

AGREEMENT FOR GRANT OF EASEMENT

This Agreement for Grant of Easement ("**Agreement**") is by and between the CITY OF CATHEDRAL CITY, a California municipal corporation and general law city ("**City**") and Desert Water Agency, an independent special district of the state of California, ("**Owner**"). The City and Owner may be referred to individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

A. Owner owns that certain parcel of real property located within the City of Cathedral City, State of California, commonly known as Assessor's Parcel Number 677-420-024, and more particularly described as:

That portion of Section 17, Township 4 South, Range 5 East, San Bernardino Meridian, in the City of Cathedral City, County of Riverside, State of California, described in the Grant Deed recorded on June 18, 1987, as instrument No. 173244, in Official Records of Riverside County ("**Property**").

B. Owner desires to grant City a certain easement as set forth in this Agreement to accommodate the construction, maintenance and use of a paved pathway and related improvements intended for public use by pedestrians, bicycles and low speed electric vehicles, which may constitute a portion of a lengthier pathway to be known as CVLink all as more particularly described herein.

NOW, THEREFORE, in consideration of the above recitals, and the mutual covenants, terms, conditions, and restrictions contained herein, the Parties agree as follows:

OPERATIVE PROVISIONS

Grant of Easement Owner hereby grants to the City an easement (**Pathway Easement**") over specific portions of the Property, as more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference ("**Easement Area**").

Permitted Uses City shall have the right to use the Easement Area for construction, maintenance, and use as a public pathway allowing public ingress, egress, and access on, over and along the Pathway for pedestrians and bicyclists. City may allow motorized vehicles of City and other public agencies and utilities ingress, egress and access on, over and along the Easement Area as reasonably necessary for construction and maintenance of the Pathway or for emergency and public health and safety purposes. City shall further have the right to use the Easement Area to construct, install, maintain and repair the Pathway and any ancillary structures, landscaping, irrigation, lighting, necessary utilities, and similar improvements within the Easement Area. The Pathway may, at City's sole discretion, be constructed as a paved pathway. The City may also grant access to the Easement Area to other public agencies as reasonably necessary for such agencies to fulfill their governmental function. The City shall maintain the right to determine and designate which public uses, if any, are permissible on any portion of the Easement Area. Notwithstanding the above, Owner shall retain the right at all times to enter upon the Easement Area for purposes of obtaining access to, and utilizing, its property.

Construction and Maintenance

Pathway and Easement Area - City shall be solely responsible for construction, reconstruction, installation, improvement, repair, inspection, expansion, and maintenance of the Pathway. City shall maintain or cause to be maintained the Pathway and the Easement Area, in good and safe condition, at City's sole cost and expense. Maintenance may include, but is not limited to, maintaining, repairing and reconstructing the pathway surface, ancillary structures, landscaping, irrigation, lighting, necessary utilities, and similar improvements. City shall have the right to abate, mitigate or otherwise remedy any conditions within the Easement Area that, in City's reasonable determination pose a safety risk to Pathway users or otherwise interfere with the use of the Pathway, provided that such actions shall not interfere with Owner's reasonable use of the property. City, in its sole discretion, has the right to close the Pathway, for any duration and at any time City determines that closure is warranted in order to protect the public health, safety or welfare, including without limitation times of high flood danger, or presence of wild animals, and at times other segments of connecting public pathways are closed. Owner and its successors and assigns will have no obligation to maintain the Pathway.

Owner Property Fencing - City at its sole expense shall construct fencing around the remaining portion of the Property not included in the Easement Area, to secure the remaining portion of the Property. The fencing location, material type and height shall be subject to approval by Owner before construction and installation. Once installed, Owner will inspect workmanship to ensure fencing satisfies Owner's requirements. Any corrections due to noncompliance with Owner's requirements shall be performed by the City at no cost to the Owner. Owner will take ownership of the fencing and will be solely responsible to maintain the fencing once it has been inspected and accepted by Owner.

