

CONTRACT EXECUTION REQUEST

CITY AGENCY _____ UTILITY _____ DATE SUBMITTED TO CCT 9/27/12

NEW AGREEMENT AMENDMENT _____ (AGREEMENT NO.) 10/3/12

COUNCIL/AGENCY/UTILITY APPROVAL DATE (if applicable) 9/25/12

CONTRACTOR/CONSULTANT California Domestic Water Company
MAIN SAN GABRIEL GROUNDWATER BASIN

DESCRIPTION OF SERVICE LEASE OF ANNUAL WATER PRODUCTION RIGHTS

COMMENCEMENT DATE UPON EXECUTION 10-05-12 ONGOING _____

EXPIRATION DATE 6/30/2016 UPON COMPLETION (Approximate Date) _____

INSURANCE CERTIFICATE(S) ATTACHED:

YES _____ NO, NOT REQUIRED PER CITY ATTORNEY

DEPARTMENT CONTACT PERSON DAN WALL

CONTRACT AMOUNT: \$4.8 MILLION PER YEAR

**AGREEMENT FOR LEASE OF ANNUAL
WATER PRODUCTION RIGHTS**

THIS AGREEMENT is made and effective as of July 1, 2012 ("Effective Date"), between the City of Whittier ("Lessor") and California Domestic Water Company ("Lessee"). Lessor and Lessee are sometimes individually referred to herein as a "Party" and are sometimes collectively referred to herein as the "Parties."

RECITALS

WHEREAS, both Lessor and Lessee are parties in that certain action that adjudicated groundwater rights in the Main San Gabriel Groundwater Basin (Upper San Gabriel Valley Municipal Water District v. City of Alhambra, et al., Los Angeles County Superior Court Case No. 924128) and has resulted in the Amended Judgment dated August 24, 1989 (the "Amended Judgment"); and

WHEREAS, pursuant to the Amended Judgment, both Lessor and Lessee hold certain adjudicated rights to pump groundwater from the Main San Gabriel Groundwater Basin ("Main Basin") on an annual basis which are further described in the Amended Judgment and referred to for purposes of this Agreement as "Annual Production Rights"; and

WHEREAS, pursuant to the Amended Judgment, including but not limited to Section 55 thereof, parties to the Amended Judgment are authorized to assign, transfer, license or lease all or any portion of their Annual Production Rights to other entities, including but not limited to other parties to the Amended Judgment, provided that appropriate notice procedures established by the Main San Gabriel Basin Watermaster ("Watermaster") are followed; and

WHEREAS, Lessee desires to lease from Lessor, and Lessor desires to lease to Lessee, a minimum of two-thousand (2,000) acre-feet per year of Lessor's Annual Production Rights in each of the four Fiscal Years 2012-2013, 2013-2014, 2014-2015, and 2015-2016 (the "Lease Years"); and

WHEREAS, Lessor warrants and represents that it has and will have a minimum of two-thousand (2,000) acre-feet per year of Annual Production Rights available for lease to Lessee under this Agreement in each of the Lease Years, and that Lessor has not and will not pump, transfer, license or lease all or any portion of said Annual Production Rights to any other party, person or entity.

NOW, THEREFORE, Lessor and Lessee agree to the terms and conditions set forth herein:

1. Water Rights Leased

A. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the right to extract two-thousand (2,000) acre-feet per year of Lessor's Annual Production Right from the Main Basin in each of the Lease Years (Fiscal Years 2012-2013 through 2015-2016, inclusive), an additional four-thousand (4,000) acre-feet of Lessor's Annual Production Right from the Main Basin in the 2012-2013 Lease Year, and up to an additional four-thousand (4,000) acre-feet of Lessor's Annual Production Right from the Main Basin in each of the subsequent Lease Years (Fiscal Years 2013-2014 through 2015-2016, inclusive) as are determined by the Lessor to be excess to the needs of the Lessor in each of the said subsequent Lease Years. Lessee agrees to put all amounts of water extracted under this Agreement to reasonable and beneficial use.

B. For the Lease Years 2013-2014 through 2015-2016, Lessor shall inform Lessee, in writing, of the quantity of additional Annual Production Right available for lease by June 15, of the preceding Lease Year.

C. For purposes of computing the Parties' respective carryover, assessments, and other rights and obligations under the Amended Judgment, Lessee's Annual Production Right under the Amended Judgment shall be increased, and Lessor's Annual Production Right under the Amended Judgment shall be decreased, by the quantity of Annual Production Right Leased per year for each of the Lease Years covered by this Agreement. Except for the rights expressly leased under this Agreement, Lessee shall not acquire any other current or future right, title or interest in any water rights held by Lessor under the Amended Judgment or otherwise held by Lessor now or in the future.

