rocks left in the horse trail and added that there needs to be a final inspection following the completion of the project.

Council Member Newton asked City Engineer Milano to confirm the project schedule.

City Engineer Milano stated that 60 days have been allowed for the project. Also in response to Council Member Newton, he stated that the property owner will maintain the drains, adding that one notification has already gone out to the property owners indicating that they are responsible for the maintenance after installation. He also noted that a second letter will go out tomorrow. There will be an inspector that will go out following the completion of the project. He further responded to Council Member Newton that the project is not subject to prevailing wage.

M/S Newton/Sullivan to accept bids submitted for the installation of drainage devices in LMD No. 4 (Norco Ridge Ranch) and award a contract to Valley Crest Landscape Maintenance, Inc. in the amount of \$188,638 and authorize the City Council to approve contract change orders up to 10 percent of the contract amount. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

- 3.J. Authorization to Install a Three-Way Stop Condition at the Intersection of Detroit Street and Woodward Avenue. **Recommended Action: Approval** (Director of Public Works)

Cynthia James. Ms. James stated that she lives on the corner of Woodward and Detroit noting that someone drove through her fence and almost into her house because of driving at a high speed. She added that she supports the stop sign.

Tiffany Rodriguez. Ms. Rodriguez stated that she lives one house up from the corner, noting that it is dangerous to pull out of her driveway during the commuter hours. She stated that she supports the stop sign.

Linda Aguilar. Ms. Aguilar stated she lives across the street from the intersection, noting that the fast speed of the vehicles has caused damage to property. She stated that she wants to see the corner safe.

Council Member Sullivan commented to Public Works Director Thompson that he noticed that there is not uniformity in where stop signs are placed. He noted that some stop signs are too close to the turn itself and some are being knocked down. He asked if there is a distance that they are supposed to be set at.

Public Works Director Thompson responded that basically the code says that stop signs should be placed as close as you can to the intersection. He added that In Norco, they try to not conflict with the trails, intersections and schools. He further noted that there is no specific language for placement of the stop signs. Council Member Sullivan stated that he would like to see the stop signs placed back further to prevent them from being knocked down.

M/S Bash/Azevedo to approve the authorization to install the three-way stop-condition at the intersection of Detroit Street and Woodward Avenue. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

5. **LEGISLATIVE MATTERS -- SECOND READING:** *(No new evidence will be heard from the public as the public hearing has been closed regarding all items listed.)*

A. **Ordinance No. 931, for second reading.** Amending Title 18 of the Norco Zoning Ordinance by Pre-Zoning Approximately 1.8± Acres of Land as "SP" (specific plan) Located on the Southwest Side of Parkridge Avenue North of Cota Street. Zone Change 2010-02 (Pre-Zone). **Recommended Action: Adopt Ordinance No. 931 for second reading.** (City Clerk)

M/S Bash/Hanna to adopt Ordinance No. 931 for second reading. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

6. CITY COUNCIL PUBLIC HEARING:

- A. City Council Appeal of the Planning Commission's Decision to Deny Without Prejudice a Request for Approval to Allow a 2,000 Square-Foot Accessory Storage Building at 2285 Santa Anita Road Located Within the A-1-20 Zone. Conditional Use Permit 2010-09 (Klinkenberg)

At its meeting held on January 26, 2011, the Planning Commission denied Conditional Use Permit 2010-09, a request for approval to allow a 2,000 square-foot storage metal building at located at 2285 Santa Anita Road located within the A-1-20 zone (ref. Exhibit "A" – Location Map). The project was denied without prejudice meaning that the applicant can redesign and resubmit. Subsequent to the Planning Commission's determination, the project was appealed by the City Council for its consideration.

Recommended Action: Staff recommends that the City Council concur with the Planning Commission's denial of Conditional Use Permit 2010-09. (Planning Director)

Mayor Hanna stated that the public hearing will not be opened and further stated that it has been cancelled. Council Member Sullivan stated that he withdrew his appeal, further stating that the property owner decided to re-submit his plans.

- B. Amendment to the City's Comprehensive Fee Schedule Adding Filming Permit Fees

On October 20, 2010, the City Council adopted Resolution No. 2010-61 updating the fees for general City services. The proposed Resolution recommends that fees be added to the City's Comprehensive Fee Schedule to provide for the filming of motion pictures, television and commercials in the City of Norco.

Recommended Action: Adopt Resolution No. 2011-___, amending Resolution No. 2010-61 to update and adjust fees for General City Services to add film permit fees to the City's Comprehensive Fee Schedule. (Contract Economic Development Specialist)

Economic Development Specialist Grody presented the public hearing item referring to Ordinance No. 903 which was adopted to establish regulations for the filming of motion pictures, television and commercials in the City of Norco. He noted that this resolution provides the amounts charged for permit fees for that stated purpose.

Mayor Hanna OPENED the public hearing, indicating that proper notification had been made and asked for the appearance of those wishing to speak. With no one wishing to speak Mayor Hanna **CLOSED** the public hearing.

Mayor Pro Tem Bash recommended that a location manager be brought into the City to get feedback and guidance. He complimented Economic Development Specialist Grody on the report that was presented to the City Council.

M/S Bash/Sullivan to adopt Resolution No. 2011-15, amending Resolution No. 2010-61 to update and adjust fees for General City Services to add film permit fees to the City's Comprehensive Fee Schedule. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

7. PUBLIC COMMENTS OR QUESTIONS

Glenn Hedges. Mr. Hedges announced that there will be a trails clean-up day held on March 19th focusing on Fifth Street and Corona Avenue and invited everyone to participate.

Jodie Webber. Ms. Webber commented on the public hearing item that was cancelled, noting that the process that was followed could lead to a potential abuse of discretion.

Pamela Smith. Ms. Smith stated that there will be a first anniversary mixer held at 5 p.m. on March 3rd at the Front Porch. She also stated that the NHA Casino night is coming up on April 9th and sponsorships are available.

Alan Thill. Mr. Thill commented on the public hearing item that was cancelled noting that he is the property owner that lives adjacent to the subject property and added that he was not notified about this project as required. He further stated that he has strong objections to proposed building.

Rob Swindell. Mr. Swindell commented on the large amount of money he has spent on Norco water, trash, sewer usage fees and inclusionary taxes. He noted that he opposes the proposed water and sewer rate increases and further commented on his concerns towards water conservation in the City.

8. OTHER MATTERS – COUNCIL:

Council Member Azevedo:

- ↓ Noted that she and Mayor Hanna were interviewed by a local cable channel to promote Norco.
- ↓ Commented on emails she received regarding water pressure in the Norco hills and asked Public Works Director Thompson to comment on this. Director Thompson commented on the testing that took place and stated that there were no spikes in the system noted. He added that recorders have been placed on those valves and hopefully, information should be reported from them in June. He further recommended that pressure regulators be placed in all homes.

Mayor Pro Tem Bash:

- ↓ Thanked Dave Henderson for attending the WRCOG meeting.
- ↓ Commented on the Corona Norco Unified School District bid process which now allows for more local contractors to submit bids.
- ↓ Noted that Historic Preservation Consultant Bill Wilkman is assisting the City with the conducting of a historic resources survey in the City of Norco.
- ↓ Asked Public Works Director Thompson if it was possible to place a three-way stop sign at the corner of Hidden Valley coming off of the Golf Course. He noted that he is concerned that there could be an accident. Director Thompson responded that this is a private road.
- ↓ Stated that the trail going up Pedley Avenue is a good candidate for clean-up.
- ↓ Commented on the letter provided by Mr. Swindell noting that it should be addressed.

Council Member Newton:

- ↓ Asked Public Works Director Thompson about the coordination of the signals on Hamner Avenue. Director Thompson responded that the work should be completed by March 3rd.
- ↓ Requested that the Council agendaize a discussion on a purchased water adjustment – rate stabilization account, noting that this is a progressive way to look at costs and there are different City models to look at. City Attorney Harper stated that Proposition 218 requires that the actual cost for service be charged, adding that this is worth the Council discussing. City Manager Groves noted that this will take some time to research and prepare, adding that this cannot be done in a two week timeframe.

M/S Newton/Bash to place an item on a study session agenda in the next 30 – 60 days to discuss the formation of a purchased water rate stabilization account. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, NEWTON, SULLIVAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Mayor Hanna:

- ↓ Noted that additional water has been released from the Seven Oaks Dam and added that the water is running swiftly through the Santa Ana River, warning riders to be careful.
- ↓ Asked Parks, Recreation & Community Services Director Petree about the Best of America by Horseback Grand Tour. Director Petree stated that sponsors are being solicited and registration and other information is available online on the City's website.
- ↓ Commented on the Charter Cable show he and Council Member Azevedo would be a part of, noting that it would air from March 28 – April 3 on Charter Channel No. 49 between midnight and 4 p.m.

Council Member Sullivan:

- ✦ Commented on a letter received from Western Municipal Water District that provided information on new technology they are investing in, which is the first in the United States.

9. OTHER MATTERS – STAFF: No comments received.

10. ADJOURNMENT: There being no further business to come before the City Council, Mayor Hanna adjourned the meeting at 8:25 p.m.

BRENDA K. JACOBS, CMC
CITY CLERK

/bj-77964



**RECAP OF ACTIONS TAKEN
CITY OF NORCO
PLANNING COMMISSION
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
REGULAR MEETING
March 9, 2011**

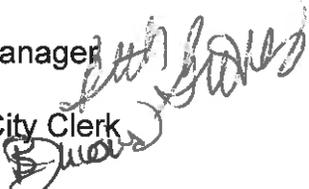
1. CALL TO ORDER: 7:00 p.m.
2. ROLL CALL: Chair Hedges, Vice-Chair Wright, Commission Members Henderson, Jaffarian and Leonard
3. STAFF PRESENT: Planning Director King, Senior Planner Robles, Deputy City Clerk Germain
4. PLEDGE OF ALLEGIANCE: Commissioner Jaffarian
5. APPEAL NOTICE: Read by Staff
6. HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA: None
7. APPROVAL OF MINUTES: Approved 5-0 with corrections
8. CONTINUED ITEMS: None
9. PUBLIC HEARINGS
 - A. **Resolution 2011-20:** Conditional Use Permit 2010-06; **Resolution 2011-19:** Variance 2010-03 (T-Mobile): A request for approval to allow an unmanned wireless telecommunication facility to consist of a 65-foot tall freestanding pole designed as a ball field light that will hold wireless antennas, and associated support equipment at Parmenter Park located at 2760 Reservoir Drive within the Open Space (OS) zone. The variance is requested to allow the pole to exceed the maximum height of 50 feet permitted by the Norco Municipal Code. *Recommended Action: Approval* (Senior Planner Robles): **Approved 5-0. This action is final unless appealed to the City Council.**
 - B. **Resolution No. 2011-18, Zone Code Amendment 2011-02 (City):** A request by the City to add Chapter 18.63 to the Norco Municipal Code entitled Hospitality Development Zone. *Recommended Action: Approval* (Director King): **Recommendation for approval 5-0. This item requires a public hearing before the City Council and will be scheduled at the next available meeting.**

10. BUSINESS ITEMS: **None**
11. CITY COUNCIL: **Received and Filed**
 - A. Recap of Actions Taken at the March 2, 2011 City Council/Community Redevelopment Agency Meeting.
 - B. City Council Minutes dated February 16, 2011
12. PLANNING COMMISSION: Oral Reports from Various Committees: **None**
13. STAFF: Current Work Program: **Received and Filed**
14. OTHER MATTERS: **Received and Filed**
 - A. Follow-up on Items from Previous Meetings (Director King):
15. ADJOURNMENT: **7:34 p.m.**

/adr-78037

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: Brenda K. Jacobs, City Clerk 

DATE: March 16, 2011

SUBJECT: Consideration of City Participation on the Four Corners Transportation Coalition

RECOMMENDATION: Approve the City of Norco participation on the four corners Transportation Coalition and appoint Mayor Hanna to represent the City on the Coalition.

SUMMARY: The City of Norco first became a member of the Four Corners Transportation Coalition ("Coalition") since 2006. In July of 2010, the Council voted to not support the City's membership on the Revised Four Corners Transportation Coalition, as the adopted Fiscal Year 2010-2011 Budget did not include funding for continued membership on the Coalition. The Council is now being asked to consider reinstating that membership on the Coalition, as the membership dues have been waived for the City of Norco.

BACKGROUND/ANALYSIS: The area where Los Angeles, Orange, Riverside and San Bernardino Counties converge is known as the "Four Corners" area. This area has historically been a key gateway between the urbanized Inland Empire and the more urbanized areas in Los Angeles and Orange Counties.

Historically, the mission of the Coalition is to advocate, secure funding for, and facilitate the implementation of regional transportation projects so as to: ensure the mobility of both people and goods within and through the Four Corners area. In 2010, the Coalition Board revised its mission to focus on promoting the economic growth of the region in addition to transportation issues.

The City first became a member of the coalition in 2006 at a cost of \$10,000 per year. The adopted Fiscal Year 2010-2011 budget did not include funding for the City's membership on the Coalition, as the funding is appropriated in the Redevelopment Agency Budget and difficult administrative decisions were made in order to reduce the impacts to that budget. Therefore, the Council voted to no longer continue its membership on the Coalition.

Recently, the Coalition offered City membership on the Coalition at no cost, as they understand that the City is experiencing financial woes. The Coalition commits to its continuing support for the important transportation projects in the region as well as expanding its efforts to promote the economic growth of the region and values the membership of the City of Norco.

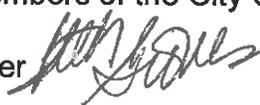
Given the new factors of a no-membership fee and an expanded focus on regional economic development, staff is bringing the issue before the Council for consideration. If the Council decides to reinstate the City's membership on the Coalition, the Council is recommended to appoint Mayor Hanna to represent the City on the Coalition.

FINANCIAL IMPACT: None.

/bj-77949

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: William R. Thompson, Director of Public Works 

DATE: March 16, 2011

SUBJECT: Chino Basin Desalter Authority Amended and Restated Water Purchase Agreement

RECOMMENDATION: Approve the Amended and Restated Water Purchase Agreement between the Chino Basin Desalter Authority and the City of Norco, and authorize the City Manager to execute all necessary documents on behalf of the City.

SUMMARY: The City of Norco is a member of the Chino Basin Desalter Authority (CDA), which jointly exercises powers to own, operate and maintain water desalting facilities, commonly referred to as the Chino I and Chino II Desalters. The CDA has committed to expand the existing water treatment facilities through the Phase 3 Expansion Project to increase the annual production from 24,600 acre feet to 35,200 acre feet. Prior to the expansion project, the City's entitlement of 1,000 acre-feet per year represented approximately 4% of the total treated capacity. After the Phase 3 project is constructed the City's entitlement will represent approximately 3% of the total capacity.

BACKGROUND/ANALYSIS: On June 2, 2010, the City Council approved Resolution No. 2010-24, supporting the CDA Phase 3 Project Expansion. The Phase 3 expansion project is being funded by three (of the eight) members of the CDA; the City of Ontario, the Jurupa Community Services District (JCSD), and Western Municipal Water District (WMWD). Each of these members will receive water produced through the project expansion.

At the January 6, 2011 meeting of its Board of Directors, the CDA approved the Amended and Restated Water Purchase Agreements for each individual CDA member agency describing water delivery entitlements and payment obligations. It is necessary to revise the Water Purchase Agreements based on the adjustments of each member agency's percent of entitlement. The revised agreements describe the required modifications to budgetary costs and corresponding payment obligations of all parties.

FINANCIAL IMPACT: No adverse fiscal impact. Amendment to the Water Purchase Agreement is expected to result in a negligible reduction in the unit price of treated water.

Attachment: Amended and Restated Water Purchase Agreement

AMENDED AND RESTATED
WATER PURCHASE AGREEMENT

Dated as of January 1, 2011

By and Between

CHINO BASIN DESALTER AUTHORITY

and

THE CITY OF NORCO

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AMENDED AND RESTATED WATER PURCHASE AGREEMENT

This Agreement, dated as of January 1, 2011, by and between the Chino Basin Desalter Authority (the "Authority"), a joint exercise of powers agency duly organized and existing pursuant to Article 1, Chapter 5, Division 7, Title 1 of the Government Code (the "Joint Powers Act"), commencing with Section 6500, and the City of Norco (the "Purchaser").

WITNESSETH:

WHEREAS, the Purchaser and certain other Authority members who are water purveyors in the Chino Basin currently receive desalted water from the Authority pursuant to Water Purchase Agreements dated as of January 15, 2002.

WHEREAS, in accordance with the provisions of that certain Peace Agreement dated as of June 29, 2000, the Peace II Agreement, and Amendment No. 2 to Joint Exercise of Powers Agreement Creating the Chino Basin Desalter Authority, the Authority has agreed to expand the existing desalted water facilities of the Authority by addition of the Expansion Project, in order to: (1) increase the output thereof by a projected 10,600 acre-feet per year for a cumulative total of 35,200 acre-feet per year; and (2) sell such increased production to the Expansion Group; and (3) provide for increased reliability of desalted water deliveries from the Authority's existing facilities.

WHEREAS, such expansion of the Authority's existing desalter water facility is being undertaken through the design and construction of the Desalter Phase 3 Expansion Facilities ("Expansion Project"), which will be fully integrated with the Authority's existing desalter water facilities.

WHEREAS, the Expansion Project will be designed and constructed in accordance with direction received from Chino Basin Watermaster and in a manner that Chino Basin Watermaster believes will facilitate hydraulic control through reoperation in the Chino Basin, thereby creating an estimated additional 400,000 acre-feet of controlled overdraft, which will be allocated in accordance with the Peace II Agreement.

WHEREAS, the Expansion Group has commenced the design and construction of the Expansion Project, in furtherance of which Western, on behalf of the Expansion Group, has entered into an Intergovernmental Agreement with the Authority, dated October 21, 2009, which provides for the design, construction and acceptance by the Authority of a portion of the Expansion Project.