Indemnification

City has the sole responsibility for liability, operation, upkeep, and maintenance of the Pathway and the Easement Area. City agrees to indemnify, defend, and hold harmless Owner, its officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs whatsoever, including without limitation, claims by any person for property damage, personal injury or death of any person, whether public or private, arising from, or in any way related, to use of the Pathway or the Easement Area, or the condition, installation, construction, operation, maintenance, or lack of maintenance of the Pathway or related improvements, or the Easement Area by any person, except to the extent that any such liabilities are the result of the negligence or willful misconduct of Owner, its officers, agents, or employees. The duty of the City to indemnify and save harmless includes the duty to defend as set forth in Civil Code section 2778. Nothing in

this Easement limits the ability of Owner and the City to avail themselves of the protections offered by any applicable law affording immunity to Owner and the City.

Disputes and Remedies

Disputes between the Parties regarding nonperformance or default of the Agreement and/or the actual or threatened nonpermitted, encroachment, or damage to the Easement Area or the Pathway ("**Default**") shall be resolved in accordance with this Section.

Notice and Conference

If a dispute as contemplated above arises between the Parties, the aggrieved Party will provide, except as expressly provided for herein, written notice to the other Party of the alleged Default describing it with particularity and include a request for corrective action sufficient to cure the alleged Default and providing the Party with thirty (30) days' notice from the date of delivery of the notice to effect cure. Failure to provide written notice shall not be considered to be a waiver of the Default. The Parties shall meet and confer in good faith at least once during the thirty (30) day cure period with regard to resolving the alleged Default. In the event that physical damage to, or substantial interference with the use of, the Pathway has is imminent or has occurred, City shall have the right to take such reasonable actions to repair the damage and restore use of the Pathway as City deems reasonably necessary, provided that such actions shall not interfere with Owner's reasonable use of the property. In such event, City will provide written notice to Owner as soon as reasonably possible of the Default, the actions undertaken by City, and City's demands upon Owner for reimbursement or other corrective action to be undertaken within thirty (30) days.

Corrective Action

Corrective action may include, without limitation; (i) cessation of any nonpermitted use of the Easement Area; (ii) revocation or removal of any inconsistent easement, license, or right to use granted that impacts the rights afforded under this Agreement; (iii) removal of any actual or threatened encroachment to the Easement Area or Pathway; (iv) repair and or restoration of the Easement Area and/or Pathway; and/or (v) any other action that will reasonably correct the alleged Default, including the payment of damages and/or reimbursement of actual expended.

Relief

If the Party receiving notice under this Section fails to cure the alleged violation within 30 days after receipt of notice from the other Party, or under circumstances where the alleged violation cannot reasonably be cured within a 30-day period, fails to begin curing such alleged violation within the 30-day period and/or to continue diligently to cure such alleged violation until finally cured, the noticing Party may bring an action at law or in equity in a court of competent jurisdiction seeking to enforce the terms of this Agreement or to enjoin the continuance of the Default, by temporary or permanent injunction.

Forbearance

Enforcement of the terms of this Agreement are at the discretion of the noticing Party, and any forbearance by the noticing Party to exercise its rights under this Agreement in the

event of any breach of any term of this Agreement by the other Party will not be deemed or construed to be a waiver by the noticing Party of such term or of any subsequent breach of the same or any other term of the Agreement or of any of the noticing Party's rights under the Agreement. No delay or omission by the noticing Party in the exercise of any right or remedy upon any breach by the other Party will impair such right or remedy or be construed as a waiver.

Acts Beyond a Party's Control

Nothing contained in this Agreement may be construed to entitle a Party to bring any action against the other Party for any injury to or change in the Easement Area hereunder resulting from causes not involving any affirmative acts or negligence by such Party, or causes beyond such Party's reasonable control, including without limitation, trespassers, fire, flood, storm, and earth movement or other Acts of God, or from any prudent action taken by such Party under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area resulting from such causes.

