

WATER SUPPLY AGREEMENT

THIS AGREEMENT, made this 6th of ^{January 2012,} ~~December, 2011,~~ BY AND BETWEEN THE MORRIS COUNTY MUNICIPAL UTILITIES AUTHORITY, a public body corporate and politic of the State of New Jersey with offices at 300 Mendham Road, Morris Township, New Jersey 06960 (hereinafter "MCMUA" or "Authority") AND NEW JERSEY-AMERICAN WATER COMPANY, a corporation of the State of New Jersey (hereinafter "New Jersey-American"). New Jersey-American and MCMUA are each a "Party" and collectively, "Parties."

WITNESSETH:

WHEREAS, MCMUA is a municipal utilities authority established pursuant to N.J.S.A. 40:14B-1 *et. seq.* and which owns and operates a potable water supply system for the wholesale development and distribution of water; and

WHEREAS, New Jersey-American has a franchise to provide public water supply in the County of Morris; and

WHEREAS, New Jersey-American is in need of an additional supply of potable water and the Authority is willing to provide the same in accordance with the terms of this agreement.

NOW, THEREFORE in consideration of these premises, of the mutual covenants and agreements herein set forth, and of the undertakings of each Party to the other, each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

ARTICLE I
DEFINITIONS

"Act" means the Municipal and County Utilities Authorities Law (N.J.S.A. 40:148-1 *et seq.*).

"Agreement" means this agreement for the sale and purchase of potable water as the same shall be amended and supplemented from time to time by mutual written agreement of the Parties and including any schedules and exhibits attached hereto.

“Articles” and “Sections” mentioned by number only are the respective Articles and Sections of the Agreement so numbered.

“Base Rate” means the rate established by the MCMUA applicable to customers to whom MCMUA provides water produced from its own sources. The Base Rate in effect on the date of this Agreement is ^{\$ 2053.00}~~\$2018.00~~ per million gallons.

“Force Majeure” means the inability of a Party to perform due to: acts of God; orders of the Government of the United States or the State of New Jersey; or any agency or instrumentality thereof; acts of terrorism; insurrections; riots; epidemics; landslides, lighting; earthquakes; fires; hurricanes; storms; floods; washouts; explosions; breakage or accidents to machinery, pipelines, dams or canals or partial or entire failure or contamination of water supply, not due to the negligence of the Party claiming such occurrence as the reason for the inability to perform; arrests; civil disturbances; acts of any public enemy; and any other causes not reasonably within the control of the Party claiming such inability to perform.

“Initial Term” means the ten year period commencing on the date this Agreement is executed.

“Points of Delivery” means those locations of MCMUA at which water is delivered to New Jersey-American's Mendham water system; and at which title to water provided hereunder shall pass from MCMUA to New Jersey-American.

“System” means the mains, lines, pump stations, meters, works, wells, connections, reservoirs, structures, equipment, and other real and tangible personal property, and all renewals, and replacements of any of the foregoing, acquired, constructed, or operated or to be operated, acquired, or constructed by MCMUA for the purposes of the Authority under the Act

“Words” importing the singular number include the plural number and vice versa, words importing individual persons include firms, associations and corporations, and words importing

the masculine gender include every other gender.

ARTICLE II
PROVISION OF WATER SERVICE

1. New Jersey-American agrees to purchase potable water during the term of the Agreement at rates determined in accordance with Article III of this Agreement.

2. New Jersey-American shall take or pay for two hundred and twenty (220) million gallons of water each year during the term of this contract regardless of actual use. The daily, monthly and annual maximum volumes of water that MCMUA will provide to New Jersey American during the term of this Agreement are set out on Schedule 1 attached hereto and incorporated herein by reference. In the event that New Jersey-American desires to propose a revision to Schedule 1 for use by the Parties beyond the initial ten (10) year period of this Agreement, then six (6) months prior to the tenth year anniversary date of this Agreement New Jersey-American shall have the right to propose such a revision to MCMUA for approval.

3. The Initial Term will automatically extend for an additional five (5) years if neither Party gives written notice of termination to the other within two (2) years of the end of the Initial Term. Upon any termination of the Agreement service shall be discontinued and New Jersey-American shall remain responsible for the provision of water service to those users located along the MCMUA transmission mains who are New Jersey-American customers.

