

Honorable Mayor and Members of the
Coachella City Council

**REQUEST APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF
COACHELLA AND THE COACHELLA VALLEY WATER DISTRICT**

DISCUSSION

The City of Coachella through the Coachella Water Department and Sanitary District provides water and sanitation services primarily to customers within the boundaries of the City of Coachella. However, as the City continues to grow beyond its current boundaries, the City needs to secure and guarantee water and sewer services to be able to service future development and sustain the City's growth.

For the past several months, the City Manager, City Staff and the City Attorney have been working on water supply and management issues. Since Coachella Valley Water District is the other water and sewer purveyor in the area, the City has been in discussions with CVWD to guarantee a water supply to these future developments and agree on a permanent boundary agreement so that both parties can invest confidently in water and sewer infrastructure to provide services to their agreed upon customers.

Moreover, since several development projects that are being annexed into the City are being held up before the Local Agency Formation Commission (LAFCO) until a water and sewer boundary agreement is reached between the City and CVWD, the City has been working diligently with CVWD to finalize the boundary Agreement.

The boundary Agreement establishes the boundaries for water and sewer service between the City and CVWD. Generally, the Agreement provides that the City will provide water and sewer services within the City's current boundaries and Sphere of Influence that is north of Avenue 56, as well as provide water and sewer services East of Jackson and North of Avenue 56 (depicted in Exhibit "A" to the Agreement). Avenue 56 is the natural boundary line because CVWD has already invested in infrastructure along Avenue 56 and guaranteeing the City a customer base North of Avenue 56 would allow for a sufficient future customer base.

More specifically, the Boundary Agreement provides that:

- The City will provide water and sewer services within the City's current boundaries and Sphere of Influence North of Avenue 56.
- The City will also serve future customers East of Jackson Street and North of Avenue 56 (except for any development currently served by CVWD).
- If the City grows to the North-East, the City will be able to service these customers as well.
- Customers that are currently being served by either the City or CVWD will continue to be served by the same party even if within the agreed territory of the other party.
- CVWD will be able to serve new customers within the City's service territory if service is infeasible at that time by the City and CVWD will then transfer these new customers to the City when the City is able to service them (and vice versa).
- CVWD will allow the City to make two water connections to its water main on Avenue 56 in order for the City to service City customers North of Avenue 56.

After the boundary agreement is approved, the City will continue to negotiate a Memorandum of Understanding for water supply with CVWD in order to guarantee water supply to future developments.

FISCAL IMPACT:

None at this time. Long-term fiscal impact unknown.

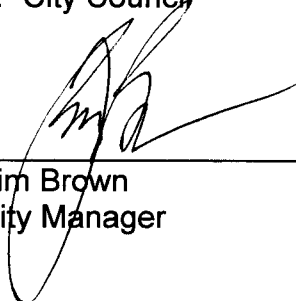
CONCUR:



John Gerardi
Interim Finance Director

RECOMMENDATION:

1. City Council Approve the Agreement between the City of Coachella and Coachella Valley Water District to establish water and sewer service boundaries.
2. City Council Authorize the Mayor and City Manager to execute all documents upon final approval by the City Attorney.



Tim Brown
City Manager

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into on this ____ day of ____, 2007 ("Effective Date") by and between COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California, ("District"), and CITY OF COACHELLA, a general law city in California ("City"). District and City are sometimes referred to individually as "Party" or collectively as "Parties."

RECITALS

- A. District is a public agency organized, operating and existing under Sections 30000 et seq. of the California Water Code. Pursuant to such authority, the District is authorized to provide water and sanitation service in the Counties of Riverside, San Diego and Imperial.
- B. City is a general law city located in the County of Riverside, State of California. Pursuant to such authority, City provides water and sanitation service to customers within the City of Coachella boundaries, as depicted on Exhibit "A" attached hereto and by this reference incorporated herein.
- C. City provides water service within the boundaries of the City of Coachella through the City of Coachella Water Department.
- D. City provides sewer service within the boundaries of the City of Coachella through the City of Coachella Sanitary District.
- E. Each Party is authorized pursuant to California law to provide water and sewer service which could otherwise result in inefficient systems and duplication of services.
- F. District and City are desirous of reaching an agreement which establishes permanent boundaries for water and sewer service to be currently provided by each.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. All of the above Recitals are hereby incorporated by reference to the same extent as though herein again set forth in full.
- 2. From and after the Effective Date, this Agreement establishes the boundaries for water and sewer service between District and City
- 3. Except as provided in Paragraph 4, City will provide, and CVWD will not provide, water and sewer service to the area lying north of the centerline of Avenue 56 and within the City boundary and Sphere of Influence existing on the Effective Date and the Proposed Sphere of Influence east of Jackson Street, as depicted on Exhibit "A."

