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AMENDMENT NUMBER ONE

TO THE

WATER TRANSPORTATION AGREEMENT

BETWEEN

SALT RIVER VALLEY WATER USERS' ASSOCIATION

AND

CITY OF GLENDALE

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1. PARTIES:

The parties to this Amendment Number One ("Amendment") to the Water Transportation Agreement ("Agreement") dated October 2, 1991 are City of Glendale, an Arizona Municipal Corporation ("City") and Salt River Valley Water Users' Association, an Arizona Corporation ("Association"). The City and Association are the parties to the Agreement and may be referred to in the Amendment individually as "Party" and collectively as "Parties".

2. RECITALS:

- A. The Agreement permits City to use, for a fee, Association's Water Delivery System for the transportation to City of non-Association water City acquires.
- B. In the Agreement, the Water Delivery System is defined to include, among other facilities, canals, but excludes Association laterals and drain ditches.
- C. City desires to use from time-to-time certain Association laterals and drain ditches for the transportation of the non-Association water City acquires.
- D. The Parties now wish to enter into this Amendment to the Agreement to permit City to use Association laterals and drain ditches from time-to-time, providing that any additional costs that Association incurs to prepare the Association Water Delivery System, including laterals and drains, for the sole purpose of use by City, or to actually transport City Water, or to repair the Association Water Delivery System, including laterals and ditches, after their sole use by City to transport City Water, will be paid by City, including an appropriate and reasonable margin of return on such work performed by Association.

3. AGREEMENT:

In consideration of the premises and mutual covenants and agreements herein set forth, the Parties agree to amend and supplement the Agreement as follows:

4. AMENDMENT TO SECTION 4 OF THE AGREEMENT - DEFINITIONS:

The definition of the term "Association Water Delivery System" in section 4.3 of the Agreement is hereby amended to state:

4.3 "Association Water Delivery System: Association's canal, lateral and drain ditch system, including canals, laterals, drain ditches, gates and measuring devices."

5. AMENDMENT TO SECTION 7 OF THE AGREEMENT – RATES, FEES, AND CHARGES:

A. Section 7.1 of the Agreement is amended to state:

"7.1 For City Water transported in the Association Water Delivery System, Association shall bill City and City shall pay Association a stepped rate for each acre foot (AF) of City Water or fractional AF received at the Points of Receipt whether or not City accepted or used such City Water. The amount billed to the City under this section shall not include costs incurred as a result of the City's use of Association laterals and drain ditches. The applicable step rates shall be as follows:"

B. Sections 7.1.1 through 7.1.4 of the Agreement remain unchanged except the reference to section 7.7 in section 7.1.4 is changed to section 7.8.

C. Section 7.2 of the Agreement is renumbered to 7.3 and a new section 7.2 is added to section 7 as follows:

"7.2 Association reserves the right to charge City an additional fee for the transportation of City Water in a lateral or drain ditch to the extent that Association can show an increase in operating or maintenance costs that are 1) attributable to such transportation of City Water, or 2) based on changed circumstances beyond the control of Association. Beginning in calendar year 2012 and every two (2) years thereafter, Association may adjust such fee. The fee shall be initiated or adjusted in accordance with section 7.9."

D. The following sections of the Agreement and references within those sections are renumbered as indicated:

1 Section 7.3 is renumbered to 7.4.

2 Section 7.4 is renumbered to 7.5 and the references within that section to sections 7.2 and 7.3 are changed to 7.3 and 7.4, respectively.

3 Section 7.5 is renumbered to 7.6.

4. Section 7.6 is renumbered to 7.7 and the reference within that section to section 7.7 is changed to 7.8.

E. Section 7.7 of the Agreement is renumbered to 7.8 and is amended to state:

“7.8 Beginning in calendar year 2016, and continuing thereafter, Association may change the rate or rate structure provided in section 7.1 no more frequently than five year intervals, based on changed circumstances beyond the control of Association and which have increased the cost of providing the service hereunder beyond those increases in costs reflected by the Annual Index.”

