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JAN 09 2014

DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF INTEGRATED
MUNICIPAL APPLICATION PACKAGE
("IMAP") OF UNITED WATER IDAHO
INC., BEING A COLLECTION OF
INDIVIDUAL APPLICATIONS FOR
TRANSFERS OF WATER RIGHTS AND
APPLICATIONS FOR AMENDMENT OF
PERMITS.

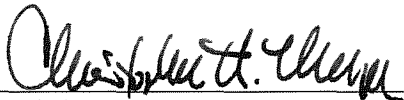
**UNITED WATER'S SUBMISSION OF 2013
MUTUAL COOPERATION AGREEMENT
WITH THE CITY OF MERIDIAN**

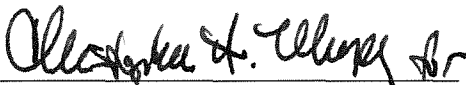
Applicant United Water Idaho Inc. ("United Water") hereby submits, for inclusion in the official record of the above-captioned contested case, a copy of the executed *2013 Mutual Cooperation Agreement Between the City of Meridian and United Water Idaho Inc.* ("2013 Meridian/UW Agreement") attached hereto as Exhibit A. The *2013 Meridian/UW Agreement* is the same "Agreement" referenced in the *City of Meridian's Notice of Withdrawal of Protest and Request to Change Status to Intervenor* dated December 30, 2013. The City of Meridian ("City") has confirmed to United Water's counsel that it does not object to submission of the *2013 Meridian/UW Agreement* for inclusion in the record.

The *2013 Meridian/UW Agreement* is a private agreement, and its submission is not intended to create third-party rights or third-party enforceability. Instead, the *2013 Meridian/UW Agreement* is offered for the record because its provisions are relevant to this proceeding. Among other things, the *2013 Meridian/UW Agreement* “completely supersede[s] and replace[s]” the *Mutual Cooperation Agreement* and *Stipulation and Withdrawal of Protests of the City of Meridian and the City of Caldwell*, both dated November 24, 2003, as between United Water and the City. *2013 Meridian/UW Agreement* ¶ 9; see also *2013 Meridian/UW Agreement* ¶¶ 3-5. The *2013 Meridian/UW Agreement* documents the commitment of the parties to advance the goals and objectives of the 1996 Municipal Water Rights Act through ongoing communication and cooperation on issues of water rights and water supply. *2013 Meridian/UW Agreement* ¶¶ 12-16. It also expresses the parties’ support for their “common goals and interests with respect to implementation of the 1996 Municipal Water Rights Act” including, in particular, “long term planning over a 50-year planning horizon.” *2013 Meridian/UW Agreement* ¶¶ 7-8.

Respectfully submitted this 9th day of January, 2014.

GIVENS PURSLEY LLP

By 
Christopher H. Meyer

By 
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2014, the foregoing was filed, served, and copied as follows:

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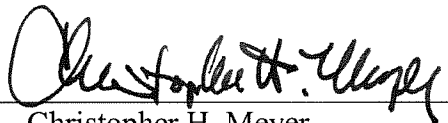

Christopher H. Meyer

EXHIBIT A: 2013 MERIDIAN/UW AGREEMENT

2013 MUTUAL COOPERATION AGREEMENT BETWEEN THE CITY OF MERIDIAN AND UNITED WATER IDAHO INC.

The City of Meridian ("Meridian") and United Water Idaho Inc. ("United Water") (collectively "Parties") enter into this Mutual Cooperation Agreement ("Agreement").

RECITALS

1. **IMAP proceeding.** On May 4, 2001, United Water filed a set of applications with the Idaho Department of Water Resources ("IDWR") entitled *In the Matter of Integrated Municipal Application Package ("IMAP") of United Water Idaho Inc., Being a Collection of Individual Applications for Transfers of Water Rights and Applications for Amendment of Permits*. The IMAP is intended to quantify United Water's reasonably anticipated future needs ("RAFN") pursuant to the Municipal Water Rights Act of 1996 and thereby to protect its existing portfolio of rights from forfeiture during its planning horizon. The IMAP also seeks to integrate United Water's water rights portfolio by making each of its wells an alternate point of diversion ("APOD") for every water right.

2. **Protests.** The City of Meridian and others protested United Water's IMAP application.

3. **2003 Stipulation.** United Water, the City of Meridian, and the City of Caldwell, executed a *Stipulation and Withdrawal of Protests of the City of Meridian and the City of Caldwell* (the "2003 Stipulation"). The 2003 Stipulation is dated November 24, 2003 and was filed with IDWR in the IMAP proceeding on that day.

4. **2003 Agreement.** United Water, the City of Meridian, and the City of Caldwell also entered into a *Mutual Cooperation Agreement* dated November 24, 2003

("2003 Agreement"). Although dated and made effective as of November 24, 2003, the 2003 Agreement was executed by United Water on January 22, 2004, by the City of Meridian on February 10, 2004, and by the City of Caldwell on February 20, 2004.

5. **Prior Agreements did not become effective.** The 2003 Stipulation and the 2003 Agreement are referred to collectively as the "Prior Agreements." The Prior Agreements were intended to fully settle and withdraw protests filed by the City of Meridian and the City of Caldwell in the above-referenced matter. However, the Prior Agreements were conditioned upon certain actions and approvals by IDWR. Those actions and approvals have not occurred as of the date of this Agreement.

6. **IMAP stay and relaunch.** The IMAP was stayed by order of IDWR on December 18, 2003. On July 6, 2012, nearly a decade later, following issuance of partial decrees to United Water in the Snake River Basin Adjudication ("SRBA"), IDWR approved United Water's motion to lift the stay in the IMAP proceeding.

7. **Shared goals for long term planning.** The City of Meridian and United Water have common goals and interests with respect to implementation of the 1996 Municipal Water Rights Act. Both Parties believe that sound and effective long range planning for municipal water supplies, based on full disclosure and public scrutiny, is in the public interest and in their common best interests. The Parties support the standard condition language for APODs (alternate points of diversion) that was approved by the Idaho Supreme Court in *City of Pocatello v. Idaho*, 152 Idaho 830, 275 P.3d 845 (2012). This language allows municipal providers to pump ground water associated with any water right from any authorized point of diversion, while protecting other water right holders from material injury. The Parties support the concept of long term planning over a 50-year

planning horizon with appropriate justifying data. The Parties agree that if municipal water providers are allowed to hold water rights free from forfeiture to meet RAFN over a multi-decade planning horizon, it is appropriate for IDWR to impose a condition allowing projected water needs for RAFN to be periodically re-quantified (but not more than once a decade) in light of current conditions. The Parties agree that when such re-quantification of RAFN occurs the municipal provider should be allowed to extend its planning horizon for up to 50 years from that point in time and retain those water rights (and their original priority dates) that continue to be required to meet RAFN under the extended planning horizon based on appropriate justifying data. The Parties further acknowledge and support provisions in the Municipal Water Rights Act of 1996 requiring a municipal provider to establish that it qualifies as such. In particular, the Parties acknowledge and support those provisions (contained in I.C. § 42-222) prohibiting the sale of water rights (or portions thereof) held solely to meet RAFN where such rights will be transferred to a different nature of use or to uses outside of the municipal provider's service area. The Parties recognize that these restrictions are not intended to prohibit the exchange or transfer of water rights held for RAFN purposes to accommodate adjustments in service area boundaries between municipal providers.

8. **Support for the IMAP and similar RAFN applications.** In light of the Parties' shared goals described above, the City of Meridian has expressed its good faith intent to play a supportive role with respect to United Water's IMAP application and similar applications in the future. Likewise, United Water has expressed its good faith intent to be supportive of similar long term RAFN applications that may be filed by the City of Meridian in the future.

9. **Parties' intent to supersede Prior Agreements and to resolve IMAP protest.** The Parties have decided to change the terms of settlement contained in the Prior Agreements and wish to execute this Agreement, which will completely supersede and replace the Prior Agreements as between the Parties.

10. **Mutual cooperation.** In addition to resolving the City of Meridian's IMAP protest, this Agreement addresses other areas of mutual cooperation. In the past, the Parties have worked cooperatively with each other to improve levels of communication, and to understand water supply issues and other areas of mutual concern. This Agreement confirms and reaffirms that spirit of cooperation. These terms are intended to facilitate cooperation and to avoid surprise, conflict, and injury with respect to water rights and water supply.

TERMS OF AGREEMENT

11. **Withdrawal of protest.** In light of the Parties' common interests as described in the recitals above, the City of Meridian agrees to file appropriate document(s) requesting to change its status in the IMAP proceeding from protestant to intervenor. The document(s) will explain that the City of Meridian wishes to realign its party status because it no longer "protests" the IMAP and that it wishes to remain a party to the proceeding in order to protect its interests and to express its general support for the IMAP. United Water agrees not to oppose the City of Meridian's request to change its status.

