

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is entered into by and among the Clean Water Coalition, a political subdivision of the State of Nevada created by an Interlocal Agreement on the 20th day of November, 2002 ("CWC"), the City of Henderson ("Henderson"), the City of Las Vegas ("Las Vegas") and the Clark County Sanitation District ("District"). Henderson, Las Vegas and the District may collectively be referred to as "Members."

Recitals

1. The CWC has been recently formed and currently has no Program Administrator to direct the daily affairs of the CWC, no financial staff to collect, disburse and manage CWC funds, no staff to create criteria to be presented to the CWC Board to establish a framework for recruitment of a Program Administrator for the CWC, no legal counsel and no staff to arrange for Board meetings of the CWC.

2. The Members each have personnel and staff which can be utilized by the CWC to undertake, for and on behalf of the CWC, the activities enumerated above in paragraph 1.

3. The Members are willing to undertake, on behalf of the CWC, the activities set forth in this Agreement for each Member to perform.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. District's Responsibilities under this Agreement:

1.1 The District will provide the services of Douglas Karafa, its Support Services Manager, to perform as Acting Program Administrator for the CWC until such time as the CWC has hired a permanent Program Administrator. In performing his duties hereunder to the CWC, Mr. Karafa shall perform the duties of a Program Administrator as provided in Section 9 of the CWC agreement.

1.2 The District will make its staff and resources available to the CWC to support the Program Administrator in carrying out his duties and in carrying out the administrative functions of the CWC, which shall include, but not be limited to the following:

- (1) Fiscal services, including collecting CWC funds, banking CWC funds or depositing such funds in separate accounts provided CWC funds are identified and are available for CWC use at all times, disbursing CWC funds as authorized within the budget approved by the CWC Board.
- (2) General administrative services, including secretarial and any other necessary support staff, including CWC telephone services utilizing, if requested by the CWC Board, separate CWC telephone and fax numbers and email address.

- 1.3 The District will undertake such additional administrative duties on behalf of the CWC as may be requested from time to time by the CWC Board, provided the District is agreeable to performing such duties.
- 1.4 The District shall maintain records of its staff time, resources and expenses attributable to operation of CWC business and shall, not later than the 15th day of each month, render a reasonably itemized statement to the CWC of such time and expenses. Invoices shall be paid by the CWC within thirty (30) days of receipt.
 - (1) Reimbursable expenses shall include, but shall not be limited to payroll, office supplies, postage, printing, travel, lodging data processing and insurance, if any.

2. Las Vegas' responsibilities under this Agreement:

- 2.1 The staff of Las Vegas will prepare, for presentation to the CWC Board, a proposal establishing a framework for recruitment of a permanent Program Administrator for the CWC. Such work shall include, but not be limited to the following:
 - (1) Creation of a job description consistent with paragraph 9 of the CWC Agreement.
 - (2) Recommendations regarding experience criteria to be considered by the CWC Board.
 - (3) Recommendations of salary and benefits applicable to the office of Program Administrator.
 - (4) Recommendations of methods to be used to attract potential applicants, including considerations of hiring a professional recruiting firm, public advertisement, or other.
- 2.2 Las Vegas agrees that its Human Resources Department and benefits administration resources will be available to the CWC for employee benefits and pension plan enrollment at such time as the CWC has hired a Program Administrator.
- 2.3 Las Vegas will undertake such additional administrative duties on behalf of the CWC as may be requested from time to time by the CWC Board, provided Las Vegas is agreeable to performing such duties.
- 2.4 Las Vegas shall maintain records of its staff time, resources and expenses attributable to its work described herein and shall, not later than the 15th day of each month render a reasonably itemized statement to the CWC of such time and expenses. Invoices shall be paid by the CWC within thirty (30) days of receipt.

3. Henderson's responsibilities under this Agreement:

- 3.1 Henderson agrees to furnish outside legal counsel to the CWC who shall attend all CWC Board meetings, advise the CWC on legal matters pertaining to its operation, assist in preparing documents, agendas, agreements and all other legal matters needed by the CWC. Henderson has advised the parties to this Agreement that it intends to hire Mr. Robert W. Marshall, senior partner of the law firm of Marshall, Hill, Cassas and de Lipkau, located in Reno, Nevada, to act as counsel to the CWC.**
- 3.2 Henderson agrees to host the meetings of the CWC Board and to prepare agendas and notices on a consistent basis, following Henderson's usual practice in such matters. Henderson agrees that all such notices will be consistent with Nevada's Open Meeting law and the CWC Agreement.**
- 3.3 Henderson will undertake such additional administrative duties on behalf of the CWC as may be requested from time to time by the CWC Board, provided Henderson is agreeable to performing such duties.**
- 3.4 Henderson shall maintain records of its staff time, Mr. Marshall's bills, and records of its resources and expenses attributable to its work described herein, and shall, not later than the 15th day of each month, render a reasonably itemized statement to the CWC of such time and expense. Invoices shall be paid by the CWC within thirty (30) days of receipt.**

4. Miscellaneous

- 4.1 Subject to CWC Board action to the contrary, the obligations of the District, Las Vegas and Henderson set forth herein shall continue through the current fiscal year which ends June 30, 2003.**
- 4.2 Reimbursable costs under this Agreement shall not exceed authorizations contained in approved budgets without specific CWC Board approval.**
- 4.3 All materials developed and prepared for or acquired by the CWC during the performance of services under this Agreement, including, without limitation, all finished or unfinished documents, research, memoranda, briefs, data, studies, surveys, drawings, manuals, maps, models, photographs and reports, shall be the property of the CWC.**
- 4.4 All costs, expenses or charges which are invoiced to the CWC from time to time by the parties hereto, shall represent, as nearly as can be reasonably calculated, the actual cost of the party with respect to the items invoiced, it being the express intent of the parties that no party hereto shall knowingly profit from the services herein agreed to be rendered to the CWC.**
- 4.5 Each of the parties hereto is an independent contractor and not an employee of the CWC.**
- 4.6 This Agreement shall be construed in accordance with Nevada law.**

4.7 No party shall assign its rights hereunder nor delegate its duties hereunder, except as provided herein, without the written consent of all parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2002.

