

INTERCONNECTION AGREEMENT FOR EMERGENCY USE

(FRANKLIN ROAD)

THIS INTERCONNECTION AGREEMENT FOR EMERGENCY USE (“Agreement”), made as of the _____ day of _____, is by and between the CITY OF MERIDIAN (“Meridian”), a municipal corporation organized under the laws of the State of Idaho with its principal office located at 33 East Broadway Avenue, Meridian, Idaho 83642, and Veolia Water Idaho, Inc. (“Veolia”, formerly known as SUEZ Water Idaho Inc), a corporation organized under the laws of the State of Idaho with its principal office located at 8248 West Victory Road, Boise, Idaho 83709,

WITNESSETH:

WHEREAS, Meridian owns and operates a municipal water utility system furnishing water service to the public in parts of the City of Meridian; and

WHEREAS, Veolia owns and operates a public water utility system and furnishes water service to the public in Boise and surrounding areas, including parts of the City of Meridian; and

WHEREAS, the distribution systems of Meridian and Veolia both include water mains in close proximity to each other on Franklin Road, about 1,300 feet west of Cloverdale Road, which operate at similar pressures (the “Meridian Main” and “Veolia Main” respectively); and

WHEREAS, a connection of the two systems near the aforementioned location would be beneficial to both Veolia’s system and Meridian’s system in emergency situations, , such as inability to supply adequate pressure or an inability to meet water

quality requirements, by allowing each party to quickly receive water from the other system;

WHEREAS, Veolia and Meridian now desire to design and construct an interconnection between the Veolia system and the Meridian system (the “Interconnection”) to provide a temporary alternate source of water supply for each party on the terms and conditions set forth herein;

WHEREAS, the parties wish to set forth their agreement for the design, construction, operation, maintenance, and financing of the Interconnection and all associated improvements by which each party will deliver water to the other at the specific metered Interconnection location and their agreement as to delivery, receipt, and payment for water delivered through the Interconnection;

NOW, THEREFORE, in consideration of these premises and of the mutual promises and undertakings hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I

The Interconnection

1.1 Interconnection. A conceptual drawing of the Interconnection covered by this Agreement is shown on Exhibit A, which is attached to this Agreement and expressly made a part hereof. The Interconnection, when constructed, shall allow for the temporary delivery of water between Meridian and Veolia. The Interconnection will be designed and constructed as discussed in Section 1.3 below to enable water to flow in either direction as needed.

1.2 Applicability of Agreement. The terms of this Agreement shall apply only to the aforementioned Franklin Road Interconnection. Provision of water through any new interconnection that may be constructed in the future between the parties' systems shall be subject to a separate agreement.

1.3 Design and Construction of the Interconnection.

(a) The parties agree that the Interconnection requires design and construction and are willing to share the cost of the said design and construction including any easements required by mutually approved plans as set forth below.

(b) Meridian, at its own cost, through a third-party design engineer, shall design the Interconnection, draft a Preliminary Engineering Report (PER) and provide said products to Veolia for review and comment. Upon completion of design and PER to the satisfaction of both parties, Meridian will submit and gain approval from Idaho Department of Environmental Quality. Veolia, at its own cost shall complete a PER for the Veolia system supply and demand analysis, as required by IDEQ, and obtain approval for the Veolia PER.

(c) Meridian, at its own cost, shall: 1) procure a construction contract for construction of the Interconnection from the Meridian side, to and including the meter vault and a connection point for Veolia's waterline on the east side of the meter vault, according to the approved design, PER and appropriate rules for public works procurements; and 2) supply or arrange for the provision and/or performance of all required services, goods, materials, engineering, and construction needed to complete the modifications on the Meridian side of the Interconnection in a sound and workman-like fashion and according to mutually approved plans (collectively, the

“Meridian Work”). For purposes of this Article I, the “Meridian Work” shall be deemed to include and comprise all of the completed design, engineering, and construction required for the Interconnection project by this Agreement.

(d) Veolia, at its own cost, shall: 1) in its sole discretion, self-construct or procure a construction contract for construction of the Interconnection from the Veolia side, to and including new water main piping; and 2) supply or arrange for the provision and/or performance of all required services, goods, materials, engineering, and construction needed to complete the modifications on the Veolia side of the Interconnection in a sound and workman-like fashion and according to mutually approved plans (collectively, the “Veolia Work”).

(e) Because the Meridian portion of the Interconnection will be more costly and time consuming to schedule and construct, it is assumed that the Meridian Work will be constructed first. The Veolia Work may occur before, during, or after the Meridian Work, but shall be constructed and completed no later than 12 months after the satisfactory completion of the Meridian Work.