12. **Advance notification of water right applications.** The Parties agree to advise each other at least four weeks in advance prior to filing any application with IDWR. The term "application" includes all applications involving water rights, permits, and related matters except as provided in this paragraph. This includes any application to

appropriate water, to transfer or change the elements of an existing water right, to amend an existing permit, to effect an exchange of water right, to implement a mitigation plan, to create a ground water district, to create or modify a ground water management or critical ground water area, to impose any type of administration of water rights, to initiate a rulemaking, or to initiate any other proceeding or seek any other relief. However, the term “application” does not include a protest or similar objection by a Party as to an application of any sort filed by a third party. Nor does the term include an application by a Party for lease or rental of a water right. The term “application” does not include communications with IDWR to correct clerical errors, to address other ministerial matters, or to seek guidance or clarification on regulatory matters. Finally, the term “application” does not include discussions or actions on legislative, regulatory, or other public policy matters. Following notification of intent to file an application and upon request by the other Party, the applicant shall meet with the requesting Party to discuss the application. If a Party fails to provide advance notice as required by this paragraph, the approval of any application made without the required notification shall be voidable, but only if the objecting Party serves a demand letter upon the applicant within 30 days of learning of the breach and no accommodation is reached despite good faith efforts of the Parties to address the legitimate concerns of each other. This Agreement does not prohibit the Party from filing a similar application in the future, which shall be subject to the same notice requirements. This remedy does not limit any other legal or administrative remedy available to the other Party to address material injury.

13. No opposition to application to designate area of drilling concern.

United Water has reviewed the draft *City of Meridian Request to the Director of the*

Department of Water Resources for Designation of an Area of Drilling Concern Within its Area of Impact. United Water agrees that the request is appropriate and will not oppose the application.

14. **Notification prior to reconstruction, deepening, or redrilling of any well.** Before any Party reconstructs, deepens, or redrills any well within one mile of a service area boundary shared with the other Party, it shall advise the other Party of its intent. If requested, the Party undertaking the reconstruction, deepening, or redrilling shall provide to the requesting Party a copy of pumping records for the well for the previous five years (to the extent such records are available). If the advance notice required by this section is not provided, the Party undertaking the reconstruction, deepening, or redrilling shall be limited to diverting from the reconstructed, deepened, or redrilled well only at a diversion rate and annual volume that are no greater than the amount diverted prior to the reconstruction, deepening, or redrilling. This remedy is available only if the objecting Party serves a written demand upon the Party failing to provide the notice within 30 days of learning of the breach and no accommodation is reached despite good faith efforts of the Parties to address the legitimate concerns of each other.

15. **Notification prior to diverting water at a rate exceeding its associated original water right.** For wells within one mile of a service area boundary shared with the other Party, before any Party diverts water at a rate greater than the diversion rate authorized by the original water right associated with a well, the Party shall advise the other Party of its intent. If requested, the Party proposing to divert additional water shall provide to the requesting Party a copy of pumping records for the well for the previous five years (to the extent such records are available). If a Party fails to provide advance notice as

required by this section, the Party diverting additional water shall be limited to pumping water from such well at a rate no greater than the diversion rate authorized by the original water right associated with that well. This remedy is available only if the objecting Party serves a written demand upon the Party failing to provide the notice within 30 days of learning of the breach and no accommodation is reached despite good faith efforts of the Parties to address the legitimate concerns of each other.

16. **Cooperation and communication.** In order to facilitate and enhance cooperation and communication between the Parties, the Parties agree to meet informally at least once a year or more often at the request of either Party. These meetings are intended to provide an ongoing opportunity for constructive dialog on issues of mutual concern regarding water supply infrastructure, public policy, and long term planning to meet the municipal water needs of their customers. These meetings will be attended by top level Idaho staff of the respective Parties and such others as the Parties may invite. This provision reflects the Parties efforts to improve lines of communication, but noncompliance with this provision shall not be deemed a breach of this Agreement.

17. **Legal counsel.** In negotiating this Agreement, the Parties have consulted and been represented by their respective legal counsel. In this matter, the City of Meridian is represented by Honsinger Law, PLLC, and United Water is represented by Givens Pursley LLP.

18. **Modification.** This Agreement may be modified by the Parties by mutual Agreement at any time. To be effective, such modifications shall be memorialized in writing or by an exchange of emails, or by a mutually executed document.

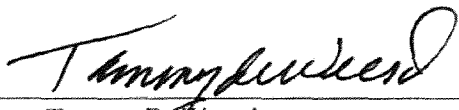
19. **Effective date.** This Agreement shall be effective as of the last date shown on the signature blocks below.

20. **Renewal.** This Agreement shall remain in effect for twenty-five years from the effective date, and may be renewed thereafter for additional ten year periods upon agreement of the Parties.

The undersigned have read this Agreement and agree to its terms.

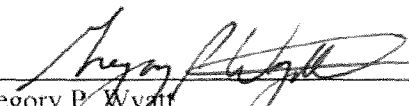
THE CITY OF MERIDIAN.

Date: 12/10/13

By: 
Tammy DeWeerd
Mayor

UNITED WATER IDAHO INC.

Date: November 1, 2013

By: 
Gregory P. Wyatt
Vice President and General Manager