WHEREAS, in furtherance of the design and construction of the Expansion Project, Western and the Authority are anticipated to enter into that certain Second Amended and Restated Intergovernmental Agreement dated concurrently with this Agreement, which provides for Western to act as Project Manager in connection with the design and construction of the Expansion Project.

WHEREAS, the Authority is entering into a new Water Purchase Agreement with Western and a series of Amended and Restated Water Purchase Agreements with all other members of the Authority to document its acceptance of the design and construction work for the Expansion Project already completed, to accept responsibility for the completion of the Expansion Project (but not the obligation to pay the cost of such work, except as specifically set forth in Section 13(k)) and the integration of the Expansion Project into the Authority's existing desalter water facilities, and to

document the obligations of all Purchasers and Authority members who are water purveyors with regard to its desalter water facility, including the Expansion Project as they are designed, constructed, become operational and are fully integrated with the Authority's existing desalter water facilities.

WHEREAS, the Expansion Group has agreed to pay all capital costs for the design and construction of the Expansion Project allocated to the Expansion Group, as set forth in Exhibit E, attached hereto and incorporated herein, financed independently by each Expansion Group member (or the Authority in the event of a default of an Expansion Group member), as provided in this Agreement.

WHEREAS, in consideration for its payment of the capital costs of the Expansion Project, each Expansion Group member will receive the new or additional Project Allotment set forth in the third column of Exhibit A.

WHEREAS, if any member of the Expansion Group defaults in its obligation to pay for its share of the capital costs of the Expansion Project, this Agreement authorizes the Authority to issue Authority Bonds to cover such unmet costs, which Authority Bonds will be secured solely by revenues generated by such defaulting Expansion Group member's water system and on a parity with such Expansion Group member's bond and contract obligations that constitute operation and maintenance expenses.

WHEREAS, each Expansion Group member shall not be responsible for Authority operations and maintenance costs associated with the Expansion Project unless and until the Expansion Project Completion Date.

WHEREAS, upon full integration of the Expansion Project into the existing desalter water facilities, the price of desalter product water (not including Debt Service on any Authority Bonds issued after execution of this Agreement and Debt Service on outstanding Authority Bonds previously paid by Authority members) delivered from the Authority's desalted water facilities, including the Expansion Project, shall be charged to all members of the Authority at a rate calculated to achieve a uniform melded pro-rata allocation of costs among all Authority members, except as expressly otherwise provided herein, based upon each member's proportionate firm commitment to purchase water from the Authority, as set forth in Exhibit A.

WHEREAS, the Authority and the Purchaser now wish to enter into this Amended and Restated Purchase Agreement to provide for the acquisition, construction, operation and financing of the expanded desalted water facilities, for the sale by the Authority to the Purchaser of the Purchaser's Project Allotment and certain other matters.

NOW THEREFORE, the parties hereto do agree as follows:

Section 1. Definitions.

The following terms shall, for all purposes of this Agreement have the following meanings:

"Administrative Costs" means the administrative costs allocable to the operation and management of the Authority, calculated in accordance with generally accepted accounting principles, including but not limited to insurance, taxes (if any), fees of auditors, accountants,

attorneys or engineers and insurance premiums, but shall not include Project Operation and Maintenance Expenses.

“Authority” shall have the meaning assigned thereto in the preamble hereto.

“Authority Bonds” means bonds, notes or other evidences of indebtedness issued by or on behalf of the Authority to finance or refinance the Project.

“Authority Fiscal Year” means the twelve month period commencing on July 1 of each calendar year and ending on the following June 30 or such other twelve month period which may be designated by the Authority as its fiscal year.

“Bonds” mean all bonds, notes or similar obligations (but not including Contracts) of the Purchaser authorized and issued by the Purchaser under and pursuant to applicable laws of the State of California after the date of execution of this Agreement, the principal of and interest on which are an operation and maintenance expense of the Purchaser Water System determined in accordance with generally accepted accounting principles and which are secured by a pledge or a lien on Purchaser Net Water System Revenues and which are on a parity with the obligations of the Purchaser under this Agreement.

“Bond Resolution” means the resolution or resolutions providing for the issuance of Authority Bonds and the terms thereof, and any indenture or trust agreement related thereto.

“Contract Payments” means:

(1) the interest payable during such Purchaser Fiscal Year on all outstanding Bonds, assuming that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of the sale of any Bonds);

(2) that portion of the principal amount of all outstanding serial Bonds maturing during such Purchaser Fiscal Year;

(3) that portion of the principal amount of all outstanding term Bonds required to be redeemed or paid during such Purchaser Fiscal Year; and

(4) that portion of payments under Contracts (other than under this Agreement) constituting principal and interest required to be made at the times provided in the Contracts.

“Contracts” means this Agreement and all contracts of the Purchaser authorized and executed by the Purchaser under and pursuant to the applicable laws of the State of California after the date of execution of this Agreement, the payments under which are an operation and maintenance expense of the Purchaser Water System determined in accordance with generally accepted accounting principles and which are secured by a pledge of or lien on the Purchaser Net Water System Revenues and which are on a parity with the obligations of the Purchaser under this Agreement.

“Debt Service” means, as of the date of calculation and with respect to Authority Bonds, an amount equal to the sum of (i) interest payable during such Authority Fiscal Year on Authority Bonds, except to the extent that such interest is to be paid from capitalized interest, (ii) that portion of principal of Authority Bonds payable during such Authority Fiscal Year, (iii) amounts necessary to

replenish the Reserve Fund created pursuant to the Bond Resolution, and (iv) all letters of credit and other financing costs payable on a periodic basis. Such interest, principal installments and financing costs for such series shall be calculated on the assumption that no Authority Bonds outstanding at the date of calculation will cease to be outstanding except by reason of the payment of principal on the due date thereof;

provided further that, as to any such Authority Bonds bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall be one hundred ten percent (110%) of the greater of (a) the daily average interest rate on such Authority Bonds during the twelve (12) calendar months preceding the date of calculation (or the portion of the then current Authority Fiscal Year that such Authority Bonds have borne interest) or (b) the most recent effective interest rate on such Authority Bonds prior to the date of calculation; and

provided further that, as to any such Authority Bonds or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Authority Bonds or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Authority Bonds for which such debt service reserve fund was established and in each preceding Authority Fiscal Year until such amount is exhausted.

“Expansion Group” means the Purchaser, Western, and Jurupa Community Services District.

“Expansion Project” means the facilities described in the Chino Desalter Phase 3 Comprehensive Predesign Report approved by the Authority Board of Directors on January 6, 2011. The Authority and the Purchaser acknowledge that portions of the Expansion Project are currently being designed or constructed and that the definition of the Expansion Project may be revised from time to time prior to commencement of construction with the approval of the Authority Board of Directors but without amendment to this Agreement.

“Expansion Project Completion Date” means the date that is thirty-five (35) days following recordation of the final notice of completion for the Expansion Project (which date shall not be prior to the date that the Expansion Project is operating substantially at design capacity).

“Facilities Acquisition Agreement” means the Facilities Acquisition Agreement, dated as of January 15, 2002, by and between SAWPA and the Authority, as such Facilities Acquisition Agreement may be amended or supplemented from time-to-time.

“Fixed Project Costs” means capital costs, including Debt Service, and reserves for repair and replacement and improvement to the Project and for payment of Debt Service of the Project, and all other amounts paid by the Authority other than Variable O&M Costs and Fixed O&M Costs.

“Fixed O&M Costs” means operation, maintenance, power, replacement and other costs, including Project Operation and Maintenance Expenses and a reasonable reserve for contingencies, in each case incurred by the Authority with respect to the Project, irrespective of the amount of water delivered to the Project Participants, including but not limited to amounts required to be deposited in the Membrane Replacement Fund, amounts payable under transportation agreements, including but

not limited to amounts payable to Jurupa Community Services District under the Agreement By And Between The Chino Basin Desalter Authority, Jurupa Community Services District, The City Of Ontario, The City Of Norco And Santa Ana River Water Company Providing For The Transportation Of Chino II Desalter Water, as it may be amended from time to time.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the Purchaser, or the Authority, as the case may be, and each of whom is independent pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Intergovernmental Agreement” means the Second Amended and Restated Governmental Agreement by and between the Authority and Western Municipal Water District of Riverside County, as such agreement may be amended or supplemented from time-to time.

“Joint Powers Agreement” means the Joint Exercise of Powers Agreement creating the Chino Basin Desalter Authority, as such agreement may be amended or supplemented from time to time.

“Peace II Agreement” means that certain Peace II Agreement: Party Support for Watermaster’s OBMP Implementation Plan, – Settlement and Release of Claims Regarding Future Desalters, dated as of October 25, 2007.

“Project” means those certain facilities necessary to produce and deliver desalted water to the Project Participants, including the following: (i) the existing Chino I Desalter, (ii) the existing Chino I Expansion facilities, (iii) the existing Chino II Desalter, (iv) the Expansion Project and (v) related water pipelines, electric generators and associated facilities. The Authority and the Purchaser acknowledge that portions of the Expansion Project are currently being designed or constructed and that the definition of the Project may be revised from time-to-time prior to commencement of construction without amendment to this Agreement. The Project does not include any obligations of Western under the Peace II Agreement other than the obligation to construct and finance the Expansion Project.

“Project Allotment” means the volume of desalted water per year set forth on Exhibit A hereto.

“Project Operation and Maintenance Expenses” means the actual costs spent or incurred by the Authority for maintaining and operating the Project, calculated in accordance with generally accepted accounting principles and Section 9 hereof, including (among other things) the expenses of management and repair and other expenses necessary to maintain and preserve the Project, in good repair and working order, or charges required to be paid by it to comply with the terms of the Authority Bonds or of this Agreement, but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of a similar nature, (iii) Administrative Costs, (iv) costs of capital additions, replacements, betterments, extensions or improvements to the Project, which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation and (v) Debt Service.

“Project Participant” means the Purchaser and each entity listed in Exhibit A hereto executing Water Purchase Agreements with the Authority.

“Purchaser” shall have the meaning assigned thereto in the preamble hereto.

“Purchaser Fiscal Year” means the twelve month period commencing on July 1 of each year and ending on the following June 30 or such other twelve month period which may be designated by the Purchaser as its fiscal year.

“Purchaser Net Water System Revenues” means, for any Purchaser Fiscal Year, the Purchaser Water System Revenues for such Purchaser Fiscal Year less the Purchaser Operation and Maintenance Expenses for such Purchaser Fiscal Year.

“Purchaser Operation and Maintenance Expenses” means the costs spent or incurred by the Purchaser for maintaining and operating the Purchaser Water System, calculated in accordance with generally accepted accounting principles, including (among other things) the expenses of management and repair and other expenses necessary to maintain and preserve the Purchaser Water System, in good repair and working order, and including administrative costs of the Purchaser, salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and all other reasonable and necessary costs of the Purchaser, but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of a similar nature, (iii) charges for the payment of principal and interest on Bonds or Contracts and (iv) payments under this Agreement.

“Purchaser Share” means the Purchaser’s Project Allotment divided by the sum of all Project Participants’ Project Allotments, all as set forth as Exhibit A hereto.

“Purchaser Water System” means properties and assets, real and personal, tangible and intangible, of the Purchaser now or hereafter existing, used or pertaining to the acquisition, treatment, reclamation, transmission, distribution and sale of water, including all additions, extensions, expansions, improvements and betterments thereto and equipment relating thereto; provided, however, that to the extent the Purchaser is not the sole owner of an asset or property or to the extent that an asset or property is used in part for the above described water purposes, only the Purchaser’s ownership interest in such asset or property or only the part of the asset or property so used for water purposes shall be considered to be part of the Purchaser Water System.

“Purchaser Water System Revenues” means the income, rents, rates, fees, charges, and other moneys derived by the Purchaser from the ownership or operation of Purchaser Water System including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges or other moneys derived from the sale, furnishing, and supplying of water and other services, facilities, and commodities sold, furnished, or supplied through the facilities of Purchaser Water System, including standby and availability charges, capital water facilities fees for design, construction and reconstruction expenses, development fees and other fees allocable to the Purchaser Water System, (ii) taxes or assessments as may be imposed if the levy thereof and payment hereunder is permitted by law, and (iii) the earnings on and income derived from amounts set forth in clauses (i) and (ii) above, and shall not include (y) customers’ deposits or any other deposits subject to refund until such deposits have become the property of the Purchaser and (z) proceeds of any taxes or assessments except taxes or assessments described in clause (ii) above.

“SAWPA” means the Santa Ana Watershed Project Authority, a joint exercise powers agency, including the successors and assigns thereof.

“Term Sheet” means the Integrated Chino-Arlington Desalters System Term Sheet, entered into by each of the Project Participants in 2001.

“Trustee” means the entity or entities designated by the Authority pursuant to any Bond Resolution to administer any funds or accounts required by such Bond Resolution or otherwise.

“Variable O&M Costs” means the operation, maintenance, power, replacement and other costs, including Project Operation and Maintenance Expenses incurred by the Authority in connection with the Project in an amount which is dependent upon and varies with the amount of water delivered to the Project Participants.

“Water Purchase Agreement” means this Amended and Restated Water Purchase Agreement and each Amended and Restated Water Purchase Agreement by and between the Authority and a Project Participant, as the same may be amended or supplemented from time to time.

“Western” means Western Municipal Water District of Riverside County, including the successor thereof.

Section 2. Purpose.

The purpose of this Agreement is for the Authority to sell Project Allotment to the Purchaser, to deliver Project Allotment to the Purchaser available from the Project, to provide the terms and conditions of such delivery and sale and to provide for the acquisition, construction and financing of the Project. The parties hereto confirm that this Agreement constitutes a contractual right to purchase desalted water and that no water right is being transferred by the Authority to any Project Participant under this Agreement.

Section 3. Financing, Construction and Operation.

The Authority will use its best efforts to cause or accomplish the acquisition, construction, operation and financing (subject to Section 13(k)) of the Project, the obtaining of all necessary authority and rights, consents and approvals, and the performance of all things necessary and convenient therefor, subject to compliance with all necessary federal and state laws, including but not limited to the California Environmental Quality Act (“CEQA”), the terms and conditions of the Authority’s permits and licenses and all other agreements relating thereto. Notwithstanding the foregoing, the Authority acknowledges that, subject to Section 13(k), the Purchaser has no obligation to pay Fixed Project Costs for the initial costs of the Expansion Project. The Purchaser acknowledges and agrees that the Authority has contracted with Western to design, acquire and construct the Expansion Project in accordance with the Intergovernmental Agreement.

Section 4. Delivery of Water.

(a) Request by Purchaser. Pursuant to the terms of this Agreement, the Authority shall provide to the Purchaser, and the Purchaser shall take, or cause to be taken, in each Authority Fiscal Year an amount of water equal to the Purchaser’s Project Allotment unless the Purchaser notifies the Authority, pursuant to procedures to be developed by the Authority, that the Purchaser requires an amount of water less than the Purchaser’s Project Allotment. Subject to the Project Participant’s payment obligations hereunder, the Authority agrees to use its best efforts to deliver desalted water pursuant to this Agreement meeting the water quality standards set forth in Section 5.3 of the Joint

Powers Agreement and all applicable local, state and federal water quality standards as such standards may be in effect from time to time.

(b) Points of Delivery; Flow Rate. The Authority will deliver or cause to be delivered to or for the account of the Purchaser the amount of water specified in each request at a flow rate and through delivery structures at a point along the Project to be agreed upon by the Authority and the Purchaser. The Authority will remain available to make or cause to be made all necessary and possible arrangements for transmission and delivery of such water in accordance with this Agreement.

(c) Delivery of Water Not Delivered in Accordance with Schedule. If in any Authority Fiscal Year the Authority, as a result of causes beyond its control, is unable to deliver any portion of the Purchaser's Project Allotment for such Authority Fiscal Year as provided for in the delivery schedule established for that Authority Fiscal Year, the Purchaser may elect to receive the amount of water which otherwise would have been delivered to it during such period at other times during the Authority Fiscal Year or subsequent to such Authority Fiscal Year, to the extent that such water is then available and such election is consistent with the Authority's overall delivery ability, considering the then current delivery schedules of all Project Participants and the Authority.

(d) SARWC Request. Pursuant to the Joint Powers Agreement, if Santa Ana River Water Company cannot receive the full 1,200 acre feet of water allocated thereto as provided in the Term Sheet, then Jurupa Community Services District and the City of Ontario will abate their deliveries of water from the Project on a pro-rata basis (based on the Project Allotments set forth in the second column of Exhibit A) to ensure that Santa Ana River Water Company can receive the full 1,200 acre feet of water from the Authority for such year. Notwithstanding the foregoing, Jurupa Community Services District and the City of Ontario shall only have such obligation if Santa Ana River Water Company's demand for water is constant or at a "steady-rate" of 744 gpm.

Section 5. Curtailment of Delivery for Maintenance Purposes.

(a) Authority May Curtail Deliveries. The Authority may temporarily discontinue or reduce the delivery of water to the Purchaser hereunder for the purposes of necessary investigation, inspection, maintenance, repair, or replacement of any of the Project facilities necessary for the delivery of water to the Purchaser. The Authority shall notify the Purchaser as far in advance as possible of any such discontinuance or reduction, except in cases of emergency, in which case notice shall be given as soon thereafter as possible.

(b) Purchaser May Receive Later Delivery of Water Not Delivered. In the event of any discontinuance or reduction of delivery of water pursuant to subsection (a) of this Section, the Purchaser may elect to receive the amount of water which otherwise would have been delivered to it during such period under the water delivery schedule for that Authority Fiscal Year at other times during the Authority Fiscal Year or subsequent to such Authority Fiscal Year to the extent that such water is then available and such election is consistent with the Authority's overall delivery ability, considering the then current delivery schedules of all Project Participants and the Authority.