4. Any Customer being served by District or City as of Effective Date and any property subject to a "Will Serve" letter issued by the District or City thirty (30) days prior to the Effective Date shall continue to be served by such Party, whether inside or outside the boundaries of District and City established under this Agreement. On request of either party ("Territory Party") new customers ("Temporary Customers") within its service area may be served by the other party ("Servicing Party"), if service is infeasible at that time by the Territory Party. The terms of Temporary Service shall be as agreed upon by the parties. Upon later request of the Territory Party, the Servicing Party will transfer to the Territory Party the Temporary Customer accounts, as well as any infrastructure, capacity fees, or supplemental import water rights, purchased by or on behalf of the Temporary Customers which are not otherwise retained by the Servicing Party by prior agreement.
5. All other areas within the City boundary and City's Sphere of Influence will be a service area of the District, as depicted on Exhibit "A."
6. City may provide water and / or sewer service to the area in the Northern Un-annexed Area as shown on Exhibit "A" if City is the first city to annex that area. The Northern Un-annexed Area is described as that area bounded by the existing northern Coachella City Boundary (south), Dillon/Tyler Road (west), Avenue 37 (north) and Johnson Avenue (east).
7. Neither Party can extend its service area into the service area of the other Party without prior written consent of the encroached upon Party. The consent requested shall be at the sole and absolute discretion of the encroached-upon Party.
8. Either Party may install pipelines through service area of the other provided that they are necessary and convenient to providing service in the installing Party's service area.
9. Water service by either Party to tribal property is subject to tribal consent.
10. This Agreement does not apply in any way to water service supplied by the District from the Coachella Canal or its distribution system to non-potable uses.
11. CVWD will provide two twelve-inch water connections and meters at the north side of Avenue 56, one at Fillmore Street and the other at Pierce for future connection by the City of Coachella, on such terms as may be agreed upon by the parties. Costs for these two connections and meters will be borne by the City.
12. The Parties hereto agree to cooperate with each other in furthering the purposes of this Agreement. The Parties hereby agree to take such other actions and execute such other reasonable documents as are consistent with this Agreement and as are reasonably necessary to effectuate this Agreement; provided, however, that the foregoing shall not require District to take any legislative action or exercise its discretion in any particular manner.

13. This Agreement contains the final and complete agreement between the Parties with respect to the matters herein discussed and supersedes all previous communications and agreements between them with respect to the subject matter hereof, whether oral or written, to the extent such prior communications and agreement are not consistent with this Agreement.
14. In the event that any action or proceeding is commenced between the Parties hereto to enforce or interpret any term of this Agreement, each party shall bear its own attorneys' costs and fees. The attorneys' costs and fees shall include, without limitation, attorneys' costs and fees incurred on appeal and those incurred in enforcing any judgment rendered in any such action or proceeding.
15. All notices shall be in writing and shall be considered given and received: (i) when delivered in person to the recipient named below; or (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or (iii) on the date of delivery shown in the records of an express courier such as Federal Express or DHL; or (iv) on the date of delivery by facsimile transmission to the recipient named below. All notices shall be addressed as followed:

If to District:

General Manager/Chief Engineer
Coachella Valley Water District
P.O. Box 1058
Coachella, Ca 92236-1058

If to City:

City Manager
City of Coachella
1515 Sixth Street
Coachella, CA 92236

Any Party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a Party or an officer or representative of a Party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

16. This Agreement and all its provisions shall in all respects be interpreted, construed, enforced, and governed by and under the laws of the State of California, without regard to its conflict of laws principles.
17. Any action or proceeding brought respecting this Agreement shall be instituted and maintained in the appropriate court in the County of Riverside, California.

18. This Agreement may be modified only by another written instrument duly authorized, executed, acknowledged by both Parties.
19. The provisions of this Agreement are specifically made severable. If any clause, provision, right, or remedy provided for herein is determined to be unlawful or unenforceable, the remainder of this Agreement shall remain in effect and shall be enforced as if such clause, provision, right, or remedy were not contained herein.
20. The language in all parts of this Agreement shall in all respects be construed as a whole according to its fair meaning, and not strictly for or against any other Party. This Agreement is the product of mutual negotiation and drafting efforts. Accordingly, the judicial rule of construction that ambiguities in a document are to be construed against the drafter of that document shall have no application to the interpretation or enforcement of this Agreement.
21. This Agreement may be executed in one or more counterparts, each of which shall be an original and all such counterparts together shall constitute the entire Agreement of the Parties hereto.
22. Each individual executing this Agreement hereby represents and warrants that he or she has the full power and authority to execute this Agreement on behalf of the named Parties.
23. This Agreement shall not be extinguished or altered in any way, by any Party without the prior written consent of the District.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

DISTRICT:

COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California

CITY:

CITY OF COACHELLA, a general law city of the State of California

By: _____

By:  _____ 12/13/07

Its: _____

Its: Tim Brown, City Manager

City of Coachella / CVWD Water & Sewer Service Area Map

Exhibit "A"



1 inch equals 1.5 miles

Notations in annexed areas

Indio & VSD

Coachella City Boundary

Area Sphere of Influence (SOI)