D. The Lessor, every Lease Year, shall grant by proxy to the Lessee one vote for each one hundred acre-feet of Annual Production Right leased in that Lease Year, up to the total number of votes to which the Lessor is entitled in accordance with the Amended Judgment and Watermaster Rules and Regulations in effect for that Lease Year.

2. Term

The Term of this Agreement shall commence on the Effective Date and upon execution of this Agreement by both Parties and shall remain and continue in effect until June 30, 2016, except as provided in Section 1.C above for purposes of computing the Parties' respective rights and obligations under the Amended Judgment.

3. Compliance with the Amended Judgment, Watermaster Rules and Regulations, and Other Procedures

A. In each Lease Year of this Agreement, the Parties agree to execute and file with Watermaster a Temporary Assignment or Lease of Water Right form, as provided in Exhibit "D" of the Watermaster Rules and Regulations (the "Watermaster

Form"), that sets forth the annual quantity of Annual Production Rights to be leased by Lessor to Lessee for that Lease Year in accordance with this Agreement. In accordance with the Watermaster Rules and Regulations, including but not limited to Section 13(b) and Section 13(g), the Parties agree to file the Watermaster Form with Watermaster within fifteen (15) days of the Watermaster Form being fully executed by the Lessor.

B. Lessee shall report all of its extractions made pursuant to this Agreement to Watermaster and to any and all other entities to whom such information must be provided. Specifically, Lessee shall note, in any recording of water production from the Main Basin, any and all amounts of pumping that was done by Lessee pursuant to this Agreement.

C. In the exercise of any rights conferred upon Lessee under this Agreement, Lessee shall comply with and be bound by all terms and conditions of the Amended Judgment, the Watermaster Rules and Regulations, and any and all other orders or determinations of the Court or Watermaster.

4. Payment

A. Lessee shall pay to Lessor the sum of four million and eight-hundred thousand dollars (\$4,800,000) for 2,000 acre-feet per year of Lessor's Annual Production Right in each of the Lease Years (Fiscal Years 2012-2013 through 2015-2016, inclusive, totaling 8,000 acre-feet) at a rate of six hundred dollars (\$600) per acre-foot (the "Payment"). Payment by Lessor under this Agreement shall be made no later than (A) thirty (30) days after the Parties have filed the first Watermaster Form with Watermaster in accordance with Section 3.A above.

B. Lessee shall pay to Lessor at a rate of five hundred twenty-five dollars (\$525) per acre-foot for additional Annual Production Right leased from Lessor in excess of the said 2,000 acre-feet leased per year in each of the Lease Years. Payment for this additional Annual Production Right shall be made no later than September 1, of the calendar year immediately following the Lease Year in which the Annual Production Right was leased.

5. Payment of Assessments

In addition to the Payment set forth in Section 4 above, Lessee shall pay any and all applicable Watermaster assessments related to the production of any water leased under this Agreement.

6. Water Quality

Lessor makes no warranties or representations, and assumes no liabilities, obligations or responsibilities of whatever nature to Lessee or any other person or entity

with respect to the quality of any water extracted for any purpose by Lessee under this Agreement.

7. Indemnification

A. Lessee assumes the sole risk for the exercise of any and all rights conferred on it by this Agreement. Lessee agrees and does hereby indemnify, defend, save, and hold harmless Lessor, and its elected and appointed officials, officers, agents, employees, consultants and attorneys (collectively, "Indemnified Parties") as follows:

1. From and against any and all losses, damage, liability, actions, claims, costs, and expenses from damage, of any nature, including, but not limited to, bodily injury, occupational disease, death, person injury, property damages, reasonable attorneys' fees and court costs (hereafter "Loss"), relating to or arising out of the exercise of any rights conferred hereunder on Lessee; provided, however, that Lessee's obligations under this Section 7 shall not apply to any Loss as defined herein arising out of or resulting in any manner from the negligent act or acts of any of the Indemnified Parties as defined herein; and

2. From and against any and all costs, expenses, or charges which may accrue to any persons furnishing or supplying work, services, materials, equipment or supplies to Lessee in connection with its performance of or rights under this Agreement.

B. In the event that Lessee or Lessor are sued by a third party for damages caused or allegedly caused by negligent or other wrongful conduct by Lessee or any of Lessee's elected or appointed officials, officers, agents, employees, consultants or attorneys, or by an alleged dangerous condition of property created by Lessee, Lessee shall not be relieved of its indemnity obligation to Lessor by any settlement with any such third party unless that settlement includes a full release and dismissal of all claims by the third party against the Indemnified Parties.

