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Mr. Gabriel D. Martin, Ph.D.  
City Manager  
City of Coachella  
53990 Enterprise Way  
Coachella, California 92236

**RE: Agreement For Legal Services**

Dear Mr. Martin:

We are pleased that you have asked Nixon Peabody LLP (the “Firm”) to provide legal services to City of Coachella.

This letter and the accompanying Terms and Conditions of Engagement, which are incorporated herein by reference, describe the basis on which the Firm will provide those services. In addition, this letter and enclosure include specific details that are required to be set forth in writing by the ethics rules pursuant to which we practice. It is preferable to put all of these details in writing so that our role and responsibilities are completely understood and agreed to at the commencement of our engagement.

Our client in this matter will be City of Coachella and its related entities (hereinafter, “you”). Our representation of you does not give rise to an attorney-client relationship between us and any of your affiliates or constituents (such as shareholders, members, partners, officers, directors or employees), and you also agree that you will not give us confidential information regarding your affiliates or constituents during the course of our representation of you. Accordingly, our representation of you in this matter will not give rise to any conflict of interest in the event one of our other clients is adverse to you or any of your constituents.

We will advise you solely as bond and disclosure counsel in connection with the refinancing of the Coachella Water Authority’s 2008 Water Revenue Bond and Water Revenue Refunding Bonds, 2012 Series and any other transaction you may determine from time to time (the “Transaction”). We will prepare, negotiate and revise documentation required to consummate the Transaction. You may limit or expand the scope of our representation from time to time, provided that we will not substantially expand the scope of our representation without a further written agreement.

We believe in utilizing lawyers, legal assistants and other professional staff with levels of experience and expertise appropriate to each aspect of the engagement. We expect that the

principal attorney involved in this engagement will be me. I will be the “Client Attorney” with overall responsibility for managing the relationship, and should be viewed as your contact in the event of questions or concerns, particularly as they relate to service and billing matters.

Our fees, which are contingent on successful closing of the bonds, are as follows:

Bond and disclosure counsel with respect to publicly offered bonds with the preparation of the official statement - \$85,000, which includes out-of-pocket expenses.

Bond counsel with respect to privately placed bonds - \$50,000, which includes out-of-pocket expenses.

These fees assume that the transaction would proceed in due course and would not involve extraordinary complications or delays, unexpected tax complications, or litigation or threatened litigation challenging the issuance or validity of the bonds. We request an opportunity to discuss modifications of our fee commensurate with the complexity of the financing to the extent they are unforeseeable.

It is our understanding that fees for any future transactions will be established at the time we are engaged by you on such additional Transaction.

The Firm represents and in the future will represent many other clients. Some may be your direct competitors or otherwise may have business interests that are contrary to your interests. It is even possible that, during the time we are working for you, an existing or future client may seek to engage us in connection with an actual or potential transaction or pending or potential litigation or other dispute resolution proceeding in which such client’s interests are or potentially may become adverse to your interests.

The Firm cannot enter into this engagement if it could interfere with our ability to represent existing or future clients who develop relationships or interests adverse to you. We therefore ask you to confirm that the Firm may continue to represent or may undertake in the future to represent any existing or future client in any matter (including but not limited to transactions, litigation or other dispute resolutions), even if the interests of that client in that other matter are directly adverse to the Firm’s representation of you, as long as that other matter is not substantially related to this or our other engagements on your behalf. In the event of our representation of another client in a matter directly adverse to you, however, the Firm’s lawyers or other service providers who have worked with you will not work for such other client, and appropriate measures will be taken to assure that proprietary or other confidential information of a non-public nature concerning you acquired by the Firm as a result of our representation of you will not be transmitted to our lawyers or others in the Firm involved in such matter.

In other words, we request that you confirm that (1) no engagement that we have undertaken or may undertake on your behalf will be asserted by you either as a conflict of interest with respect

to, or as a basis to preclude, challenge or otherwise disqualify the Firm from, any current or future representation of any client in any matter, including without limitation any representations in negotiations, transactions, counseling or litigation adverse to you, as long as that other matter is not substantially related to any of our engagements on your behalf, (2) you hereby waive any conflict of interest that exists or might be asserted to exist and any other basis that might be asserted to preclude, challenge or otherwise disqualify the Firm in any representation of any other client with respect to any such matter, (3) you have been advised by the Firm, and have had the opportunity to consult with other counsel, with respect to the terms and conditions of these provisions and its prospective waiver, (4) your consent to these provisions is both voluntary and fully informed, and (5) you intend for your consent to be effective and fully enforceable, and to be relied upon by the Firm.

You have the right to repudiate this waiver should you later decide that it is no longer in your interest. However, if we have acted in reliance on the waiver, we may have the right – and possibly a duty, under the applicable rules of professional conduct – to withdraw from representing you.

Please sign and return to me the enclosed copy of this letter in order to confirm that it accurately reflects the scope, terms and conditions with respect to this engagement. However, please note that your instructing us or continuing to instruct us on this matter will constitute your full acceptance of the terms set out above and attached. If you would like to discuss any of these matters, please give me a call. We appreciate your decision to retain us in this matter and very much look forward to the opportunity of working with you.

Sincerely,



Danny Kim  
of Nixon Peabody LLP

The undersigned has read and understands the above letter and enclosure, and accepts and agrees to all of their terms and conditions.

