

AGREEMENT FOR SUPPLY OF IMPORTED SPREADING WATER

This Agreement for supply of imported spreading water (“Agreement”) is entered into by and between the **Central Basin Municipal Water District** (“CBMWD”) and the **Water Replenishment District of Southern California** (“WRD”) as of _____, 2004 (the “Effective Date”).

I. RECITALS

A. WRD is a replenishment district formed pursuant to the Water Replenishment Act, California Water Code sections 60000, *et seq.* WRD is authorized by that statute to protect and preserve the quantity and quality of the groundwater supplies in the Central Groundwater Basin and is further authorized to take any actions, including, but not limited to, buying, selling, exchanging, recapturing, importing, storing, transporting or treating water for the beneficial use of persons or property within the Central Groundwater Basin.

B. CBMWD is a municipal water district formed pursuant to the Municipal Water District Law, California Water Code sections 71000, *et seq.* Among other things, CBMWD is authorized to sell or otherwise put to beneficial use water that it imports through the Metropolitan Water District of Southern California (“MWD”).

C. CBMWD relies on revenue from its administrative surcharge from all of its customers that purchase imported water, including the WRD, to fund its operations, including but not limited to, water supply planning and development, conservation, outreach and education, infrastructure repair and replacement, and water quality.

D. WRD’s demand for imported spreading water from CBMWD can fluctuate significantly year-to-year, resulting in revenue to CBMWD that falls short of budget in some years, and exceeds budget in other years.

E. Both CBMWD and WRD seek an arrangement regarding CBMWD’s sale of imported spreading water to WRD that will provide mutual benefits, and cost savings to groundwater producers in both the Central and West Coast Groundwater Basins.

F. CBMWD desires revenue stability during years in which WRD may purchase less imported spreading water than anticipated and budgeted for by CBMWD.

G. WRD desires economic flexibility to purchase additional imported spreading water when available for groundwater replenishment

H. CBMWD and WRD seek to enter into a long term contract for the supply and delivery of imported spreading water for the desired benefits in Recitals F and G, above.

II. TERMS OF THE AGREEMENT

For good and valuable consideration, including the promises and covenants contained herein, the Parties agree as follows:

A. Annual Payment.

1. WRD agrees to pay CBMWD an annual payment for imported spreading water ("Annual Payment"). The Annual Payment shall initially be \$800,000. but may be adjusted as set forth in Section II(A)(4) below. CBMWD shall invoice WRD by July 1 of each year, for spreading water to be delivered in that fiscal year. WRD shall make payment within 30 days of receipt of invoice. For the initial period beginning July 1, 2004, and ending June 30, 2005, WRD shall make its Annual Payment by November 1, 2004.

2. The Annual Payment is equivalent to the CBMWD Administrative Surcharge (\$37/AF) times the "Baseline" quantity of imported spreading water (21,622 AF).

3. The Annual Payment entitles WRD to purchase imported spreading water at the MWD wholesale rate (currently \$233 per acre-foot). The MWD wholesale rate is determined annually by the MWD Board of Directors.

4. The Annual Payment may increase annually by no more than the percentage rate increase in the Consumer Price Index ("CPI") – All Urban Consumers – All items, averaged over the prior five years for the Los Angeles, Riverside, and Orange County areas.

B. Interruptions.

In the event that MWD interrupts the availability of imported spreading water to the degree the Baseline quantity demand cannot be met by a significant factor over a period of more than one fiscal year (beginning July 1 and ending June 30), the Parties will negotiate in good faith an appropriate reduction in the Annual Payment.

C. Conjunctive Use.

This Agreement applies solely to the purchase of imported spreading water for replenishing the Central Groundwater Basin pursuant to the current Central Basin Judgment and does not apply to Conjunctive Use storage activities.

D. Term.

This Agreement is for a term of five (5) years with automatic renewal. At the end of the first five-year period and every five years thereafter, the Annual Payment can be adjusted up or down as agreed to by both Parties. Either Party may elect to terminate this Agreement only upon a material default by the other party.

E. Indemnification.

Each Party shall defend, indemnify, and hold harmless the other Party to this Agreement, along with its directors and staff, from any costs, expenses, fees (including attorneys' fees), penalties, obligations, liabilities and judgments, incurred or imposed as a result of any claim, complaint, or cause of action made or asserted by any third party against the other Party to this Agreement, its directors and staff, that arises as a result of an act or omission of a Party, its employees, or its independent contractors, in furtherance of each Party's execution of its obligations under this Agreement.

F. Dispute Resolution.

This section shall govern all disputes, claims and controversies between the parties arising from or relating to this Agreement ("Disputes").

1. Meet and Confer. In the event of a Dispute, the Parties agree to meet and confer in person to attempt to reach resolution. A Party may initiate the meet and confer process by service of a written notice referencing this section, describing the nature of the Dispute, and requesting a meeting. The meeting shall thereafter be held by the Boards at a mutually agreeable date and time, but in no event more than thirty (30) calendar days after the date of the foregoing notice.