F. Sections 7.7.1, 7.7.2 and 7.7.3 of the Agreement are deleted.

G. A new section 7.9, including sections 7.9.1 through 7.9.4, is added to section 7 of the Agreement as follows:

“7.9 If Association proposes to charge or adjust the fee for transportation of City Water in Association laterals or ditches pursuant to section 7.2, or proposes to change the rate or rate structure for transportation of City Water in Association Water Delivery System pursuant to section 7.8:

7.9.1 Association must provide City with written notice of the fee or new rate or rate structure, and documentation to substantiate the changed circumstances and the increased cost 60 days before the fee or new rate or rate structure becomes effective.

7.9.2 If City is not willing to pay the fee adjusted pursuant to section 7.2, City will either cease using Association laterals and ditches or provide written termination notice to Association before the fee becomes effective .

7.9.3 If City is not willing to pay the new rate/rate structure adjusted pursuant to

section 7.8, City may terminate this Agreement by giving written notice to Association before the fee or new rate or rate structure becomes effective.

7.9.4 If City gives notice pursuant to section 7.9.2 or section 7.9.3, the terms of this Agreement may be extended by City for a period of three (3) years from the date of the City's notice, unless otherwise agreed by the Parties. During this period, City shall pay the new fee or new rate as provided in section 7.2 or section 7.8, respectively."

H. Section 7.8 of the Agreement is renumbered to 7.10.

6. AMENDMENT TO SECTION 10 OF THE AGREEMENT - APPOINTMENT/DUTIES OF AUTHORIZED REPRESENTATIVES:

A. Within section 10.1 of the Agreement, the references to sections 10.1.1 through 10.1.9 are changed to 10.1.1 through 10.1.11.

B. The following sections 10.1.10 and 10.1.11 are added to section 10 of the Agreement:

"10.1.10 Shall review and agree to all changes or improvements to the Association Water Delivery System to accommodate its use by City pursuant to section 15.3.

10.1.11 May agree to operational, accounting, and cost arrangements that further the purpose of this Agreement."

7. AMENDMENT TO SECTION 12 OF THE AGREEMENT – TRANSPORTATION LOSSES:

A. Section 12 of the Agreement remains as section 12 but its existing content is renumbered to 12.1, and amended to state:

"12.1 For City Water transported in canals, City shall be assessed Transportation Losses at the rate of 0.16 percent (April 2010 through March 2011 rate) per AF per mile between the Point of Receipt and the Point of Delivery. Using the water balance of supply and delivery, a procedure similar to the loss calculation used in standard reporting to the Arizona Department of Water Resources and the United States Bureau of Reclamation, Association shall review and adjust such Transportation Loss rate annually in April

based on annual average Association Water Delivery System losses during the preceding five years. Such adjusted rate shall remain in effect until next adjusted.”

B. Further, a new section 12.2 is added to section 12 of the Agreement as follows:

“12.2 Until otherwise determined by Association, for City Water transported in a lateral or drain ditch, City shall not be assessed additional Transportation Losses; however, Association reserves the right to assess additional losses to City based on Association’s water loss experience in the lateral(s) or drain ditch(es) being used to transport City Water. Prior to assessing additional Transportation Losses pursuant to this section 12.2, Association shall provide City written notice and evidence and/or calculation supporting the assessed rate of additional Transportation Losses.”

8. AMENDMENT TO SECTION 15 OF THE AGREEMENT – DISTRIBUTION:

Sections 15.3 and 15.4 are added to section 15 of the Agreement as follows:

“15.3 City may request the Association to make changes or improvements to the Association Water Delivery System and related structures. City shall be responsible for all costs associated with any changes or improvements made pursuant to such City request if the change or improvement is made for the sole purpose of accommodating City’s use of the Water Delivery System and related structures for the transportation of City Water; otherwise, the cost of such change or improvement shall be divided between the Parties as mutually agreed upon.”

“15.4 City shall not make any change or improvements to the Association Water Delivery System and related structures or facilities of Association without the written approval of Association. Upon termination or expiration of this Agreement, City shall restore to a condition satisfactory to Association the Association Water Delivery System and related structures and facilities of Association to which City had made changes. If City fails to accomplish such restoration, Association shall do so and the expense thereof shall be charged to and paid by City.”