\_\_\_\_\_  
Date

City of Coachella

By: \_\_\_\_\_  
Name \_\_\_\_\_  
Title: \_\_\_\_\_



## **TERMS AND CONDITIONS OF ENGAGEMENT**

This document and the accompanying letter set forth the terms and conditions under which you are engaging Nixon Peabody LLP to provide legal services.

### **TERM OF ENGAGEMENT**

You may terminate our representation at any time upon reasonable notice, and we retain that right as well, subject on our part to the applicable rules of professional conduct. Your termination of our services will not affect your responsibility to pay for legal services rendered and charges incurred during the representation. In the event that we have devoted no time to this matter for any three consecutive months, then you agree we may conclude that the engagement has terminated as of the last date on which we performed services related thereto. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interests in this matter. If permission for withdrawal is required by a court, we will promptly apply for such permission, and you agree to engage successor counsel to represent you. In the event that our representation is terminated, you agree to pay all invoices thereafter rendered covering the period prior to the termination and covering an orderly transition of the matter.

### **CONCLUSION OF REPRESENTATION; RETENTION AND DISPOSITION OF DOCUMENTS**

Unless previously terminated, our representation of you will terminate upon our sending you our final invoice for services rendered in this matter. Following such termination, any otherwise non-public information you have supplied to us will be kept confidential in accordance with the applicable rules of professional conduct. Upon request, your papers and property will be available for you to pick up at our office or shipped to you at your expense. Our own files pertaining to the matter, which may include copies of your papers, will be retained by the Firm. You agree that Firm administrative records; time and expense reports; personnel and staffing materials; credit and accounting records; and the documents containing our attorney work product, mental impressions, notes, drafts of documents and legal and factual research, including investigative reports, shall be and remain Firm property and shall not be considered part of your client file. In addition, electronic documents such as our internal e-mails, documents containing or reflecting our internal deliberations or self-evaluations, and our internal databases shall be and remain Firm property and shall not be considered part of your client file. All such documents retained by the Firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the elimination of storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement. In any event, all



documents and other materials in our file may be discarded or destroyed, without further notice to you, at any time after the seven (7) year anniversary of the conclusion of our engagement.

### **CLIENT RESPONSIBILITIES**

You agree to pay our invoices for services and expenses upon receipt as provided in the accompanying letter. In addition, you agree to be candid and cooperative with us and to keep us informed with complete and accurate factual information, documents and other communications relevant to the subject matter of our representation or otherwise reasonably requested by us. Your Comprehensive General Liability or other liability insurance may provide some reimbursement for liability or defense costs in this matter. We urge you to contact your insurer or broker to determine the nature and extent of the applicable coverage, if any. Unless otherwise agreed in writing, it is your responsibility to pay the Firm for services rendered and to obtain reimbursement from your insurer. Upon either reasonable anticipation or actual notice of litigation, a party has a duty to take affirmative steps to preserve all potentially relevant evidence. As such, you may be required to preserve and produce electronically stored information such as e-mails, word processing documents, spreadsheets, and so forth as part of discovery.

### **CONSULTATION WITH FIRM COUNSEL**

The Firm represents many clients in a great number of complex matters. From time to time, questions arise as to our duties under the professional conduct rules. These might include, for example, conflicts of interest and issues arising from a dispute between us and a client over the handling of a matter. When such issues arise, we seek the advice of our general counsel or loss prevention partners who are expert in such matters. We consider such consultations to be attorney-client privileged communications between Firm personnel and counsel for the Firm. In recent years, some judicial decisions indicate that under some circumstances such communications may not be privileged. We believe that it is in our clients' interest, as well as ours, that in the event legal ethics or other issues arise during a representation, we receive expert analysis and advice as to our obligations to you. Accordingly, as part of our retention agreement, you agree that if we determine in our own discretion during the course of the representation that it is either necessary or appropriate to consult with the Firm's internal or outside counsel, we have your consent to do so and that our representation of you will not waive any attorney-client privilege that we may have to protect the confidentiality of our communications with our counsel.

### **CHARGES IN ADDITION TO FEES**

We will include on our invoices separate charges for services such as duplicating, messenger and delivery, travel, word processing, computer research, and filing fees. These charges will



generally be billed at actual cost. Some charges will include an allocation of overhead directly associated with the service provided. Fees and expenses of other providers (such as consultants, appraisers, and local counsel) generally will not be paid by us, but will be billed directly to you. Detailed information on our policy for charges and disbursements is available upon request.

### **POST-ENGAGEMENT MATTERS**

You are engaging the Firm to provide legal services in connection with a specific matter. After completion of the matter, changes may occur in applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after completion of the matter to provide additional advice on issues arising from the matter, the Firm has no continuing obligation to advise you with respect to future legal developments. In addition, unless you and the Firm agree in writing to the contrary, we will have no obligation to monitor renewal or notice dates or similar deadlines which may arise from the matter for which we had been engaged.

### **AGREEMENT MODIFICATIONS**

If you have any comments or questions concerning the terms of this engagement, or if you would like to discuss possible modifications, please do not hesitate to call your Client Attorney. Any revisions made to the agreement will be effective upon written notice of the revisions, following our approval.