1.4 Designs and Specifications. Meridian shall supply to Veolia all designs, specifications, drawings, schedules, blueprints, and engineering for the Interconnection project for approval prior to finalization, which approval shall not be unreasonably withheld.

1.5 Supervision of the Work. Except as otherwise provided herein, Meridian shall have the right and obligation to supervise and inspect the Meridian Work including, but not limited to: monitoring and enforcement of compliance with the project documents; approval and acceptance of the Meridian Work; and the review, approval,

and processing of applications for payment to contractors and materialmen engaged on the Meridian Work up to and including the meter vault. Except as otherwise noted, Veolia shall have the right and obligation to supervise and inspect the Veolia Work including but not limited to: monitoring and enforcement of compliance with the project documents; acceptance of the Veolia Work; and the review, approval, and processing of applications for payment to contractors and materialmen engaged on the Veolia Work up to the meter vault on the Veolia side. Neither party under this Agreement is in any respect acting under the Agreement as agent, employee, nor representative of the other party to this Agreement and is, in all respects, an independent contractor hereunder. Neither party shall allow any lien(s) related to materials provided to or work performed on the Interconnection project to attach to the Interconnection or any part of the parties' respective water systems.

1.6 Access to and Acceptance of the Work. Each party shall, at all times, allow the other party reasonable access to, and opportunity to inspect, the Meridian Work and the Veolia Work, and before providing emergency water supply under this Agreement, shall have the right to finally accept the same as sufficient for purposes of delivery of emergency water supply in a reasonable manner, consistent with its water system operations and with the terms of this Agreement.

1.7 Permits and Licenses. Meridian shall obtain, at its sole expense, any permits, licenses, or other authorizations required under any federal, state or local law, statute, rule, regulation, ordinance, or other authority for the Meridian Work up to and including the meter vault. Veolia shall obtain, at its sole expense, any permits, licenses, or other authorizations required under any federal, state or local law, statute,

rule, regulation, ordinance, or other authority for the Veolia Work on its side of the meter vault.

1.8 Invoicing and Payment for the Work. Meridian and Veolia shall pay their respective contractors, if any, in accordance with their respective contracts and applicable law.

1.9 Ownership and Maintenance of the Interconnection. Meridian shall have all right, title, and interest to, and shall own, the piping, valves, appurtenances, and other improvements associated with 1) the Meridian Work and 2) the Interconnection, including the meter, the meter vault, and all facilities constructed west of the meter vault, up to the point of Veolia's ownership. Veolia shall have all right, title, and interest to, and shall own, the piping, valves, appurtenances, and other improvements associated with 1) the Veolia Work and 2) the Interconnection up to the point of Meridian's ownership. The portion of the Interconnection owned by each party shall be depicted with more detail on the construction plan sheets. Each party shall be solely responsible for maintaining its portion of the Interconnection. . All valves on the Interconnection shall be installed with locking lids and set to normally remain closed and shall be used only as set forth herein. These items will be clearly identified on the relevant construction plan sheets. Each party shall notify the other of any operation or maintenance activities needed, and will coordinate with the other party to provide access to the Interconnection and related facilities as reasonably necessary to facilitate such activities.

1.10 Flushing. Flushing of the Interconnection through the valve vault and out the other parties' adjacent hydrant shall be performed by both parties every six months. .

ARTICLE II

Supplies

2.1 Sale and Purchase of Water Supply (Supplies). In accordance with this Article II, each party shall deliver and sell, and the other party shall receive and purchase, the Supplies through the Interconnection during any Emergency Event that may occur during the term of this Agreement. The term "Emergency Event" includes, without limitation, the inability of one party to deliver adequate pressure or to deliver water of adequate water quality to any of that party's customers. The Interconnection is intended to provide water supplies that are 1) temporary and 2) reasonably necessary to address an Emergency Event. No party shall be obligated under this Agreement to provide Supplies for longer than three (3) months.

2.2 Notice of Intent to Receive and Purchase Supplies through the Interconnection. The Interconnection will be controlled by manual operation of valves by operators of the respective owners who have been trained specifically on the Interconnection. If either party desires to receive water through the Interconnection, that party's designated Point of Contact (POC) shall notify the other party's designated representative as soon as practicable. The designated POC for Meridian is the Water Superintendent (208) 888-5242. The designated POC for Veolia is the Production Supervisor at (208)761-3738, back-up Veolia emergency number is (208)362-7372. The POC that desires to receive Supplies through the Interconnection shall notify the

POC of the party to provide Supplies through the Interconnection within four (4) hours to describe the nature and expected duration of the Emergency Event and to describe the anticipated flow and volume of Supplies that will be requested. Notices pursuant to this paragraph may be verbal, but shall be confirmed in writing within two (2) business days, which may be transmitted by facsimile or email to the respective POC.