CLEAN WATER COALITION

By _____
Chairman

Attest:

Shirley B. Parraguirre Clerk

CLARK COUNTY SANITATION DISTRICT

By _____
Chip Maxfield Chairman

Approved as to form:

Paul Johnson Deputy District Attorney

THE CITY OF HENDERSON

By _____
James B. Gibson Mayor

Attest:

Monica Simmons City Clerk

Approved as to form:

Shauna Hughes City Attorney

THE CITY OF LAS VEGAS

By _____
Oscar B. Goodman Mayor

Attest:

Barbara Jo Ronemus City Clerk

Approved as to form:

Shauna R. Green, Deputy
for Bradford R. Jerbic City Attorney

**INTERLOCAL COOPERATIVE AGREEMENT
ESTABLISHING THE CLEAN WATER COALITION**

THIS AGREEMENT is dated 20th day of November, 2002, among the City of Las Vegas, City of Henderson and the Clark County Sanitation District (Members), all of which are public agencies in the State of Nevada.

RECITALS:

- A. NRS 277.110 and 277.120 provide that any one or more public agencies may enter into agreement with any one or more other public agencies for the joint exercise of any power, privilege or authority exercised or capable of exercise by any one or more of the public agencies or for joint or cooperative action by the public agencies and may create a separate legal or administrative entity to conduct the joint or cooperative undertaking;
- B. Each of the Members share a common environmental, economic and regulatory interest in the efficient and responsible collection, treatment, reuse and discharge of municipal Effluent;
- C. The Members have a history of cooperatively working on programs and projects of common benefit and interest;
- D. Currently, the Members are working jointly with other agencies on studies of alternate Discharge options to address water quality issues in the Las Vegas Wash and Las Vegas Bay of Lake Mead, which have resulted in a program referred to as the System Conveyance & Operations Program (SCOP), that will result in the need for even greater coordination and cooperation in the funding, construction and operation of a regional system for the conveyance of Effluent;
- E. Discharges from each Member's treatment facilities must be in compliance with the effluent limitations as prescribed by their respective discharge permits issued in accordance with the provisions of NRS Chapter 445A;
- F. The Members desire to create a separate legal entity that will carry out the purposes and objectives of the Members with respect to Discharges from their respective treatment facilities, including the implementation of SCOP as it may be approved from time to time as provided herein. The Members further desire to transfer to the CWC (defined below in Section 1), as soon as possible, all functions and operations currently being undertaken pursuant to that certain interlocal agreement dated the 10th day of July, 2002 by and among the Members and the Southern Nevada Water Authority.

NOW, THEREFORE, the Members agree as follows:

Section I
CWC Created

1. There is hereby established a legal entity to be known as "Clean Water Coalition" (CWC). CWC is established by this Agreement pursuant to the provisions of Chapter 277 of NRS. CWC shall be a political subdivision of the State of Nevada and shall be separate from the Members, pursuant to NRS 277.074 and NRS 277.120.

Section II
Conferred and Prohibited Functions of CWC

2.1 **Conferred Functions:** To undertake implementation of all aspects of the Systems Conveyance and Operations Program (SCOP) as may be approved from time to time by the Governing Boards of each Member and by the Board of the CWC as provided in this Agreement.

2.1.1 SCOP means the planning, design, financing, construction, and operation and maintenance of a regional system for the conveyance of Effluent from the Cities of Las Vegas, Henderson, and the Clark County Sanitation District's wastewater treatment facilities and Discharges from other legal entities as the CWC Members approve, to the ultimate outfall location(s) returning Effluent to the Colorado River system or other locations as the CWC Members approve. The regional system may include:

- (a) Physical facilities such as pipelines, tunnels, energy recovery facilities, and all appurtenant structures.
- (b) Real and personal property, including leases of the same, rights-of-way, permits and licenses associated with the regional system facilities, including environmental impact statements.
- (c) Any other regional system facilities associated with the treatment and conveyance of Effluent, downstream of the discharge point of the Members treatment facilities.
- (d) Any other such items as listed in Paragraphs (a) through (c) of this section 2.1.1 that the Members, from time to time may include within SCOP.

2.1.2 To manage the sale, lease and use of Effluent flowing through CWC facilities, including entering into contracts and all necessary documents with respect thereto.

2.1.3 To enter into contracts for the sale or lease of power produced from energy recovery facilities which may be constructed as part of the CWC Facilities.

2.2 **Prohibited Functions:** Any function which is not a conferred function is a prohibited function.

2.2.1 Except to the extent permitted by applicable law, the CWC shall not perform any function or exercise any power that is not performable or exercisable by at least one of the Members.

2.2.2 Except as provided herein with respect to Members, nothing in this Agreement is intended to supercede or restrict the jurisdiction of any federal, state or local public entity.

