

GROUNDWATER PURCHASE AND SALE AGREEMENT

This Groundwater Purchase and Sale Agreement (“**Agreement**”) is entered into as of _____, 2023 (“**Effective Date**”), by and between **COUNTY SANITATION DISTRICT NO. 14 OF LOS ANGELES COUNTY**, a county sanitation district organized and existing under the County Sanitation District Act, California Health and Safety Code Section 4700 *et seq.* (“**District**”), and **CITY OF LANCASTER**, a California municipal corporation and charter city (“**City**”). District and City are individually referred to as a “**Party**” and collectively referred to as the “**Parties**”.

RECITALS

A. District and City entered into a Surplus Groundwater Agreement dated December 11, 2018, District’s Contract No. 5164 (“**Brokerage Agreement**”), which granted to City the exclusive right to broker the sale, lease or other transfer of the City Portion of District’s Surplus Groundwater Rights (as defined and described in the Brokerage Agreement). The City did not broker any such sale, lease or transfer, and the Brokerage Agreement expired on December 31, 2021.

B. District has 3,040 acre feet per year (“**AFY**”) of groundwater production rights in the Antelope Valley Groundwater Basin pursuant to the December 2015 Judgment in the consolidated Antelope Valley Groundwater Cases, Judicial Council Coordinated Proceeding No. 4408 (“**Judgment**”). District uses approximately 10 AFY of groundwater at its Lancaster Water Reclamation Plant (“**LWRP**”); uses approximately 1 AFY of groundwater at its residential property adjacent to the LWRP’s agricultural reuse site; and has leased 2,850 AFY of groundwater to Calandri Farms, Inc. Therefore, District currently has 199 AFY of production rights that are unused.

C. District provides wastewater management services to City as well as portions of the City of Palmdale and unincorporated areas of the County of Los Angeles. City represents 79 percent of District’s service area, as measured by the total number of sewage units in the District. Therefore, 157 AFY of District’s 199 AFY of unused production rights are attributable to City.

E. Subject to the terms and conditions of this Agreement, the Parties now desire to enter into this Agreement in order to provide for District’s sale to City and City’s purchase from District of 50 AFY of Production Rights (as defined below) held by District.

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are incorporated in and constitute a substantive part of this Agreement.

2. **Purchase and Sale of Production Rights.** District shall sell to City and City shall purchase from District 50 AFY of groundwater production rights (the “**Production Rights**”), as that term is defined in the Judgment, held by District (“**Production Rights Purchase**”). The Production Rights Purchase shall be subject to the terms and conditions of this Section 2.

(a) **Purchase Price; Acknowledgment of Fair Market Value.** City shall make a one-time payment to District in the amount of \$7,500 per AFY of groundwater production rights for the Production Rights Purchase, which totals \$375,000 (the “**Production Rights Purchase Price**”). City

shall pay the Production Rights Purchase Price to District within fifteen (15) days after approval of the transaction by the Antelope Valley Watermaster by check made payable to “County Sanitation District No. 14” and delivered by overnight mail to the address and contact listed in Section 8. The Parties acknowledge and agree that the Production Rights Purchase Price constitutes the fair market value of the Production Rights Purchase, as established by an appraisal report, commissioned by District, prepared by Merriman Hurst & Associates, Inc. dated November 16, 2022 (“**Appraisal**”), which is incorporated herein by reference.

(b) **Purchased In Perpetuity.** The Production Rights Purchase is a transfer of all rights, title and interest in and to the Production Rights. District shall transfer the Production Rights to City in perpetuity and shall not reserve or retain any interest in the Production Rights.

(c) **Watermaster Approval.** This transfer is subject to the provisions of the Judgment and the Watermaster’s Rules and Regulations, and also requires Watermaster approval. City shall complete and submit the Transfer Request Form, which is included as Attachment 1 to this Agreement, to the Watermaster for approval, with any and all costs incurred in seeking Watermaster approval borne by City. District shall reasonably cooperate with City to obtain Watermaster approval. In the event that the Watermaster does not fully approve the transfer, this Agreement shall lapse and become null and void.