Section 6. Shortage in Water Supply.

In any Authority Fiscal Year in which there may occur a shortage or interruption in the supply of water available for delivery to the Project Participants, including but not limited to

shortages or interruptions caused by changes in laws, regulations or rulings relating to or affecting the Authority's permits and licenses, with the result that such supply is less than the total of the annual Project Allotments of all Project Participants for that Authority Fiscal Year, the Authority shall reduce the delivery of water to the Purchaser in accordance with the Joint Powers Agreement.

Section 7. Measurement of Water Delivered.

The Authority shall measure, or cause to be measured, all water delivered to the Purchaser and shall keep and maintain accurate and complete records thereof. For this purpose and in accordance with Section 4 hereof, the Authority shall install, operate, and maintain, or cause to be installed, operated and maintained, at all delivery structures for delivery of water to the Purchaser at the point of delivery determined in accordance with Section 4(b) such measuring devices and equipment as are satisfactory and acceptable to both parties. Said devices and equipment shall be examined, tested, and serviced by the Authority regularly to insure their accuracy. At any time or times, the Purchaser may inspect such measuring devices and equipment, and the measurements and records taken therefrom.

Section 8. Responsibility for Delivery and Distribution of Water.

(a) Neither the Authority nor any of its officers or agents shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied to the Purchaser after such water has passed the points of delivery established in accordance with Section 4(b) hereof; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond said points of delivery and including attorneys fees and other costs of defense in connection therewith; the Purchaser shall indemnify and hold harmless the Authority and its officers, agents, and employees from any such damages or claims of damages.

(b) Neither the Purchaser nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied to the Purchaser until such water has passed the points of delivery established in accordance with Section 4(b) hereof; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water prior to such water passing said points of delivery and including attorneys fees and other costs of defense in connection therewith; the Authority shall indemnify and hold harmless the Purchaser and its officers, agents, and employees from any such damages or claims of damages.

Section 9. Rates and Charges.

(a) Establishment of Rates and Charges. The Authority shall fix charges to the Purchaser under this Agreement to produce revenues to the Authority from the Project equal to the amounts anticipated to be needed by the Authority to pay Administrative Costs and to pay the actual cost of producing the Purchaser's Project Allotment, which shall include the following costs of the Authority to deliver the Purchaser's Project Allotment through the Project: (i) Fixed Project Costs, (ii) Fixed O&M Costs and (iii) Variable O&M Costs.

(b) Insufficiency of Funds. If Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs collected by the Authority are insufficient to operate and maintain the Project as

contemplated under the Joint Powers Agreement, the Authority shall notify the Purchaser of such insufficiency and the Purchaser shall pay to the Authority an amount of such insufficiency equal to such insufficiency multiplied by the Purchaser Share. The obligation of the Purchaser to pay Administrative Costs shall commence immediately upon the execution and delivery of this Agreement and shall continue so long as the Purchaser is a member of the Authority. The obligation of the Purchaser to pay Fixed Project Costs and Fixed O&M Costs shall commence immediately upon execution of this Agreement and continue to exist and be honored by the Purchaser whether or not water is furnished to it from the Project at all times or at all (which provision may be characterized as an obligation to pay all costs on a take-or-pay basis whether or not water is delivered or provided and whether or not the Project is completed or is operable).

(c) Source of Payments. The obligation of the Purchaser to make payments under this Agreement is a limited obligation of the Purchaser and not a general obligation thereof. The Purchaser shall make payments under this Agreement solely from Purchaser Water System Revenues as a Purchaser Operation and Maintenance Expense. The Purchaser shall make such payments on a parity with other Purchaser Operation and Maintenance Expenses and prior to any other payments other than Bonds or Contracts. Nothing herein shall be construed as prohibiting (i) the Purchaser from using any other funds and revenues for purposes of satisfying any provisions of this Agreement or (ii) from incurring obligations payable on a parity with the obligations under this Agreement so long as the Purchaser complies with Section 13(a) hereof.

(d) Obligation Is Not Subject To Reduction. The Purchaser shall make payments of Fixed Project Costs and Fixed O&M Costs under this Agreement whether or not the Project is completed, operable, operated or retired and notwithstanding the suspension, interruption, interference, reduction or curtailment of operation of the Project or of water contracted for in whole or in part for any reason whatsoever. Such payments are not subject to any reduction, whether offset or otherwise, and are not conditioned upon performance by the Authority or any other Project Participant under this Agreement or any other agreement.

(e) Several Obligation. The Purchaser shall not be liable under this Agreement for the obligations of any other Project Participant. The Purchaser shall be solely responsible and liable for performance of its obligations under this Agreement. The obligation of the Purchaser to make payments under this Agreement is a several obligation and not a joint obligation with those of the other Project Participants.

(f) Allocation of Costs and Expenses.

Except as expressly provided in Sections 3 and 13(k) for payment of Expansion Project Fixed Project Costs, the Authority shall not allocate costs and expenses in any way which discriminates among Project Participants.

(i) Method of Computation of Fixed Project Costs and Fixed O&M Costs. The Fixed Project Costs shall be sufficient to return to the Authority those capital costs of the Authority necessary to deliver water to the Purchaser. The Fixed O&M Costs shall be sufficient to return to the Authority Project Operation and Maintenance Expenses and a reasonable reserve for contingencies, in each case incurred by the Authority with respect to the Project, irrespective of the amount of water delivered to the Project Participants. The total amount of Fixed Project Costs shall be allocated to the Purchaser by multiplying the Purchaser Share times all Fixed Project Costs. The total amount of Fixed O&M Costs shall

be allocated to the Purchaser by multiplying the Purchaser Share times all Fixed O&M Costs. The Purchaser Share of Fixed Project Costs and Fixed O&M Costs shall initially be calculated using the figures in the second column on Exhibit A; commencing upon the Expansion Project Completion Date, the Purchaser Share of Fixed Project Costs and Fixed O&M Costs shall be calculated using the expanded Purchaser's Project Allotment described in the third column on Exhibit A.

(ii) Method of Computation of Variable O&M Costs. The Variable O&M Costs shall return to the Authority those costs of the Project which constitute Variable O&M Costs. There shall be computed for the Project a charge per acre-foot of water which will return to the Authority the total projected Variable O&M Costs of the Project for each Authority Fiscal Year. The parties confirm that if the Purchaser complies with the notice requirement of Section 4(a), no Variable O&M Costs will be allocated to the Purchaser for the portion of Project Allotment not produced by the Authority for the Purchaser.

(iii) Method of Computing Administrative Costs. Administrative Costs shall be sufficient to return to the Authority all costs of operating and managing the Authority, including reasonable reserves for contingencies. The total amount of Administrative Costs shall be allocable to the Purchaser by multiplying (i) the Project Allotment in the third column on Exhibit A divided by the total Project Allotment in the third column on Exhibit A, times (ii) all Administrative Costs.

(iv) Adjustments. The Authority shall update the values and amounts of Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs on a quarterly basis, including year-to-date comparisons to the approved Administrative Costs budget and Project budget in order that the costs and expenses to the Purchaser may accurately reflect increases or decreases from Authority Fiscal Year to Authority Fiscal Year in Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs. In addition, each such determination shall include an adjustment to be paid or received by the Purchaser for succeeding Authority Fiscal Years which shall account for the differences, if any, between projections of Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs used by the Authority in determining the amounts of said Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs for all preceding Authority Fiscal Years and actual Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs incurred by the Authority for water delivered to the Purchaser during such Authority Fiscal Years.

(v) Interest Earnings. Interest earnings on all amounts paid by the Purchaser to the Authority shall be credited to the Purchaser through the budgeting process.

The Authority hereby acknowledges the right of the Purchaser to prepay all, or any portion of, the Purchaser's Project Share of Fixed Project Costs constituting Debt Service pursuant to this Agreement based on the Purchaser's Project Allotment, if and to the extent such prepayment is permitted under the applicable Bond Resolution. The Authority shall accept from the Purchaser prepayments of all, or any portion of, the Purchaser's Project Share of Fixed Project Costs constituting Debt Service and apply such prepayments as set forth in this Section 9(f)(i). If and to the extent such prepayment is permitted under the applicable Bond Resolution, the Authority and the Purchaser agree that the Purchaser may prepay all or a portion of its obligation to pay Fixed Project Costs constituting Debt Service pursuant to this Section 9 by providing the Treasurer of the Authority

written notice of (i) its intention to pay to the Trustee, on or before the Prepayment Date (as defined below), the Purchaser's Project Share of the principal amount of the Authority Bonds (the "Prepayment Amount"), and (ii) that the Purchaser has sufficient funds available to pay the Prepayment Amount on or before the Prepayment Date. The Prepayment Amount shall be calculated as: (1) a principal payment equal to the Purchaser's Project Share, as adjusted to reflect prepayments of Authority Bonds by any other Project Participant, of Authority Bonds then outstanding and being prepaid, in the principal amount and of the maturities designated in writing by the Purchaser; plus (2) accrued interest from the last date on which the Purchaser made a payment of the Purchaser's Project Share of Debt Service to the first date the Debt Service may be redeemed by the Authority after the Authority has received written notice from the Purchaser of its intention to prepay such Debt Service (the "Prepayment Date"); plus (3) any applicable redemption premium with respect to the Authority Bonds to be refunded on the Prepayment Date, less (4) a credit for the Purchaser's Project Share, as adjusted to reflect prepayments of Authority Bonds by any other Project Participant, of any cash funded reserve fund established for the Authority Bonds from proceeds of such Authority Bonds. After providing written notice to the Authority as described above, the Purchaser shall deposit with the Trustee the Prepayment Amount, in immediately available funds, no later than the last business day before the Prepayment Date. In the event the Authority issues additional Authority Bonds for the Project, the Purchaser may also prepay all or a portion of its allocable share of the principal amount of those Authority Bonds, calculated as set forth in the preceding sentence.

(g) Time and Method of Payment.

(i) Administrative Costs, Fixed Project Costs and Fixed O&M Costs. The Purchaser shall pay to the Authority, on or before January 15, April 15, July 15 and October 15 of each Authority Fiscal Year, 25% of the charge to the Purchaser for such Authority Fiscal Year of the Administrative Costs, Fixed Project Costs and Fixed O&M Costs. The parties acknowledge that Purchasers of Project Allotment allocable to the Expansion Project have no obligation to pay Fixed O&M Costs associated with the Expansion Project until the Expansion Project Completion Date.

(ii) Variable O&M Costs. The Purchaser shall pay to the Authority the charges to the Purchaser for the Variable O&M Costs for the three-month period commencing on the next succeeding January 1, April 1, July 1 or October 1 so that the Authority receives quarterly payments of Variable O&M Costs three months in advance of the time when such Variable O&M Costs will begin to be incurred by the Authority.

(iii) Contest of Accuracy of Charges. If the Purchaser questions or disputes the correctness of any billing statement by the Authority, it shall pay the Authority the amount claimed when due and shall, within thirty (30) days of the completion and delivery of the Authority's annual audit, request an explanation from the Authority. If the bill is determined to be incorrect, the Authority will adjust the bill to the Purchaser in the next Authority Fiscal Year, including an adjustment equal to the interest actually earned by the Authority on its general reserves during such period. If the Authority and the Purchaser fail to agree on the correctness of a bill within thirty (30) days after the Purchaser has requested an explanation, the parties shall promptly submit the dispute to arbitration under Section 1280 et seq. of the Code of Civil Procedure.

Section 10. Annual Budget and Billing Statement.

The Authority will prepare a preliminary annual budget for each applicable Authority Fiscal Year for credits, costs and expenses relating to Administrative Costs and a preliminary annual budget for each applicable Authority Fiscal Year for credits, costs and expenses relating to the Project, including Variable O&M Costs, Fixed O&M Costs and Fixed Project Costs. The Authority shall submit a draft of such budgets to the Purchaser on or prior to each April 1 for review and comment. Authority staff shall use its best efforts to resolve any questions or concerns caused by a Project Participant during such review. The Board of Directors of the Authority will adopt the final annual budgets for the applicable Authority Fiscal Year on or before June 1 of each Authority Fiscal Year after at least one public hearing on the budgets and shall allow any Project Participant which may object to any provision of the budgets to present such objection during such hearing. The Authority shall supply a copy of said final annual budgets to the Purchaser on or before June 15 of each Authority Fiscal Year. Any amendment to a budget shall be submitted to the Purchaser for review and comment at least 30 days prior to action thereon by the Authority Board of Directors. Any such amendment shall be subject to the same hearing requirements applicable to the budgets set forth above.

Section 11. Obligation in the Event of Default.

(a) Written Demand. Upon failure of the Purchaser to (i) make any payment in full when due under this Agreement or (ii) to perform any other obligation hereunder, the Authority shall make written demand upon the Purchaser. If a failure described in clause (i) above is not remedied within thirty (30) days from the date of such demand or, if Authority Bonds are outstanding, for such additional time as is reasonably required, in the sole discretion of the Trustee, to correct the same, such failure shall constitute a default at the expiration of such period. If a failure described in clause (ii) cannot be remedied within thirty (30) days from the date of such demand but the Purchaser commences remedial action within such thirty (30) day period, such failure shall not constitute a default hereunder. Notice of any such demand shall be provided to each other Project Participant by the Authority. Upon failure of the Authority to perform any obligation of the Authority hereunder, the Purchaser shall make written demand upon the Authority, and if said failure is not remedied within thirty (30) days from the date of such demand or, if Authority Bonds are outstanding, for such additional time as is reasonably required, in the sole discretion of the Trustee, to correct the same, such failure shall constitute a default at the expiration of such period. Notice of such demand shall be provided to each Project Participant by the Purchaser making such written demand.

In addition to any default resulting from breach by the Authority or the Purchaser of any agreement, condition, covenant or term hereof, if the Authority or the Purchaser shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Authority or the Purchaser asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if the Authority or the Purchaser shall make a general or any assignment for the benefit of its creditors, then in each and every such case the Authority or the Purchaser, as the case may be, shall be deemed to be in default hereunder.

(b) Transfer for Defaulting Purchaser's Account. Upon the failure of the Purchaser to make any payment which failure constitutes a default under this Agreement, the Authority shall use its best efforts to transfer for the Purchaser's account all or a portion of the Purchaser's Project Allotment for all or a portion of the remainder of the term of this Agreement. Notwithstanding that all or any portion of the Purchaser's Project Allotment is so transferred, the Purchaser shall remain liable to the Authority to pay the full amount of its share of costs hereunder as if such sale or transfer has not been made, except that such liability shall be discharged to the extent that the Authority shall receive payment from the transferee thereof.

(c) Termination of Entitlement to Project Allotment; Continuing Obligations. Upon the failure of the Purchaser to make any payment which failure constitutes a default under this Agreement and causes the Authority to be in default under any Bond Resolution, the Authority may (in addition to the remedy provided by subsection (b) of this Section) give notice of termination of the provisions of this Agreement insofar as the same entitle the Purchaser to its Project Allotment which notice shall be effective within 30 days thereof unless such termination shall be enjoined, stayed or otherwise delayed by judicial action. Irrespective of such termination, the Purchaser shall remain liable to the Authority to pay the full amount of costs hereunder.

(d) Enforcement of Remedies. In addition to the remedies set forth in this Section, upon the occurrence of an Event of Default as defined herein, the Authority or the Purchaser, as the case may be, shall be entitled to proceed to protect and enforce the rights vested in such party by this Agreement by such appropriate judicial proceeding as such party shall deem most effectual, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained herein or to enforce any other legal or equitable right vested in such party by this Agreement or by law. The provisions of this Agreement and the duties of each party hereof, their respective boards, officers or employees shall be enforceable by the other party hereto by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, with the losing party paying all costs and attorney fees.

(e) Trustee is Third Party Beneficiary. Any Trustee for Authority Bonds shall have the right, as a third party beneficiary, to initiate and maintain suit to enforce this Agreement to the extent provided in any Bond Resolution.

Section 12. Transfers, Sales and Assignments of Project Allotment or Purchaser Water System.

(a) Transfer of Project Allotment. The Purchaser has the right to make transfers, sales, assignments and exchanges (collectively "transfers") of its Project Allotment or its rights or obligations with respect thereto only as expressly provided in this Section. In no event shall any sale or other disposition of all or any portion of the Purchaser's Project Allotment relieve the Purchaser of any of its obligations hereunder. The Purchaser shall give notice to the Authority in accordance with rules and regulations approved by the Authority from time to time.

(b) Sale or Other Disposition of Project Allotment. If in any Fiscal Year the Purchaser determines in accordance with 4(a) not to receive all of the Project Allotment, the Authority shall offer such portion of the Project Allotment to the State of California at a price to be determined by the Authority with the concurrence of the Purchaser. If the State of California declines to purchase such Project Allotment, the Purchaser shall have the right to sell such portion of the Project Allotment to another Project Participant or an entity which is not a Project Participant. No such sale

of the Project Allotment shall relieve the Purchaser of any of its obligations hereunder. Any revenue received by the Authority in consideration for any portion of the Purchaser's Project Allotment shall be credited to the Purchaser. The requirement set forth in this Section 12(b) that the Purchaser offer the Purchaser's Project Allotment to the State of California before selling such Project Allotment to another Project Participant or any other entity is intended to implement the Term Sheet, shall be interpreted in a manner consistent with the Term Sheet, and shall only apply to the extent required by the Term Sheet.

Section 13. Covenants of the Purchaser.

The Authority and the Purchaser agree that the covenants contained in this Section shall only be enforced by the Authority to the extent necessary to enforce the payment provisions contained herein.

(a) Amount of Rates and Charges. The Purchaser will fix, prescribe and collect rates and charges for the Purchaser Water System which will be at least sufficient to yield during each Purchaser Fiscal Year Purchaser Net Water System Revenues (excluding Contract Payments, Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs) equal to one hundred twenty-five percent (125%) of the Contract Payments, Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs for such Purchaser Fiscal Year. The Purchaser may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Purchaser Net Water System Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this section.

