

# APPENDIX I



## **RECYCLED WATER AGREEMENT**

This Recycled Water Agreement (“Agreement”) is entered into this 30th day of September, 2009 by and between **SAN GABRIEL VALLEY WATER COMPANY**, a California corporation having its principal place of business at 11142 Garvey Avenue, El Monte, CA 91733 (“SGVWC”) and **GREGORY CANYON LTD.**, a California Limited Liability Company having its principal place of business at 1550-G Tiburon Boulevard., Suite 614, Tiburon, CA 94920 (“GCL”).

### **RECITALS**

GCL is a California limited liability company that currently owns a Class 3 solid waste landfill located at 9708 Pala Road, Pala, California (the “GCL Site”). GCL is in need of recycled water for dust control, landscape irrigation, industrial uses and other activities at the GCL Site.

SGVWC, a privately owned public utility regulated by the California Public Utilities Commission (“CPUC”), is in the business of, providing public utility water service including among other things, selling Title 22 tertiary treated recycled water (“Recycled Water”) supplied by the County Sanitation Districts of Los Angeles County (“Sanitation District”). For the purpose of this Agreement, Recycled Water and Reclaimed Water shall have the same meaning.

Recycled Water sold by SGVWC consists of tertiary wastewater treatment plant effluent produced at the Whittier Narrows Water Reclamation Plant (“WNWRP”), located at 301 North

Rosemead Boulevard, South El Monte, California, a 15 million gallons per day (“gpd”) capacity water reclamation facility owned and operated by the Sanitation District’s Joint Outfall System.

Tertiary treated wastewater is initially delivered from the WNWRP to the Upper San Gabriel Valley Municipal Water District (“USGVMWD”), a water and Recycled Water wholesaler, through its pipeline system pursuant to that certain agreement between USGVWMD, SGVWC, and the County of Los Angeles Department of Parks and Recreation for the purchase and sale of Recycled Water dated June 27, 2006 (“Recycled Water Supply Agreement”). USGVMWD then sells a portion of its total Recycled Water allocation to SGVWC, which SVGWC then delivers to its customers who are able to put the Recycled Water to beneficial use.

SGVWC at present has the physical capacity to receive all of the Recycled Water that USGVMWD obtains from the Sanitation District’s WNWRP.

As of the date of this Agreement, SGVWC has commitments to provide its customers up to 2,000 acre-feet per year (“AFY”) of Recycled Water, and for this reason has the distribution system delivery capacity now and in the future to provide Recycled Water to GCL in the quantities it needs.

The Recycled Water Supply Agreement, which expires on June 30, 2017, allows SGVWC to purchase Recycled Water in quantities sufficient to meet the needs of both its current and reasonably anticipated future customers, including GCL, SGVWC presently intends to extend the Recycled Water Supply Agreement pursuant to its terms and conditions for one or more

additional periods of ten years or longer for as long as Recycled Water is available from the WNWRP.

The Recycled Water to be sold to GCL consists entirely of Title 22 tertiary treated recycled water, produced by the Sanitation District at the WNWRP and is not blended with any raw or potable water.

SGVWC has agreed to sell and GCL has agreed to purchase Recycled Water in accordance with all terms and conditions of this Agreement, and in accordance with SGVWC's tariffs, rates, charges, rules, and conditions approved and adopted by the CPUC which are in effect as of the date of this Agreement and which the CPUC may approve or adopt from time to time in the future.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Term. The term of this Agreement shall begin on the date set forth above and shall continue until June 30, 2017, unless extended in writing by mutual agreement or sooner terminated as provided for herein. The parties acknowledge that it is their present intention to extend this Agreement to coincide with SGVWC's extension or renewal of the Recycled Water Supply Agreement.

## 2. SGVWC Obligations and Responsibilities.

2.1. SGVWC will endeavor to provide GCL up to 80,000 gpd (approximately 75 AFY) of Recycled Water which is available to SGVWC from USGVMWD and the Sanitation District's WNWRP, subject to any capacity limitations imposed by the USGVMWD, Sanitation District, or otherwise. As of the effective date of this Agreement, GCL estimates its Recycled Water needs would be up to 66,785 gpd (approximately 63 AFY). Annually each March 1 during the term hereof, GCL shall provide SGVWC with its estimated Recycled Water needs for the upcoming 12-month period, by month. In addition, GCL will promptly notify SGVWC if its estimates increase or decrease by more than ten percent (10%) during any such 12-month period.

