

SECOND AMENDMENT

TO

WATER SUPPLY AGREEMENT

BETWEEN

CITY OF TRENTON

AND

NEW JERSEY-AMERICAN WATER COMPANY, INC.

THIS SECOND AMENDMENT TO WATER SUPPLY AGREEMENT dated February __, 2009, (the "Amendment") is made by and between the **CITY OF TRENTON**, a body politic of the State of New Jersey (the "City"), and the **NEW JERSEY-AMERICAN WATER COMPANY, INC.**, a New Jersey Corporation, with principal corporate offices 131 Woodcrest Road, Cherry Hill, New Jersey 08003 (the "Buyer").

WHEREAS, the City and the Buyer entered into a Water Purchase Agreement on December 21, 2007 and said agreement was amended by a First Amendment on June 9, 2008 (as amended the "Agreement"); and

WHEREAS, the City and the Buyer have agreed to make certain additional changes to the Agreement to reflect the Stipulation agreed to by the parties in BPU Docket NO. WE 08010063; and

WHEREAS, the City and the Buyer intend that all other provisions of the Agreement not changed, amended or modified through this Amendment shall remain in full force and effect.

NOW, THEREFORE, in consideration of the premises and the mutual promises made in connection herewith, the City and the Buyer agree as follows:

(1) The City and the Buyer agree that from the Closing Date through the end of the date that is thirty six (36) months after the Closing Date, the Buyer shall have an obligation to purchase and the City shall have an obligation to sell an Annual Purchase Requirement of 5,110 million gallons per year (MGY), to be billed and paid in equal monthly installments (at a volumetric billing base of 425,833 thousand gallons per

month), and that for the balance of the term of the Agreement after such thirty six (36) month period expires, the Buyer agrees to purchase and the City agrees to sell to Buyer all of the water that Buyer requires to serve the OWUS as measured by the Master Meters at the Points of Delivery. The base rate per thousand gallons shall be \$1.880. These changes will require the following change to the Agreement:

(A) The definition of “Annual Purchase Requirement” or “APR” will be deleted in its entirety and replace with the following:

*“Annual Purchase Requirement” or “APR” is the minimum total volume of water expressed in million gallons per year, as set forth on **Exhibit B** attached hereto and incorporated herein by reference, that the Buyer is required to take or pay for and the City is obligated to deliver for the first thirty six (36) months after the Closing Date of the Agreement during each Annual Purchase Period, subject to adjustment as set forth in Sections 3(a) and 13 of the Agreement.”*

(B) Section 2(b) of the Agreement shall be deleted in its entirety and replaced with the following:

“(b) Billing for Water Purchase Volumes. Subject to adjustment due to a Force Majeure Event or a Water Quality Event, the Buyer and the City agree that for the first thirty six (36) months of the Agreement, Buyer shall be obligated to take or pay for and the City shall be obligated to deliver the APR. Given this agreement, starting on the

first full month after the Closing Date, and continuing for a twelve (12) month period thereafter (which twelve (12) month period shall be the first APP of the Agreement), the Buyer shall pay for the APR in equally monthly installments based on a rate of \$1.880 per thousand gallons of potable water. From the Closing Date until the end of the month in which the Closing Date occurs, the Buyer shall pay a prorated sum based on the APR.

The Buyer shall be billed by the City during the next APP for the APR at the rate per thousand gallons of potable water of \$1.880 multiplied by the change in the CPI for the twelve-month period ending the last full month prior to the conclusion of the first APP. During the third APP, the rate per thousand gallons shall be determined by multiplying the rate for the second APP by the change in the CPI for the twelve-month period ending the last full month of the second APP and the volume of water shall be the APR.

After the first thirty six (36) months of the Agreement, billing will be based on actual metered volumes measured at the Points of Delivery and such billing will commence the thirty seventh (37th) month following the Closing. The charge for water usage set forth hereinabove shall be increased by the Capital Improvements Surcharge defined in and in accordance with the provisions of Exhibit C.”

(C) Sections 3 (a) and (b) shall be deleted and replaced in their entirety with the following:

” (a) Subject to the terms and conditions of this Agreement, the City shall be obligated to supply, and the Buyer is obligated to take or pay for the APR for the first thirty six (36) months of this Agreement.

(b) After the first thirty six (36) months of the Agreement, the Buyer agrees to purchase and the City agrees to sell to Buyer all of the water that Buyer requires to serve the OWUS as measured by the Master Meters at the Points of Delivery, provided, however that in the event of a Force Majeure Event, a Water Quality Event or other issue which prevents the City from providing Buyer such requirements, Buyer may obtain water to serve the OWUS system from other sources. Water provided by the City to the Buyer after the first thirty-six (36) months shall be billed to the Buyer pursuant to Exhibit C attached hereto and incorporated herein by reference.”