Entire Agreement The Parties agree that this Agreement contains all of the agreements, promises and understandings between them related to the subject matter of this Agreement. No verbal or oral agreements, promises or understandings will be binding upon either Party in any dispute, controversy or proceeding at law. Any addition, variation or modification to this Agreement will be void and ineffective unless made in writing and signed by the Parties hereto.

Construction of Document The Parties acknowledge that this document may not be construed in favor of or against the drafter.

Applicable Law This Agreement is to be liberally construed in order to effectuate its purposes. This Agreement and the performance thereof will be governed, interpreted, construed and regulated by the laws of the State of California. The Parties agree that the venue for any litigation regarding this Agreement will be in Riverside County.

Partial Invalidity If any term of this Agreement is found to be void or invalid, then such invalidity will not affect the remaining terms of this Agreement, which will continue in full force and effect.

Successors and Assigns This Agreement is binding on the successors and assigns of the Parties and constitutes a covenant running with the land that binds the heirs, personal representatives, successors and assigns of the Parties. Owner acknowledges and agrees that City may assign the maintenance obligations for the Pathway; provided, however, that City will remain responsible for ensuring the overall condition and maintenance of the Pathway.

Construction of Agreement The captions preceding the Sections of this Agreement are intended only for convenience of reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof. Whenever the singular is used, the same includes the plural and vice versa and words of any gender include the other gender. As used herein, "including" means "including, without limitation."

Further Assurances Each Party agrees to execute any documents and instruments which any Party deems reasonably necessary or appropriate to carry out the purposes of this Agreement.

Notices Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner: Desert Water Agency
P.O. Box 1710
Palm Springs, California 92263
Attn: General Manager

To City: City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, California 92234
Attn: City Engineer

or to such other address as either Party from time to time designate by written notice to the other Party.

Recordation

This instrument will be recorded by City in the Official Records of the County of Riverside, California. Either Party may re-record this Agreement whenever re-recording is required to preserve such Party's rights hereunder.

No Third-Party Rights

This instrument is made and entered into for the sole benefit and protection of Owner and City and their respective heirs, grantees, successors, and assigns. No person or entity other than the Parties hereto and their respective heirs, grantees, successors, and assigns will have any right of action under the Agreement or any right to enforce the terms and provisions of this Agreement.

Authority to Sign

Each of the Parties executing this Agreement represent that they have authority and power to sign this Agreement on behalf of Owner and City, respectively.

Incorporation of Recitals

Each of the Parties acknowledges that the statements contained in the Recitals are true and correct as of the date of this Agreement. The Recitals are hereby incorporated into this Agreement as if set forth fully herein.

The terms and covenants of this Agreement shall bind and inure to the benefit of the heirs, executors, administrators and assigns of Desert Water Agency and to the successors and assigns of City of Cathedral City.

IN WITNESS WHEREOF, this instrument is executed on this, the 2 day of August, 2017

DESERT WATER AGENCY

By: Mark A Krause

Title: General Manager

NOTARY ACKNOWLEDGMENT

(See attached)

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside

} ss.

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the attached instrument and acknowledged to me that he/she/they executed same in his/her/their authorized capacity(ies), and that, by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

Notary Seal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Riverside

On August 2, 2017

Date

before me,

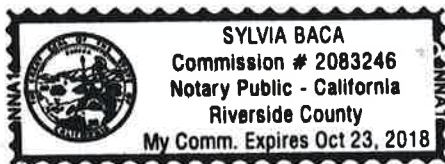
Sylvia Baca Notary Public

Here Insert Name and Title of the Officer

personally appeared Mark S. Krause

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Sylvia Baca

Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

CITY OF CATHEDRAL CITY

By: _____

Title: _____

NOTARY ACKNOWLEDGMENT

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Riverside

} ss.