2.3 Supply. A party's obligation to deliver Supplies under this Agreement shall be dependent upon the availability of water supply, that party's physical and logistical ability to supply water, and other factors. No party will be obligated to supply water if doing so would, in the reasonable judgement of the party, impair its ability to adequately serve its own customers. Prior to supplying water through the Interconnection, the supplying party will confirm its ability to provide the requested flows and volumes and, if it cannot provide the requested flows, will advise the requesting party as to the flow and volume of supplies that can be provided.

2.4 Meter Readings and Tests. Prior to supplying water through the Interconnection, both parties will, at their sole cost and expenses, check and confirm the meter reading(s). Each party shall have the right to access the meter vault at the Interconnection and to conduct a test of meter accuracy. Each party shall bear all costs for maintenance, repair, and replacement of their own meters including recalibration every 3 to 5 years, or replacing the meters if they are found to register inaccurately beyond the American Water Works Association (AWWA) Standards of tolerance. If the meters are found to register inaccurately beyond a range of tolerance in accordance with AWWA Standards, an adjustment shall be made to the bills rendered for service through the Interconnection for the period since the last meter

test, but no longer than one year from the date the inaccuracy was discovered. The adjustment will be based upon the product of total consumption recorded by the meter for the applicable time period, and one-half the percentage variance in the accuracy of the meter as determined upon its being tested.

2.5 Charges and Billing Procedures. The parties will each read the meter before and after water is supplied through the Interconnection. The supplying party may wait to bill the receiving party until the Interconnection is closed, or read and bill the receiving party per their current billing practices while the Interconnection is still being used. The rate for service supplied under this Agreement by either party shall be that party's Volume Charge (set forth in Veolia's Schedule 1, General Metered Service, as the same now exists or may hereafter be amended, and according to Meridian's current rates at the time). No "base", "customer", "service", "fixed", "franchise" or "IDEQ" fees or charges of any type shall be applicable for billing purposes by either party. Upon receipt of a bill for Supplies, the receiving party shall make payment in full to the providing party within thirty (30) days of the date of the bill.

2.6 Water Quantity, Quality, and Pressure.

(a) Each party shall use its best efforts to ensure that the Supplies furnished under this Agreement are potable and in compliance with all applicable federal and State of Idaho laws and regulations in effect at the time the Supplies are delivered to the other party (collectively, the "Water Quality Laws"). Neither party shall be responsible for the quality of water beyond the point of delivery to the other party's system. The latest water quality sampling from either party shall be made available by both parties prior to activation of the Interconnection and throughout its use.

(b) While the supplying party shall make its best efforts to provide the flows and volumes needed by the receiving party, it is understood and agreed by both parties that such supply will not be provided to the detriment of the supplying party's system; therefore, the supplying party may, at any time during the use of the Interconnection, reduce or cease flows to the receiving party as reasonably necessary to ensure that the provision of water under this Agreement does not detrimentally impact its system or its customers. The supplying party POC shall, to the extent possible and specifically excluding emergencies or the unanticipated inability to provide sufficient service, provide the receiving party POC at least 48 hour notice before reducing or ceasing flows to the receiving party.

ARTICLE III

Miscellaneous

3.1 Commencement and Term; Effective Date.

(a) The term of this Agreement shall commence on the date on which a final order of the Idaho Public Utilities Commission ("Commission") approving this Agreement with no change to the Agreement's terms is issued, or in the event that the Commission does not assert jurisdiction over this Agreement, then on the date on which that is confirmed by the parties and shall run thereafter for a period of five (5) years. This Agreement shall renew automatically from year to year thereafter, unless either party gives notice to the other eighteen (18) months in advance of its intent to terminate.

(b) Notwithstanding the foregoing, the obligations to provide Supplies under this Agreement shall not become effective unless and until this Agreement is approved

by the State of Idaho Public Utilities Commission ("Commission") with no change to the Agreement's terms or, in the event that the Commission does not assert jurisdiction over this Agreement, on the date on which that is confirmed by the parties. Immediately following execution of this Agreement, the parties shall prepare a joint application ("Application") to the Commission for approval of this Agreement. Each party agrees to use reasonable best efforts to obtain approval, and each party shall take no action inconsistent with obtaining approval of this Agreement by the Commission. Provided, however, that Veolia shall have the unilateral right to terminate this Agreement in the event that the Commission denies the Application or approves the Application but with conditions deemed by Veolia to be adverse to its operations or business interests.

