



WEST VALLEY WATER DISTRICT
855 W. Base Line Road, Rialto, CA 92376
PH: (909) 875-1804 FAX: (909) 875-1849

**ENGINEERING, OPERATIONS AND PLANNING COMMITTEE MEETING
AGENDA**

TUESDAY, APRIL 16, 2024 - 6:00 PM

NOTICE IS HEREBY GIVEN that West Valley Water District has called a meeting of the Engineering, Operations and Planning Committee to meet in the Administrative Conference Room, 855 W. Base Line Road, Rialto, CA 92376.

BOARD OF DIRECTORS

**President Gregory Young, Chair
Director Angela Garcia**

Members of the public may attend the meeting in person at 855 W. Base Line Road, Rialto, CA 92376, or you may join the meeting using Zoom by clicking this link: <https://us02web.zoom.us/j/8402937790>. Public comment may be submitted via Zoom, by telephone by calling the following number and access code: Dial: (888) 475-4499, Access Code: 840-293-7790, or via email to administration@vwwd.org.

If you require additional assistance, please contact administration@vwwd.org.

I. CALL TO ORDER

II. PUBLIC PARTICIPATION

The public may address the Board on matters within its jurisdiction. Speakers are requested to keep their comments to no more than three (3) minutes. However, the Board of Directors is prohibited by State Law to take action on items not included on the printed agenda.

III. DISCUSSION ITEMS

1. Updates to the Engineering, Operations and Planning Committee
2. Approve an Operational Agreement with Rubidoux Community Services District.
3. Approve Sale of Water in Storage in the Chino Groundwater Basin.

IV. ADJOURN

DECLARATION OF POSTING:

I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Engineering, Operations and Planning Committee Agenda at the District Offices on April 11, 2024.

Elvia Dominguez

Elvia Dominguez, Board Secretary



**BOARD OF DIRECTORS
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE
STAFF REPORT**

DATE: April 16, 2024
TO: Engineering, Operations and Planning Committee
FROM: Linda Jadeski, Assistant General Manager
SUBJECT: APPROVE AN OPERATIONAL AGREEMENT WITH RUBIDOUX
 COMMUNITY SERVICES DISTRICT

BACKGROUND:

Rubidoux Community Services District (RCSD) has requested the construction of a permanent potable water interconnection between the existing RCSD Water System and West Valley Water District's (WVWD) existing water system to provide potable water to RCSD for distribution and use within RCSD's Service Area (Project). The Project site is located at the intersection of Wilson Street and Fleetwood Street in the District's most southerly service area. The purpose of the Project is to implement provisions of the 2022 Agreement to Provide Water to RCSD (Five-Party Agreement).

The Five-Party Agreement was entered into by WVWD, RCSD, Western Municipal Water District, San Bernardino Valley Municipal Water District, and Metropolitan Water District and allows for the delivery of up to 2,000 acre-feet per year of imported State Water Project water to WVWD, for ultimate delivery and use by RCSD.

DISCUSSION:

RCSD has prepared detailed plans and specifications for the Project for WVWD review and approval prior to construction of the interconnection. RCSD will also advertise, award, and administer the construction contract and pay 100% of the costs associated with the Project. Attached as Exhibit A is a copy of the Operational Agreement between the agencies, which outlines the responsibilities of WVWD and RCSD, both financially and contractually with respect to the Project.

FISCAL IMPACT:

If the agreement is approved, there will be no fiscal impact to WVWD. RCSD shall bear one hundred percent (100%) of the costs associated with the construction of the Project and purchase of State Water Project water.

STAFF RECOMMENDATION:

Staff recommends that the Committee forward a recommendation to the Board of Directors to:

1. Approve the Operational Agreement with RCSD and;
2. Authorize the General Manager to execute all necessary documents.

ATTACHMENT(S):