4. In the event that New Jersey-American shall require water service in excess of the volumes specified in Schedule 1, it shall give six (6) months written notice thereof and MCMUA shall have the right in its absolute discretion and subject to availability, to provide such increased flows. Provided that MCMUA exercises its absolute discretion to provide water service in excess of the volumes specified in Schedule 1, the Parties shall execute an amendment to this Agreement that is mutually acceptable to the Parties, then MCMUA shall make provision for increased flows as aforesaid.

5. The MCMUA will permit New Jersey-American to make service connections to the

MCMUA 12" transmission mains after the Point of Delivery subject to the approval of the MCMUA. New Jersey-American shall install such service connections in accordance with a design and detail approved by the MCMUA's Chief Engineer. New Jersey-American shall be responsible to install, maintain and make readings for new meters associated with the service connections.

6. If during the Initial Term of this Agreement, or any additional term, it shall become necessary for the Authority to impose water use restrictions, such restrictions will be uniformly applied, and New Jersey American shall be restricted in the same proportion as the balance of the Authority customers.

7. All water provided by the MCMUA under this Agreement shall be potable at the Points of Delivery and all such water shall comply with all applicable NJDEP and USEPA laws and regulations regarding treatment and delivery of water and shall comply with all applicable notice requirements established by the NJDEP and USEPA and any successor government agencies or departments. MCMUA shall not be responsible for contamination or degradation in the quality of the water past the Points of -Delivery unless it can be shown that the contamination or degradation was caused by negligent acts of MCMUA. MCMUA shall perform water quality tests as required by applicable NJDEP and USEPA laws and regulations. Presently, the MCMUA conducts chlorine residual and bacteriological tests. All water quality tests shall be performed only by State of New Jersey certified laboratories. MCMUA will provide New Jersey-American with reports of water quality test results for water samples taken at the Points of Delivery and, upon written request of New Jersey-American, New Jersey-American shall be entitled to take split samples with MCMUA at the Points of Delivery.

ARTICLE III **MCMUA CHARGES AND PAYMENT THEREOF**

1. New Jersey-American shall pay MCMUA one hundred and eleven percent (111%) of the then applicable Base Rate. MCMUA agrees that the Base Rate shall continue to exist as a classification in accordance with the terms of Resolution 10-71, attached hereto as Schedule 2.

MCMUA shall not assign New Jersey-American to or include New Jersey-American in any rate class that it may create or establish after the date of this Agreement.

2. MCMUA may change the Base Rate from time to time in accordance with the provisions of the Act. The same Base Rate charged to wholesale customers receiving water produced by MCMUA shall be used to calculate rate charged to New Jersey American under Article III (1) above, and the total rate charged by MCMUA to New Jersey American for water provided under this Agreement shall never exceed 111 percent (111%) of the Base Rate.

3. On or before October 15th of each year, the Executive Director shall certify to New Jersey-American the rates to take effect on January 1 of the following year. In the event of an increase or decrease in the Base Rate expected to be effective January 1 of the following year, the Executive Director shall provide in the certification for a description, in reasonable detail, of the factors and calculations underlying the increase or decrease. New Jersey-American shall have the right to intervene in any rate proceedings in the same fashion as other wholesale customers of the MCMUA.

4. MCMUA shall bill New Jersey-American for water usage on a monthly basis which bills shall be due and payable within forty-five days of issuance by MCMUA. The monthly bills shall be based upon actual use and MCMUA will calculate the total charge to be paid by New Jersey American in accordance with Article III (1) of this Agreement. The December billing shall include any true up calculation that may be required in the event that New Jersey American fails to take its annual take or pay volume and any such true up calculation shall also be charged in accordance with Article III (1) of this Agreement. .

5. Bills not paid within forty-five (45) days of receipt shall be subject to the imposition of interest at the same rate as provided under the Act for the payment of interest on unpaid service charges, or as the same may be amended from-time to time. In addition to the right to impose interest charges or delinquent payments, MCMUA reserves all of the rights and powers with respect thereto as are set forth in the Act.