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the attached instrument and acknowledged to me that he/she/they executed same in his/her/their authorized capacity(ies), and that, by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

Notary Seal

EXHIBIT "A"

LEGAL DESCRIPTION OF EASEMENT FROM DESERT WATER AGENCY

That portion of Section 17, Township 4 South, Range 5 East, San Bernardino Meridian, in the City of Cathedral City, County of Riverside, State of California, described in the Grant Deed recorded on June 18, 1987, as Instrument No. 173244, in Official Records of Riverside County, more particularly described as follows:

Beginning at the intersection of the North right of way line of Ramon Road, being a line parallel with the South line of said Section 17, and distant Northerly 40 feet, measured at right angles, from said Section line, and the Easterly line of the parcel described in the above Grant Deed, said Easterly line being a curve, concave Westerly and having a radius of 30,030 feet, said curve being concentric with the Westerly line of said parcel, said Westerly line being a curve, concave Westerly and having a radius of 30,000 feet, said Westerly line also being the Westerly line of the Whitewater River storm channel, as described in the Deed of Easement recorded on September 1, 1960, in Book 2760, at Page 34, as Instrument No. 77268, in said Official Records, Official Records, a radial of said 30,030 foot radius curve through said Beginning Point bears North 69° 15' 44" East;

Thence, Northerly along said 30,030 foot radius curve, through a central angle of 00° 42' 34", an arc length of 371.84 feet to the beginning of a non-tangent curve, concave Westerly and having a radius of 19,988 feet, a radial of said 19,988 foot radius curve bears North 71° 06' 28" East;

Thence, Southerly along said 19,988 foot radius curve, through a central angle of 00° 14' 59" an arc length of 87.12 feet;

Thence, South 18° 38' 33" East, 207.08 feet;

Thence, South 51° 21' 27" West, 18.10 feet to a point on the above described 30,000 foot radius curve Westerly line of the Whitewater River storm channel, said point also being the Northernmost point of that portion of Lot "A" of Parcel Map No. 14820, as shown on the map filed in Book 91, at Pages 7 and 8 of Parcel Maps, Records of Riverside County, accepted for highway dedication by Riverside County Board of Supervisors Resolution No. 81-173, recorded on June 8, 1981, as Instrument No. 105065, in said Official Records, a radial of said 30,000 foot radius curve through said point bears North 69° 07' 27" East;

Thence, Southerly along said 30,000 foot radius Westerly line, through a central angle of 00° 07' 00" an arc length of 61.09 feet to a point on the above described North right of way line of Ramon Road;

Thence, Easterly along said North right of way line, North 89° 48' 32" East, 32.04 feet to the Point of Beginning.

Containing 4045 square feet, more or less.

Prepared by: _____
David R. Faessel RCE 18731

W'LY LINE OF 24'
EASEMENT
INTERSECTS DWA
LINE AT THIS POINT

N 71°06'28" E (R)
RADIAL OF 20,000'

W'LY R/W LINE
WHITEWATER STORM
CHANNEL
SEPT. 1, 1960
BOOK 2760, P.34
INST 77268, O.R.

N 71°21'27" E (R)

R=30,000'

30' STRIP TO
DESERT WATER AGENCY
6-18-1987, INST #173244

N 51°21'27" E
18.10'

N 69°07'27" E (R)
▲ = 0°05'09"
R= 30,000'
L= 44.94'

▲ = 0°07'00"
R= 30,000'
L= 61.09'

N 89°48'32" E
3,815.71

CL RAMON RD
(S. LINE SEC 17)

N 89°48'32" E

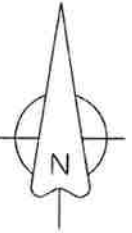
N 89°48'32" E

SW COR E 1/2 OF SE 1/4 OF SEC 17

N R/W
RAMON RD



EASEMENT FROM
DESERT WATER AGENCY



City of Cathedral City
660 700 Avenida La Banderita
Cathedral City, CA 92234
PH: (760) 795-0340

EXHIBIT B WHITEWATER BIKE PATH EASEMENT

GRANTOR: DESERT WATER AGENCY

Scale 1"=60'

Date 5/24/2017

Sheet 1 of 1 Sheets

Drawn by ERP
Checked by DF