9. AMENDMENT TO SECTION 20 OF THE AGREEMENT - NOTICE OF WATER DELIVERIES:

Section 20 of the Agreement is amended to state:

“City shall provide adequate notice to Association of City’s water orders and any subsequent order changes, in accordance with operating procedures established by Association. Operating procedures established by Association shall provide that, in the event of a pending Association Water Delivery System curtailment, Association shall give City as much notice as reasonably practicable of the pending curtailment and give City the maximum flexibility reasonably attainable to adjust or change the source, as between water identified in sections 4.5(a), 4.5(b), and 4.5(c) of its pro rata share of the total amount of this water that has been ordered by all cities. Association shall schedule, transport, and account for City Water. Transportation of City Water shall be subject to operational and maintenance constraints common to all parties served by the Association Water Delivery System. The amount of City Water requested by City, less Transportation Losses, shall be delivered by Association to the Point of Delivery, subject to the provisions of section 15.2 and 16. Association shall schedule and monitor the transportation of City Water so as not to in any manner whatsoever interfere with the operation and maintenance of the Association Water Delivery System.”

10. AMENDMENT TO SECTION 25 OF THE AGREEMENT – NOTICES

Section 25 of the Agreement is amended to state:

“Any notice, demand, or request provided for in this Agreement shall be in writing and delivered in person, or sent by registered or certified mail, postage prepaid, to:

To Association:

Salt River Valley Water Users Association  
c/o Secretary  
P.O. Box 52025  
Phoenix, Arizona 85072-2025  
Reference: Water Transportation Agreement

With a copy to:

Association’s Authorized Representative  
P.O. Box 52025, Mail Station PAB-101  
Phoenix, Arizona 85072  
Reference: Water Transportation Agreement

To City:

Craig Johnson  
Executive Director, Water Services  
City of Glendale  
7070 West Northern Avenue  
Glendale, Arizona 85303

With copies to:

City Attorney  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

And

Stephen Rot,  
City's Authorized Representative  
City of Glendale  
7070 West Northern Avenue  
Glendale, Arizona 85303

11. AMENDMENT TO SECTION 29 OF THE AGREEMENT – RESOLUTION OF DISPUTES

A. Section 29.1 is amended to state:

“29.1 City and Association may submit a dispute under this Agreement to a non-binding arbitration if both parties agree to arbitrate in writing. Within 30 days of obtaining written consent to arbitrate, both parties shall name one arbitrator. The two arbitrators selected by the parties shall select a third arbitrator as soon as practicable. Within 30 days from the selection of the third arbitrator, the arbitrator shall hold a hearing. Within 30 days from the conclusion of the hearing, the arbitrator shall render a decision on the dispute.”

B. Sections 29.1.1, 29.1.2, 29.1.3, and 29.1.4 are deleted.

12. EFFECTIVE DATE

This Amendment is effective February 14, 2012 and shall remain in effect through the term of the Agreement unless otherwise agreed to by the Parties.

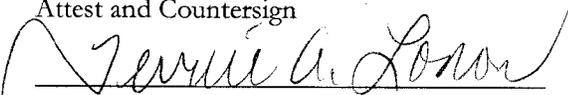
13. ALL OTHER PROVISIONS OF THE AGREEMENT

Except as provided herein, all other provisions of the Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by the Parties hereto.

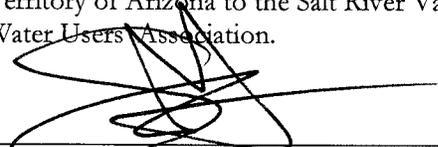
SALT RIVER VALLEY WATER USERS' ASSOCIATION,  
An Arizona Corporation

Attest and Countersign

  
\_\_\_\_\_  
Secretary

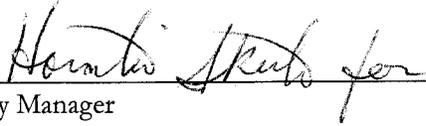
By:   
\_\_\_\_\_  
President

Approved as to form and within the power  
and authority granted under the laws of the  
Territory of Arizona to the Salt River Valley  
Water Users Association.

  
\_\_\_\_\_

"CITY:"

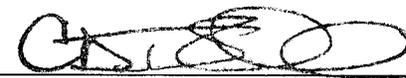
CITY OF GLENDALE,  
an Arizona municipal corporation

  
\_\_\_\_\_  
City Manager

ATTEST:

  
\_\_\_\_\_  
City Clerk (SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney