

INTER-CONNECT AGREEMENT

This INTER-CONNECT AGREEMENT (“Agreement”) is made and entered into by and between APPLE VALLEY HEIGHTS COUNTY WATER DISTRICT, a California Special District (“Apple Valley Heights CWD”) and GOLDEN STATE WATER COMPANY, a California corporation (“GSWC”) (each a “Party” and, collectively, the “Parties”).

RECITALS

WHEREAS, Apple Valley Heights CWD owns and operates its own water distribution system in California;

WHEREAS, GSWC owns and operates its own water distribution systems in California, a portion of which is contiguous to Apple Valley Heights CWD’s system;

WHEREAS, the Parties believe that the interchange of water between their respective systems under certain conditions will provide substantial benefits to the customers served by each Party; and

WHEREAS, the Parties desire to establish a contractual relationship authorizing the mutual exchange of water between the Parties when it is deemed in the best interest of the Parties to do so.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the Parties hereto agree as follows:

AGREEMENT

1. Water Exchange

1.1. Upon the request of a Party, the other Party will supply such water as the requesting Party may need to protect or restore services to the requesting Party’s customers. The supplying Party’s obligation to supply such water as requested shall be subject to the following: (a) the availability of such water to the supplying Party; (b) the ability of the Parties’ water distribution systems to deliver such water through the interconnections described in Section 3; and (c) the supplying Party’s determination, at its sole discretion, that the supply of such water will not have an adverse economic impact on, or result in the impairment of, or jeopardize the supplying Party’s water system, its customers, or its commitments to third parties.

1.2. The Parties specifically agree and intend that, by entering into this Agreement, neither Party makes any representation or guarantee to the other Party that any water will be available for use by the other Party at a specific time or in response to a specific request under this Agreement.

1.3. From time to time, there may be mutual advantages resulting from the sale or interchange of water upon a basis not provided for or addressed in this Agreement and circumstances may require that any such arrangements be made promptly to realize any

such advantage. In such cases, or in cases of emergency or temporary and unusual operating conditions, temporary arrangements for transactions consistent with the terms and conditions of this Agreement may be made by the Parties' Operating Representatives ("ORs," as defined in Section 5.1). No such arrangement under this Section 1.3 shall extend for more than thirty (30) days unless the Parties agree to do so in writing.

2. Term and Termination

2.1. This Agreement shall commence on the Effective Date (as defined in Section 16) and shall continue from year to year unless terminated pursuant to Section 4.3 or in accordance with Section 2.2 of this Agreement.

2.2. Either Party may terminate this Agreement upon giving the other party at least ninety (90) days prior written notice.

2.3. In the event this Agreement is terminated for any reason, the Parties shall promptly make an accounting of water exchanges as of the effective date of termination and payment shall be made pursuant to Section 4.

3. Inter-Connections / Points of Delivery

3.1. There is one (1) Point of Delivery for the water to be supplied and exchanged pursuant to this Agreement: (a) the interconnection near the intersection of Tussing Ranch Road and Pioneer Road, Apple Valley, California. The Tussing/Pioneer Interconnection will be referred to as the "Interconnection."

3.2. GSWC will obtain all permits and approvals for, construct, own, maintain, have exclusive access to, and operate an Interconnection metering vault located on Tussing Ranch Road and all facilities north of the vault. GSWC shall bear the costs of maintaining the vault, its components, and all components north of the vault. Interconnection.

3.3. Apple Valley Heights CWD will obtain all permits and approvals for, construct, own, maintain, have exclusive access to, and operate all facilities with respect to the Interconnection located south of GSWC's proposed metering vault located on Tussing Ranch Road. Apple Valley Heights CWD shall bear the costs of maintaining these facilities Interconnection.

3.4. Each Party's right to use the Interconnection and to receive water from the other Party's water distribution system shall be subject to the limitations in Section 1. In the event an adequate supply of water cannot be delivered for such purposes, the supplying Party shall have the right to close the Interconnection upon giving written notice to the other Party.

4. Settlements

4.1. In the event water is exchanged between the Parties pursuant to this Agreement, the Parties shall collect data and information on a monthly basis at the Point of Delivery as to the amount of water exchanged by the Parties, except to the extent otherwise provided in

any arrangements made pursuant to the provisions of Section 1.3. All dispatchers involved in any such transactions shall maintain water exchange records for accounting and operating purposes.