6. If New Jersey-American disputes a bill in good faith, New Jersey-American must on or

before the due date thereof (a) pay the undisputed portion of the bill; and (b) notify MCMUA in writing as to the basis of the dispute. If the dispute is regarding meter accuracy, a meter test will be performed by any qualified firm acceptable to both Parties. If the meter test proves that the meter is within applicable and customary accuracy limits no adjustment shall be made to the bill and New Jersey-American shall bear the cost of the meter test. If the meter test proves that the meter is not operating within applicable and customary accuracy limits a billing adjustment shall be made in the next bill and MCMUA will pay for the cost of the meter test and the meter will be replaced or recalibrated. Should it be determined that the meter inaccuracy resulted in a lower bill than would have been justified by a correct meter reading then a billing adjustment shall be made in the next bill. Any billing dispute and consequent adjustment for the benefit of either Party shall be limited to the month for which, and during which, the dispute is raised and one prior month. The Parties agree that the Authority meter shall be conclusively presumed to be operating accurately if running within plus or minus 2% of true accuracy.

7. MCMUA will provide, install, and use, as part of the System, a meter or meters (which meters shall be calibrated at least annually) or other devices, methods, or procedures for determining the volume of water (either directly, by differentials, or otherwise) delivered to New Jersey-American. The MCMUA shall, at its cost, test the meter for accuracy at least every ~~insert~~ ^{year, and} ~~time period~~ shall provide New Jersey American with reasonable advance written notice of each such test. New Jersey American shall have the right to have a representative present during each such test. New Jersey-American shall have the right at any time, and from time to time, to inspect and test the meter at its expense in order to be satisfied as to its proper functioning. New Jersey-American shall provide reasonable notice of its intent to inspect and test the meter and MCMUA shall provide the access to the meter pit under its supervision. MCMUA shall have the right to have a representative present at any time that the meter is inspected and tested by New Jersey-American. MCMUA agrees that in the event of a malfunction, it shall promptly repair or replace the meter. In the event of such a malfunction of any meter or other device, MCMUA shall use an estimate as to the quantity of flow based on historic data and records pertaining to volumes previously delivered to New Jersey-American. A copy of any such estimate and shall be conclusively deemed to have been made in accordance with this Agreement and to be correct within thirty days after issuance by MCMUA unless contested within that thirty day period and

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except as may be provided thereafter by final judgment of a court of competent jurisdiction.

8. MCMUA shall periodically sample the quality of water delivered to New Jersey--American pursuant to this Agreement and shall make such tests, measurements, and analyses thereof as shall assure its quality and the compliance by MCMUA with applicable state and federal regulations and drinking water standards. In fulfilling its obligations to provide water service hereunder, MCMUA shall have the right to utilize such sources of potable water as it shall subsequently develop provided that the same shall meet applicable state and federal regulations and drinking water standards.

9. MCMUA will make and keep permanent records of the volumes of water delivered and, when ascertained, of the quality thereof. MCMUA will keep proper books of records and accounts in which complete and correct entries shall be made of its transactions related to the System, or any part thereof, and which shall be available for inspection by duly authorized representatives of New Jersey-American during regular business hours at the MCMUA offices. MCMUA will cause its books to be audited annually and will provide a copy thereof to New Jersey-American.

ARTICLE IV **MISCELLANEOUS**

1. MCMUA will at all times maintain all such insurance as is customarily maintained with respect to water systems of like character against loss, damage, or other liability.

2. If by reason of Force Majeure:

a) MCMUA or New Jersey-American shall be rendered unable, wholly or in part, to satisfy their obligations under this Agreement, then such obligations, to the extent affected by such Force Majeure, shall be suspended or reduced during the continuance of the inability to perform hereunder, but for no longer period.

b) If either Party suffers a Force Majeure which limits or prevents the transfer of

water hereunder, the Parties agree as follows:

- i. New Jersey-American shall not be obligated to pay any amount for that portion of the minimum gallonage commitment shown on Schedule 1 (determined by prorating the annual take or pay volume for the Force Majeure period) that was unavailable during the Force Majeure: and
- ii. New Jersey-American shall be permitted, upon mutual agreement, subsequent to the Force Majeure period, to utilize and pay for that portion of the annual take or pay volume that was unavailable during the Force Majeure period.

Telephone notice of a Force Majeure experienced by either Party will be given to the other Party at the earliest possible time, and will be described subsequently in writing to such other Party within two (2) working days after the occurrence of the Force Majeure event. The Party experiencing a Force Majeure shall use its best efforts to remove or overcome such Force Majeure as soon as possible.

c) MCMUA agrees to indemnify, protect and hold harmless New Jersey-American from any and all liability, loss, damages, costs or expense (including, without limitation, reasonable attorney's fees) arising out of claims alleging that MCMUA failed to meet its obligations under this Agreement.

d) New Jersey-American agrees to indemnify, protect and hold harmless MCMUA from any and all liability, loss, damages, costs or expense (including, without limitation, reasonable attorney's fees) arising out of claims alleging that New Jersey-American failed to meet its obligations under this Agreement.