Section III

Powers

3. **Powers:** In furtherance of the Conferred Functions, and subject to the limitations thereof, the CWC shall have the power to undertake any of the following:

- (a) To adopt and amend operating plans and procedures and policies for all CWC activities.
- (b) To adopt and amend Capital Improvement Plans.
- (c) To adopt and amend Capital Budgets and Operating Budgets.
- (d) To hire personnel, including legal counsel, and fix salaries and compensation for such personnel.
- (e) To contract for the services of engineers, attorneys, planners, financial and other consultants.
- (f) To have and exercise the power of eminent domain throughout Clark County, Nevada.
- (g) To contract with any Member or other public agency for the provision of services to or by the CWC.
- (h) To enter into such contracts for design, construction and other work as necessary to carry out its Conferred Functions and to exercise its powers.
- (i) To open and maintain bank accounts and to deposit funds therein and withdraw funds therefrom.
- (j) To sue and be sued in its own name.
- (k) To acquire, possess, own, lease, encumber and dispose of real and personal property, including easements and rights of way.
- (l) To obtain state, federal or local licenses, permits, grants, loans or aid from any agency of the United States, the State of Nevada or any other public or private entity necessary or convenient for the performance of any Conferred Function or the exercise of any of its powers.
- (m) To finance the design, construction, operation and maintenance of all facilities which may be needed to carry out the Conferred Functions of this Agreement, including the establishment of equitable funding arrangements for all aspects

of the development, construction and operation of the SCOP, with full power to borrow money, incur debts, liabilities and obligations, including the issuance of bonds, notes or other evidences of indebtedness.

- (n) To perform all other acts necessary or convenient for the performance of any Conferred Function or the exercise of any of its powers.
- (o) To enter into contracts to produce revenue for the CWC.
- (p) To assess Members for their agreed on share of administrative, operation and maintenance and capital costs of the CWC.
- (q) To assume contract obligations of any Member accruing after the Effective Date hereof pursuant to contracts existing on such date which pertain to the planning and design of CWC Facilities and the preparation of an environmental impact statement therefor.
- (r) To impose regional sewer connection charges or regional sewer surcharges to defray all or any portion of the costs of the CWC.

Section IV **Governing Board of CWC**

4.1 The business and affairs of CWC shall be conducted and managed by a governing board which shall be termed the Management Board ("Board"), which shall be subject to Nevada law pertaining to open meetings, if applicable.

4.2 The Board shall consist of one (1) representative from each Member signing this Agreement together with one (1) alternate representative from each Member. Each Member, concurrently with approving this Agreement, shall designate its representative and alternate to the Board. Each representative and alternate shall hold office until the Member appointing such representative or alternate selects a successor and notifies the Board in writing of each successor's appointment. In the absence of a Member's representative, that Member's alternate shall act as its representative. A Member's representative and alternate may, but need not be, a member of the governing board of such Member.

4.3 The officers of CWC shall consist of a Chairperson, a Vice Chairperson and Secretary who shall be Members of the Board. The Board shall, at its first meeting and at a meeting of the Board which shall be held in December each year, elect the Chairperson, Vice Chairperson and Secretary who shall serve until their successors are chosen. In the event an officer's appointment to the Board is terminated by the Member designating such officer, the Board shall select a replacement officer at its next meeting.

4.4 The Chairperson shall conduct the meetings of the Board or in his or her absence, the meetings shall be conducted by the Vice Chairperson. The Secretary shall be responsible for keeping accurate minutes of all meetings of the Board.

4.5 The time and place of regular meetings of the Board shall be determined by the Board from time to time, but such meetings shall be held at least every three (3) months. Any member of the Board may call a meeting of the Board, provided each member and alternate is given at least seven (7) working days' written notice and notice in accordance with Nevada's open meeting law. The Members of the Board may waive notice in writing or by attendance at a meeting.

4.6 A quorum for the transaction of business by the Board shall be present if there is a representative or an alternate present representing each Member signing this Agreement.

4.7 The following actions of the Board may be taken only if there is unanimous consent by the representative or an alternate of each Member signing this Agreement:

- (a) Appointment of a Program Administrator.
- (b) Approval and amendment of all Capital Improvement Plans.
- (c) Approval of all Annual Capital Budgets and Annual Operating Budgets.
- (d) Approval of Annual Operating Plans.
- (e) Authorization to borrow money.
- (f) Authorizing the levy of assessments against one or more of the Members or taking any action which would financially obligate one or more of the Members, except for actions taken against a Member for non-compliance with this Agreement.
- (g) Taking any action which may affect any Member's NPDES or similar discharge permits.
- (h) Admission of a new Member.
- (i) Approval of an agreement to accept direct Discharge into CWC Facilities from an entity that is not a Member.
- (j) Determining the point of connection between CWC Facilities and new or additional facilities which introduce additional Effluent into CWC's Facilities.
- (k) Disbursement of Excess Revenues.
- (l) Termination of this Agreement.
- (m) Contracts for the sale, lease or use of resources (real or personal property) including but not limited to Effluent or electrical energy.
- (n) Appointment of a Fiscal Agent of the CWC.

- (o) Appointment of an Operating Agent for the CWC.
- (p) Approval for a Member to exceed its CWC Facilities capacity allocated to it under the terms of this Agreement.
- (q) Imposition of regional sewer connection charges or regional sewer surcharges.
- (r) Modification of a Member's CWC Facilities capacity allocation granted to it under the terms of this Agreement.
- (s) Dispute resolution pursuant to Section 19.1 of this Agreement.

All other action of the Board shall be taken by majority vote of the Members of the Board.