1. Exhibit A - Operational Agreement

EXHIBIT A

**AGREEMENT
BETWEEN
WEST VALLEY WATER DISTRICT
AND
RUBIDOUX COMMUNITY SERVICES DISTRICT**

This Agreement (the “Agreement”) is entered into by and between the West Valley Water District, a public agency of the State of California (“WVWD”) and Rubidoux Community Services District, a public agency of the State of California (“RCSD”). WVWD and RCSD are hereafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. RCSD is a public agency providing various public services, including potable water service to customers within its service area as depicted on Exhibit “A” attached hereto and by this reference incorporated herein (“Service Area”).
- B. WVWD is a public agency of the State of California formed and operating under the County Water District Law pursuant to California Water Code Section 30000 et seq. authorized to provide water service within its boundaries.
- C. RCSD has requested construction of a permanent potable water interconnection between the existing RCSD Water System and the existing WVWD water system to provide potable water to RCSD for distribution and use within RCSD’s Service Area (hereinafter referred to as the “PROJECT”). The purpose of the PROJECT is to further implement provisions of that certain 2022 Agreement to Provide Water to Rubidoux Community Services (“Five-Party Agreement”).
- D. The PROJECT site is located at the intersection of Wilson Street and Fleetwood Street. A copy of the construction plans for the PROJECT are attached as Exhibit “B” on which a location map is included.
- E. The Five-Party Agreement was entered into by and between WVWD, RCSD, Western Municipal Water District (“Western”), San Bernardino Valley Municipal Water District (“Valley”), and Metropolitan Water District (“MWD”). The Five Party Agreement attached as Exhibit “C” is the underlying agreement allowing for delivery of up to 2,000 acre-feet

per year of imported State Water Project water to WWWD, a retail agency within Valley's general district, for ultimate delivery and use by RCSD who is a retail agency within Western's general district and where Western is a member agency of MWD.

- F. The Five Party Agreement was necessary, in part, to memorialize concurrence between two State Water Project Contractors, MWD and Valley, to move imported water between their respective service areas. The Five-Party Agreement provides, among other things, for the following: (1) WWWD will treat and deliver water to RCSD; (2) said water will be continuously metered; (3) RCSD will directly pay Western for water supplied; (4) Western will pay MWD; and (5) water used by RCSD will be included as part of Western's allocation of MWD's water.
- G. RCSD and WWWD desire to set forth in this Agreement each Party's responsibilities and obligations regarding the design, construction, and ongoing operation of the PROJECT and to further perform their respective activities as set forth in the Five-Party Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 RCSD AGREES TO:

- 1.1 Establish the scope of the PROJECT, subject to WWWD and MWD approval.
- 1.2 Provide the PROJECT design and detailed construction plans and specifications ("Plans") for WWWD's and MWD's review and approval prior to construction of the PROJECT. Design shall be by a Professional Engineer registered in the State of California, and in accordance with RCSD's most recent Rules and Regulations and RCSD's Standards for Domestic Water Facilities and Standard Drawings.
- 1.3 Act as the lead agency for any California Environmental Quality Act (CEQA) review and compliance.
- 1.4 Construct or cause the construction of the PROJECT in accordance with the approved Plans at no cost to WWWD.
- 1.5 Pay one-hundred percent (100%) of design and construction services and related costs.
- 1.6 Designate a representative who shall have the authority to discuss and

- attempt to resolve issues concerning the PROJECT with WVWD.
- 1.7 Own and maintain those PROJECT Facilities on RCSD's side of the connection with WVWD ("Interconnection"), including but not limited to the water meter. RCSD, at its sole cost, shall test and calibrate said meter annually or on any other schedule consistent with MWD requirements, and provide such records to WVWD. Also at its sole cost, RCSD shall replace the meter as warranted or as required by MWD or WVWD.
 - 1.8 Water delivered shall be measured and recorded at the Interconnection by a water meter with the capacity of accurately measuring flow and totalizing volume.
 - 1.9 Arrange for and pay all expenses for relocation of all utilities which interfere with construction of the PROJECT, subject to paragraph 3.10 below.
 - 1.10 Advertise, award, and administer the construction of the PROJECT, in accordance with the provisions of the California Public Contract Code applicable to RCSD and Labor Code Sections 1720 et seq. and 1770 et seq. regarding prevailing wages.
 - 1.11 Utilize a contractor or subcontractor licensed under the laws of the State of California in the specialty Class of "C-34" Pipeline or Class "A" General Engineering.
 - 1.12 Require its contractors to maintain and to comply throughout the term of any contract awarded by RCSD with the insurance requirements described in RCSD's bidding documents for the PROJECT, including the requirement of having WVWD as an additional insured.
 - 1.13 Provide adequate inspection of all items of work performed under the construction contract(s) with RCSD's contractors or subcontractors for the PROJECT and maintain adequate records of inspection and materials testing for review by WVWD. RCSD shall provide copies of any records of inspection and materials testing to WVWD within ten (10) days of RCSD's receipt of written demand from WVWD for such records. This shall be included as a PROJECT cost which shall be at the sole expense of RCSD. RCSD shall maintain these records for a period of three (3) years following completion of the PROJECT.
 - 1.14 File a notice of completion with the Riverside County Recorder.