(D) The third sentence of Section 3(c) of the Agreement is deleted and replaced in its entirety with the following sentence:

“The Parties agree to cooperate in the purchase of water so that there is no undue constraint or stress placed on either Party’s system.”

(E) The first two paragraphs of Section 5(b) of the Agreement shall be deleted and replaced in their entirety with the following:

“(b) After the initial thirty six (36) months of the term of the Agreement, bills will be rendered monthly based upon the actual amount of water delivered to the

Buyer as measured by the Master Meters and shall be payable within thirty (30) days of when rendered. All undisputed portions of a bill unpaid within ninety (90) days of when rendered shall bear interest at the rate of 1.5% per month from the due date. Such interest shall be added to any unpaid amounts on a monthly basis but shall not be compounded or treated as recomputed principal.

For the first thirty six (36) months of the Agreement, each bill will show the Buyer's APR and year-to-date billed purchases as applied toward satisfying the APR, as well as any credits to Buyer's APR due to Force Majeure or Water Quality Events. The bill rendered for the last month of any APP during the first thirty six (36) months shall include any charges due to the City with respect to any difference between the APR and the actual quantity of water received by the Buyer during such APP, to be billed by the City at the applicable rate."

(F) Section 13 including the heading shall be deleted in its entirety and replaced with the following:

"13. CHANGES TO FLOW RESTRICTIONS

(a) *The parties agree that the initial Maximum Annual Purchase, Maximum Monthly Purchase, Maximum Daily Purchase, and Maximum Monthly Flow Rate limitations are provided for in **Exhibit B** attached hereto and incorporated herein by reference. The MDP, MMP, MAP and Maximum Hourly Flow Rate set forth in Exhibit B may at any time be adjusted by an amendment to this Agreement signed by both Parties.*

(b) *Given that the Buyer is agreeing to purchase all of the water it needs to service the OWUS from the City, the City agrees that the MDP, MMP, MAP and Maximum Hourly Flow Rate will change as necessary for the Buyer to meet increased demand for water in the OWUS and to meet NJDEP or other regulatory capacity requirements. In the event the City cannot increase the MDP, MMP, MAP or Maximum Hourly Flow Rate to meet such demands, to the extent the City cannot meet the Buyer's demands, the Buyer is permitted to meet its demands from sources other than the City on terms the Buyer deems in its reasonable judgment to be appropriate.*

(G) Attached hereto is a revised Exhibit B which shows that the APR is applicable for the first thirty-six (36) months of the Agreement at the volume level set forth in Section (1) above. To avoid confusion, the amended version of Exhibit B is attached to this Amendment and made a part hereof and incorporated herein by reference.

(H) Exhibit C to the Agreement shall be amended as follows:
(a) to change the Base Rate from \$2.06 to \$1.88 per thousand gallons of water in Paragraph 1; (b) the second sentence of Paragraph 1 shall be deleted and replaced in its entirety to read "Base Rates for water supplied during the first thirty six (36) months shall be charged in accordance with Section 2(b) of the Agreement; and (c) in the first full paragraph of Exhibit C, following the bulleted items in Section 3(C), the phrase "within twenty (20) days after the Agreement is executed" shall be amended to read "no later than twenty (20) days of the issuance of the Final BPU Order".

(1) All other terms and conditions in the Agreement not changed, modified or amended through this Amendment shall remain unchanged and in full force and effect. In the event of a dispute between this Amendment and the Agreement, this Amendment shall govern.

(2) The Parties agree that this Amendment may be executed at any time subsequent to its approval by the City's Municipal Council, provided that the Amendment shall become effective upon passage of the twenty-day period set forth in N.J.S.A. 40:69A-181(b).

[Remainder of the Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Buyer have executed this

Second Amendment to Water Supply Agreement as of the date first above written.

CITY OF TRENTON

By: _____

NAME: Douglas H. Palmer

TITLE: Mayor

NEW JERSEY-AMERICAN WATER
COMPANY, INC.

By: _____

NAME: John R. Bigelow

TITLE: President

EXHIBIT B

WATER PURCHASE LIMITATIONS AND REQUIREMENTS

Annual Purchase Requirement (for the first 36 months only)	5,100 MGY (5,110,000,000 gallons per year or 14,000,000 GPD)
Maximum Hourly Flow Rate	24,306 GPM
Maximum Daily Purchase	29,000,000 GPD
Maximum Monthly Purchase	850 MG (850,000,000 gallons)
Maximum Annual Purchase	8,000 MGY per calendar year (8,000,000,000 gallons)