4.8 The Board may adopt from time to time Rules for conduct of the business of the Board. Such Rules shall include an obligation on each representative to submit information on a timely basis as necessary for annual or more frequent approvals of Operating Plans and Budgets.

Section V
**Approval of Certain Matters by the
Governing Boards of the Members**

5. The approval of the governing boards of each Member, in addition to action taken by the Board as required by this Agreement, shall be required for the following actions:

- (a) Approval and amendment of all Capital Improvement Plans.
- (b) Approval and amendment of all Annual Operating Budgets and Annual Capital Budgets.
- (c) Authorization to borrow money.
- (d) Admission of new Members.
- (e) Modification of a Member's CWC Facilities Capacity Rights.
- (f) Termination of this Agreement.

Section VI
Fiscal Year

6. The Fiscal Year of CWC shall be July 1 through June 30.

Section VII
Principal Office

7. The Principal Office of CWC shall be as established by the Board.

Section VIII
Additional Members

8.1 In the event an entity other than the Members desires to become a Member of CWC, such entity may become a Member on such terms and conditions as the Board shall prescribe, provided that the terms and conditions shall include, without limitation, the following provisions:

- (a) That the NPDES permits of the Members will not be adversely effected by the proposed New Member using CWC Facilities.
- (b) That the proposed New Member will assume its pro-rata share of existing financial obligations of CWC in a manner acceptable to the Members. In the event each Member is jointly and severally liable for certain financial obligations of the CWC, the proposed New Member shall also assume joint and several liability in like manner as the existing Members.
- (c) The proposed New Member shall execute a copy of this Agreement and all amendments hereto and shall agree to be bound by all provisions hereof.
- (d) The proposed New Member shall, concurrently with execution of this Agreement and all amendments hereto, pay its proportionate share of all cash obligations of the Members for the then current period.
- (e) Any provision which may be appropriate as determined by the Board concerning purchase of an equity position in CWC.

8.2 Alternatively, in lieu of admitting an entity as a New Member, the Board may elect to accept such entity's Discharge through the CWC Facilities on such terms as the Board shall determine and for such charges as the Board shall determine, in its sole discretion, taking into account the Annual Capital Budget obligations, the Annual Operating Budget requirements, debt service and any other matters the Board deems relevant. Any action by the Board pursuant to this Section shall include the provisions of subparagraph (a) of Section 8.1, above.

Section IX
Program Administrator

9.1 The Program Administrator shall be the chief administrative officer of the CWC, shall be appointed by and serve at the pleasure of the Board and shall be responsible to the Board for the proper and efficient administration of the CWC.

9.2 Subject to direction by the Board and to such requirements as the Board may, from time to time impose, the Program Administrator shall have the power:

- (a) To plan, organize and direct all CWC activities;
- (b) Subject to law, appoint and remove CWC employees;
- (c) To enter into contracts on behalf of the CWC but only as approved by the Board; and
- (d) To take such action and authorize such expenditures as specifically authorized by the Board.

Section X **Discharge Standards**

10.1 Each Member shall adhere to the discharge standards set forth from time to time in its discharge permit issued by the Nevada Division of Environmental Protection ("NDEP"). The point of measurement of various elements and flows that are the subject of the discharge permit shall be at the point designated in each Member's permit.

10.2 It is the intent of the parties that each Member or other entity discharging Effluent into the CWC Facilities is responsible for maintaining the required standards for such Member's or entity's Discharge and that there shall be no independent obligation on CWC to treat Effluent nor to obtain its own NPDES or equivalent discharge permit from the NDEP or from any other governmental agency, unless otherwise required by law.

10.3 Except in the event of *force majeure* conditions or conditions acceptable to the NDEP giving rise to an excuse for non-performance, the CWC Board may, by majority vote, refuse to accept Discharge into the CWC Facilities from any Member or entity who does not comply with the terms of its discharge permit with respect to quantity or quality of Effluent discharged into the CWC Facilities by such Member or entity. Any refusal action taken by the Board pursuant to this Section may only be taken upon written notice to the Member or entity alleged to be violating the terms of its discharge permit, which shall be not less than ninety (90) days and upon credible technical evidence, satisfactory to the Board that such Member is not in compliance with the terms of its discharge permit. Any refusal action shall be taken only after consultation with the NDEP and shall be held in abeyance during the period the violating Member is actively taking such action as necessary to remedy the non-compliance with its discharge permit provided the other Members are not adversely affected thereby. In all cases, no action shall be taken by the Board without consultation with NDEP.

10.4 The cooperative flexibility with respect to each Member's Discharge obligations as set forth in Sections I.A.2.(a), (b), (c) and (d) of the existing discharge permits shall be maintained as set forth in such permits as they may be amended from time to time. With respect to waste load allocations and monitoring of receiving waters, the CWC concurs with the cooperative actions established in each Member's respective discharge permit as it may be modified by NDEP from time to time. For informational purposes, Members may furnish reports to the Board concerning such cooperative actions.

Section XI
Member Facilities - CWC Interface - Capacity Rights

11.1 Member owned and operated Discharge facilities shall consist of all existing facilities of each Member to the point of connection (Point of Connection), which shall be determined in each instance by the Board. All such facilities, including monitoring and measuring equipment shall be maintained by the Member owning the facilities. All facilities downstream of each Point of Connection shall be owned and maintained by the CWC from and after the Effective Date hereof. Promptly, on or after the Effective Date, each Member shall transfer title to any facilities it may own downstream of the Point of Connection to the CWC, free and clear of all encumbrances, together with easements not less than 30 feet in width on either side of the centerline of such facilities, together with necessary access easements from public roads.