3. Any bonds or other obligations of MCMUA referred to in this Agreement or to be issued shall be the sole obligation of MCMUA and shall not in any way be deemed a debt or liability of New Jersey-American.

4. MCMUA may at any time assign or pledge for the benefit and security of the holders of bonds, notes, or other evidence of indebtedness, heretofore or hereafter issued by it, any of its rights under the provisions of this Agreement including but not limited to its right to receive payments from New Jersey-American and thereafter this Agreement shall not be terminated, modified, amended, or changed except in the manner (if any) and subject to the conditions (if any) permitted by the terms and provisions of such assignment or pledge, provided, however, that the terms and provisions of such assignment may not modify the terms and provisions of this Agreement.

5. If any one or more of the covenants or agreements provided in this Agreement on the part of MCMUA or New Jersey-American to be performed should be contrary to law, then such covenant or agreement shall be deemed separable from the remaining covenants and agreements and shall in no way affect the validity of the other provisions of the Agreement. This Agreement together with any schedules and exhibits, constitutes the entire understanding between the Parties with respect to the subject matter hereof, and the Parties will not be bound by any agreements, understandings or conditions, whether oral or written, with respect to the subject matter hereof other than those expressly set out in this Agreement. Any changes, modifications or amendments to this Agreement shall be effective through a writing executed by both Parties.

6. This Agreement shall come into effect upon its execution and delivery by the Parties, and shall thereafter be and remain in full force and effect except that after payment in full of all obligations of MCMUA including any bonds, notes, or other obligations issued to finance the construction, replacement, enlargement, operations, or maintenance of the System, New Jersey-American shall have the right to terminate this Agreement upon one year's written notice.

7. This Agreement may be executed in any number of counterparts all of which shall be regarded as an original for all purposes and shall constitute and be but one and the same.

8. This Agreement shall be governed by the laws of the State of New Jersey.

9. Notices. All notices and demands of any kind ("Notice") which any Party may be required or may desire to serve upon the other Party in connection with this Agreement must be

in writing, except as otherwise provided herein, and must be served either by personal service, acknowledged by signature of addressee or authorized agent at the office address; by express mail; a private carrier; facsimile or email, provided the addressor sends a written confirmation of such notice no later than three (3) days after such email or facsimile is sent; or by certified mail, return receipt requested, postage prepaid. Service of any such notice by express mail, federal express, or certified mail will be deemed complete the second business day after mailing. Service of any such Notice by personal delivery or by facsimile will be deemed complete upon the date of acknowledgment by the addressee or the date of facsimile confirmation, whichever applies. Such Notices will be addressed as follows:

If to Company: New Jersey-American Water Company, Inc.
1025 Laurel Oak Road
Voorhees, NJ 08043
Attn: Corporate Secretary

With Copies to: Shari Shapiro, Esq.
Cozen O'Connor
Suite 300, Liberty View
457 Haddonfield Road
Cherry Hill NJ 08002-2220

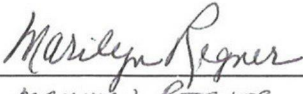
If to Purchaser: THE MORRIS COUNTY MUNICIPAL UTILITIES
AUTHORITY,
300 Mendham Road
Morris Township, New Jersey 06960

With a Copy to: _____

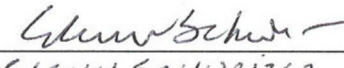
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

Attest:

MORRIS COUNTY MUNICIPAL
UTILITIES AUTHORITY



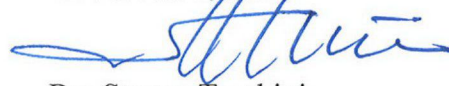
MARILYN REGNER
SECRETARY

By:  1/4/12

GLENN SCHWEIZER
EXECUTIVE DIRECTOR

Attest:

NEW JERSEY-AMERICAN WATER
COMPANY, INC.


By: Steven Tambini
Vice President - Operations
1/3/12

SCHEDULE 1

Maximum Daily Volume	1 Million Gallons
Maximum Monthly Volume	30.5 Million Gallons
Maximum Annual Volume	237 Million Gallons

Schedule 2: Resolution 10-71