8. Breach and Termination

In the event of any material breach of this Agreement by either Party, the Party alleging the breach shall notify the other Party in writing of said breach, and the Party alleged to be in breach shall have thirty (30) days from its receipt of such written notice in which to cure said breach. If the alleged breach is not cured within the timeframe specified by this Section 8, the Party alleging breach shall be entitled to any and all remedies, which may be available to it at law or in equity, including but not limited to termination or specific performance of this Agreement.

9. Notices

Any notice which either Party may give to the other Party under this Agreement must be in writing and may be given either by (A) personal service; (B) delivery by a

reputable document delivery service, such as, but not limited to, Federal Express, which provides a receipt showing date and time of delivery; or (C) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the Party as set forth below or at such other address as the Party may later designate by the notice procedure herein provided.

To Lessor: City of Whittier
 Attention: Assistant Director of Public Works (WUA)
 13230 Penn Street
 Whittier, CA 90602-1772

To Lessee: California Domestic Water Company
 Attention: Jim Byerrum
 15505 Whittier Boulevard
 P.O. Box 1338
 Whittier, CA 90609-1338

10. Assignment

Neither Party shall assign, let or sublet the whole or any part of its interest in this Agreement without the prior written consent of the other Party.

11. No Third Party Beneficiaries

This Agreement does not create, and shall not be construed to create, any rights enforceable by any person, partnership, corporation, joint venture, limited liability company, public entity, or other form of organization or association of any kind that is not a party to this Agreement.

12. Attorneys' Fees

In the event of any action between the Parties hereto seeking enforcement or interpretation of any of the provisions of this Agreement, the prevailing Party in such action shall be entitled to an award, in addition to any damages, for its reasonable costs and expenses, including without limitation, actual costs and attorneys' fees, consultants' fees and experts' fees, as ordered by the trier of fact.

13. Binding Effect and Governing Law

This Agreement is intended to be and shall be binding upon and enforceable against each of the Parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. Waiver

Any waiver of the provisions of this Agreement by the Party entitled to the benefits thereof as to any instance must be in writing and shall in no event be deemed a waiver of the same provision with respect to any other instance or a waiver of any other provision of this Agreement.

15. Entire Agreement and Amendments

This Agreement, together with the Watermaster Forms to be filed in accordance with Section 3.A above, constitute the entire agreement between the Parties with respect to the subject matter hereof. All prior agreements with respect to the subject matter hereof, whether verbal or written, are hereby superseded in their entirety by this Agreement and the Watermaster Form and are of no further force or effect. Amendments to this Agreement or the Watermaster Form shall be effective only if in writing and signed by the authorized representatives of the respective Parties.

16. Counterparts

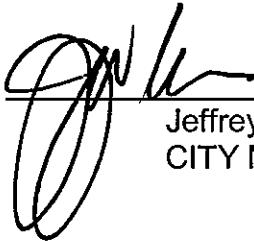
This Agreement may be executed in counterparts by the Parties and shall become effective and binding upon the Parties at such time as all of the signatories hereto have executed the original or a counterpart of this Agreement. All counterparts so executed shall constitute one and the same Agreement, binding upon each of the Parties hereto, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Facsimile and electronic copies of signatures shall be binding for all purposes.

17. Authority

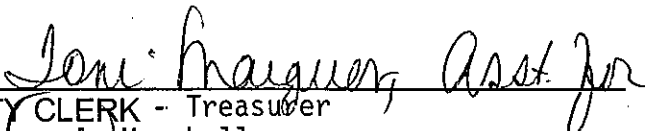
In signing below, each Party represents and warrants to the other Party that each is a duly organized or constituted entity, with all requisite power to carry out its obligations under this Agreement, and that the execution, delivery and performance of this Agreement have been duly authorized by all necessary action(s) of the elected or other governing body of such Party, and that the person executing this Agreement on behalf of a Party is authorized to bind that Party to this Agreement for all purposes.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CITY OF WHITTIER

By:  _____
Jeffrey W. Collier
CITY MANAGER

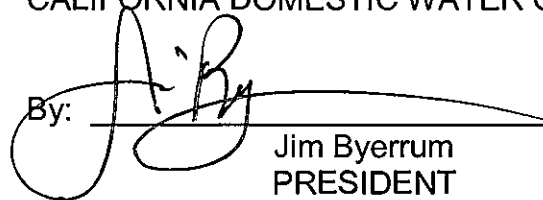
ATTEST:

 _____
CITY CLERK - Treasurer
Kathryn A. Marshall

APPROVED AS TO FORM:

 _____
CITY ATTORNEY
Richard D. Jones
Paeter E. Garcia

CALIFORNIA DOMESTIC WATER COMPANY

By:  _____
Jim Byerrum
PRESIDENT