

# WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective May 30, 2014, between the Idaho Water Resource Board ("**Board**"), and

**Lessor:** CITY OF CHUBBUCK  
PO BOX 5604  
CHUBBUCK ID 83202-5604  
208-237-2430

RECEIVED

JUN 16 2014

Department of Water Resources

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

### Summary of Water Rights or Portions Leased to the Bank

| <u>Water Right</u>            | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 29-14099                      | 2.52 CFS          | 462.0 AF            | NA                | 132.0 AC                  |
| <b>Combined Lease Totals:</b> | <b>2.52 CFS</b>   | <b>462.0 AF</b>     | <b>NA</b>         | <b>132.0 AC</b>           |

The water rights described herein shall be available for rental from the Bank as follows:  
Authorized Period of Use under Lease: 04/01 to 10/31

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

**Minimum Payment Acceptable:** Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2014.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

**CITY OF CHUBBUCK**

PO BOX 5604

CHUBBUCK ID 83202-5604

By Kevin B. England

Printed Name Kevin B. England

Date 11 June 2014

Title Mayor

**IDAHO WATER RESOURCE BOARD**

322 East Front Street

P.O. Box 83720

Boise, ID 83720-9098

for By Brian Patton  
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date 6/11/2014

Lease approved by IDWR Cherie Palmer

Date 6/16/2014

**ATTACHMENT A**  
**WATER RIGHT NO. 29-14099**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water right or portion thereof leased to the bank is described as follows:

**Lessor:** CITY OF CHUBBUCK  
PO BOX 5604  
CHUBBUCK ID 83202-5604  
208-237-2430

**Priority Date:** 05/02/1966

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>   |
|-----------------------|---------------|-----------|-----------------------|-----------------|
| MUNICIPAL             | 04/01         | to 10/31  | 2.52 CFS              | 462.0 AF        |
|                       | <b>Total:</b> |           | <b>2.52 CFS</b>       | <b>462.0 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |                |         |         |         |                |
|--------------|----------------|---------|---------|---------|----------------|
| GROUND WATER | SE¼NW¼SW¼      | Sec. 34 | Twp 05S | Rge 34E | Bannock County |
| GROUND WATER | NW¼NW¼SW¼      | Sec. 3  | Twp 06S | Rge 34E | Bannock County |
| GROUND WATER | SW¼SE¼SW¼      | Sec. 4  | Twp 06S | Rge 34E | Bannock County |
| GROUND WATER | L13 (SW¼SW¼)   | Sec. 10 | Twp 06S | Rge 34E | Bannock County |
| GROUND WATER | L4 (NE¼NW¼NW¼) | Sec. 11 | Twp 06S | Rge 34E | Bannock County |

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. Place of use is within the service area of the City of Chubbuck municipal water supply system as provided for under Idaho law.
3. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
4. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
5. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
6. While a water right is in the bank, forfeiture provisions are stayed.
7. This right is limited to the irrigation of 132.0 acres within the authorized place of use in a single irrigation season.
8. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
9. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

10. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
11. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
12. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
  - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
  - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
  - c. New lessor(s) of record will receive payment after the following rental season.
13. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
14. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
15. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specification.
16. The irrigation component of municipal use under this right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate.
17. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.

STATE OF IDAHO  
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE  
APPLICATION CHECKLISTRECEIVED  
MAY 30 2014  
DEPARTMENT OF  
WATER RESOURCES

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant City of Chubbuck Public Works DeptWater Right No. 29-14099All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

## YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ Application filing fee of \$250.00. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

## Attachment N/A YES

- 1A ☐ ☒ Contact information for **all owners** of the water right that is being leased or sold on this application.
- 1B ☐ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☐ ☒ *Notice of Change in Water Right Ownership* form (accessible from [www.idwr.idaho.gov](http://www.idwr.idaho.gov)).
- 1D ☒ ☐ Written consent from irrigation district or water delivery company.
- 1E ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.
- 3D ☐ ☒ Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
- 4 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

## Department Use Only

|                                                                                   |                        |                                      |                          |
|-----------------------------------------------------------------------------------|------------------------|--------------------------------------|--------------------------|
| Fee Amount \$ <u>250.00</u>                                                       | Received By: <u>CJ</u> | Date Received: <u>5-30-14</u>        | Receipt # <u>C098910</u> |
| W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | (Route W-9 to Fiscal)  | Name on W-9: <u>City of Chubbuck</u> |                          |

STATE OF IDAHO  
WATER RESOURCE BOARD

**RECEIVED**  
**MAY 30 2014**  
DEPARTMENT OF  
WATER RESOURCES

## APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

### 1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant City of Chubbuck Public Works Dept Email Address ssmart@cityofchubbuck.us  
Mailing Address P.O. Box 5604 Chubbuck, ID 83202-5604 Phone Number (208) 237-2430

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

**OR**

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☐ No ☒

**If no**, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒

**If yes**, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).

E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒

**If yes**, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative \_\_\_\_\_ Organization \_\_\_\_\_

Professional Title \_\_\_\_\_ Email Address \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone Number \_\_\_\_\_

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

**OR**

☐ Send original correspondence to the Designated Applicant and copies to the representative.