- 1.15 Provide all required easements for the PROJECT if necessary.
- 1.16 RCSD shall provide WVWD, by March 15th of each year while the PROJECT is in use, an estimated annual total volume to be delivered in the upcoming fiscal year starting each July 1 and ending June 30 for the following year. Included with this information will be an estimated delivery amount by month during the upcoming year measured in acre-feet per month. RCSD understands WVWD's maximum flow rate of deliveries to the PROJECT is 1,250 gallons per minute (gpm) based on now current system operation capabilities.
- 1.17 RCSD recognizes and agrees, and holds WVWD harmless, from WVWD's inability to make deliveries due to unforeseen operational reasons during the year or to meet certain flow rates (gpm).
- 1.18 RCSD recognizes and agrees to coordinate with WVWD on deliveries of flow and grants WVWD personnel access to the PROJECT as reasonably needed.
- 1.19 RCSD will provide WVWD remote SCADA access to meter data if desired.
- 1.20 RCSD is responsible to pay Western their total cost for supply of water delivered by WVWD to RCSD through the PROJECT. WVWD will bear no responsibility for any costs due Western from RCSD.
- 1.21 RCSD is responsible to pay WVWD a cost per acre-foot for each acre-foot of water delivered to RCSD through the PROJECT ("RATE"). The RATE shall be set by WVWD from time to time pursuant to its rules and regulations and shall cover the following: (a) any and all wheeling, treatment, and administrative costs incurred by WVWD for water delivered to RCSD through the PROJECT; and (b) any other costs WVWD incurs which must be paid by RCSD to make WVWD entirely whole for water deliveries made. The RATE methodology as determined by WVWD is contained in EXHIBIT "D". WVWD agrees to notify RCSD of any changes in the RATE by March 15th of each year. Any failure to provide notice by this deadline will not impact the obligation of RCSD to pay the RATE.
- 1.22 RCSD will pay WVWD invoices within thirty (30) days of receipt.

2.0 WVWD AGREES TO:

- 2.1 Review and approve in writing, within a reasonable time after submittal to WVWD, all design and detailed construction documents, specifications, and Plans prepared by or on behalf of RCSD prior to the beginning of the PROJECT.
- 2.2 Approve or disapprove the PROJECT Plans within a reasonable time after submittal to WVWD. In the event WVWD disapproves the PROJECT Plans, RCSD shall modify the PROJECT Plans in accordance with the reasons given for disapproval and shall resubmit the revised PROJECT Plans to WVWD for further review and approval. The foregoing review and approval procedure shall be continued until the PROJECT Plans are approved and signed by WVWD.
- 2.3 Own, operate and maintain the PROJECT Facilities on the WVWD side of the Interconnection.
- 2.4 WVWD's review and approval of the PROJECT Plans and other documents shall not be deemed to be a representation or warranty as to compliance, or noncompliance, of any work with applicable laws, rules and regulations.
- 2.5 Open the valve at the Emergency Interconnection Facilities which are part of the PROJECT and provide water upon receipt of such request. WVWD shall have exclusive control over the opening and closing of the valves at the Emergency Interconnection Facilities which are part of the PROJECT.

3.0 IT IS MUTUALLY AGREED:

- 3.1 Parties shall require all contractors to comply with any and all applicable State wage and hour laws for the PROJECT.
- 3.2 The Parties hereby acknowledge that neither the Parties nor any employees of the Parties shall have any control over the method or means by which the contractor and its agents and employees perform the services contemplated in the PROJECT.
- 3.3 Notwithstanding any other provision of this Agreement, RCSD may delegate or assign any or all of its obligations under Sections 1.1 through 1.15 to a third party selected by RCSD in its sole discretion, provided that RCSD shall remain responsible for compliance with such

obligations as between WVWD and RCSD.

