

## ADVANCED FUNDS AGREEMENT

This Advanced Funds Agreement (the "Agreement") is entered into as of December 13, 2017 ("Effective Date"), between the Indian Wells Valley Water District, a County Water District ("District") and the Indian Wells Valley Groundwater Authority, a Joint Powers Authority created pursuant to the provisions of California Government Code sections 6500 et seq., ("Authority"). District and Authority are sometimes hereinafter individually or collectively called a "Party" or the "Parties".

### RECITALS

**WHEREAS**, the Authority was formed after enactment of the "Sustainable Groundwater Management Act" ("SGMA") for the purpose of becoming the exclusive Groundwater Sustainability Agency and achieving groundwater sustainability through the adoption and implementation of a Groundwater Sustainability Plan ("GSP") for the Indian Wells Valley basin.

**WHEREAS**, the District is a General Member of the Authority exercising water supply responsibilities and is a significant pumper of groundwater within the Authority's boundary.

**WHEREAS**, the General Members of the Authority each provided a contribution of Fifteen Thousand Dollars (15,000.00) to initially fund the Authority.

**WHEREAS**, the Authority is presently in need of additional funds to continue work on the preparation of the GSP while other funding streams are developed in accordance with legal mandates.

**WHEREAS**, the Authority may impose additional assessments on its General Members and/or is authorized to levy assessments, charges and fees as provided in SGMA, including permit fees and groundwater extraction fees pursuant to California Water Code section 10730 to fund the costs, including preparation and adoption, of a GSP.

**WHEREAS**, District agrees to advance funds to the Authority in lieu of the Authority imposing any additional assessments on its General Members pursuant to the Authority's Joint Exercise of Powers Agreement and/or any assessments, charges and/or fees authorized by SGMA.

**NOW THEREFORE**, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and of the covenants and agreements herein contained, the Parties hereto agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide the Authority with funding capital to continue preparation of the GSP while the Authority prepares for and seeks to implement other funding sources.

2. Payment. District agrees to advance to the Authority up to Five Hundred Thousand Dollars (\$500,000.00) to fund preparation, Authority adoption and DWR evaluation and approval of the GSP. District agrees to immediately deposit with the Authority the sum of One Hundred Thousand Dollars (\$100,000) ("Initial Deposit"). The remaining funds will be retained by the District and deposited with the Authority on a monthly basis as the Initial Deposit is used by the Authority. The monthly amount to be deposited by the District shall be the amount needed at that time to bring the funds held by the Authority back to the amount of the Initial Deposit. The Authority shall submit a monthly invoice to District requesting any additional funds needed to bring the funds held by the Authority back to the amount of the Initial Deposit. The invoice shall include copies of all invoices/charges paid by the Authority from the Initial Deposit. District shall remit payment within thirty (30) days receipt of said invoice.

3. Reimbursement and/or Credit. The Authority hereby agrees that all monies paid by the District pursuant to this Agreement shall be subject to the following:

- (a) All money paid by the District pursuant to this Agreement shall have a first priority to reimbursement from other Authority funding sources, including Proposition 1 Grant funds, to the extent permitted by law.
- (b) The District shall receive credit for any money not reimbursed to the District pursuant to Section 3(a) herein, which shall be deducted from any future assessments, charges and/or fees imposed by the Authority to fund the costs of the GSP and/or the costs of groundwater management pursuant to SGMA and/or the GSP.
- (c) The Parties reserve the right to mutually agree upon different terms subject to the written approval of the Parties

4. Further District Payments. The Authority hereby agrees that District shall not be required to pay any additional funds to the Authority unless and until all funds paid by the District pursuant to this Agreement have been reimbursed pursuant to Section 3(a) herein and/or District's "credit" pursuant to Section 3(b) herein has been fully exhausted.

5. Accounting. The Parties agree to each maintain separate and distinct accounting of any funds advanced by District pursuant to this Agreement. The Parties shall meet and confer on a monthly basis to compare and reconcile any discrepancies the Parties may have with respect to the accounting of District funds advanced pursuant to this Agreement.

6. Dispute Resolution. In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination or breach of this Agreement, the Parties shall in good faith meet and confer in an attempt to informally resolve such matter(s). If the Parties are unsuccessful in resolving such matter(s) through an informal meeting process, they may attempt to resolve such matter(s) through mediation, through arbitration under the rules and regulations of the American Arbitration Association or they may exercise whatever other legal rights and remedies they may have.

7. Indemnity. The Authority hereby agrees and undertakes to indemnify, defend and hold harmless District, its officers, agents, and employees from any and all losses, costs, expenses (including reasonable attorneys' fees), claims, liabilities, actions or damages of any nature whatsoever, in any way arising out of or connected with or incident to or alleged to have arisen in any manner out of District's performance of this Agreement or to have occurred as a result of any acts or omissions by District, its officers, agents, and employees in the performance of this Agreement. Nothing herein shall alleviate the District from its obligations as a member of the Authority.

8. Termination. Either Party retains the right to terminate this Agreement, at its sole discretion, upon thirty (30) days written notice. Upon such termination, the Parties agree that any District funds advanced pursuant to this Agreement and/or further District payments shall be subject to the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

**INDIAN WELLS VALLEY  
WATER DISTRICT**

By: \_\_\_\_\_

Peter Brown, President  
Board of Directors

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY**

By: \_\_\_\_\_

Mick Gleason, Chairman  
Board of Directors