(b) Against Sale or Other Disposition of Property. Subject to Section 13(j), the Purchaser will not sell, lease or otherwise dispose of the Purchaser Water System or any part thereof unless the governing board of the Purchaser determines in writing that such sale, lease or other disposition will not materially adversely affect the Purchaser's ability to comply with subsection (a) of this Section and, in the case of a sale or other disposition, the entity acquiring the Purchaser Water System or such part thereof shall assume all obligations of the Purchaser, allocable to such Purchaser Water System or part thereof, under this Agreement. The Purchaser will not enter into any agreement or lease which impairs the operation of the Purchaser Water System or any part thereof necessary to secure adequate Purchaser Net Water System Revenues for the payment of the obligations imposed under this Agreement or which would otherwise impair the rights of the Authority with respect to the Purchaser Water System Revenues or the operation of the Purchaser Water System.

(c) Against Competitive Facilities. To the extent permitted by existing law and within the scope of its powers but only to the extent necessary to protect the rights of the owners of Authority Bonds, the Purchaser will not acquire, construct, maintain or operate and will use its best efforts not to permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the boundaries of the Purchaser any water system competitive with the Purchaser Water System which might have the effect of materially adversely affecting the Purchaser's ability to pay Administrative Costs, Fixed Project Costs, Fixed O&M Costs and Variable O&M Costs.

(d) Maintenance and Operation of the Purchaser Water System; Budgets. The Purchaser will maintain and preserve the Purchaser Water System in good repair and working order at all times

and will operate the Purchaser Water System in an efficient and economical manner and will pay all Purchaser Operation and Maintenance Expenses as they become due and payable. On or before the first day of each Purchaser Fiscal Year thereafter, the Purchaser will adopt and file with the Authority a budget approved by the legislative body of the Purchaser, including therein in the estimated Administrative Costs, Fixed O&M Costs, Variable O&M Costs and Fixed Project Costs payable to the Authority. Any budget may be amended at any time during any Purchaser Fiscal Year and such amended budget shall be filed by the Purchaser with the Authority.

(e) Insurance. The Purchaser shall procure and maintain or cause to be procured and maintained insurance on the Purchaser Water System with responsible insurers so long as such insurance is available from reputable insurance companies, or, alternatively, shall establish a program of self-insurance, or participate in a joint powers agency providing insurance or other pooled insurance program, in such amounts and against such risks (including accident to or destruction of the Purchaser Water System) as are usually covered in connection with water systems similar to the Purchaser Water System.

(f) Accounting Records and Financial Statements.

(i) The Purchaser will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the Purchaser Water System, which records shall be available for inspection by the Authority and the Trustee at reasonable hours and under reasonable conditions.

(ii) The Purchaser will prepare and file with the Authority annually within two hundred ten (210) days after the close of each Purchaser Fiscal Year (commencing with the Purchaser Fiscal Year ending June 30, 2002) financial statements of the Purchaser for the preceding Purchaser Fiscal Year prepared in accordance with generally accepted accounting principles, together with a report of an Independent Certified Public Accountant thereon. The Purchaser will promptly furnish a copy of such report to the Authority and to the Trustee.

(g) Protection of Security and Rights of the Authority. The Purchaser will preserve and protect the rights of the Authority and the Trustee to the obligations of the Purchaser hereunder and will warrant and defend such rights against all claims and demands of all persons.

(h) Payment of Taxes and Compliance with Governmental Regulations. The Purchaser will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Purchaser Water System or any part thereof or upon the Purchaser Water System Revenues when the same shall become due. The Purchaser will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the Purchaser Water System or any part thereof, but the Purchaser shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

(i) Further Assurances. The Purchaser will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to effect the financing and refinancing of the Project and to allow the Authority to comply with reporting obligations, to assure the Authority of the Purchaser's intention to perform hereunder and for the

better assuring and confirming unto the Authority and the Trustee of the rights and benefits provided to them herein.

(j) Maintenance of Tax-Exempt Status of Authority Bonds. Notwithstanding any other provision of this Agreement, the Purchaser shall not take any action or omit to take any action, directly or indirectly, in any manner, which would result in any of the Authority Bonds being treated as an obligation not described in Section 103(a) of the Internal Revenue Code of 1986, as amended, by reason of classification of such Authority Bond as a “private activity bond” within the meaning of Section 141 of said Code or for any other reason.

(k) Expansion Project Fixed Project Costs. While the Purchaser is not obligated to pay to the Authority any share of the initial Expansion Project Fixed Project Costs, the Purchaser shall be obligated to pay Fixed Project Costs allocated to the Expansion Project commencing, as to each separate component of the Expansion Project, upon the expiration of the warranty period stated in the construction contract for such component of the Expansion Project, which warranty period shall not be fewer than 6 months following completion of construction of such component of the Expansion Project.

Section 14. Covenants of the Authority.

(a) Insurance. The Authority shall procure and maintain or cause to be procured and maintained insurance on the Project with responsible insurers so long as such insurance is available from reputable insurance companies, or, alternatively, shall establish a program of self-insurance, or participate in a joint powers agency providing insurance or other pooled insurance program, covering such risks, in such amounts and with such deductibles as shall be determined by the Authority and as may be required under the Authority Bonds. The Authority shall indemnify and hold harmless the Purchaser from any liability for personal injury or property damage resulting from any accident or occurrence arising out of or in any way related to the construction or operation of the Project.

(b) Accounting Records and Financial Statements.

(i) The Authority will keep appropriate accounting records in which complete and correct entries shall be made of all Authority transactions relating to the Project, which records shall be available for inspection, copying and audit by the Purchaser and its accountants, attorneys and agents at reasonable hours and under reasonable conditions.

(ii) The Authority will prepare annually within two hundred ten (210) days after the close of each Authority Fiscal Year (commencing with the Authority Fiscal Year ending June 30, 2011) financial statements of the Authority for the preceding Authority Fiscal Year prepared in accordance with generally accepted accounting principles, together with a report of an Independent Certified Public Accountant thereof. The Authority will promptly furnish a copy of such report to the Purchaser and to the Trustee.

(c) Compliance with Law. The Authority shall comply with all local, state and federal laws applicable to the Project.

(d) Against Sale or Other Disposition of Project. The Authority will not sell, lease or otherwise dispose of the Project or any part thereof unless the Board of Directors of the Authority

determines that such sale, lease or other disposition will not materially adversely affect the Authority's ability to comply with its obligations hereunder and under the Authority Bonds.

(e) Maintenance and Operation of the Project. Subject to the payment obligations of the Project Participants hereunder, the Authority will maintain and preserve the Project in good repair and working order at all times and will operate the Project in an efficient and economical manner consistent with the Joint Powers Agreement. Notwithstanding the foregoing, no material portion of the Project shall be abandoned by the Authority without the consent of all Project Participants.

(f) Future Fixed Project Costs. With respect to Fixed Project Costs (other than Expansion Project Fixed Project Costs, which shall be paid by the Expansion Group) anticipated to be funded through the issuance of Authority Bonds, the Authority shall give written notice to the Purchaser of its share of Fixed Project Costs 90 days prior to the proposed date of issuance of Authority Bonds therefor. Unless the Purchaser deposits such Fixed Project Costs with the Authority no later than 30 days prior to the proposed date of issuance of Authority Bonds therefor, the Authority shall include such Fixed Project Costs in the Authority Bonds.

(g) Expansion Project Water Available to the Expansion Project Completion Date. The parties agree that in the event that water is produced from the Expansion Project prior to the Expansion Project Completion Date, the Authority will negotiate with the Purchasers on an equitable allocation of such water as well as the allocation of Fixed O&M Costs and Variable O&M Costs relating thereto, determined by taking into account generally accepted accounting principles.

Section 15. Term.

(a) No provision of this Agreement shall take effect until it and Water Purchase Agreements with all Project Participants have been duly executed and delivered to the Authority together with an opinion for each Project Participant of an attorney or firm of attorneys in substantially the form attached hereto as Exhibit B and an opinion for the Authority of Stradling Yocca Carlson & Rauth, a Professional Corporation, General Counsel, in substantially the form attached hereto as Exhibit C.

(b) Notwithstanding the delay in effective date of this Agreement until all Project Participants have complied with subsection (a) of this Section, it is agreed by the Purchaser that in consideration for the Authority's signature hereto, and for its commitment to use its best efforts to obtain the commitment of all Project Participants, the Purchaser upon its execution and delivery of this Agreement to the Authority along with the required opinion and any required evidence of compliance as required by subsection (a) of this Section shall be immediately bound not to withdraw its respective offer herein made to enter into this Agreement as executed and/or supplemented or to decrease or terminate its Project Allotment before March 31, 2011.

(c) The term of this Agreement shall continue until the later of January 15, 2031 or the final maturity of Authority Bonds. The parties hereto agree to negotiate in good faith to amend this Agreement on or prior to such date to extend the term hereof and to include terms and conditions as are mutually agreeable to the parties, provided that the price to be paid with respect to the Project Allotment in such amendment shall reflect the payment of capital costs to such date.

Section 16. Assignment.

The Authority may pledge and assign to any Trustee for Authority Bonds, all or any portion of the payments received under this Agreement from the Purchaser and the Authority's other rights and interests under this Agreement. Such pledge and assignment by the Authority shall be made effective for such time as the Authority shall determine and provide that the Trustee shall have the power to enforce this Agreement in the event of a default by the Authority under a Bond Resolution. The Purchaser may assign its rights or obligations under this Agreement only in accordance with Section 15 hereof.

Section 17. Amendments.

Except as otherwise provided in this Agreement, on and after the date Authority Bonds are issued and so long as any Authority Bonds are outstanding in accordance with the applicable Bond Resolution, Section 9, 11, 12, 13, 14 and 16 and this Section of this Agreement shall not be amended, modified or otherwise changed or rescinded by agreement of the parties without the consent of each Trustee for Authority Bonds whose consent is required under the applicable Bond Resolution. This Agreement may only be otherwise amended, modified, changed or rescinded in writing by each of the parties hereto.

The Authority agrees not to grant to the owners of Authority Bonds as individuals any rights relating to the amendment, modification or change of this Agreement.

Notwithstanding the foregoing, the sections of this Agreement set forth in the prior paragraph of this Section may be amended without the consent of each Trustee for Authority Bonds for any of the following purposes:

(a) to add to the agreements, conditions, covenants and terms contained herein required to be observed or performed by the Authority or the Purchaser other agreements, conditions, covenants and terms hereafter to be observed or performed by the Authority or the Purchaser, or to surrender any right reserved herein to or conferred herein on the Authority or the Purchaser, and which in either case shall not adversely affect the interests of the owners of any Authority Bonds;

(b) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority or the Purchaser may deem desirable or necessary and not inconsistent herewith, and which shall not materially adversely affect the interests of the owners of any Authority Bonds;

(c) to make any modifications or changes necessary or appropriate in the opinion of a firm of nationally recognized standing in the field of law relating to municipal bonds to preserve or protect the exclusion from gross income of interest on the Authority Bonds for federal income tax purposes;

(d) to make any modifications or changes to this Agreement in order to enable the execution and delivery of Authority Bonds on a parity with any Authority Bonds previously issued and to make any modifications or changes necessary or appropriate in connection with the execution and delivery of Authority Bonds;

(e) to make any other modification or change to the provisions of this Agreement which does not materially adversely affect the interests of the owners of any Authority Bonds;

(f) to make changes to the definition of "Project," as such changes may be approved by the Authority Board of Directors.

Section 18. Miscellaneous.

(a) Headings. The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

(b) Partial Invalidity. If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

(c) Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

(d) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

(e) Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by telefacsimile or telecopy, and such notices shall be addressed as follows:

If to Purchaser: City of Norco
2870 Clark Ave.
Norco, CA 92860
Attn: _____

With a copy to: Harper & Burns LLP
453 S. Glassell Street
Orange, CA 92866
Attn: _____

If to Authority: Chino Basin Desalter Authority
c/o City of Ontario
1425 South Bon View Avenue
Ontario, CA 91761
Attn: Authority Coordinator

With a copy to: Stradling Yocca Carlson & Rauth
660 Newport Center Drive
Newport Beach, CA 92660
Attention: Douglas Brown

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon transmission, if such delivery is by telefacsimile or telecopy.

(f) Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof. This Agreement amends, restates and supersedes the Water Purchase Agreement between the Authority and the Purchaser, dated as of January 15, 2002, in its entirety. This Agreement is intended to implement, and should be interpreted consistent with, the Joint Powers Agreement.

(g) Time of the Essence. Time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF the Purchaser has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed and the Authority has executed this Agreement in accordance with the authorization of its Board of Directors.

CHINO BASIN DESALTER AUTHORITY

By: _____
Chairperson

Attest:

By: _____
Secretary

CITY OF NORCO

By: _____
City Manager

[SEAL]

Attest:

By: _____
City Clerk

EXHIBIT A

<u>Project Participant</u>	<u>Project Allotment Prior to Initial Delivery of Expansion Project Water (acre-feet)</u>	<u>Project Allotment After Initial Delivery of Expansion Project Water (acre-feet)</u>
City of Chino	5,000	5,000
City of Chino Hills	4,200	4,200
City of Norco	1,000	1,000
City of Ontario	5,000	8,533
Jurupa Community Services District	8,200	11,733
Santa Ana River Water Company	1,200	1,200
Western Municipal Water District	<u>0</u>	<u>3,534</u>
	24,600	35,200

EXHIBIT B

[This opinion shall be delivered upon execution of the Amended and Restated Water Purchase Agreement]

_____, 2011

Chino Basin Desalter Authority

City of Norco
2870 Clark Ave.
Norco, CA 92860

Ladies and Gentlemen:

We are City Attorney to the City of Norco (the "Purchaser") under the Amended and Restated Water Purchase Agreement, dated as of January 1, 2011 (the "Agreement"), between the Chino Basin Desalter Authority (the "Authority") and the Purchaser, and have acted as general counsel to the Purchaser in connection with the matters referred to herein. As such counsel we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Purchaser provided to us by the Purchaser, (ii) certifications by officers of the Purchaser, (iii) all necessary documentation of the Purchaser relating to the authorization, execution and delivery of the Agreement, and (iv) an executed counterpart of the Agreement. Terms used herein and not otherwise defined have the respective meanings set forth in the Agreement.

Based upon the foregoing and such examination of law and such other information, papers and documents as we deem necessary or advisable to enable us to render this opinion, including the Constitution and laws of the State of California, together with the resolutions, ordinances and public proceedings of the Purchaser, we are of the opinion that:

1. The Purchaser is a general law city, duly created, organized and existing under the laws of the State of California and duly qualified to furnish water service within its boundaries.
2. The Purchaser has legal right, power and authority to enter into the Agreement and to carry out and consummate all transactions reasonably contemplated thereby, and the Purchaser has complied with the provisions of applicable law relating to such transactions.
3. The Agreement has been duly authorized, executed and delivered by the Purchaser, is in full force and effect as to the Purchaser in accordance with its terms and, subject to the qualifications set forth in the second to the last paragraph hereof, and assuming that the Authority has all requisite power and authority, and has taken all necessary action, to authorize, execute and deliver such Agreement, the Agreement constitutes the valid and binding obligation of the Purchaser.

4. The obligations of the Purchaser to make payments under the Agreement from the Revenues of its Purchaser Water System or other lawfully available funds as provided in Section 10 of the Agreement is a valid, legal and binding obligation of the Purchaser enforceable in accordance with its terms.

5. No approval, consent or authorization of any governmental or public agency, authority or person is required for the execution and delivery by the Purchaser of the Agreement.

6. The authorization, execution and delivery of the Agreement and compliance with the provisions thereof will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Purchaser, any commitment, agreement or other instrument to which the Purchaser is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the Purchaser (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State of California relating to the Purchaser and its affairs.

7. There is no action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, public board or body, pending or, to our knowledge, threatened against or affecting the Purchaser or any entity affiliated with the Purchaser or any of its officers in their respective capacities as such, which questions the powers of the Purchaser referred to in paragraph 2 above or the validity of the proceedings taken by the Purchaser in connection with the authorization, execution or delivery of the Agreement, or wherein any unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Agreement, or which would adversely affect the validity or enforceability of the Agreement.

The opinion expressed in paragraphs 3 and 4 above are qualified to the extent that the enforceability of the Agreement may be limited by any applicable bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public agencies in the State of California and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein.

This opinion is rendered only with respect to the laws of the State of California and the United States of America and is addressed only to the Chino Basin Desalter Authority and the Purchaser . No other person is entitled to rely on this opinion, nor may you rely on it in connection with any transactions other than those described herein.

Very truly yours,

EXHIBIT C

[This opinion shall be delivered upon execution of the Amended and Restated Water Purchase Agreement]

_____, 2011

Chino Basin Desalter Authority

The Project Participants Listed on
Exhibit A attached hereto

Ladies and Gentlemen:

We are general counsel to the Chino Basin Desalter Authority (the "Authority") and are familiar with those certain Amended and Restated Water Purchase Agreements and that certain Water Purchase Agreement, each dated as of January 1, 2011 (each, an "Agreement"), between the Authority and each of the water contractors identified on Exhibit A attached hereto (each, a "City") in connection with the matters referred to herein. As special counsel we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Authority provided to us by the Authority, (ii) certifications by officers of the Authority, (iii) all necessary documentation of the Authority relating to the authorization, execution and delivery of the Agreement, and (iv) an executed counterpart of the Agreement. Terms used herein and not otherwise defined have the respective meanings set forth in the Agreement.