- 3.4 Parties agree that there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry in the performance of this Agreement. The Parties shall ensure their employees and the contractor's employees and agents are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.
- 3.5 RCSD agrees to indemnify, defend (with counsel approved by WVWD), and hold harmless WVWD and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from RCSD's negligent acts or omissions which arise from RCSD's performance of its obligations under this Agreement.
- 3.6 WVWD agrees to indemnify, defend (with counsel approved by RCSD), and hold harmless RCSD and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability resulting from WVWD's negligent acts or omissions which arise from WVWD's performance of its obligations under this Agreement.
- 3.7 In the event RCSD and/or WVWD is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the RCSD and/or WVWD shall indemnify the other to the extent of its comparative fault.
- 3.8 In the event of litigation arising from this Agreement, each Party to the Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs 3.5, 3.6, and 3.7.
- 3.9 RCSD and WVWD are authorized self-insured public entities for purposes of Professional Liability, Automobile Liability, General Liability and Worker's Compensation, and warrant that through their respective programs of self-insurance they have adequate coverage or resources to protect against liabilities arising out of RCSD and WVWD's performance of the terms, conditions or obligations of this Agreement.
- 3.10 In the case wherein one of the Parties owns a utility that needs to be relocated for the PROJECT and that Party does not have prior rights for

that utility, it will be the sole responsibility of RCSD to relocate the utility at the RCSD's cost. This shall be included as a PROJECT cost.

- 3.11 This Agreement may be cancelled/terminated without cause upon thirty (30) days advance written notice of either Party, provided however, that neither Party may cancel/terminate this Agreement without cause after RCSD awards a contract to construct the PROJECT. In the event of cancellation/termination as provided herein, all PROJECT expenses incurred prior to the effective date of cancellation/termination shall be paid by the RCSD. The Parties recognize and agree that the provisions governing utility relocation and construction are dependent upon the Parties first satisfying CEQA. As provided in this paragraph, the Agreement may be cancelled with or without cause, before, during and after CEQA review/approval.
- 3.12 If either WWWD or RCSD breaches any provision of this Agreement, the non-breaching party may give written notice to the breaching party by registered or certified mail detailing the breaching party's violations. If such violation is not corrected within 30 days from the date of the notice of violation or a reasonable period of time as may be required to cure the violation, whichever occurs last, the non-breaching party may, without further notice, declare the breaching party to be in breach of this Agreement. Upon such declaration, the non-breaching party may pursue any remedy available under local, state or federal law. This provision does not waive any applicable Government Code requirements concerning the presentation and consideration of claims.
- 3.13 Except for the Parties' indemnification obligations contained herein which shall survive termination, the term of this Agreement shall be governed by the term and termination provisions of the Five-Party Agreement. The Five-Party Agreement provides that termination will take place on December 31, 2035, provided that if the terms of the State Water Contracts are extended beyond December 31, 2035, then the term will likewise be extended to match the terms of the State Water Contracts.
- 3.14 This Agreement contains the entire agreement of the Parties with

respect to subject matter hereof, and supersedes all prior negotiations, understandings or agreements. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

- 3.15 This Agreement shall be governed by the laws of the State of California. Any action or proceeding between WVWD and RCSD concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement or the PROJECT, shall be instituted and tried in the appropriate state court, located in the County of San Bernardino, California.
- 3.16 Time is of the essence for each and every provision of this Agreement.
- 3.17 Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 3.18 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 3.19 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this Agreement is frustrated.
- 3.20 No amendment to or modification of this Agreement shall be valid unless made in writing and approved by all Parties. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.
- 3.21 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of

this Agreement is frustrated.

- 3.22 With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.
- 3.23 All privileges and immunities of the Parties provided by state or federal law shall remain in full force and effect.
- 3.24 This Agreement will be effective on the date signed and approved by both Parties.
- 3.25 The Recitals are incorporated into the body of this Agreement.
- 3.26 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both Parties.
- 3.27 This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

WEST VALLEY WATER DISTRICT

RUBIDOUX COMMUNITY SERVICES DISTRICT

 General Manager
 Date: _____

 General Manager
 Date: _____

Reviewed by:

 General Counsel
 Date: _____



**BOARD OF DIRECTORS
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE
STAFF REPORT**

DATE: April 16, 2024
TO: Engineering, Operations and Planning Committee
FROM: Joanne Chan, Director of Operations
SUBJECT: APPROVE SALE OF WATER IN STORAGE IN THE CHINO
 GROUNDWATER BASIN

BACKGROUND:

Stakeholders in the Chino Basin are allowed to buy, sell, or store unused water rights overseen by the Chino Basin Watermaster (Watermaster). As of June 2023, West Valley Water District's (District) stored groundwater reserves totaled approximately 9,341 acre-feet (AF) and the District has rights to accumulate approximately 1,000 AF annually. However, the District is unable to extract its current water rights due to well contamination issues in the Chino Basin, therefore the sale of the District's stored water has been considered appropriate.