11.2 All new or additional facilities which may in the future be designed to Discharge into the CWC Facilities shall be owned and maintained by the Member or entity whose Effluent is being discharged, to the Point of Connection with the CWC Facilities, at (or before) which point the Discharge shall be monitored and measured.

11.3 Various studies have been conducted in the past which have analyzed each Member's present and projected daily peak Discharge of Effluent from their respective Wastewater treatment facilities, which studies include the 1997 Wastewater Needs Assessment prepared by Montgomery Watson and the 2000/2001 Alternate Discharge Study Technical Memorandum notebook. Based on these studies and, as negotiated by the Members and subject to possible modification as set forth below, the Parties hereby agree to the following percentage capacity rights in the daily peak flow capacity of the facilities to be constructed by the CWC:

City of Las Vegas	40%
Clark County Sanitation District	46%
City of Henderson	14%

Until and unless modified as herein provided, such percentages shall be reflected in not only peak flow capacity rights but also in monetary obligations of the Members set forth in Section 14 hereof.

11.4 Prior to commencement of construction of the CWC Facilities, the projected capacity needs of the Members may be reviewed by the Board based on each Member's needs projections at that time. In the event the Board, by unanimous decision, modifies the peak flow capacity percentages of the Members from that set forth in Section 11.3, the proposed change shall be approved by the governing board of each Member as required by Section 5(e). On approval of the change, the Members' respective share of all CWC financial obligations as set forth in Section 14.2 of this Agreement shall be modified accordingly. The change shall not affect the Members' past financial obligations.

11.5 For a period of ten (10) years following commencement of construction of the CWC Facilities, the Members' Capacity Rights shall remain as set forth in Section 11.3 or Section 11.4, as the case may be. Thereafter, the Members' Capacity Rights may be adjusted as provided in this Section. Any Member or the CWC may trigger a re-evaluation of the capacity needs of the Members by giving written notice to all Members of a desire to re-evaluate such needs. The entire re-

evaluation process, from the written notice to approval of all governing boards of the Members described below, shall be concluded within one (1) year from the giving of the notice. Promptly, after the written notice, the CWC, at its expense, shall undertake such studies as may be reasonably agreed upon to determine if a modification of Capacity Rights and financial obligations of the Members is justified based on available data which may include such considerations as changing growth patterns. If it appears that some modification of Capacity Rights is justified, the Members shall negotiate the terms of such modification which shall include not only prospective modification of Capacity Rights and financial obligations, but shall also include compensation for past payments. The Members shall have no obligation to modify the Capacity Rights unless agreed on by all Members through their respective governing boards.

11.6 In the segment of the CWC Facilities between the Clark County Sanitation District Discharge and the City of Henderson Discharge, the peak flow capacity percentages shall be 46.5% City of Las Vegas and 53.5% Clark County Sanitation District. The peak flow capacity percentage of the segment described in this Section shall not affect the financial obligations of any Member set forth in Section 14. The percentages set forth in this Section are subject to modification as set forth in Sections 11.4 and 11.5.

Section XII
Water Rights

12. Each Member holds or has applied to the State Engineer for primary permits which cover the Discharge from their respective treatment facilities. Accordingly, it is the intent of the parties that each Member shall own its proportionate share of the combined Discharge through the CWC Facilities subject to the provisions of this Agreement until such time as the same is discharged into the Colorado River, at which time the Members understand that the Discharge constitutes return flow to the river for which the State of Nevada is entitled to credit from the United States Secretary of Interior under existing contracts.

Section XIII
Sale of Effluent and Other Revenues; Excess Revenue

13.1 In the event of a sale of Effluent to a third person purchaser from the CWC Facilities, the following provisions shall govern the division of the proceeds among the Members:

- (a) Regardless of the location at which the Discharge being sold is delivered to the purchaser, all of the proceeds shall be retained by the CWC and shall be used first to pay annual operating and annual capital expenses of the CWC and thereafter shall be applied to other obligations of the CWC as determined by the Board.
- (b) Except as provided in Section 13.3, the proceeds derived from the sale of Discharge shall not inure to the benefit of any particular Member or Members, or other entity, but shall be used to benefit the CWC as a whole.

13.2 In the event of sale of electrical energy produced by the CWC Facilities or the receipt by the CWC of other revenues not previously mentioned in this Section, the following provisions shall

govern disposition of such revenues:

- (a) All of such revenues shall be retained by the CWC and shall be used first to pay annual operating and annual capital expenses of the CWC and thereafter shall be applied to other obligations of the CWC as determined by the Board.
- (b) Except as provided in Section 13.3, the proceeds derived from the sale of energy and all other revenue shall not inure to the benefit of any particular Member or Members, or other entity, but shall be used to benefit the CWC as a whole.

13.3 Excess Revenue, defined as cash receipts in excess of all cash obligations, including sinking funds, in any fiscal year, shall be disbursed as determined by the unanimous decision of the Board.

Section XIV Fiscal Matters

14.1 **Annual Budgets.** Within ninety (90) days after the first meeting of the Board, an Annual Operating Budget and an Annual Capital Budget for the then current fiscal year shall be adopted for the CWC. Unless otherwise provided by law, tentative Annual Operating Budgets and Annual Capital Budgets shall be prepared for each ensuing fiscal year on or before March 15 with the final annual budgets being adopted on or before June 1st of each year.

14.1.1 The annual budgets shall be prepared in a line item format.

14.1.2 All Annual Operating Budgets and Annual Capital Budgets shall include all repayment obligations and long and short term contract obligations which become payable during the period covered by such budgets.