Based upon the foregoing and such examination of law and such other information, papers and documents as we deem necessary or advisable to enable us to render this opinion, including the Constitution and laws of the State of California, together with the resolutions, ordinances and public proceedings of the Authority, we are of the opinion that:

1. The Authority is a joint exercise of powers agency duly created, organized and existing under the laws of the State of California.
2. The Authority has legal right, power and authority to enter into the Agreement and to carry out and consummate all transactions reasonably contemplated thereby, and the Authority has complied with the provisions of applicable law relating to such transactions.
3. The Agreement has been duly authorized, executed and delivered by the Authority, is in full force and effect as to the Authority in accordance with its terms and, subject to the qualifications set forth in the second to the last paragraph hereof, and assuming that each City has all requisite power and authority, and has taken all necessary action, to authorize, execute and deliver such Agreement, the Agreement constitutes the valid and binding obligation of the Authority.
4. No approval, consent or authorization of any governmental or public agency, authority or person is required for the execution and delivery by the Authority of the Agreement.

5. The authorization, execution and delivery of the Agreement and compliance with the provisions thereof will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Authority, any commitment, agreement or other instrument to which the Authority is a party or by which it or its property is bound or affected, or, to the best of our knowledge, any ruling, regulation, ordinance, judgment, order or decree to which the Authority (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State of California relating to the Authority and its affairs.

6. There is no action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, public board or body, pending or, to our knowledge, threatened against or affecting the Authority or any of its officers in their respective capacities as such, which questions the powers of the Authority referred to in paragraph 2 above or the validity of the proceedings taken by the Authority in connection with the authorization, execution or delivery of the Agreement, or wherein any unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Agreement, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

The opinion expressed in paragraph 3 above is qualified to the extent that the enforceability of the Agreement may be limited by any applicable bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public agencies in the State of California and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein.

This opinion is rendered only with respect to the laws of the State of California and the United States of America and is addressed only to the Authority and the Project Participants. No other person is entitled to rely on this opinion, nor may you rely on it in connection with any transactions other than those described herein.

Respectfully submitted,

EXHIBIT D

LIST OF NOTES, BONDS OR OTHER OBLIGATIONS OF THE PURCHASER
AS OF THE DATE OF EXECUTION
TO WHICH PURCHASER WATER SYSTEM REVENUES ARE PLEDGED

[To be inserted]

EXHIBIT E

EXPANSION PROJECT
FIXED PROJECT COST DISTRIBUTION

Table 8.10 Capital Cost Distribution for Option C (Expand Chino II to 22.7 mgd with Concentrate Reduction) Chino Desalter Phase 3 PDR JCS/Orlando/WWPD	Chino Phase 3 Sponsors						Non-Sponsors				TOTAL ^a		
	Ontario	JCS/Orlando/WWPD	Western	Chino	Chino Hills	North	SARWC						
PRODUCT WATER ALLOCATION													
Phases 1 and 2 (Acre-Feet/Year)	20%	33%	0%	20%	17%	4%	5,000	4,200	1,000	5%	1,200	100%	24,600
Phase 3 (Acre-Feet/Year)	33%	33%	33%	0%	0%	0%	0	0	0	0%	0	100%	10,600
Total (Acre-Feet/Year)	24%	33%	10%	14%	12%	3%	5,000	4,200	1,000	3%	1,200	100%	35,200
RAW WATER SYSTEM CAPITAL COSTS:													
Wells:													
Wells COMFA-1, 2, 3, 4, 5, and 6 + Monitoring Wells	33%	\$6,728,385	33%	\$6,728,385	33%	\$6,731,270	\$0	\$0	\$0	0%	\$0	100%	\$20,190,000
Pipelines:													
Raw Water Pipeline from Well COMFA-6 to Chino I	33%	\$646,606	33%	\$646,606	33%	\$646,789	\$0	\$0	\$0	0%	\$0	100%	\$1,940,000
Raw Water Inter tie Pipeline	33%	\$1,979,813	33%	\$1,979,813	33%	\$1,980,374	\$0	\$0	\$0	0%	\$0	100%	\$5,940,000
Raw Water Pump Station	33%	\$1,256,548	33%	\$1,256,548	33%	\$1,256,904	\$0	\$0	\$0	0%	\$0	100%	\$3,770,000
WATER TREATMENT FACILITIES CAPITAL COSTS:													
Chino I Modifications to Maintain Current Capacity (100% Sponsors)	33%	\$873,251	33%	\$873,251	33%	\$873,489	\$0	\$0	\$0	0%	\$0	100%	\$2,620,000
Chino II 10.5 mgd RO/IX Expansion (100% Sponsors)	33%	\$5,069,522	33%	\$5,069,522	33%	\$5,070,857	\$0	\$0	\$0	0%	\$0	100%	\$15,210,000
Chino II Transfer Pumps (46.8% CDA/51.2% Sponsors)	27%	\$284,441	33%	\$328,651	17%	\$167,285	10%	\$87,203	2%	\$19,441	2%	\$23,329	\$860,000
Chino II Chemical System Modifications (100% CDA)	24%	\$2,424	33%	\$3,333	10%	\$1,004	14%	\$1,420	3%	\$284	3%	\$341	\$10,000
Chino II Spare Parts (100% CDA)	24%	\$106,663	33%	\$146,663	10%	\$44,175	14%	\$62,500	3%	\$12,500	3%	\$15,000	\$440,000
HVAC Modifications (38% CDA/62% Sponsors)	28%	\$86,004	33%	\$103,327	21%	\$84,079	8%	\$23,943	2%	\$4,789	2%	\$5,746	\$310,000
Concentrate Reduction Facilities (100% Sponsors)	33%	\$10,735,654	33%	\$10,735,654	33%	\$10,738,692	0%	\$0	0%	\$0	0%	\$0	\$32,210,000
PRODUCT WATER SYSTEM CAPITAL COSTS:													
Pipelines:													
Pipeline from Chino II to Riverside Dr./Hammer Ave. (Ontario Zone 1010)	61%	\$5,089,151	0%	\$0	39%	\$3,280,849	0%	\$0	0%	\$0	0%	\$0	\$9,370,000
Pipeline from Riverside Dr./Hammer Ave. to Detroit St.	0%	\$0	100%	\$17,920,000	0%	\$0	0%	\$0	0%	\$0	0%	\$0	\$17,920,000
Pump Stations:													
Chino II - JCS/Orlando/WWPD Product Water (Cleanwell to Zone 1110)	0%	\$0	100%	\$1,090,000	0%	\$0	0%	\$0	0%	\$0	0%	\$0	\$1,090,000
Chino II - Ontario/Western Product Water (Cleanwell to Zone 1010)	61%	\$1,653,822	0%	\$0	39%	\$1,066,178	0%	\$0	0%	\$0	0%	\$0	\$2,720,000
Milliken Res - Ontario (Zone 1010 to Zone 1212)	100%	\$2,750,000	0%	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0	\$2,750,000
Capital Costs Subtotal		\$37,246,263		\$28,960,732		\$49,842,063		\$186,067		\$166,466		\$37,013	\$116,470,000
Less Approved Grant Funding		(\$8,922,324)		(\$6,937,716)		(\$11,939,960)		\$0		\$0		\$0	(\$27,800,000)
Adjusted Capital Costs		\$28,322,939		\$22,023,017		\$37,902,092		\$186,067		\$166,466		\$37,013	\$88,670,000
30 Year Amortization Period 5.0% Fixed Amortization Rate													
ANNUALIZED CAPITAL (\$/YEAR)		\$1,942,448		\$1,432,629		\$2,466,686		\$12,039		\$10,113		\$2,408	\$6,768,111

Note:

a. Capital costs are construction costs plus engineering/contingency and legal/administration costs escalated to construction midpoint.

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: William R. Thompson, Director of Public Works 

DATE: March 16, 2011

SUBJECT: Amendment to the Western Riverside County Regional Wastewater Authority Fiscal Year 2010/2011 Budget

RECOMMENDATION: Approve an Amendment to the WRCRWA 2010/11 FY budget in the amount of \$500,000 to fund the planning and engineering for the expansion of the treatment facility.

SUMMARY: The City of Norco is a member of the Western Riverside County Regional Wastewater Authority (WRCRWA), which jointly exercises powers to own, operate and maintain wastewater conveyance and treatment facilities. The member agencies are required to evaluate and assess their future capacity needs when the 8 million gallon per day (mgd) reaches approximately 75% capacity. The City of Norco proposed share of the planning and engineering costs would be \$50,000.

BACKGROUND/ANALYSIS: The 8.0 mgd WRCRWA treatment plant is rapidly approaching design capacity. Average daily flow was 6.0 mgd in November 2010, and was 6.6 mgd in December 2010. The member agencies are required to evaluate and assess their future capacity needs when the 8 million gallon per day (mgd) reaches approximately 75% capacity.

At its February 23, 2011 meeting, the Executive Committee proposed a 2010/11 budget amendment in the amount of \$500,000 to be considered by the WRCRWA Board of Directors at its March 31, 2011 Board meeting. At the Executive Committee meeting Jurupa Community Services District (JCSD) proposed funding \$400,000 of the \$500,000 needed for the next phase of planning and engineering. According to Joint Powers by-laws each agency pays its proportional amount based on ownership capacity (treatment and conveyance). The City of Norco and City of Corona as the additional potential expanding partners would be obligated to share the remaining funding in the amount of \$100,000.

Prior to or after WRCRWA Board adoption, each member agency must also approve the proposed amendment before it can become effective. Therefore staff is proposing the three expansion parties seek approval of the amendment to allow the work to proceed.

FINANCIAL IMPACT: Expenditure in the amount of \$50,000 from the approved 2010/11 Sewer Capital Improvement Fund (147)

Amendment Item 3.E.

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: Steve King, Planning Director

DATE: March 16, 2011

SUBJECT: Fourth Amended and Restated Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Authority.

RECOMMENDATION: Approve the Fourth Amended and Restated Joint Exercise of Powers Agreement.

SUMMARY: The fourth amendment (and restatement) of the Joint Powers Agreement (JPA) between the cities and agencies of the Regional Conservation Authority (RCA) has been approved by the Board and now needs approval from all of the member agencies. The fourth amendment would add and include the City of Eastvale as a member agency.

BACKGROUND: The City of Norco is a signing member agency of the RCA. The City along with all of the other member agencies needs to approve any amendments to the JPA before they can take affect. Previous amendments to the JPA included amendments regarding dual representation on the Board (e.g. not allowing one sitting member to represent a City and sit as an alternate for a Supervisor at the same meeting) and amendments to include the cities of Menifee and Wildomar. Likewise the fourth amendment would include the City of Eastvale.

FINANCIAL IMPACT: None.

/sk-78003

Attachment: Fourth Amended and Restated Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Agency

1 **FOURTH AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**
2 **CREATING THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION**
3 **AUTHORITY**

4 This Joint Powers Agreement dated _____, 2011 is made by and
5 between the COUNTY OF RIVERSIDE, and the Cities of BANNING, BEAUMONT,
6 CALIMESA, CANYON LAKE, CORONA, EASTVALE, HEMET, LAKE ELSINORE,
7 MENIFEE, MORENO VALLEY, MURRIETA, NORCO, PERRIS, RIVERSIDE, SAN
8 JACINTO, TEMECULA and WILDOMAR, hereinafter sometimes referred to collectively
9 as "Parties," for the purpose of acquiring, administering, operating and maintaining land
10 and facilities for ecosystem conservation and habitat reserves for certain rare,
11 threatened and endangered species covered by the Western Riverside County Multiple
12 Species Habitat Conservation Plan, hereinafter referred to as the "MSHCP."

13 **RECITALS**

14 WHEREAS, the Cities and the County, hereinafter sometimes jointly referred to
15 as "Parties", are authorized and empowered to contract with each other for the joint
16 exercise of powers pursuant to Article 1, Chapter 5, Division 7, Title 1 (commencing with
17 Section 6500) of the Government Code of the State of California, hereinafter referred to
18 as "the Act"; and

19 WHEREAS, the County and the Cities each have the authority and power to
20 prepare and implement habitat conservation plans for the protection of rare, threatened
21 and endangered species, and to acquire, own, maintain and operate habitat reserves for
22 such species in connection with said habitat conservation plans; and

23 WHEREAS, the formation of a single public agency would most efficiently serve
24 the interests of the County and Cities by allowing the County and the Cities to jointly
25 exercise the aforementioned powers; and

26 WHEREAS, the County in consultation with the Cities has prepared the MSHCP;
27 and

28 WHEREAS, the County and the Cities desire to organize themselves pursuant to

1 this Joint Powers Agreement, hereinafter referred to as the "Agreement", to implement
2 the MSHCP should the MSHCP ultimately be approved by the County and Cities; and

3 WHEREAS, the original Joint Powers Agreement was dated January 27, 2004
4 and was entered into between the County of Riverside and fourteen (14) cities in
5 western Riverside County; and

6 WHEREAS, the Cities of Menifee and Wildomar became member agencies on
7 April 7, 2009; and

8 WHEREAS, the parties and the City of Eastvale desire that the City of Eastvale
9 become a member of the Western Riverside County Regional Conservation Authority.

10 NOW, THEREFORE, for and in consideration of the mutual covenants and
11 conditions hereinafter stated, the Parties hereto agree as follows:

12 **Section 1. Purpose.** The purpose of this Agreement is to create a public
13 agency to acquire, administer, operate and maintain land and facilities to establish
14 habitat reserves for the conservation and protection of species covered by the MSHCP
15 and to implement the MSHCP in the event the MSHCP is approved by the County and
16 Cities and appropriate permits are issued by the U.S. Fish and Wildlife Service and the
17 California Department of Fish and Game.

18 Additionally, this Agreement shall permit the financing of public capital
19 improvements and those purposes permitted under the Marks-Roos Local Bond Pooling
20 Act of 1985, being Article 4 (commencing with Section 6584) of Chapter 5, Division 7,
21 Title 1 of the California Government Code (the "Bond Law").

22 **Section 2. Creation of the Authority.** Pursuant to the Act and the Bond Law,
23 there is hereby created a public agency to be known as the "Western Riverside County
24 Regional Conservation Authority," hereinafter referred to as the "RCA." The RCA shall
25 be a public agency, separate and apart from its members, and as provided by law and
26 not otherwise prohibited by this Agreement, shall be empowered to take such actions as
27 may be necessary or desirable to implement and carry out the purposes of this
28 Agreement.

1 **Section 3. Powers.** In carrying out the purpose of this Agreement, the RCA
2 shall have the following powers:

- 3 A. To make and enter into contracts;
- 4 B. To employ agents, consultants, attorneys and employees;
- 5 C. To acquire property, and any interest in property, both real and personal by
6 purchase, gift, option, grant, bequest, devise or otherwise, and hold and
7 dispose of such property;
- 8 D. To conduct and direct studies and to develop and implement plans to
9 complement, modify or supplement the MSHCP;
- 10 E. To incur debts, liabilities, and obligations;
- 11 F. To sue and be sued in its own name;
- 12 G. To employ reserve managers and other personnel to operate, maintain, and
13 administer the habitat reserves established through implementation of the
14 MSHCP;
- 15 H. To be an applicant, make applications for, and receive grants from
16 governmental and private entities and to participate in State bond issues;
- 17 I. To prepare project reports and applications, to qualify for grants, and to enter
18 into grant contracts and to do all other things necessary to comply with State
19 and Federal laws and regulations with respect to grants;
- 20 J. To borrow or receive advances of funds from its members or from such other
21 sources as may be permitted by law;
- 22 K. To contract with its members and other entities who operate or will operate the
23 habitat reserves established through implementation of the MSHCP;
- 24 L. To issue bonds, notes, warrants and other evidences of indebtedness to
25 finance costs and expenses to carry out the powers of the RCA;
- 26 M. To acquire, hold, and dispose of equipment;
- 27
- 28

1 N. To lobby state and federal governments and their officials as well as private
2 entities to obtain funding for implementation of the MSHCP and employ
3 individuals or entities to conduct such lobbying activities on its behalf; and

4 O. To exercise the powers granted to it under the Act, including, but not limited to,
5 the Bond Law and the powers common to each member, as may be necessary
6 to accomplish the purposes of this Agreement.

7 P. To invest money in the treasury pursuant to Section 6505.5 of the Act that is not
8 required for the immediate necessities of the Authority, as the Authority
9 determines is advisable, in the same manner and upon the same conditions as
10 local agencies, pursuant to Section 53601 of the California Government Code.

11 **Section 4. Term.** The term of this Agreement shall continue until terminated by
12 the Parties hereto by their mutual written consent as set forth in Section 5 of this
13 Agreement.

14 **Section 5. Termination, Withdrawal and Amendment.**

15 A. This Agreement shall be automatically terminated and considered null and
16 void in the event the MSHCP is not approved by the County and the Cities or
17 appropriate permits are not issued by the U.S. Fish and Wildlife Service and the
18 California Department of Fish and Game.

19 B. Any Party to this Agreement may withdraw for any reason upon giving all
20 other Parties sixty (60) days advance written notice of the effective date of such
21 withdrawal. This Agreement shall thereupon be deemed automatically amended to
22 reflect the withdrawal of said Party from the RCA and this Agreement. Upon withdrawal
23 of any Party from the RCA and this Agreement, the withdrawing Party shall not receive
24 any distribution, partial or otherwise, of any cash or other assets of the RCA.

25 C. Provided there is mutual consent by the governing bodies of each of the
26 Parties to this Agreement, evidenced in writing, this Agreement may be: (1) amended to
27 add new Parties; or (2) amended to change any portion of this Agreement. Alternatively,
28 any Western Riverside County city may become a party to the Authority upon such terms

1 and conditions as established by the Board or Executive Committee. Any Western
2 Riverside County city shall become a party to the Authority by the adoption by the city
3 council of this Agreement and the execution of a written addendum to this Agreement
4 agreeing to the terms of this Agreement and agreeing to any additional terms and
5 conditions that may be established by the Board or Executive Committee.