### 2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 29-14099 ☒ The full water right is being offered to the Bank.

**OR**

☐ A part of the water right is being offered to the Bank.  
(If a portion of a water right is being offered, complete Attachment 2)

### 3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

This water right was acquired for future anticipated needs of the City of Chubbuck. Water right will be leased to the Idaho Water Supply bank annually until such need develops.

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

City of Chubbuck water rights 29-2385, 29-2413, 29-2469, 29-7624, 29-8188, 29-8229, 29-8230, 29-14012, 29-14013, 29-14058, 29-14096 and 29-14097 are also authorized from the same diversions.

C. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐

If yes, describe. Existing water rights (not leased to the water supply bank for future needs) will continue to be used.

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. \_\_\_\_\_

E. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. \_\_\_\_\_

#### 4. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, for a period from 04/01/2014 to 12/31/2014 (maximum lease period 5 years).  
(Month / Day / Year) (Month / Day / Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.  
current rental rate

**I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.**

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Kevin B. England  
Signature of Designated Applicant *Mayer*

Kevin B. England  
Printed Name

13 May 2014  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

#### Mail to:

Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 30, 2014

CITY OF CHUBBUCK  
PUBLIC WORKS DEPARTMENT  
PO BOX 5604  
CHUBBUCK, ID 83202-5604

**RE: NOTIFICATION OF WATER SUPPLY BANK LEASE EXPIRATION FOR WATER  
RIGHT(S): 29-10412, 29-14013, 29-14016, 29-14055, 29-14056, 29-14058, 29-14080,  
29-14081, 29-14082, 29-14096, 29-14097, 29-14099, 29-14106, and 29-14107**

Dear Lessor:

The Idaho Department of Water Resources (Department) records show that all or a portion of the above referenced water right, currently leased to the Water Supply Bank (Bank), will expire December 31, 2014. This letter is notice that the right will be considered released from the Bank at that time.

If you would like the right to remain leased to the Bank, please complete the enclosed Application to Lease a Water Right to the Water Supply Bank.

Please consider that the five (5) year period of nonuse related to forfeiture of a water right shall begin to accrue upon release of the right from the Bank or shall continue to accrue if a period of nonuse occurred prior to the lease date of the right to the Bank.

If you have questions regarding this matter, you may contact the Department at any time.

Sincerely,

A handwritten signature in cursive script that reads "Cherie Palmer".

Cherie Palmer  
Water Rights Supervisor  
Water Allocation Bureau

Enclosure: Application to Lease a Water Right

c: IDWR Regional Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

June 17, 2014

CITY OF CHUBBUCK  
PUBLIC WORKS DEPT  
PO BOX 5604  
CHUBBUCK ID 83202-5604

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 29-14099**

Dear Lessor:

Water Right 29-14099 was leased into the Water Supply Bank on May 30, 2014 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,

*for Cherie Palmer*

Cherie Palmer  
Senior Water Resource Agent  
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James Cefallo- IDWR Eastern Regional Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

June 11, 2014

CITY OF CHUBBUCK  
PUBLIC WORKS DEPT  
PO BOX 5604  
CHUBBUCK ID 83202-5604

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 29-14099 TO THE WATER SUPPLY BANK

\*\*\*\*TIME SENSITIVE RESPONSE REQUIRED\*\*\*\*

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,

  
for Cherie Palmer  
Senior Water Resource Agent  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

## MEMORANDUM

**To:** Water Right No(s). 29-14099  
**From:** Cherie Palmer  
**Date:** June 9, 2014  
**Re:** Review of Applications to Lease Water Rights to the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** Water right 29-14099 was recently created through a transfer of water right 29-2523. Water right 29-2523 was split as follows:

|                             |          |        |                         |
|-----------------------------|----------|--------|-------------------------|
| 29-2523 (Newton)            | 0.04 cfs | 2.7 af | for stockwater          |
| 29-14099 (City of Chubbuck) | 2.52 cfs | 462 af | 132 acres of irrigation |

Water right 29-2523 was fully leased into the bank at the end of last year, before the transfer split the water right. Water right 29-2523 will remain in the bank although a new amended lease contract should be created.

On May 30, 2014, IDWR received a new lease application from the City of Chubbuck to lease water right 29-14099 in its entirety.

**AUTHORITY TO FILE:** The city has acquired this right through the transfer. They submitted an ownership change with their lease application. With the ownership, a warranty deed confirms that the city does own this water right. The mayor has signed the lease application.

**WATER RIGHT VALIDITY:** This water right was split from a valid water right that was leased into the water supply bank.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent.

**ENLARGEMENT OF USE:** No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

**LOCAL PUBLIC INTEREST:** Review staff has no information to suggest this application is inconsistent with the local public interest.

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:** The lease appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** No comment is needed from regions or watermaster because this water right has not been transferred to the new location since it is staying leased into the bank (the transfer has not been accomplished). For the purpose of this lease, this water right will be considered at its original location (location of parent right 29-2523).