14.1.3 The CWC shall not, during any fiscal year, expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts appropriated in the annual budgets for any category of expenditure, unless such expenditure is specifically approved by the Board.

14.2 **Assessments and Contributions for Operating and Capital Expenses.**

14.2.1 Within thirty (30) days of the Effective Date, each Member shall make an initial contribution toward the expenses of the CWC which will be incurred prior to commencement of the first full fiscal year in the amount of \$50,000.00. Thereafter, prior to the first full fiscal year, the Members shall contribute such additional sums as needed to satisfy obligations incurred and to be incurred by the CWC for such period in the following percentages representing the Capacity Rights of the Members as set forth in Section 11.3:

City of Las Vegas	40%
Clark County Sanitation District	46%
City of Henderson	14%

These percentages are subject to modification pursuant to Sections 11.4 and 11.5.

14.2.2 Beginning with fiscal year 2003-2004, the financial obligations of the CWC with respect to all Annual Operating Budgets and all Annual Capital Budgets shall be satisfied by the Members in the respective percentages set forth in Section 14.2.1 above. The dates for payments to be made by the Members in satisfaction of their obligations hereunder shall be as determined by the Board. Each Member shall pay in full, when due, its obligations herein agreed to be paid. Each Member shall be liable to the CWC and every other Member to pay its respective share of Annual Operating and Annual Capital Budgets and any other obligations assessed against the Members in accordance with this Agreement.

14.2.3 Each Member shall determine from time to time in its sole judgment the method it chooses to raise funds needed to satisfy its obligations hereunder.

14.2.4 In the event, for whatever reason, insufficient revenue is collected by the CWC to satisfy all of its annual obligations (other than by reason of the default of a Member in paying its allocated share of such annual obligations) then such deficiency shall be assessed by the CWC against all Members in the same percentages set forth in Section 14.2.1.

14.2.5 In the event a Member defaults in paying when due any obligation assessed against such member in accordance with this Agreement, any other Member or Members may pay such defaulting Member's obligation and shall be entitled to collect from the defaulting Member interest on such payment or payments equal to one and one-half times the rate of interest most recently incurred by the Member or Members paying the obligation(s) of the defaulting Member. In the event the defaulting Member has not repaid its obligation(s) in full prior to the end of the fiscal year in which the default occurs, then the CWC and any Member paying all or a portion of the defaulting Member's obligation(s) may take such legal action as deemed appropriate to enforce payment of all defaulted obligations, including interest, reasonable attorney fees and court costs, notwithstanding any provision of Section 19 to the contrary.

14.2.6 The Board, in establishing Annual Operating Budgets and Annual Capital Budgets may establish such reserves as deemed appropriate by the Board and as may be required by any debt instrument of the CWC.

14.2.7 With the unanimous consent of the Board, any Member or other person or entity may act as the Fiscal Agent of the CWC.

14.2.8 Contributions or advances of public funds and of personnel, supplies, equipment or property may be made to the CWC by any Member for any of the purposes of this Agreement, with the consent of the Board. Any such advance may be made subject to repayment as agreed to by the Member and the CWC.

14.3 **Revenue Bonds.** The Board shall have the power and authority to issue revenue bonds, notes and other obligations for the purposes and in accordance with the procedure and requirements set forth in NRS 277.0705 through 277.0755.

14.4 **Other Indebtedness.** The Board shall have the power and authority to issue bonds,

notes and other indebtedness, and to execute leases, installment sale contracts or installment purchase contracts for the purposes and in accordance with procedures and requirements as permitted by law.

14.5 **Accounting Procedures.** Complete books and accounts shall be maintained for the CWC in accordance with generally accepted accounting principles and standards, including compliance with all applicable statutes and regulations. Unless otherwise provided by law, the CWC may, in accordance with its needs, maintain funds and account groups pursuant to NRS 354.604.

14.6 **Audit.** The CWC shall provide for an annual audit of all funds and accounts pursuant to NRS 354.624. The audit must cover the business of the CWC during the full fiscal year. The audit shall be made by a public accountant certified or registered or by a partnership or professional corporation registered under the provisions of NRS Chapter 628. Such financial audit shall be conducted in accordance with generally accepted auditing standards, including comment on compliance with all applicable statutes and regulations, recommendations for improvements and any other expression of opinion on any financial statements. The audit shall be completed and copies of the audit report provided to the Members not later than five (5) months after the close of the fiscal year for which the audit is conducted. The CWC shall act upon any recommendations of the report within three (3) months after receipt of the report, unless prompter action is required, pursuant to NRS 354.624.

14.7. **Reimbursement.**

14.7.1 No person, including Members, may receive reimbursement from the CWC for expenditures on behalf of the CWC in excess of \$25,000.00, unless the Board approves such reimbursement.

14.7.2 No person, including Members, may receive reimbursement from the CWC for expenditures on behalf of the CWC for amounts less than \$25,000.00 unless such reimbursement is approved in writing by the Program Administrator.

Section XV
Liabilities of the Authority

15.1 The debts, liabilities and obligations of CWC shall be the debts, liabilities and obligations of CWC alone and not any of the Members.

15.2 The Board shall provide for the timely payment of all liabilities and obligations of the CWC as the same may accrue from time to time.

15.3 The funds of CWC shall be used to defend, indemnify and hold harmless, the CWC, its officers and employees and any Member for actions taken within the scope of CWC. Nothing herein shall limit the right of CWC to purchase insurance to provide coverage for any of the foregoing.