2.2. SGVWC is willing to provide Recycled Water to GCL at a point of delivery at SGVWC's Plant No. 8 located at 2701 N. Loma Street, South El Monte, California ("Point of Delivery"). Although SGVWC believes there is adequate pressure in the Recycled Water distribution system at the Point of Delivery and that no additional pumping equipment is required as of the date of this Agreement, SGVWC will supply only such water at such pressure as may be available from time to time from the operation of the Recycled Water system. SGVWC will notify GCL of any planned or anticipated change in the pressure, flow, or availability of Recycled Water at the Point of Delivery. To the extent additional pumping or other equipment is required, it would be installed by SGVWC with the cost borne by GCL.

2.3. SGVWC will construct, own, operate, and maintain its recycled water system facilities, up to and including the Point of Delivery, and will provide a meter at the Point of Delivery subject to GCL's obligation to deposit and bear all costs of such facilities.

### 3. GCL Obligations and Responsibilities.

3.1. The Recycled Water delivered to GCL will be put to beneficial use solely at the GCL's Site for the purposes set forth in the recitals to this Agreement.

3.2. GCL will pay all of SGVWC's direct and indirect costs to construct, install, and maintain a standpipe, water meter, operating valve, pressure regulating equipment, and any other facilities and equipment which SGVWC deems necessary to deliver Recycled Water at the Point of Delivery. All such required facilities and equipment shall become and remain the property of SGVWC. Upon signing the Agreement, GCL will deposit \$10,000.00 with SGVWC which is the estimated cost to design and engineer the necessary facilities and equipment for delivery of Recycled Water to GCL. After design and engineering of the necessary facilities and equipment is complete, but prior to construction or installation, GCL shall deposit the amount of any additional funds required and requested by SGVWC to construct and install the facilities and equipment necessary to deliver Recycled Water to GCL. Adjustment of any difference between the actual cost of the construction and installation of the facilities and equipment to deliver Recycled Water to GCL shall be made either by additional payment by GCL or by

refund by SGVWC within sixty days after the actual completed cost has been determined by SGVWC.

3.3. GCL, at all times, must comply with all federal, state, and local laws and agency rules and regulations pertaining to the use of Recycled Water, including but not limited to Waste Discharge Requirements for the use of Recycled Water at the GCL Site issued to GCL by the governing Regional Water Quality Control Board. GCL shall be solely responsible for compliance with all such rules, regulations, and the Waste Discharge Requirements.

4. Requests for Service to be Turned On/Off. To request the meter service and/or billing service be turned on or off for a period of time, GCL must contact SGVWC's Customer Service Office during normal business hours by telephone at 626-448-6183.
5. Scheduling of Deliveries; Delivery Limitations. GCL must arrange with SGVWC for all deliveries of Recycled Water by giving a minimum of 24-hours notice. SGVWC and GCL will cooperate to schedule deliveries to accommodate their respective operations. To the extent possible, GCL would desire 24-hour, 7-day access to the Point of Delivery, and SGVWC will take reasonable measures to provide for such access, but San Gabriel reserves full rights to schedule or restrict such access when, in its sole discretion, it is reasonably necessary to do so. Any cost or expense incurred for installation of locking systems or keypads at SGVWC's facilities to allow 24/7 deliveries will be borne by GCL.

6. Purchase Price; Payment. GCL shall pay SGVWC in accordance with Reclaimed Water Metered Service, Tariff Schedule No. LA-6 in effect at the time Recycled Water is delivered at the Point of Delivery, and all other applicable tariffs, charges, rules, and conditions approved and adopted by the CPUC then in effect. A current copy of Tariff Schedule No. LA-6 is attached hereto as Attachment A. In the event of any conflict between any provision of such tariffs, changes, rules, and conditions and the provisions of this Agreement, then the provisions of such tariffs, changes, rules, and conditions shall prevail and apply to this Agreement.
  
7. Excuse from Performance. Except for GCL's obligation to pay SGVWC, if either party is prevented from, hindered, or delayed in performing, or is unable to perform its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, acts of God, landslides, lightning, forest fires, storms, floods, severe weather, droughts, insufficient supplies of Recycled Water, equipment failures or malfunctions, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics, quarantines, the threat of pandemics or quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, other labor disturbances, or changes in third party regulatory agency requirements, or by circumstances arising from any discontinuance, limitation, allocation, curtailment, rationing, or any other restrictions in the availability or distribution of Recycled Water regardless of the cause, then the affected party shall be excused from performance hereunder during the period of such disability.

8. Termination. Except for any discontinuance of service pursuant to rules and conditions in SGVWC's tariffs, this Agreement, or Recycled Water provided pursuant to this Agreement, may be terminated for cause by either party in the event the other fails to perform any of its obligations imposed upon it under the terms of this Agreement so as to be in default hereunder and fails to cure such default within thirty (30) days after written notice thereof. Notwithstanding the above, the thirty (30) day cure period shall be extended where it is not reasonably possible to comply within thirty (30) days, and where the party allegedly in breach initiates actions to cure any failure within such thirty (30) day and thereafter diligently pursues them to completion.