6 D. The Parties to this Agreement specifically agree that this Agreement creates
7 an entity which may acquire or hold property. Pursuant to California Government Code
8 Sections 6511 and 6512, upon completion of the purposes of this Agreement or upon
9 termination thereof, any property or assets acquired or surplus money on hand which
10 was obtained pursuant to this Agreement and which is not required by law or contract to
11 be distributed in a different manner, may be returned to the then Parties to the
12 Agreement in proportion to the contributions made, or in the alternative, may be
13 transferred to any local, state, federal or private entity who agrees to assume the duties
14 and obligations of the RCA. However, any distribution of assets shall be subject to the
15 prior discharge of enforceable liability against the RCA. Subject to the foregoing, each
16 Parties proportionate share shall be based upon each Parties contributions to the RCA
17 submitted to the RCA in accordance with Sections 17.A. and B. below.

18 **Section 6. RCA Board and Membership.** This Agreement and the authority
19 hereby created shall be administered by the governing body of the RCA which shall be
20 known as the "Board of the Western Riverside County Regional Conservation Authority"
21 hereinafter referred to as the "Board."

22 The regular members of the Board shall be the five members of the Riverside
23 County Board of Supervisors and one member from each incorporated city who is
24 signatory to the Agreement. Written notification of the appointment of a City
25 representative shall be provided to the Chairperson of the Board.

26 Each member of the Riverside County Board of Supervisors may appoint an
27 alternate member and each City may appoint one alternate member. Each regular
28 member and alternate City appointed member must hold an elective office on the

1 respective governing body appointing the regular or alternate member. The Board of
2 Supervisors may appoint a city council member of a member city to represent each
3 Board of Supervisor member as an alternate at meetings of the RCA Board or
4 committees. Notwithstanding the prior sentence, in no event shall the same person
5 serve as a city representative and alternate for the Board of Supervisor's member of the
6 same meeting. Notice of the appointment of an alternate shall be made in writing to the
7 chairperson of the RCA Board. In the absence of a regular member, the alternate
8 member shall, if present, participate in a meeting of the Board the same as if the
9 alternate member were the regular member.

10 Regular members and alternate members shall serve on the Board during the
11 term for which they were appointed or until their successor has been appointed or their
12 appointment has been revoked, whichever is earlier. However, a regular or alternate
13 member's position on the Board shall automatically terminate if and when the term of the
14 elected public office of such regular or alternate member is terminated. When a vacancy
15 occurs, it shall be the duty of the respective Party having the vacancy to promptly inform
16 the Board of the name of the replacement regular or alternate member.

17 Regular members and alternate members, if participating in a meeting of the
18 Board on behalf of a regular member, shall be entitled to compensation for participation
19 in meetings of the Board and necessary traveling and personal expenses incurred in the
20 performance of the member's duties as authorized by the Board. Such compensation
21 shall be fixed by resolution of the Board.

22 **Section 7. Meetings of the RCA Board.**

23 A. **Meetings.** The Board shall establish the time and place for its regular and
24 special meetings. The dates, hour and location of regular meetings shall be fixed by
25 resolution of the Board and a copy of such resolution shall be provided to the governing
26 body of each of the Parties and with each Party's designated regular and alternate
27 member. Special meetings and adjourned meetings may be held as required or
28 permitted by law.

1 B. Ralph M. Brown Act. All meetings of the Board, including without
2 limitation, regular, special and adjourned meetings, shall be called, noticed, held and
3 conducted in accordance with the provisions of the Ralph M. Brown Act (commencing
4 with Section 54950 of the California Government Code).

5 C. Quorum and Voting. A majority of the members of the Board shall
6 constitute a quorum for the transaction of business and all official acts of the Board shall
7 require the affirmative vote of a majority of the members of the Board. Each regular
8 member or alternate member acting in the place of a regular member shall have one
9 vote at meetings of the Board. However, any member of the Board, immediately after a
10 vote of the Board and prior to the start of the next item on the agenda may call for a
11 weighted vote. For an item to be passed by weighted vote, all of the following
12 requirements shall be met:

13 I. the item shall be approved by a majority of the Board members
14 present at the meeting who represent the Riverside County Board of Supervisors, who
15 each shall have one vote;

16 II. the item shall be approved by a majority of the Board members
17 present at the meeting who represent Cities, who each shall have one vote; and

18 III. the item shall be approved by Board members present at the
19 meeting who represent Cities representing a majority of an equal combination of 1) the
20 population of the county living in incorporated areas within the boundaries of the MSHCP
21 Plan area, and 2) the number of acres currently within the Criteria Cells in the
22 incorporated areas as follows: Banning – 78 acres; Beaumont – 10,098 acres; Calimesa
23 – 3,380 acres; Canyon Lake – 303 acres; Corona – 2,315 acres; Eastvale – 1,024 acres;
24 Hemet – 1,158 acres; Lake Elsinore – 14,336 acres; Menifee – 249 acres; Moreno
25 Valley – 2,325 acres; Murrieta – 8,726 acres; Norco – 734 acres; Perris – 3,181 acres;
26 Riverside – 1,201 acres; San Jacinto – 4,580 acres; Temecula – 3,899 acres; and
27 Wildomar – 4,151 acres. Population data shall be determined through California
28 Department of Finance estimates, adjusted annually.

1 In addition, the Board may, through resolution, revise the above-referenced
2 number of acres due to the addition of a new member entity or other appropriate
3 adjustments as the Board deems necessary.

4 D. The Board may adopt, from time to time, such rules and regulations
5 for the conduct of its meetings and affairs as it may deem necessary, including, without
6 limitation, the designation of a person to record and transcribe the minutes of each
7 public meeting of the RCA.

8 **Section 8. Officers.** The Board shall select a Chairperson and a Vice-
9 Chairperson at its first meeting and at the first meeting held in each succeeding calendar
10 year. Additionally, at its first meeting and at the first meeting held in each succeeding
11 calendar year shall, the Board shall select any other officers it deems appropriate. In the
12 event an officer resigns or ceases to be an officer, the Board shall select a replacement
13 therefore at the next regular meeting of the Board. In the absence or inability of the
14 Chairperson to act, the Vice-Chairperson shall act as Chairperson.

15 A. **Treasurer.** The treasurer of a member agency shall serve as the
16 treasurer of the RCA. The Board pursuant to the adoption of a resolution shall appoint
17 the treasurer of a member agency to serve as the Treasurer. The Treasurer shall have
18 the custody of the RCA money and disburse RCA funds pursuant to the accounting
19 procedures developed in accordance with the provisions of this Agreement, the Act, and
20 with those procedures established by the Board. The Treasurer shall assume the duties
21 described in Section 6505.5 of the Government Code, namely: receive and receipt for
22 all money of the RCA and place in the Treasury of the Treasurer to the credit of the
23 RCA; be responsible upon an official bond as prescribed by the Board for the
24 safekeeping and disbursement of all RCA money so held; pay, when due, out of money
25 of the RCA so held, all sums payable, only upon warrants of the officer performing the
26 functions of the Controller who has been designated by the RCA or Board; verify and
27 report in writing on the first day of July, October, January and April of each year to the
28 RCA the amount of money held for the RCA, the amount of receipts since the last report,

1 and the amount paid out since the last report; and perform such other duties as are set
2 forth in this Agreement or specified by the Board.

3 **B. Controller.** The Finance Director of a member agency shall serve as
4 the Controller of the RCA. The Board pursuant to the adoption of a resolution shall
5 appoint the finance director of a member agency to serve as the Controller. The
6 Controller shall draw warrants to pay demands against the RCA when such demands
7 have been approved by the Board or by any other person authorized to so approve such
8 by this Agreement or by resolution of the Board. The Controller shall perform such
9 duties as are set forth in this Agreement and such other duties as are specified by the
10 Board.

11 There shall be strict accountability of all funds and reporting of all receipts
12 and disbursements. The Controller shall establish and maintain such procedures, funds
13 and accounts as may be required by sound accounting practices, the books and records
14 of the RCA in the possession of the Controller shall be open to inspection at all
15 reasonable times by representatives of the Parties.

16 The Controller, with the approval of the RCA, shall contract with an
17 independent certified public accountant or firm or certified public accountants to make an
18 annual audit of the accounts and records of the RCA, and a complete written report of
19 such audit shall be filed as public records annually, within six (6) months of the end of
20 the fiscal year under examination, with each of the Parties. Such annual audit and
21 written report shall comply with the requirements of Section 6505 of the Government
22 Code. The cost of the annual audit, including contracts with, or employment of such
23 independent certified public accountants in making an audit pursuant to this Agreement
24 shall be a charge against any unencumbered funds of the RCA available for such
25 purpose. The Board by unanimous vote, may replace the annual audit with a special
26 audit covering a two-year period.

27 **Section 9. MSHCP Advisory Committee.** Within thirty (30) days after
28 issuance of the permits by the U.S. Fish and Wildlife Service and California Department

1 of Fish and Game for the MSHCP, the Board shall form an MSHCP Advisory Committee.
2 The MSHCP Advisory Committee shall consist of the Riverside County Habitat
3 Conservation Agency (RCHCA) Board of Directors and one representative from each
4 City who is not a member of the RCHCA. Within six (6) months of execution of this
5 Agreement, or at any time thereafter, the Board may review the RCA organizational
6 structure established by this Agreement to determine if it is facilitating MSHCP
7 implementation.

8 **Section 10. Executive Director.** The Board shall retain an Executive Director to
9 administer the MSHCP in compliance with the duties and responsibilities set forth in
10 Sections 5.0 and 6.0 of the MSHCP. As required by the MSHCP, the RCA shall initially
11 contract with the County of Riverside to provide an appropriate department or individual
12 to act as the Executive Director within thirty (30) days of the formation of the RCA. The
13 appropriate department or individual shall be recommended by the County's Executive
14 Officer and considered by the Board. It is understood by the Parties to this Agreement
15 that the Board may accept or reject the County Executive Officer's recommendation of
16 an appropriate department or individual to serve as the Executive Director. This contract
17 shall be for an initial term of three (3) years. At least six (6) months prior to the
18 expiration of this initial contract term, the Board shall review the County department's or
19 individual's performance as Executive Director. Based upon this review, the Board may
20 elect to extend the contract with the County or select an alternative entity or individual for
21 the Executive Director position upon expiration of the initial term.

22 **Section 11. RESERVED**

23 **Section 12. Monitoring Program Administrator.** Upon issuance of the permits
24 for the MSHCP by the U.S. Fish and Wildlife Service and California Department of Fish
25 and Game and for a period of eight (8) years thereafter, the California Department of
26 Fish and Game shall serve as the Monitoring Program Administrator for the MSHCP.
27 The Monitoring Program Administrator shall be responsible for implementing the
28 monitoring program contained in Section 5.0 of the MSHCP and shall perform all duties

1 and responsibilities as set forth in Sections 5.0 and 6.0 of the MSHCP. Thereafter, the
2 Board may elect to have the Department continue acting in the capacity or shall select
3 an alternative individual or entity for this position if the Board determines that the
4 Department cannot adequately perform the duties and responsibilities of this position.

5 **Section 13. Reserve Managers.** The Board shall retain at least one Reserve
6 Manager to manage lands owned by the RCA within the MSHCP Conservation Area.
7 This Reserve Manager(s) shall report to the Executive Director and shall perform all the
8 duties and responsibilities set forth in Section 5.0 and Section 6.0 of the MSHCP.
9 Additionally, Reserve Managers managing lands owned by any Party to this Agreement
10 that are within the MSHCP Conservation Area shall report to the Executive Director.

11 **Section 14. Independent Science Advisors.** The Board shall retain, as
12 appropriate, independent science advisors who are qualified biologists and conservation
13 experts with expertise in species covered by the MSHCP and their habitats. Additionally,
14 to the extent feasible, the independent science advisors shall have experience in land
15 management. Independent science advisors shall be retained on an annual basis, shall
16 report to the Executive Director and shall comply with the duties and responsibilities set
17 forth in Section 6.0 of the MSHCP.

18 **Section 15. Funding Coordination Committee.** Within one hundred and
19 twenty (120) days after issuance of the permits by the U.S. Fish and Wildlife Service and
20 California Department of Fish and Game for the MSHCP, the Board shall form a Funding
21 Coordination Committee to provide recommendations to the Board on local funding
22 priorities and local MSHCP Conservation Area acquisitions. Members of this committee
23 shall be appointed by the Board and shall consist of, at a minimum, representatives of
24 the Parties to this Agreement, the U.S. Fish and Wildlife Service, and the California
25 Department of Fish and Game. To the extent feasible, members of the Funding
26 Coordination Committee shall have expertise in real estate or land use planning and/or
27 experience implementing large scale conservation programs.

1 The Funding Coordination Committee shall make recommendations to the Board
2 through the Executive Director on local land acquisitions and funding priorities.
3 Additionally, this Committee shall provide a forum to discuss land acquisition priorities of
4 the U.S. Fish and Wildlife Service and California Department of Fish and Game and
5 acquisitions by other entities using non-local sources of revenue. The Board shall
6 establish policies under which the Funding Coordination Committee shall make
7 recommendations to the Board. Such policies shall include conflict of interest guidelines
8 for the Committee members.

9 The Planning Directors of each Party to this Agreement shall receive prior notice
10 of all meetings of the Funding Coordination Committee. Such notice shall include a
11 meeting agenda and a list of potential acquisition sites, if applicable. The Planning
12 Directors or their designated representatives may participate in Committee meetings, as
13 appropriate.

14 **Section 16. Reserve Management Oversight Committee.** The Reserve
15 Management Oversight Committee (RMOC) shall be formed within sixty (60) days of the
16 effective date of the contract between the RCA and the County concerning the
17 establishment of an Executive Director. The RMOC shall be composed of, at a
18 minimum, one representative appointed by each of the following entities:

- 19 A. U. S. Fish and Wildlife Service,
- 20 B. California Department of Fish and Game,
- 21 C. Riverside County Regional Parks and Open Space District,
- 22 D. Bureau of Land Management,
- 23 E. U.S. Forest Service,
- 24 F. California Department of Parks and Recreation,
- 25 G. RCA, and
- 26 H. Up to five (5) other private or public agencies or entities that own or
27 manage land within the MSHCP Conservation Area.

1 The RMOC shall serve as the intermediary between the Reserve Managers and
2 the decision making function of the RCA. The Executive Director shall serve as chair of
3 the RMOC.

4 **Section 17. Rules and Governing Law.** This Agreement shall be construed
5 and enforced in accordance with the laws of the State of California. The Act, the Bond
6 Law, and the laws of the State of California applicable to a general law city shall govern
7 the RCA in the manner of exercising its powers, subject, however, to such restrictions as
8 are applicable to said city in the manner of exercising such powers, as required by
9 Government Code Section 6509. The Board, at its first meeting or as soon thereafter as
10 may be possible, shall adopt such rules and regulations as the Board may deem
11 necessary for the conduct of the RCA's affairs. Among these rules shall be a conflict of
12 interest code and a purchasing ordinance. The Board may, as it deems appropriate,
13 review and revise these rules and regulations.

14 **Section 18. Fiscal Year.** The fiscal year of the RCA shall be the period
15 commencing on July 1 of each year and ending on and including the following June 30.

16 **Section 19. Contributions/Estimated Budget.**

17 A. Contributions of Development Mitigation Fees. The Parties to this
18 Agreement shall impose a development mitigation fee on all new development to
19 support the acquisition of additional reserve lands pursuant to the MSHCP. All
20 development mitigation fees collected by the Parties shall be forwarded to the RCA
21 within ninety (90) days after receipt by each Party. The RCA may, in its discretion,
22 conduct an audit of the development mitigation fees collected by any Party to this
23 Agreement.

24 B. Other Contributions. The RCA may accept contributions of money or
25 property from the Parties or other individuals or entities including but not limited to
26 contributions from Parties, MSHCP Permittees and Special Participating Entities who
27 obtain take authorization under the MSHCP for public utility, schools, transportation,
28 flood control and other public infrastructure projects. Additionally, a Party may hold and

1 manage its own property as a contribution to implementation of the MSHCP and the
2 MSHCP Conservation Area. Landfill Tipping Fees and Density Bonus Fees collected by
3 the County may be contributed to the RCA on an annual basis subject to the discretion
4 of the Board of Supervisors.

5 C. Use of Contributions. When approved by the Board, revenues received by
6 the RCA, including without limitation, fees and other contributions, shall be used to
7 implement the MSHCP. In addition, the RCA shall reimburse the County for any and all
8 litigation costs, including but not limited to attorneys fees, incurred in defense of any
9 legal challenge concerning the adoption of the MSHCP or any related actions as well as
10 any costs incurred to establish the Executive Director and any other necessary staff prior
11 to entering into the contract contemplated in Section 10 of this Agreement.

12 D. Budget. The annual budget for the RCA shall be prepared by the
13 Executive Director. The annual budget shall be based on an estimate of the amount of
14 revenue necessary to implement the MSHCP during the ensuing fiscal year and shall
15 consider necessary land acquisition, improvements, maintenance, management,
16 monitoring, administration, and operation costs during the current fiscal year as such
17 costs are set forth in the then current approved budget for the RCA.

18 **Section 20. MSHCP Reporting Requirements.** In order to assist in the
19 preparation of the annual report required to be prepared by the RMOC and submitted to
20 the USFWS, CDFG, and RCA as set forth in the MSHCP and Implementing Agreement,
21 the Parties shall on a monthly basis provide the following information to the RCA:

22 A. grading permit activity including the number of the permit issued, the
23 location of the development site identified by assessor's parcel
24 number, and the amount of acreage disturbed;

25 B. single family home and mobile home construction activity within the
26 Criteria Area including the number of the grading, building, site
27 preparation or installation permit issued and the location of the
28 development site identified by assessor's parcel number;

- 1 C. development mitigation fee collection including identification by
2 assessor's parcel number of the project for which the fee was
3 collected, the amount of the fee paid, and any exemptions or credits
4 that may have been included in any calculation of the fee; and
5 D. any other information required to comply with the provisions of the
6 MSHCP as may be determined necessary by the Executive Director.