3.2 Force Majeure. If the ability of either party to deliver the Supplies is precluded, interrupted or impaired, in whole or in part, due to failure of equipment or facilities, leaks, required repairs to facilities, strikes, Acts of God, or other extraordinary circumstances, occurrences or conditions beyond the parties' control, including action by governmental bodies and authorities, then during the period of such preclusion, interruption or impairment, the delivery and purchase obligations described herein shall be suspended. Each party specifically acknowledges, understands and agrees that the obligations of the other party to deliver the Supplies requires only the exercise of ordinary and reasonable care under the circumstances to maintain the Supplies and have such available for delivery hereunder, and that the party delivering Supplies through the Interconnection shall not be liable to the other party for any interruption of, or curtailment in the Supplies caused by circumstances beyond its control.

3.3 Remedies. In the event of a party's breach of this Agreement, the non-breaching party's sole remedy shall be to terminate this Agreement upon written notice to the breaching party. A party's failure to supply water to the other party under this Agreement shall not give rise to any liability or claim for damages, whether direct, indirect, consequential or otherwise.

3.3 Condition Subsequent. Each party's respective rights and obligations hereunder are conditioned upon and subject to the receipt of: (a) all necessary, final and appealable zoning, subdivision and land development approvals; and (b) any and all permits and licenses required by federal, state and local governments or agencies thereof to permit the construction and operation of a particular Interconnection. The parties shall use their best efforts to apply for and obtain all necessary approvals, permits and licenses at the earliest time practicable under the circumstances.

3.5 Successors and Assigns; No Third-Party Beneficiaries. This Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and permitted assigns. This Agreement is deemed to be solely for the benefit of the parties hereto, and no person or entity not a party to this Agreement, including without limitation industries or persons supplied by either party, shall acquire any rights or claims against a party by reason of this Agreement or a party's performance or non-performance under this Agreement.

3.6 Authority and Binding Effect. Meridian and Veolia each represent, warrant and affirm to the other: (a) their authority and power to enter into this Agreement and to make, perform and carry into effect their respective commitments,

obligations and undertakings as set forth herein; (b) their authority to enter into and perform each of the transactions contemplated hereby; (c) that except with respect to any consent or authorization that is by its nature only obtainable after execution but before performance of this Agreement, all consents and authorizations requisite to their execution of this Agreement and performance hereunder have been obtained; (d) that this Agreement, the transactions contemplated hereby and the parties' performance hereunder will not violate any federal, state or local law, statute, regulation, rule, ordinance, tariff term or other similar authority application to either of them; and (e) when executed, the Agreement shall constitute a valid and binding obligation, enforceable by each party against the other in accordance with its terms.

3.7 Consent to Assignment. The parties' respective rights and obligations hereunder shall not be assignable or delegable whether by sale, assignment, merger or otherwise without the prior written consent of the other party, except if another entity purchases all or substantially all of the assets of either party, in which case assignment shall be effective upon notice to the other party.

3.8 Amendment. This Agreement may be amended only by written instrument, signed by the party to be bound.

3.9 Entire Agreement. This Agreement embodies the entire agreement between the two parties with reference to the subject matter hereof, and there are no agreements, understandings, conditions, warranties or representations, oral or written, expressed or implied, with reference to the subject matter hereof that are not merged in this Agreement or superseded hereby.

3.10 Terms Severable. Should any term of this Agreement be held invalid or unenforceable, such determination shall not render the remaining terms of this Agreement invalid or unenforceable, unless to do so would cause the Agreement to fail in it's essential purpose.

3.11 Notices. Any notices required or permitted to be given hereunder shall be in writing, shall be effective upon receipt (unless otherwise provided herein), and shall be delivered by email, facsimile transmission or by United States mail, first-class postage prepaid, addressed to the parties as follows:

If to Veolia:

General Manager
8248 West Victory Road
Boise, ID 83709
marshall.thompson@veolia.com

If to Meridian:

Public Works Director
33 E Broadway Avenue, Suite 200
Meridian, ID 83642
Imcvey@meridiantcity.org

3.12 Titles. The titles appearing herein have been inserted for convenience of reference only and shall not be deemed a part thereof or considered in construing the parties' rights and obligations hereunder.

3.13 Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered, effective as of the day and year first written above.

CITY OF MERIDIAN

VEOLIA WATER IDAHO, INC.

By: _____
Robert E. Simison, Mayor

DocuSigned by:
By Marshall Thompson
36665A341309444...
Name: Marshall Thompson
Title: Vice President and General Manager

Attest:

Chris Johnson, City Clerk