4.2. The Parties shall attempt to balance water exchanges annually so that neither Party owes any water to the other Party at the end of any calendar year. At the end of each calendar year during which this Agreement is in effect, the Parties will engage in an accounting of the amount of water exchanged during such year. If one Party has received more water from the other Party than it has provided to the other Party during any calendar year, the Party providing the lower amount of water will: (a) deliver a quantity of water equal to the difference, the excess water; or (b) pay the other Party for the excess water, the amount of which will be equal to the Mojave Water Agency (“MWA”) replacement water rate in effect during the year multiplied by the quantity of the difference, plus a 10% administrative fee. If the MWA replacement quantity rate in effect during any year varied during the course of the year, the amount of excess water used by each Party shall be calculated based on the rate in effect at the time of the Party’s use of such excess water.

4.3. If, at any time, the MWA replacement quantity rate ceases to be in effect, the ORs will agree in writing upon a different rate to be used in lieu of the MWA replacement water rate. If the ORs are unable to agree upon a new rate within ninety (90) days after the MWA replacement rate ceases to be in effect, this Agreement shall terminate, and the rate for any amount of water used after the MWA replacement rate ceased to be in effect shall be the MWA replacement rate in effect immediately prior to the date on which that rate ceases to be in effect.

4.4. Notwithstanding anything to the contrary herein, in the event of an imbalance of water supplied at the end of a calendar year in the amount of ten (10) acre feet or less, the Party providing the excess water during such year shall have the option, at its sole discretion, to: (a) carry over such amount to the next year’s account; or (b) invoice the other Party for payment for the excess water provided pursuant to Section 4.2.

4.5. The Party receiving an invoice for payment agrees to provide the quantity of water owed or to pay the amount of monies owed within sixty (60) days from the Party’s receipt of such invoice. If a Party receiving an invoice disputes any portion of the invoice, and such dispute is not resolved within 60 days of the Party’s receipt of the disputed invoice, the Party receiving the invoice will pay the undisputed portion of the invoice when due under this Section 4.5. Any dispute concerning any portion of an invoice not resolved within 60 days of the receiving Party’s receipt of the disputed invoice shall be resolved pursuant to the dispute resolution process set forth in Section 11.

4.6. Each Party shall maintain accurate records and accounts used in computing the amounts billed to the other Party under this Agreement. Upon thirty (30) days advance written notice to the other Party, either Party may audit the other Party’s records and accounts for the then-current calendar year or the immediately preceding calendar year. The Party being audited shall make its records and accounts available for inspection during normal working hours at the Party’s principal place of business. The Party performing the audit shall not release the other Party’s records or disclose any information contained

therein without the express written consent of the Party whose records are audited. If an audit results in a determination that a Party's billing(s) for the audited calendar year were overstated by more than 10% with respect to the amount billed, the audited Party shall pay the auditing Party's reasonable costs of the audit.

5. Electricity Utility Facility Charges to Apple Valley Heights CWD

5.1. GSWC recognizes that an extended transfer duration, a transfer during high ambient temperature periods, and/or a high volume transfer may require Apple Valley Heights CWD to operate both of its supply wells simultaneously, which would significantly increase the facility charge billed to Apple Valley Heights CWD by the electrical facility. The facility charge is measured as the maximum kilowatts provided through the electrical meter during each electricity utility billing period.

5.2. GSWC that agrees to pay Apple Valley Heights CWD an amount equal to the additional electrical facility charges for electricity utility billing period where a higher electrical facility charge was caused by a water transfer from Apple Valley Heights CWD to GSWC.

5.3. GSWC shall make payment to Apple Valley Heights CWD for electrical facility charges within 60 days of receipt of invoice from Apple Valley Heights CWD. Invoicing shall contain justification for billed amount, including a copy of electricity utility bill(s).

6. Administration

6.1. Each Party shall appoint one Operating Representative ("OR"). The Parties' respective initial ORs are as follows: (a) for Apple Valley Heights CWD – Daniel Smith; and (b) for GSWC – Jamie Porterfield. Each Party may change its OR at its sole discretion by providing written notice of such change to the Other Party.

6.2. Each OR shall be authorized to act with respect to those matters herein provided to be responsibilities of the OR. The function and responsibilities of the ORs are:

- a) to establish procedures and standard practices (consistent with the terms of this Agreement) for the guidance of dispatchers and other operating employees as to matters affecting the delivery of water, interchange of water, reciprocal emergency assistance, and other similar operating matters relating to this Agreement;
- b) to establish procedures and practices for determining the costs and expenses in connection with transactions hereunder;
- c) to establish detailed arrangements for scheduling, communication and implementation of operating procedures;
- d) to do such other things as are provided herein, except that the ORs may not modify this Agreement except as permitted in Section 1.3; and

- e) to establish such other procedures and take any other actions or determinations as may be mutually agreed to by the Parties.