15.4 CWC may, with Board approval, assume contract obligations of any Member accruing after the Effective Date hereof pursuant to contracts existing on such date which pertain to the planning and design of CWC Facilities and the preparation of an environmental impact statement

therefor.

Section XVI
Operation and Maintenance of Facilities

16.1 The operation and maintenance of CWC Facilities and equipment shall be conducted and/or administered as designated by the Board. The Board may appoint a Member or other person or entity to act as the Operating Agent for the CWC.

16.2 During the fiscal year preceding the fiscal year when it is anticipated by the Program Administrator that CWC Facilities will be in operation, the Program Administrator will submit to the Board within thirty days after such anticipation a Tentative Operating Plan. The Board shall approve an Operating Plan for the next fiscal year within thirty days following receipt of the Tentative Operating Plan. Thereafter, Tentative Operating Plans shall be submitted by the Program Administrator to the Board by March 15 each year and the Board shall approve such plans for the next fiscal year not later than June 1.

Section XVII
Withdrawal or Termination

17.1 The CWC shall continue in existence until dissolved in accordance with the terms of this Section.

17.2 A Member may withdraw from the CWC on such terms and conditions as may be specified in an agreement of withdrawal executed by all Members.

17.3 This Agreement may be rescinded and the CWC terminated by a written agreement of termination executed by all Members except during the term of any outstanding indebtedness incurred by or at the request of the CWC or for which the CWC is otherwise responsible, unless such indebtedness is dealt with in a manner satisfactory to the holder or holders of such debt and satisfactory to all of the Members.

17.4 On termination of the CWC, all of the assets of the CWC shall be disposed of in accordance with the above-referenced written agreement of termination.

Section XVIII
Notice

18. All notices under the Agreement shall be in writing and shall be deemed to be delivered on the earlier to occur of (i) the date of actual receipt of the Notice (regardless of how it is delivered), and (ii) whether or not actually received, two days after the notice has been deposited in the United States mail, postage paid, registered or certified mail, return receipt requested, addressed to the City or District, as the case may be at the addresses set forth below:

To Members: City Manager
 City of Las Vegas
 400 Stewart Avenue

Las Vegas, Nevada 89101

City Manager
City of Henderson
240 Water Street
Henderson, Nevada 89015

Director
Clark County Sanitation District
5857 E. Flamingo Road
Las Vegas, Nevada 89122

Section XIX **Dispute Resolutions**

19.1 Dispute Resolution by Board Action.

19.1.1 All disputes between the Members to this Agreement arising out of or relating to the performance of this Agreement or the breach thereof, shall first be presented for resolution to the Board in accordance with this Section. The unanimous decision of the Board shall be binding on all Members.

19.1.2 Filing. A Member's request to the Board for dispute resolution must be submitted in writing, setting forth the Members to the dispute, the requesting Member's allegations regarding the dispute, and be accompanied by any supporting documentation.

19.1.3 Notice. Notice of the written request for Board dispute resolution and the written request shall be served by the Member seeking dispute resolution on the other Member within five working days after the written request is filed with the Board. The requesting Member shall file proof of service with the Board within five days of service.

19.1.4 Hearing. The Board shall schedule a dispute resolution hearing not later than fifteen days after proof of service of a notice of written request for dispute resolution has been filed with it.

19.2 Dispute Resolution by Arbitration or Mediation.

19.2.1 Arbitration. Should the Board not be able to reach a unanimous decision on a dispute submitted to it for resolution pursuant to Section 19.1.1, any Member who is a party to the dispute may submit the dispute for arbitration in accordance with this Section.

19.2.2 Rules. All disputes submitted to arbitration pursuant to Section 19.2.1 shall be decided by arbitration in accordance with the Arbitration Rules of the Nevada Arbitration Association or the American Arbitration Association then existing, subject to any of the mandatory provisions of the Nevada Uniform Arbitration Act of 2000 set forth at NRS 38.206 to NRS 38.248, inclusive, to the contrary unless all the parties to the Agreement mutually agree otherwise.

19.2.3 **Right of Joinder.** Any arbitration arising out of or relating to this Agreement may include, by consolidation, joinder or in any other manner, any additional person not a Member to this Agreement if so requested by a Member to this Agreement. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein.

19.2.4 **Binding.** In the event arbitration is the designated forum, such arbitration shall be binding.

19.2.5 **Notice.** In order to be able to arbitrate any dispute between the Members, written notice thereof must be given by the Member requesting arbitration to the other Member within fifteen days after the Board has failed, pursuant to Section 19.1.1, to reach an unanimous decision regarding such dispute.

19.2.6 **Waiver.** The filing of the aforementioned notice of claim shall preserve that Member's right to arbitration, but shall not obligate the Member to proceed with arbitration. In the event that the Member requesting arbitration desires to proceed with arbitration, a written demand for arbitration shall be filed with the American Arbitration Association or the Nevada Arbitration Association within sixty days after the above notice of arbitration, and the failure to make such demand shall forever bar such dispute from being arbitrated.

19.2.7 **Mediation.** By mutual written consent, in addition to the remedy of arbitration, the Members may endeavor to settle the dispute in question between the Members by mediation in accordance with the current mediation rules of the Nevada Arbitration Association, the American Arbitration Association or other mediation service agreed to by the Members. Such mediation may occur at any time, including prior to the date that hearing may have been scheduled for the arbitration. If a written request for mediation arises prior to the expiration of the sixty day notice requirement set forth above, then such time period shall be tolled (i) for a period of ten days while the request is agreed to or denied, or (ii) if the request for mediation is agreed to, then until completion of the mediation.