7 In addition, the County shall submit on an annual basis all information contained
8 in the Existing Agricultural Operations Database including the amount of new agricultural
9 land, if any, added to the Database as well as any documentation concerning the
10 expansion of agricultural operations within the Criteria Area.

11 **Section 21. Joint Project/Acquisition Review Process.** To ensure that the
12 requirements of the MSHCP and its Implementing Agreement are properly met, a joint
13 project/acquisition review process shall be instituted by the RCA. This process is set
14 forth in Section 6 of the MSHCP.

15 **Section 22. Liabilities.** Except as may be provided herein, the debts, liabilities
16 and obligations of the RCA shall be the debts, liabilities and obligations of the RCA
17 alone, and not of the Parties to this Agreement.

18 **Section 23. Indemnification.** Provided that a Party has acted in good faith and
19 in accordance with this Agreement, the approved MSHCP and its Implementing
20 Agreement and the Permits, the RCA shall defend, indemnify and hold such Party free
21 and harmless from any loss, liability or damage incurred or suffered by such Party by
22 reason of litigation arising from or as a result of any of the following: the Party's
23 development mitigation fee ordinance; the Party's participation in the RCA; actions taken
24 to approve and/or implement the MSHCP; claims of inverse condemnation or
25 unconstitutional takings against a Party; or any other act performed or to be performed
26 by the Party pursuant to this Agreement, the MSHCP, its Implementing Agreement or the
27 Permits; provided, however, that such indemnification or agreement to hold harmless
28

1 pursuant to this Section shall be recoverable only out of RCA assets and not from other
2 Parties.

3 **Section 24. Notices.** Notices required or permitted hereunder shall be
4 sufficiently given if made in writing and delivered either personally or by registered or
5 certified mail, postage prepaid to said respective Parties, as follows:

6 A. Regional Conservation Authority
7 Executive Director
8 3403 10th Street, Suite 320
9 Riverside, CA 92501
(951) 955-9700
(951) 955-8873 fax

10 B. County of Riverside
11 Transportation and Land Management Agency
12 Agency Director
13 4080 Lemon Street, 7th Floor
14 Riverside, CA 92501
(951) 955-6742
(951) 955-6879 fax

15 C. City of Banning
16 City Manager
17 99 E. Ramsey Street
18 Banning, CA 92220
(951) 922-3103
(951) 922-3128 fax

19 D. City of Beaumont
20 City Manager
21 550 E. 6th Street
22 Beaumont, CA 92223
(951) 769-8520
(909) 769-8526 fax

23 E. City of Calimesa
24 City Manager
25 908 Park Ave
26 Calimesa, CA 92320
(909) 795-9801
(909) 795-4399 fax

27 F. City of Canyon Lake
28 City Manager
31516 Railroad Canyon Road

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Canyon Lake, CA 92587
(951) 244-2955
(951) 246-2022 fax

G. City of Corona
City Manager
P.O. Box 940
Corona, CA 92878
(951) 736-2371
(951) 736-2493 fax

H. City of Eastvale
City Manager
6080 Hamner Avenue, Suite 103
Eastvale, CA 91752
(951) 361-0900
(951) 361-0888 fax

I. City of Hemet
City Manager
445 E. Florida Avenue South
Hemet, CA 92543
(951) 765-2300
(951) 765-3785 fax

J. City of Lake Elsinore
City Manager
130 S. Main Street
Lake Elsinore, CA 92530
(951) 674-6727 ext. 261
(951) 674-2392 fax

K. City of Menifee
City Manager
29683 New Hub Drive, Suite C
Menifee, CA 92586
(951) 672-6777

L. City of Moreno Valley
City Manager
P.O. Box 88005
Moreno Valley, CA 92553
(951) 413-3008
(951) 413-3760 fax

M. City of Murrieta
City Manager
24601 Jefferson Avenue

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Murrieta, CA 92562-9755
(951) 698-1040
(951) 698-9885 fax

N. City of Norco
City Manager
2870 Clark Avenue
Norco, CA 92860
(951) 270-5611
(951) 270-5622 fax

O. City of Perris
City Manager
101 North D Street
Perris, CA 92570
(951) 657-5882
(951) 657-1087 fax

P. City of Riverside
City Manager
3900 Main Street
Riverside, CA 92522
(951) 826-5991
(951) 826-5470 fax

Q. City of San Jacinto
City Manager
595 S. San Jacinto Avenue, Building B
San Jacinto, CA 92583
(951) 487-7342
(951) 654-3728 fax

R. City of Temecula
City Manager
PO Box 9033
Temecula, CA 92589-9033
(951) 694-6440
(951) 694-6499 fax

S. City of Wildomar
City Manager
23738 Clinton Keith Road
Wildomar, CA 92595
(951) 677-7751

1 The listed addresses shall serve as the official address for any notices until such
2 time as any Party gives notice to all other Parties of a change in address in accordance
3 with the terms of this section.

4 **Section 25. Severability.** If any section, clause or phrase of this Agreement or
5 the application thereof to any Party or any other person or circumstance is for any
6 reason held to be invalid by a court of competent jurisdiction, it shall be deemed
7 severable and the remainder of the Agreement or the application of such provisions to
8 the other party or to other persons or circumstances shall not be affected thereby.

9 **Section 26. Other Agreements Not Prohibited.** Other agreements by and
10 between the Parties of this Agreement or any other entity are neither prohibited nor
11 modified in any manner by execution of this Agreement. Furthermore, the Parties hereto
12 agree upon request to execute, acknowledge and deliver all additional papers and
13 documents necessary or desirable to carry out the intent of this Agreement.

14 **Section 27. Other Obligations.** The responsibilities and obligations of each
15 Party to this Agreement shall be solely as provided in this Agreement, or as may be
16 provided for in supplemental agreements to be executed by the Parties.

17 **Section 28. Non-Assignability.** The rights, titles and interests of any Party to
18 this Agreement shall not be assignable or transferable without the consent of the
19 governing body of each Party hereto.

20 **Section 29. Section Headings.** The section headings herein are for
21 convenience of the Parties only, and shall not be deemed to govern, limit, modify or in
22 any manner affect the scope, meaning or intent of the provisions or language of this
23 Agreement.

24 **Section 30. Construction of Language.** It is the intention of the Parties hereto
25 that if any provision of this Agreement is capable of two constructions, one of which
26 would render the provision void and the other of which would render the provision valid,
27 then the provision shall have the meaning which renders it valid.

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Section 31. Cooperation. The Parties recognize the necessity and hereby agree to cooperate with each other in carrying out the purposes of this Agreement, including cooperation in matters relating to the public, accounting, litigation, public relations and the like.

Section 32. Future Amendments. To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that there may be Amendments to this Agreement which will further define the rights and obligations of the Parties.

Section 33. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties hereto.

Original JPA Approved January 27, 2004
Amendment No. 1 Approved April 29, 2007
Amendment No. 2 Approved March 11, 2008
Amendment No. 3 Approved April 7, 2009
Amendment No. 4 Approved _____, 2011

1 **IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be
2 executed and attested by their proper officers thereunto duly authorized as of the date
3 first above written.

4 Dated: _____

COUNTY OF RIVERSIDE

5 Attest:

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7 _____

By: _____

Chairman, Board of Supervisors

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9 Dated: _____

CITY OF BANNING

10 Attest:

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12 _____
13 City Clerk

By: _____

Mayor

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15 Dated: _____

CITY OF BEAUMONT

16 Attest:

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18 _____
19 City Clerk

By: _____

Mayor

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21 Dated: _____

CITY OF CALIMESA

22 Attest:

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25 City Clerk

By: _____

Mayor

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Dated: _____

CITY OF CANYON LAKE

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF CORONA

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF EASTVALE

Attest:

By: _____

Dated: _____

CITY OF HEMET

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF LAKE ELSINORE

Attest:

City Clerk

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CITY OF MENIFEE

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF MORENO VALLEY

Attest:

City Clerk

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Mayor

Dated: _____

CITY OF MURRIETA

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City Clerk

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CITY OF NORCO

Attest:

City Clerk

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Mayor

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CITY OF PERRIS

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF RIVERSIDE

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Mayor

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CITY OF SAN JACINTO

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Mayor

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CITY OF TEMECULA

Attest:

City Clerk

By: _____
Mayor

Dated: _____

CITY OF WILDOMAR

Attest:

City Clerk

By: _____
Mayor

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: Deborah L. DeGrado, Housing Manager 

SUBJECT: Dissolution of the Riverside-San Bernardino Housing and Finance Agency and Corporation

RECOMMENDATION: Adopt **Resolution No. 2011-_____** withdrawing from and terminating the Joint Exercise of Powers Agreement of the Riverside-San Bernardino Housing and Finance Agency.

SUMMARY: The Riverside San Bernardino Housing and Finance Agency ("Agency") was established in June 1999. The goal of the Agency was to establish a program under which the Agency purchased existing homes and leased them to low-moderate income families with an option to purchase. The bonds and indebtedness issued by the Agency to carry out the program were repaid as of June 30, 2007 and all real property has been sold or otherwise divested. The Agency Board of Directors has determined it is now appropriate to terminate the Joint Powers Agreement and dissolve the Agency. As a voting member of the Board, Council approval of the attached resolution will document agreement to dissolve the RSBHFA.

BACKGROUND/ANALYSIS: The Riverside-San Bernardino Housing and Finance Agency is a public agency created June 1, 1999 for the purpose of implementing a Lease to Own Homeownership Program in the region of Riverside and San Bernardino Counties. The voting and non-voting member cities/county include:

- | | |
|---------------------|----------------------------|
| 1. City of Chino | 8. City of Redlands |
| 2. City of Colton | 9. City of Rialto |
| 3. City of Corona | 10. City of Riverside |
| 4. City of Hemet | 11. County of Riverside |
| 5. City of Highland | 12. City of San Bernardino |
| 6. City of Norco | 13. City of San Jacinto |
| 7. City of Perris | |

Each member has a designated representative from their staff represented as a member on the Board of the Agency. Deborah DeGrado has been serving in this capacity.

In May 2001, \$72 million in tax-exempt bonds were issued to establish a lease-to-own program under which the Agency acquired homes and leased the homes to persons of low/moderate income to provide decent, safe and sanitary housing. The bond proceeds

financed the Agency purchase of the homes. The Program was intended to serve households with slight credit problems and limited financial resources for down-payment and closing costs, and who met certain Program requirements established by the Federal Home Loan Mortgage Corporation (FHLMC).

The program funded 68 loans totaling approximately \$10,500,000 (15% of the Program funds). The lack of activity versus the initial Demand Study may have partially been due to a significant reduction in interest rates and a variety of loan products entering the market around the same. The Agency hired two different consultants to administer and operate the program. More than 20 other similar governmental housing agencies across the country issued bonds to finance the same type of Lease to Own Homeownership Program with similar results.

In November 2005 the Agency Board was informed that the Internal Revenue Service (IRS) was investigating the tax exempt status of the bonds for several other agencies. The investigation then expanded to include over 20 agencies across the country. On November 15, 2006 the Agency received a letter from the IRS advising that a *preliminary* determination that the bonds were taxable and did not meet various requirements for tax-exempt bonds. This meant the IRS *could* make a determination that there was a federal tax liability owed by the bondholders of approximately \$1.4 million dollars, if the interest paid on the bonds were determined as taxable income. The amount owed the IRS depended upon the IRS's final determination and what was eventually negotiated with them as a settlement of the tax liability.

It was the Agency's position that financial responsibility for the bondholders' tax liability lay with the consultants who issued the bonds (i.e. bond counsel, underwriter, liquidity provider, etc). On May 29, 2007 the IRS executed a negotiated tax settlement prepared by the Agency Staff, Agency Legal Counsel and Special Legal Counsel for an amount of only \$500,000 (IRS exonerated \$900,000), with no further tax liability to the bond holders or the Agency.

Since the above settlement with the IRS, all remaining property assets have been disposed of and Agency Staff has prepared all necessary documents to properly dissolve the Agency. There are two entities which need to be dissolved, the Riverside-San Bernardino Housing and Finance Agency Corporation (Corp) and the Riverside- San Bernardino Housing and Finance Agency (Agency), which is a Joint Powers Authority.

The following actions are needed to dissolve the Corporation:

1. The Board must make an election to dissolve. (This action of the Norco City Council will document its intent as a voting partner to support dissolving the Corporation.)

March 16, 2011

2. Obtain a Dissolution Waiver from the State Attorney General's Office by sending a letter signed by the Director of the Corporation indicating that there are no assets remaining for distribution. The letter will be accompanied by a signed copy of the Certificate of Dissolution, financial statements for the three most current accounting periods, and a copy of the Corporation's Articles of Incorporation.
3. File a Certificate of Dissolution (FORM DISSNP) with the Secretary of State.

According to Section 7.02(b): Distribution of Assets of the First Amended and Restated Joint Exercise of Powers Agreement, upon termination of the agreement, "any assets remaining shall be distributed to the Voting Members in equal proportions." Therefore, the remaining assets of approximately \$75,000 will be divided equally among the 9 voting members (approximately \$8,333).

Also, per Section 7.03:Continued Existence of Agency, "Upon termination, this Agreement the Agency shall continue to exist for the limited purpose of distributing the assets of the Agency and all other functions necessary to close out the affairs of the Agency."

Staff recommends that the Norco City Council approve, as a voting member, the dissolution of the RSBHFA and RSBHFA Corporation and authorize the Executive Director of RSBHFA to distribute any remaining funds to the voting members of the Agency.

FINANCIAL IMPACT: The City of Norco, as a voting member of RSBHFA, will receive approximately \$8,333 as its share of the remaining assets of the RSBHFA.

/dg – 77996

Attachment: Resolution No. 2011-_____

RESOLUTION NO. 2011-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA, WITHDRAWING FROM AND TERMINATING THE JOINT EXERCISE OF POWERS AGREEMENT OF THE RIVERSIDE-SAN BERNARDINO HOUSING AND FINANCE AGENCY

WHEREAS, on or about June 1, 2000 the City of Norco and a number of local government agencies in Riverside and San Bernardino Counties, including the City of Norco, entered into that certain First Amended and Restated Joint Exercise of Powers Agreement ("Agreement") of the Riverside-San Bernardino Housing and Finance Agency ("Agency"); and

WHEREAS, the stated purpose of the Agency was to provide a program "of furthering home ownership in the geographical area of the member agencies and of financing other capital improvements through the sale of revenue bonds, the purchase, construction or rehabilitation of housing or other capital improvement, the entering into of leases, the sale of housing, [and] the provision of low-down-payment mortgages for buyers"; and

WHEREAS, the bonds and indebtedness issued by the Agency to carry out the lease-purchase program were repaid as of June 30, 2007 and all real property owned by the Agency has been sold or otherwise divested, and the Board of Directors of the Agency has determined it is now appropriate to terminate the Agreement and dissolve the Agency; and

WHEREAS, Section 7.01 of the Agreement provides that the Agreement may be terminated upon mutual agreement of all members of the Agency; and

WHEREAS, Section 7.03 of the Agreement provides that, following termination, the Agreement and Agency shall continue to exist for the limited purpose of distributing the assets of the Agency and all other functions necessary to close out the affairs of the Agency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Norco:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference as if set forth in full.

SECTION 2. Pursuant to Section 3.04 of the Agreement, the City of Norco hereby withdraws from membership in the Agency.

SECTION 3. Pursuant to Section 7.01 of the Agreement, the City of Norco hereby agrees to terminate the Agreement effective upon agreement of all members of the Agency.

SECTION 4. The City Council hereby directs the City Clerk to provide notice to the Agency of the adoption of this Resolution and the foregoing withdrawal and termination of its membership in the Agency.

SECTION 5. The City Council hereby directs the Agency to distribute the remaining assets of the Agency in accordance with the Agreement and to notify the City of Norco when all assets are distributed and the termination of the Agreement and Agency are final.

SECTION 6. The City Clerk shall certify as to the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on March 16, 2011.

Mayor of the City of Norco, California

ATTEST:

Brenda K. Jacobs, City Clerk
City of Norco, California

I, Brenda K. Jacobs, City Clerk of the City of Norco, California, do hereby certify that the foregoing Resolution was adopted by the City Council of the City of Norco, California, at a regular meeting thereof held on March 16, 2011, by the following vote of the City Council.

AYES:
NOES:
ABSENT:
ABSTAIN:

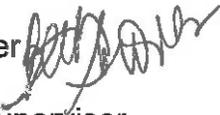
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California on March 16, 2011.

Brenda K. Jacobs, City Clerk
City of Norco, California

/dg

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY:  Olivia Hoyt, Accounting Supervisor

DATE: March 16, 2011

SUBJECT: Annual Resolution Making Findings and Continuing Existing Rates for Maintaining Flood Control Channels within County Service Area CSA-152

RECOMMENDATION: Adopt **Resolution 2011-___**, making findings and continuing existing rates for maintaining flood control channels within County Service Area CSA-152.

BACKGROUND/ANALYSIS: Riverside County requires an annual resolution authorizing the County to levy a County Service Area (CSA) parcel charge. The proceeds of the charge are used to maintain and operate the City's storm drains and flood control channels into the Santa Ana River. This service area assessment is exempt from the requirements of Prop. 218. Below is an excerpt from Prop. 218:

Section 5, Paragraph (a) of Proposition 218 reads as follows:

“Section 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 2001, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4...”

Our City Attorney supports a “declaration of exemption” for Norco in this case because the assessment was established before November 6, 1996 and is used exclusively for flood control purposes, an exempt category under Section 5 (a).

Rates for Maintaining Flood Control Channels CSA-152.