DISCUSSION:

Niagara Bottling, LLC has expressed an interest to purchase 2,000 AF of the District's stored Chino Basin groundwater this fiscal year at \$620 per AF. The rate is consistent with other water transactions in the Chino Basin. Attached as **Exhibit A** is the Water Lease and Transfer Agreement.

This transaction is pending District Board approval prior to moving the item to the Chino Basin Watermaster Board. District staff expect it will take several months for the Watermaster to evaluate the transaction. If the Watermaster approves the transaction, Niagara Bottling, LLC will have 60 days to make payment to the District.

FISCAL IMPACT:

This item is not included in the FY2023/2024 Revenue section of the approved budget. District staff anticipates \$1,240,000 in revenue resulting from this transaction.

STAFF RECOMMENDATION:

Staff recommends that the Committee forward a recommendation to the Board of Directors to:

1. Approve agreement with Niagara Bottling, LLC for the sale of 2,000 AF of stored water in the Chino Groundwater Basin at a rate of \$620 per AF and;

2. Authorize the General Manager to execute all necessary documents.

ATTACHMENT(S):

1. Exhibit A - Agreement

EXHIBIT A

WATER LEASE AND TRANSFER AGREEMENT

THIS WATER LEASE AND TRANSFER AGREEMENT (“Agreement”) is entered into as of the ____ day of _____, 2024 (“Effective Date”) by and between the WEST VALLEY WATER DISTRICT, a public agency (“WVWD”) and NIAGARA BOTTLING, LLC, a Delaware limited liability company, with its principal address located at 1440 Bridgeway Drive, Diamond Bar, California 91765 (“Company”). WVWD and Company may be referred to in this Agreement individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the Chino Basin Watermaster (“Watermaster”) was established under a judgment entered into for the case entitled *Chino Basin Municipal Water District v. City of Chino, et al*, dated as of January 27, 1978 (“Judgment”). The Watermaster's mission is to manage the Chino Groundwater Basin (“Basin”). Under the Judgment, three “Pool” committees were formed including the “Appropriative Pool” which represents cities, special districts, other public or private entities and utilities with rights in the Basin; and

WHEREAS, both Parties have certain rights in the Basin as “Appropriative Pool Members.” WVWD’s rights include an Excess Carry Over Account (“ECO”) which is recorded with Watermaster as having a beginning balance and an amount which carries forward from the ending balance in a previous period. Said rights are described in an Assessment Package for the applicable Assessment and Production Year; and

WHEREAS, Company desires to lease, and otherwise receive the transfer of, WVWD’s rights under WVWD’s ECO for the 2023 - 2024 Assessment Year (2023- 2024 Production Year) (“23/24 ECO”); and

WHEREAS, the Parties desire to enter into this Agreement in order to set forth the terms and conditions for the lease/transfer of a portion of the 23/24 ECO.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, in exchange for the mutual covenants hereinafter contained, and the foregoing Recitals, which are incorporated herein, the Parties agree to the following:

1. QUANTITY. WVWD agrees to lease and transfer a total of 2,000 acre-feet (“AF”) of the 23/24 ECO (“Leased Groundwater”) to Company and Company agrees to lease, and otherwise accept the transfer of, the Leased Groundwater from WVWD.

2. PRICE. The Parties agree the price that Company will pay WVWD for the Leased Groundwater shall be \$620/AF of the Leased Groundwater.

3. PAYMENT. The lease/transfer of the Leased Groundwater and the payment by Company to WVWD for the same shall be made only after the lease/transfer has been approved by the Chino Basin Watermaster Board and/or any designee. Following Watermaster Board or designee approval, WVWD shall submit an invoice to Company in the full amount of the Leased Groundwater that was approved by the Watermaster Board/designee. Company shall initiate payment to WVWD for the full amount due from Company to WVWD and attaching a copy of

the Watermaster report showing the transfer amount on or before the sixtieth (60th) day after the date of such invoice from WVWD (“Due Date”). Any payment not received by WVWD from Company by the Due Date will incur a late payment penalty of ten percent (10%) of the total amount due as reflected on the invoice from WVWD to Company. If payment is not received by WVWD on or before thirty (30) days after the Due Date, provided that WVWD also gives Company written notice that payment is delinquent during such thirty (30) day period, then WVWD shall have the option to terminate this Agreement effective immediately upon communication of such intent to terminate to Company and/or take any other applicable actions under law or equity.