Section XX **Miscellaneous Provisions**

20.1 **Terms of Agreement:** This Agreement constitutes the entire agreement and understanding of the Members hereto with respect to the subject matter hereof, and supersedes all other oral and written negotiations, agreements and understandings of every kind. The Members understand, agree and declare that no promise, warranty, statement or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any Member hereto or its officers, employees, or other agents to induce execution of this Agreement.

20.2 **Duration:** This Agreement shall be effective when approved by the governing boards of all Members and the condition of Section 22 has been satisfied ("Effective Date") and shall continue in force and effect until this Agreement is rescinded and the Authority is terminated as provided in Section 17 above.

20.3 **Applicable Law:** This Agreement shall be interpreted under the laws of the State of

Nevada, including but not limited to, Chapters 41 and 277 of the Nevada Revised Statutes.

20.4 **Amendment:** This Agreement may be amended by action taken by the governing board of each Member and upon any required approval given, or deemed to be given, by the Attorney General of Nevada.

20.5 **Assignment; Binding on Successors:** Except as otherwise provided in this Agreement, the rights and duties of the Members may not be assigned or delegated without the written consent of all Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations then in effect. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Members.

20.6 **Force majeure:** Force majeure means delays or defaults due to acts of God, government (other than acts or failure to act by the Members), litigation preventing performance of obligations imposed by this Agreement by any party, general strikes or any other event beyond a party's reasonable control.

20.7 **Severability:** If one or more clauses or provisions of this Agreement shall be determined by a court of competent jurisdiction to be unlawful, invalid or unenforceable, this Agreement shall nevertheless remain in full force and effect provided that the purposes of this Agreement shall not be impaired thereby nor shall any inequity to one or more Members result therefrom.

Section XXI **Definitions**

21.1 **Annual Capital Budget:** "Annual Capital Budget" means all obligations expected to require cash payment in a fiscal year pertaining to Capital Costs.

21.2 **Annual Operating Budget:** "Annual Operating Budget" means all obligations expected to be paid in cash in a fiscal year pertaining to operating the CWC Facilities and conducting the business of the CWC, other than Capital Costs.

21.3 **Board:** "Board" means the Management Board of the CWC.

21.4 **Capacity Rights:** "Capacity Rights" means the right of a Member to use a certain percentage of the peak flow capacity of the CWC Facilities as set forth in Section 11.

21.5 **Capital Costs:** "Capital Costs" means the cost of constructing, financing, acquiring, planning, designing, permitting (including environmental review and any mitigation costs and filing fees), CWC facilities and funding of reasonable construction reserves.

21.6 **Capital Improvement Plan:** "Capital Improvement Plan" means a plan extending over a designated period of time to construct or acquire CWC Facilities, including timelines, cost

estimates for various component parts of the CWC Facilities to be constructed or acquired, including all environmental and administrative costs and allocation of such projected costs among the Members by fiscal year.

21.7 CWC Facilities: "CWC Facilities" means the regional system constructed by CWC for the conveyance of Effluent, together with all component parts thereof, including electrical energy generating installations.

21.8 Discharge: "Discharge" means any release of Effluent from treatment facilities to a conveyance or to receiving water.

21.9 Effluent: "Effluent" means treated wastewater.

21.10 Fiscal Agent: "Fiscal Agent" means an agent, other than a CWC employee appointed by the Board to prepare budgets, arrange for financing for projects included in the Capital Improvement Plan, and to assist in all other fiscal matters as may be directed by the Board or the Program Administrator, including acting as fiscal manager of the CWC and/or lending its credit on behalf of the CWC with respect to borrowing funds on a short or long-term basis.

21.11 Member: "Member" means a party to this Agreement.

21.12 NDEP: "NDEP" means the Nevada Division of Environmental Protection.

21.13 NPDES: "NPDES" means National Pollutant Discharge Elimination System as set forth in the Clean Water Act, pursuant to which the Members' discharge permits are issued by the NDEP.

21.14 Operating Agent: "Operating Agent" means an agent, other than a CWC employee, appointed by the Board to operate the CWC facilities.

21.15 Treatment Facilities: "Treatment Facilities" means the devices and systems used in the storage, treatment, recycling and reclamation of sewage, or industrial waste of a liquid nature.

21.16 Wastewater: "Wastewater" means the spent or used water from a community or industry that contains dissolved or suspended matter.

Section XXII

Conditions to Effectiveness of this Agreement

22.1 This Agreement shall become effective when approved by the Attorney General of the State of Nevada pursuant to NRS 277.140.

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed as of

the date first written above in this Agreement.

Attest:

Shirley B. Parraguirre Clerk
Shirley B. Parraguirre

CLARK COUNTY SANITATION DISTRICT

By Chip Maxfield Chairman
Chip Maxfield

Approved as to form:

Paul Johnson Deputy District Attorney
Paul Johnson

Attest:

Monica Simmons City Clerk
Monica Simmons

THE CITY OF HENDERSON

By James B. Gibson Mayor
James B. Gibson

Approved as to form:

Shauna Hughes City Attorney
Shauna Hughes

Attest:

Barbara Jo Ronemus City Clerk
Barbara Jo Ronemus

THE CITY OF LAS VEGAS

By Oscar B. Goodman Mayor
Oscar B. Goodman

Approved as to form:

Bradford R. Jerbic City Attorney
Bradford R. Jerbic

Approved as to form and legality (NRS 277.140)
this 003 day of November, 2002.

FRANKIE SUE DEL PAPA
Attorney General of the State of Nevada

By: Ann P. Wall
Senior Deputy Attorney General