Page 2

March 16, 2011

FINANCIAL IMPACT: The City will receive an estimated \$60,000 from these parcel charges that will be used exclusively for drainage improvements and NPDES permit compliance. The annual charge per parcel is \$5.78.

/jk-77999

Attachment: Resolution 2011-____

RESOLUTION NO. 2011-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA MAKING FINDINGS AND CONTINUING EXISTING RATES FOR MAINTAINING FLOOD CONTROL CHANNELS WITHIN COUNTY SERVICE AREA CSA- 152

WHEREAS, the City of Norco is a co-permittee of Permit No. CSA-618033 with the County of Riverside and the incorporated cities therein; and

WHEREAS, the City must have a valid NPDES Permit in order to discharge runoff from properties within the boundaries of the City through its storm drain and flood control channels directly into the Santa Ana River or through Riverside County's channels into the Santa Ana River; and

WHEREAS, the City uses revenues from the CSA-152-Norco assessments solely for the purpose of maintaining and operating the City's storm drain and flood control system, including complying with the Permit.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Norco as follows:

SECTION 1: Based upon the facts set forth herein, the City Council finds that CSA-152-Norco charges are assessments that confer benefits upon each parcel of property subject to the assessments. Pursuant to Section 5(a) of Article XIID of the California Constitution, the CSA-152-Norco assessments are exempt from the procedures and approval process of Section 4 of Article XIID of the California Constitution because CSA-152-Norco assessments existed before November 6, 1996, and the assessments are imposed exclusively to finance the capital costs and maintenance and operation expenses for the flood control and drainage system in the City.

SECTION 2: The City Council entered into an agreement with the County of Riverside on April 6, 1994 to participate in the County Service Area 152 to facilitate collection of funds in implementing the federally mandated NPDES program. A yearly rate of \$5.78 per benefit assessment unit was added to residents' property tax bill following a public hearing on May 18, 1994.

SECTION 3: The City Council elects to continue existing rates.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held March 16, 2011.

Mayor of the City of Norco, California

ATTEST:

Brenda K. Jacobs, City Clerk
City of Norco, California

I, BRENDA K JACOBS, City Clerk of the City of Norco, California, do hereby certify that the foregoing Resolution was regularly introduced and adopted by the City Council of the City of Norco, California, at a regular meeting thereof held on the 16th day of March, 2011 by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Norco, California this 16th day of March, 2011.

Brenda K. Jacobs, City Clerk
City of Norco, California

/jk-78000

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 

PREPARED BY: Andy Okoro, Deputy City Manager/Director of Finance 

DATE: March 16, 2011

SUBJECT: Proposition 218 Public Hearing Approving Adjustments to Water and Sewer Rates.

RECOMMENDATION: That the City Council open the Public Hearing, take comments and at the end of the Public Hearing adopt **Resolution 2011-_____**, adopting adjustments to water and sewer rates.

SUMMARY: In Compliance with Article XIID of the State of California Constitution and the Proposition 218 Omnibus Implementation Act, the City of Norco has notified all affected property owners and rate payers of the proposed water and sewer rate adjustments. The proposed rates are being recommended pursuant to a rate analysis conducted to assess the adequacy of revenues to maintain the physical integrity of the water and sewer systems; comply with all required health standards; provide adequate quality of water and wastewater treatment; to meet outstanding bonds debt coverage ratios; to provide adequate levels of system maintenance and to provide adequate levels of maintenance, upgrade and expand sewer and sewer facilities as needed to serve the City residents and businesses. The proposed rates are necessary to bridge the gap between necessary operating expenses including debt service and revenues recovered through user charges. Staff is recommending that the City Council accept written and verbal comments on the proposed rates and to approve the proposed rates after closure of the public hearing.

BACKGROUND/ANALYSIS: On October 25, 2010, staff conducted a study session for the City Council and members of the public to review the last five years' revenue and expenditure information for the Water and Sewer Funds.

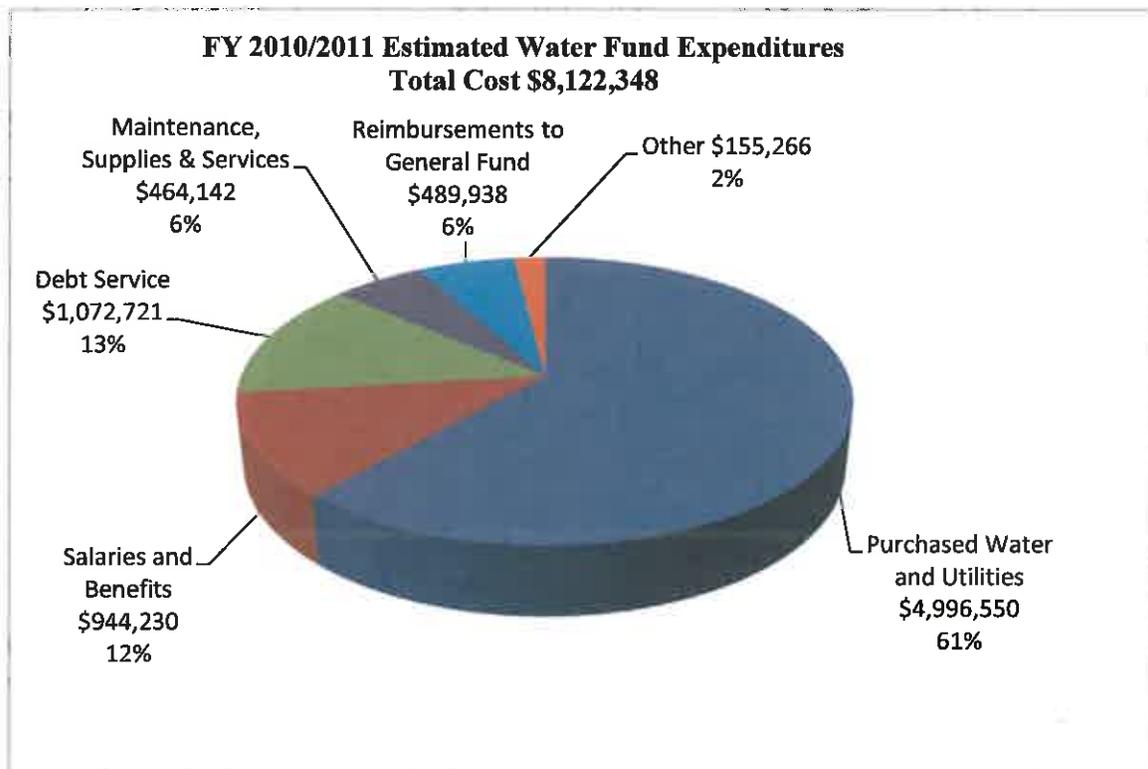
Water Fund

During the study session, the key cost components of the Water and Sewer Funds were discussed in detail. For the Water Fund, the key cost components reviewed were;

1. Purchased water and utilities
2. Debt Service
3. Salaries and benefits
4. Maintenance and supplies

5. Overhead cost reimbursement to the General Fund
6. Other – including cost of equipment replacement, operations and maintenance

Presented below is the estimated FY 2010-2011 cost break down for the Water Fund.



Purchased Water: It was noted during the study session that the cost of purchased water and utilities which makes up more than 60% of the total cost, had risen significantly from \$3.1 million in FY 2005-2006 to \$4.9 million in FY 2009-2010. This 58% increase in the cost of purchased water is attributable to cost increases by water wholesalers passed through to the City under various “take or pay” contracts to purchase water.

Under the “various take or pay contracts” the City is obligated to purchase a minimum of 4,400 acre feet water annually at the going rate. However, to ensure water quality and uninterrupted supply, the City annually purchases more than the minimum requirement. While the additional purchase of imported water improves water quality and ensures uninterrupted supply, it pushes up the overall cost of water. Domestically produced water from City wells is less expensive than imported purchased water. Unfortunately over the most recent years, the percentage of total water produced from City ground water wells has been decreasing.

Debt Service: The other category of cost that increased during the same period was debt service which went from \$.4 million to \$.9 million. The increase in debt service was due to changes in interest rates and additional borrowing of \$9.65 million necessary to construct infrastructure that are necessary to support the operations of the water system. Proceed from the new borrowing in the amount of \$8.2 million is still unspent as of February 27, 2011. Examples of capital projects to be funded with this existing bond proceeds include; expansion of treatment plant, reservoir construction and capital improvements, automated meter reading infrastructure, water line improvements and replacements and well rehabilitation.

Salaries and Benefits: The other cost items in the Water Fund includes salaries and benefits which makes up about 12% of total Water Fund expenditures. Salaries and benefits represents cost of wages and benefits paid to and on behalf of employees directly assigned to perform services for water operations including field personnel and support, and administrative staff performing billing and collection functions. Despite increases in pension rates and medical costs, the total cost of salaries and benefits have remained very stable over the last five years.

Overhead Reimbursement to: Certain aspects of providing municipal services are applied as overhead costs. These overhead costs are accumulated in whole or part in one Fund that pays the bill. The accumulated costs are then allocated to benefiting programs, functions or activities through a Cost Allocation Plan. Overhead costs such as the cost for City Attorney Services, Administration, liability and workers compensation insurance, retiree medical insurance premiums, utilities, rent and claims management and administration are in part or wholly accumulated and paid for by the General Fund. The benefiting programs, functions or activities such as the Water and Sewer Funds reimburse the General Fund for their allocated share of these costs. The total amount of overhead allocation charged to the Water and Water Funds was determined as part of a Cost Allocation Plan prepared by Revenue Cost Specialist in FY 2002-2003. Reimbursement to the General Fund makes up 6% of total Water Fund operating cost and includes reimbursement for street damage repairs. These costs have remained the same since FY 2003.

On January 25, 2011, staff conducted an additional study session for members of the City Council and the public. During this study session, staff reviewed Water Fund expenditure and revenue projections for FY 2011 through FY 2013. This showed a significant gap between projected revenues and expenditures. During the study session, staff also provided two potential options for rate adjustment and covered the overall fiscal impact of the proposed rates for the Water Fund. The overall impacts on water customers were also discussed as were rate comparisons from other jurisdictions. Similar presentations were also made to the Streets, Trails and Utilities Commission on February 7, 2011. At the conclusion of the presentation, the Commission voted 5-2 in favor of the **Option 1** rate adjustment proposed by staff.

Current Water Fund Financial Status:

While the cost of purchased water and capital borrowing has increased significantly during the last five years, revenues derived from water rates remained essentially flat from FY 2007 to FY 2009. With increasing costs and flat to declining revenues, the financial condition of the Water Fund took a dramatic downward swing in FY 2009-2010 when total expenditures exceeded revenues by nearly \$1.1 million. At the end of FY 2009-2010, the Fund went to a deficit working capital of \$0.5 million and is currently over \$1 million in deficit. This is projected to reach \$5.1 million by the end of FY 2012-2013 if the recommended rate adjustments are not implemented. The recommended rate adjustments to be implemented over the next two fiscal years are necessary to cover the projected shortfall between revenues and expenditures. The rate adjustments will also provide for minimal total set-aside of reserve in the amount \$700,000 for capital replacement over three fiscal years.

Sewer Fund

The study sessions on October 25, 2010 and January 25, 2011 also covered the Sewer Fund. On October 25, 2010, staff provided an analysis of the Sewer Fund's revenues and expenditures for the five previous years ended June 30, 2010. The January 25, presentation focused on projected revenues and expenditures for the three fiscal years ending June 30, 2013.

It was noted during the presentation that the five-year expenditure trend (FY 2006 – 2010) for contract services (cost pass-through) from Western Riverside County Regional Wastewater Authority (WRCRWA) varied from year to year due to the varying level of maintenance on the sewer plant. Another major category of cost for the Sewer Fund was debt service which also fluctuated during fiscal years 2005 – 2009 due to the financial terms of the bonds issued by WRCRWA to finance the construction of the sewer plant. The bonds were auction rate bonds with varying maturities and variable interest rates that changed on a day-to-day basis. To address the budgeting and cost management problems presented by not knowing from year-to-year what the debt service amounts were going to be, the City re-financed the outstanding debt with WRCRWA with a fixed interest and principal payment debt in late 2009. Additionally, the City took on additional new debt of \$9.65 million for future capital improvements. Consequently, beginning in FY 2009-2010 debt service payments increased. Proceeds from the new borrowing in the amount of \$7.2 million are still unspent as of February 27, 2011.

It is important to note that on the average, debt service payment makes up nearly 40% of total Sewer Fund operating costs. The entire annual debt service payments are for principal and interest payments on borrowing to finance capital improvements to the sewer system. Capital improvement costs are for back-bone infrastructure of the system designed to ensure system availability and reliability.

Current Sewer Fund Financial Status:

Like the Water Fund, the fiscal condition of the Sewer Fund is expected to significantly decline without implementation of the proposed rate adjustments. In FY 2009-2010, expenditures exceeded revenues by \$220,000. This annual gap is expected to increase over the next three fiscal years leading to expected accumulated working capital deficit of \$1.5 million by the end of FY 2012-2013. The proposed rate adjustments are necessary to bring the Sewer Fund to a break-even point by the end of FY 2013.

Conclusion:

The Water and Sewer Funds must recover all their costs from user charges as they are business-type in nature and are not supported by any taxes. Furthermore, the City has a legal obligation under the covenants of outstanding bonds to set rates that are sufficient to cover costs including payment of debt service. The Water Fund is currently over \$1 million in deficit and the deficit continues to grow at a rate of over \$100,000 per month. Based on the rate study analysis, the deficit will balloon to over \$5 million by FY 2013. Ratification of these rates is necessary to meet the City's outstanding bond obligations and ensure the continuing operations of the City's water and sewer systems.

Similarly, the fiscal condition of the Sewer Fund is projected to significantly decline without the proposed rate adjustments. Even though the Sewer Fund had a positive working capital of \$1.5 million at the end of FY 2009-2010, this available balance will be depleted and a deficit balance of \$1.5 million will be created by the end of FY 2012-2013 if the proposed rates are not implemented.

Given that the proposed rates are necessary to cover the cost of operating the water and sewer systems, failure to implement the rates without alternatives as to how the gap between revenues and expenses are to be bridged, means that the City would not be able to continue operating the system in its current form. The City would continue to not meet required debt coverage ratio and would eventually default on its debt obligations. Furthermore, the city will not be able to meet its contractual obligations under the various "take or pay" contracts with the other public entities.

/ao-77889

Attachment: Resolution No. 2011-_____

RESOLUTION NO. 2011-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORCO ADOPTING ADJUSTMENTS TO WATER BASIC, WATER USAGE AND SEWER RATES

WHEREAS, on July 2006, the California Supreme Court ruled that metered rates for consumption of water and sewer services are "property-related fees" subject to Proposition 218 majority protest hearing; and

WHEREAS, in compliance with the State of California Constitution and the Proposition 218 Omnibus Implementation Act, the City on January 28, 2011 mailed just under 7,000 public hearing notices to property owners in the City as required by the Supreme Court Ruling; and

WHEREAS, staff conducted study sessions with City Council and the public on October 25, 2010 and January 25, 2011 to review Water and Sewer Funds expenditure and revenue projections for FY 2011 through FY 2013; and

WHEREAS, the proposed rates are necessary to maintain the physical integrity of the water and sewer systems; comply with all required health standards; provide adequate debt coverage ratios; provide adequate levels of system maintenance and provide adequate levels of maintenance, upgrade and expand sewer and sewer facilities as needed to serve the City residents and businesses; and

WHEREAS, all revenues derived from water and sewer charges are required to be deposited into each respective Fund.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Norco hereby resolves that the basic monthly, water usage and sewer rates as shown below are adopted, provided that a majority of property owners in the City do not protest against these rates.

1) BASIC WATER RATES Basic Charge per Month

Meter Size (in inches)	Current Rate	Effective Date of Basic Charge	
		4/1/2011	7/1/2012
5/8 X 3/4	\$14.23	\$18.97	\$20.87
1	\$22.58	\$30.11	\$33.12
1-1/4	\$22.58	\$30.11	\$33.12
1-1/2	\$56.75	\$75.66	\$83.23
2	\$73.85	\$98.46	\$108.31
3	\$198.28	\$264.37	\$290.80
6	\$850.29	\$1,133.69	\$1,247.06
8	\$1,366.08	\$1,821.39	\$2,003.53
10	\$2,162.96	\$2,883.87	\$3,172.26

(2) QUANTITY RATES BASED ON USAGE

Effective Date

Current Rate	All Usage	\$1.33 per 100 cf = 748 gallons
4/1/2011	All Usage	\$1.84 per 100 cf = 748 gallons
4/1/2012	All Usage	\$2.02 per 100 cf = 748 gallons

(3) SEWER USE MINIMUM CHARGES

Effective Date	Residential	Commercial	Non-Connect
Current Rate	\$40.00	\$40.00	\$15.00
7/1/2011	\$46.00	\$46.00	\$17.00
7/1/2012	\$51.00	\$51.00	\$19.00

(4) SEWER FLOW CHARGE

This charge applies to non-residential users including multi-family dwelling units. The flow charge is based on metered (non-landscape) potable water consumption **greater than 10 HCF/month (1 HCF – 748 gallons)** as follows:

Current flow charge	\$6.00 for each unit > 10 HCF
July 1, 2011	\$7.00 for each unit > 10 HCF
July 1, 2012	\$8.00 for each unit > 10 HCF

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on March 16, 2011.

Mayor of the City of Norco, California

ATTEST:

Brenda K. Jacobs, City Clerk

City of Norco, California

I, Brenda K. Jacobs, City Clerk of the City of Norco, California, do hereby certify that the foregoing Resolution was adopted by the City Council of the City of Norco, California at a regular meeting thereof held on March 16, 2011, by the following vote of the City Council.

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California, on March 16, 2011.

Brenda K. Jacobs, City Clerk
City of Norco, California

/jk-77995