6.3. Each Party shall fully cooperate with the other to effectuate the purposes of this Agreement.

7. Indemnity

7.1. To the fullest extent permitted by law, each Party agrees to indemnify, defend, and hold harmless the other Party, its parent and affiliates, and their respective current and former officers, directors, agents, employees, representatives, and their successors and assigns from and against all claims, demands, actions, liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) brought or asserted by any third party arising from or relating to the indemnifying Party's: (a) breach of a representation, warranty, covenant, or obligation under the Agreement; or (b) gross negligence or willful acts or omissions in performing under this Agreement.

8. Limitation of Liability

8.1. In no event shall either Party be liable to the other Party, whether under breach of contract, tort (including negligence), strict liability or any other theory of liability, whenever arising, for consequential, punitive, special, or indirect damages of any nature.

9. Force Majeur

9.1. No Party shall be considered to be in default in performance of its obligations under this Agreement other than the obligations of a Party to make payments of invoices issued pursuant to the terms of this Agreement if the Party is prevented from fulfilling such obligation due to a Force Majeur Event. The term "Force Majeur Event" means any cause beyond the control of the Party affected, including but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lighting, epidemic, war, economic embargo, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, resistance by court order or public authority, and action or non-action due to failure to obtain the necessary authorizations or approvals from any governmental agency or authority which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. No Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or due to removable or redeemable causes which it fails to remove or remedy within a reasonable time.

9.2. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations under this Agreement shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability as soon as reasonably practicable.

10. Section Pertaining to Other Water System Participants in Interconnection

11. Notices

11.1. Any formal notice, demand, or request provided for in this Agreement, or given or made in connection with this Agreement – including any invoices under this Agreement – shall be in writing and shall be deemed to be properly given or made by email and one of the following methods: by personal delivery; by recognized overnight delivery service; by facsimile; by certified U.S. Mail, postage prepaid:

If to Apple Valley Heights CWD

Apple Valley Heights CWD
9429 Cerra Vista St.
Apple Valley, CA 92308
Attn: General Manager

Tel: 760.247.7330
Fax: 760.247.7330
Email: danavhcwd@yahoo.com

If to GSWC

Golden State Water Company
630 East Foothill Blvd.
San Dimas, CA 91773
Attn: Mountain Desert District General
Manager

Tel: 909.394.3600
Fax: 909.394.1382
Email: [REDACTED]

11.2. Any formal notice, demand, or request personally delivered shall be deemed received upon receipted delivery; if by recognized overnight delivery service, upon receipted delivery; if by facsimile, upon electronically receipted delivery; if by U.S. Mail, it will be deemed received three (3) business days following deposit in the U.S. Mail.

11.3. A Party may at any time, by written notice, change the designation or the address of the person so specified.

11.4. This Section 9 does not apply to notices and requests of a routine character in connection with delivery or receipt of water or in connection with operation of facilities. Such notices and requests shall be given in such manner as the Operating Representatives from time to time shall specify.

12. Governing Law

12.1. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of California without regard to principles of conflicts of law.

13. Dispute Resolution – Arbitration

13.1. In case of a controversy, claim, or dispute arising out of or relating to this Agreement or the breach thereof (a “Dispute”), either Party may notice the other of the existence of a Dispute. Upon receipt of such notice, the Parties shall exert all reasonable efforts to reach an amicable settlement.

13.2. If the Parties are unable to reach such a settlement within sixty (60) days following the receipt of notice of Dispute, the Parties agree to resolve the Dispute by binding

arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

14. Severability

14.1. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith to agree to such amendments, modifications, or supplements of or to this Agreement and take such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented or otherwise affected by such action, remain in full force and effect.

15. Waiver

15.1. No waiver or failure to exercise any right, option or privilege under the terms of this Agreement on any occasion shall be construed to be a waiver of any other right, option or privilege on any other occasion.

16. Entire Agreement

16.1. This writing constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and supersedes all oral or written representations or written agreements which may have been entered into between the parties. Except as otherwise provided in Section 1.3, no modification or revision shall be of any force or effect, unless the Parties agree to such modification or revision in a writing executed by the Parties.

17. Multiple Counterparts

17.1. This Agreement may be executed in counterparts, including via facsimile and PDF, each of which shall be an original and all of which when taken together shall constitute one and the same instrument.

18. Effective Date and Authority

18.1. The effective date of this Agreement shall be the latest date of execution hereinafter set forth below the names of the signatories hereto.

18.2. In the event the last signatory fails to set forth the execution date opposite the name of its signatory, the effective date shall be the date upon which the last signatory's executed copy of the Agreement is transmitted to the other Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date hereinafter respectively set forth.

**APPLE VALLEY HEIGHTS COUNTY
WATER DISTRICT**

GOLDEN STATE WATER COMPANY

By: _____

Name: Larry Hunter

Title: President, Board of Directors
(California)

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

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