2. Mediation and Arbitration.

(a) If the Parties are unable to resolve a Dispute after following the procedures set forth in F.1. above, the Parties shall mediate the Dispute pursuant to the following process: The Parties will select a mediator acceptable to both Parties within seven (7) calendar days of the meeting set forth above. If the Parties cannot agree on a mediator within seven (7) calendar days, then the American Arbitration Association ("AAA") shall select the mediator. The mediation will be a one-day session held in Los

Angeles County. If the mediation does not resolve the Dispute, then the mediator shall provide a written recommendation to the Parties. The entire mediation process shall be completed within sixty (60) calendar days.

(b) If the Parties do not unequivocally accept the mediator's recommendations within ten (10) calendar days, then the Dispute shall be resolved by binding arbitration pursuant to the following process: The Parties shall select a neutral arbitrator acceptable to each Party within seven (7) calendar days. If the Parties cannot agree upon an arbitrator, the AAA shall select the arbitrator. The arbitration shall be conducted in accordance with the AAA's then prevailing rules for commercial arbitration. The arbitration shall be held in Los Angeles County. The arbitrator shall provide his or her decision in writing.

(c) While the Parties are engaged in mediation and arbitration of a Dispute, each Party's duties and obligations pursuant to this Agreement remain in full force and effect. Each Party shall bear their own attorneys' fees and costs. Each Party shall pay one-half of the mediator's fees and arbitrator's fees.

G. Additional Provisions.

1. Notices. Notices shall be in writing and personally delivered or deposited in the U. S. Postal Service, first class, postage prepaid, addressed as follows:

If to CBMWD:

Attn: General Manager
17140 S. Avalon Blvd., Suite 210
Carson, CA 90746
Tel.: 310/217-2411
Fax: 310/217-2414

With a Copy to:

Steven P. O'Neill, Esq.
Lemieux & O'Neill
2393 Townsgate Rd., Suite 201
Westlake Village, CA 91361
Tel.: 805/495-4770; Fax: 805/495-2787
And a Copy to Each CBMWD Director

If to WRD:

Water Replenishment District of
Southern California
Attn: General Manager
12621 East 166th Street
Cerritos, CA 90703
Tel.: 562/921-5521

With a Copy to:

Edward J. Casey, Esq.
Weston Benshoof Rochefort Rubalcava
MacCuish, LLP
333 South Hope Street, 16th Floor
Los Angeles, CA 90071
Tel.: 213/576-1000; Fax: 213/576-1100
And a Copy to Each WRD Director

Notice shall be deemed given on the date personal delivery is made or on the date of deposit in the mail, whichever first occurs. A Party may substitute its representative identified above by written notice to the other Party.

2. Modifications. This Agreement may be amended only by a written document signed by the Parties.

3. Assignments. This Agreement shall not be assigned by either Party without the prior written consent of the other Party.

4. Severability. If any provision of this Agreement is found to be invalid or unenforceable, then the remaining provisions shall remain in full force and effect, unless the intent and purpose of a Party would be frustrated thereby, in which case the Agreement may be terminated. The Party terminating this Agreement pursuant to this Section II.G. shall give notice thereof to the other Party.

5. Integration and Construction of Agreement.

(a) Integration. This Agreement sets forth the complete and final understanding of the Parties with regard to the subject matter hereof and supersedes any and all prior communications, representations, negotiations, understandings and agreements, whether written or oral, concerning said subject matter.

(b) Joint Effort. This Agreement shall be deemed to have been jointly prepared by the Parties and shall not be construed against one or the other of the Parties hereto.

6. Non-Waiver. A failure by either Party to enforce any provision of this Agreement shall not be construed as a continuing waiver, or as a waiver of the right to compel enforcement of that provision.

7. Headings. Headings in this Agreement are provided for ease of reference and are not material terms hereof.

8. Time of the Essence. Time is of the essence in the performance of this Agreement.

9. Successors and Assigns. This Agreement shall inure to the benefit of each Party's successors and assigns.

10. Governing Law. This Agreement shall be governed by the laws of the State of California.

11. Authority and Counterparts. The persons signing this Agreement represent and warrant that they are authorized to do so by the Party for whom they are signing.

12. Attorneys' Fees. In any judicial action between the parties concerning the interpretation, enforcement, or breach of this Agreement, the prevailing Party shall receive attorneys' fees and costs from the other Party.

Central Basin Municipal Water District

Water Replenishment District of Southern California

By: _____
President, Board of Directors

By: _____
President, Board of Directors

ATTEST:

ATTEST:

Secretary, Board of Directors

Secretary, Board of Directors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

LEMIEUX & O'NEILL

WESTON, BENSHOOF, ROCHEFORT,
RUBALCAVA & MacCUISH, LLP

By: _____
Steven P. O'Neill

By: _____
Edward J. Casey