4. TERM AND EFFECTIVE DATE. This Agreement shall be effective as of the Effective Date when executed by both Parties. The term shall be from the Effective Date to the date of full performance by both Parties or June 30, 2024, whichever date is sooner. Upon the expiration or termination of this Agreement, any outstanding obligations shall become immediately due and shall survive said expiration or termination.

5. COOPERATION IN APPLICATION PROCESSING AND RECORD KEEPING
The Parties agree to work cooperatively in coordinating actions necessary to carry out the terms of this Agreement, including but not limited to preparing, maintaining, and delivering all applications, records, and other documentation required by Watermaster to process the lease and transfer of the Leased Groundwater as provided in this Agreement.

6. ACCEPTANCE OF TRANSFER/CONVEYANCE OF WATER Company shall be responsible, at its sole cost and expense, for any and all activities required for the acceptance of the transfer of the Leased Groundwater and the conveyance of said water to Company facilities.

7. ASSESSMENTS; COSTS AND EXPENSES. WVWD shall have no responsibility, obligation, or liability, and Company shall be solely and completely responsible, for paying any and all Watermaster assessments applicable to the quantity of any water leased and transferred by WVWD to Company under this Agreement. Except as may be specifically required of WVWD under any rules or regulations of Watermaster, all costs and expenses for the initiation and completion of the lease/transfer contemplated herein shall be the sole responsibility of Company.

8. WATER QUALITY. WVWD makes no representation or warranty concerning the quality of any water transferred or leased by WVWD under this Agreement.

9. SERVICE AREA INTEGRITY. Nothing in this Agreement is intended nor shall be interpreted to change WVWD’s existing service area or allow Company or any other entity to sell water or provide any municipal water service within WVWD’s service area.

10. INDEMNITY. Each Party shall indemnify and hold harmless the other Party and its respective officials, employees, and agents from and against any and all damages, liabilities, obligations, claims, actions, suits, judgments, losses, costs and expenses, including but not limited to reasonable attorney’s fees arising from the Party’s breach of its obligations under this Agreement or negligent acts or omissions of its employees, agents, or contractors in the performance of this Agreement or the subsequent use and distribution of the Leased Groundwater.

11. GOVERNING LAW AND VENUE. The Parties agree that this Agreement shall be governed by the laws of the State of California. The Parties agree that venue for any action brought to enforce the terms of this Agreement shall be in a court of competent jurisdiction in the County of San Bernardino, California, and both Parties hereby consent to that jurisdiction.

12. NOTICES. Any formal notice, demand or request provided for in this Agreement, or given or made in connection with this Agreement, shall be in writing and delivered to the respective Party representative at the address specified in this Section below. All notices shall be deemed to be properly given or made upon receipt and shall be deemed received upon confirmed personal service, confirmed courier service, or on the fifth (5th) calendar day following deposit of the notice in registered first class mail. Either Party may change the address to which notices are to be given under this Agreement by providing the other Party with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

To WVWD: West Valley Water District
 Attn: General Manager
 855 W. Base Line Road
 Rialto, CA 92376

To Company: Niagara Bottling, LLC
 Attn: _____
 1440 Bridgegate Drive
 Diamond Bar, CA 91765

13. AMENDMENTS. This Agreement may be amended only by written agreement signed by both Parties.

14. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties with respect to the specific subject matter hereof, and supersedes any and all prior or contemporaneous oral or written representations or agreements which may have been made between the Parties with respect to the specific subject matter hereof. No modification or revision shall be of any force or effect, unless the same is in writing and executed by both Parties hereto.

15. SUCCESSORS AND ASSIGNS. The terms of this Agreement shall be binding upon all successors in interest and assigns of each Party; provided, however, that no Party shall assign its rights or obligations under this Agreement without the signed written consent of all other Parties to this Agreement.

16. WAIVER. No waiver of any provision of this Agreement by a Party shall be construed as a further or continuing waiver of such provision or any other provision of this Agreement by the waiving Party or the other Party.

17. AUTHORIZED REPRESENTATIVES. Each person executing this Agreement on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this Agreement on behalf of the respective Party.

18. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

[Signature on Following Page]

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

West Valley Water District

Niagara Bottling, LLC

By: _____
John Thiel, General Manager

By: _____
[NAME] , [TITLE]

Attest:

By: _____
[NAME] , [TITLE]