(d) **Warranties, Representations, and Covenants of District.** District hereby warrants, represents, and/or covenants to City that:

(i) Pending Claims. Other than the judgment in the consolidated Antelope Valley Groundwater Cases, Judicial Council Coordinated Proceeding No. 4408, to the best of District’s knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Production Rights that are the subject of the Production Rights Purchase or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

(ii) Conflict with Other Obligation. To the best of District’s knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which District or Production Rights may be bound.

(iii) Change of Situation. District shall, upon learning of any fact or condition which would cause any of the warranties and representations in this section 2(d) not to be true as of the Effective Date, immediately give written notice of such fact or condition to City.

(iv) Authority. District has the full right, power, and authority to grant the Production Rights to City as provided herein and to carry out District’s obligations hereunder.

(v) Governmental Compliance. District has not received any notice from any governmental agency or authority alleging that it is currently in violation of any law, ordinance, rule, regulation or requirement applicable to the Production Rights. If any such notice or notices are received by District following the date this Agreement is signed by City, District shall, within ten (10) days of receipt of such notice notify City.

3. **Cooperation; Further Acts.** The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

4. **Counterparts; Electronic Execution.** This Agreement may be executed in multiple counterparts by the Parties. All counterparts so executed shall constitute one agreement binding upon the Parties, notwithstanding that the Parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one (1) agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. This Agreement, as well as any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, and the Uniform Electronic Transactions Act, Cal. Civ. Code § 1633.1 *et seq.*

5. **Effective Date.** City shall execute this Agreement first, and District shall execute this Agreement second. The Effective Date of this Agreement shall be the date of execution by District.

6. **Delegation to Chief Engineer.** District's Chief Engineer and General Manager, or his designee, is authorized to take all actions on behalf of District in connection with any approvals, consents, or actions required of or by District under this Agreement.

7. **Entire Agreement.** This Agreement is freely and voluntarily entered into by the Parties after having had the opportunity to consult with their respective attorneys. The Parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those inducements, promises, and representations contained in this Agreement. This Agreement represents the entire agreement of the Parties. This Agreement may be modified only by a written amendment to this Agreement agreed to by the Parties. The Parties and the Party representatives executing this Agreement have the power and authority to execute this Agreement, and once executed by all Parties, this Agreement shall be binding upon the Parties.

8. **Notice.** Any notice related to this Agreement must be in writing and delivered personally or by U.S. Mail or nationally-recognized overnight service to the addresses below, which addresses may be changed at any time upon written notice:

To District:

Los Angeles County Sanitation Districts
1955 Workman Mill Road
Whittier, CA 90601
Attn: Stan Pegadiotes, Section Head, Planning and Property Management
(562) 908-4288, ext. 2705
spegadiotes@lacsdsd.org

To City:

City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
Attn: Patti Garibay, Assistant Director, Community Development – Planning and Permitting
(661) 723-6072
pgaribay@cityoflancasterca.org

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

DISTRICT:

**COUNTY SANITATION DISTRICT NO. 14
OF LOS ANGELES COUNTY**

By: _____
Chairperson, Board of Directors

ATTEST:

Secretary to the Board


APPROVED AS TO FORM:
Lewis Brisbois Bisgaard & Smith, LLP

District Counsel

CITY:
CITY OF LANCASTER


By: _____ TGN
Jason Caudle
City Manager

ATTEST:



Andrea Alexander, City Clerk

APPROVED AS TO FORM:



Allison E. Burns, City Attorney

Attachment 1

Watermaster Transfer Request Form

TRANSFER REQUEST FORM

ANTELOPE VALLEY WATERMASTER

Please include an application fee according to the fee schedule posted on the Watermaster website:
<https://avwatermaster.net>. Make check out to: Antelope Valley Watermaster

Mail to: Antelope Valley Watermaster, 5022 West Avenue N, Suite 102, #158, Palmdale, CA 93551 OR email to:
info@avwatermaster.net

Call Watermaster Administrative staff at 661-234-8233 with questions. *Transfer Requests review could take up to 60 days.*

PERMANENT TRANSFER? Yes or No TEMPORARY/ONE-TIME TRANSFER? Yes or No

Permanent Amount _____ acre-feet Temporary/One-time Amount _____ acre-feet

IF TRANSFER DUE TO CHANGE IN LAND OWNERSHIP, PLEASE ATTACH DEED AS PROOF OF SALE OR A PRELIMINARY TITLE REPORT

Date Requested _____

If Temporary, Calendar Year(s) to be Used _____

Which Party will be paying the annual Administrative Assessment(s) for the transferred water? _____

Is either Party a member of the Antelope Valley United Mutuels Group? Yes or No

TRANSFER FROM (SELLER/TRANSFEROR):

Name _____ Street Address _____

City _____ State _____ Zip Code _____

Phone _____ email _____

APN#(s) where transfer originates (i.e., production well location(s)) _____

APN#(s) (or water supply service area) where groundwater was used _____

TRANSFER TO (BUYER/TRANSFeree):

Name _____ Street Address _____

City _____ State _____ Zip Code _____

Phone _____ email _____

Note: Legal notices under the Judgment will be sent to the above email address. You are required to keep this information up to date. Please notify the Watermaster of any changes.

APN#(s) (or water supply service area) where transfer will be pumped and used _____

Purpose of Transfer:

- Permanent Transfer resulting from Property Sale/Transfer [PLEASE ATTACH DEED OR PRELIMINARY TITLE REPORT]
- Additional Source of Water
- Other, explain _____

Water is to be Transferred from/to: (transferred water retains its original water type):

- Current Year Production Right: amount _____ acre-feet
- Carry Over Water: amount _____ acre-feet
- Storage: amount _____ acre-feet
- Other, explain _____

(Transferred water retains its original water type – e.g., transferred Carry Over Water remains Carry Over water)

WATER QUALITY AND WATER LEVELS (not required if transfer is in association of change of land ownership)

Are Parties aware of any water quality issues that exist in either the area transferred from or to? Yes or No

If yes, please explain: _____

Please provide groundwater elevations in the areas affected by the transfer. _____

Are Parties aware of any water level issues that exist in either the area transferred from or to? Yes or No

If yes, please explain: _____

MAPS

➔ Please include a map of the area where the water was used by the Transferor and a map of the area where the water is intended to be used by the Transferee. Include locations of production facilities involved in or affected by the Transfer. This map can include all possible locations of past source and use and future source and use.

SECURITY INTEREST OR LIENHOLDERS

For Permanent Transfers, please provide a list of all parties with a recorded security interest, deed of trust or a lien in such real property or in crops growing or to be grown thereon, and attach copies of written notices to such parties and copies of return receipts. _____

The transfer shall be conditioned upon:

1. Transferee shall succeed to the right of Transferor under the terms of the Judgment.
2. Transferee shall only use Transferred waters for reasonable and beneficial uses.
3. Any Transferee not already a Party to the Judgment must intervene and become a Party to the Judgment.
4. All applicable assessments (Administrative and Balance) and transfer fees are paid in full.
5. If the Watermaster determines that the transfer has resulted in a material injury, the parties will be required to work with the Watermaster Board to mitigate that material injury.
6. For Permanent Transfers, the Parties agree to duly record in the office of the appropriate County Recorder a document reflecting the Permanent Transfer reflected in this Transfer Form.
7. The Transfer Request Form must bear the notarized signatures of both the transferor and the transferee.
8. The Seller/Transferor must be the owner of the water rights pursuant to the Judgment. No Party may transfer water rights held pursuant to a lease agreement or other private contract with the actual water rights owner.

SIGNATURES

I understand and agree to abide by the terms of the Antelope Valley Adjudication Judgment. I swear under penalty of perjury that the information provided on this Transfer Request Form is correct to the best of my knowledge, that I am authorized to enter into this Transfer on behalf of the party indicated below and to bind that party on whose behalf I am signing, and that signing this Transfer Request Form is within the scope of my authority, and that the signature below, whether original, electronic, or photocopied, is authorized and valid, and is affixed with the intent to be enforceable. I understand that it is my responsibility to notify the Antelope Valley Watermaster of any changes in any of the information provided on this form within 15 days. I also understand that additional information may be required if there is a suspected potential for a material injury as defined in the Judgment.

Signature of Transferor _____ Date _____

Signature of Transferee _____ Date _____

To be completed by the Watermaster:

Watermaster Engineer Approval _____ Date _____

Watermaster Board Approval _____ Date _____