9. Indemnity and Insurance.

9.1. GCL, for itself, and for its agents, employees, representatives, invitees, or their contractors, and any person or persons claiming under GCL, hereby releases and agrees to hold harmless, indemnify and defend SGVWC, its directors, officers, employees, agents, and contractors from and against any claim, demand, loss, damage, action, cause of action, expense, penalty, violation, fine, assessment, charge (including without limitation, attorney fees and litigation costs and expenses) and/or liability of any kind including without limitation any loss of or damage to property, or injury to or death of persons, or environmental injury, or violation of any law, regulation or rule, arising in any manner, directly or indirectly, from this Agreement, or any Recycled Water or Recycled Water service furnished pursuant to this Agreement, or any transport, delivery, or use of Recycled Water by GCL or GCL's agents, employees, representatives,

customers, invitees, or their contactors, or by any person or persons claiming under GCL whether due to the negligence of SGVWC, or otherwise, except to the extent caused solely by the willful misconduct or gross negligence of SGVWC.

9.2. GCL further agrees that SGVWC shall not be liable for any loss or damage sustained by GCL or GCL's agents, employees, representatives, invitees, their contractors, or any person claiming under GCL, occasioned by their use of, or presence at, SGVWC's Plant No. 8 including the Point of Delivery or any facilities or equipment at Plant No. 8 or elsewhere, or by the construction, maintenance, operation, or presence of SGVWC's improvements or facilities now or hereafter located at SGVWC's Plant No. 8 or elsewhere whether due to the negligence of SGVWC, or otherwise.

9.3. Without in any way affecting the indemnity herein provided and in addition thereto, GCL and its subcontractors will furnish to SGVWC prior to commencement of delivery of Recycled Water from the Point of Delivery an insurance policy or policies or a certificate of such insurance, evidencing insurance coverage that includes, but is not limited to general liability insurance presently in effect for GCL and its subcontractors with a minimum combined single limit of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate; motor vehicle liability insurance presently in effect with a coverage limit of not less than \$1,000,000 per occurrence; environmental liability insurance presently in effect with a coverage limit of not less than \$5,000,000 per occurrence and \$10,000,000 aggregate; and worker's compensation coverage as required by the State of California. Such policies or certificates of insurance shall provide: (i) the

insurer will not cancel the insured's coverage without thirty (30) days prior written notice to SGVWC; (ii) SGVWC is included as additional insured; (iii) SGVWC will not be responsible for any premiums or assessments on the policy; and (iv) the insurer has an AM Best rating of A or equivalent. GCL for itself and its subcontractors agrees that the foregoing insurance shall be in effect at all times during the term of this Agreement. If said insurance coverage expires at any time or times during the term of this Agreement, GCL and its subcontractors must provide at least thirty (30) days prior to said expiration date, a new policy or certificate of insurance evidencing insurance coverage as required herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New policies or certificates of insurance are subject to the approval of SGVWC, and GCL and its subcontractors agree that SGVWC will not deliver Recycled Water prior to giving such approval. If GCL or its subcontractors fail to keep in effect at all times all insurance coverages as herein required, SGVWC may terminate this Agreement, in addition to any other remedies it may have.

10. Assignment. During the term of this Agreement, neither party may sell, sublease, assign, or transfer its rights, responsibilities or obligations herein without the other's prior written consent.

11. Purpose of Captions. Captions to Paragraphs are for convenience purposes only and are not part of this Agreement.

12. Binding Provision. This Agreement is binding on the representatives, successors, successors in interest, assigns and assignees of the parties hereto.

13. Authority to Sign Agreement. The undersigned individuals hereby warrant and represent that they each have full legal authority to sign this Agreement and bind the parties hereto.

14. Entire Agreement; Amendments. This Agreement shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction. Except for SGVWC's tariff charges, rates, rules, and conditions, or rulings, directions, orders, or general orders adopted and approved from time to time by the CPUC, this Agreement constitutes the entire agreement between SGVWC and GCL, and cancels and supersedes all prior negotiations, representations, understandings and agreements, either written or oral, with respect to the subject matter hereof. No changes, alterations or modifications to this Agreement will be effective unless in writing and signed by SGVWC and GCL .

15. Notices. All notices to be given under this Agreement shall be in writing and sent by (a) prepaid U.S. first-class mail, in which case notice will be deemed delivered as of two business days after mailing; (b) a nationally recognized pre-paid overnight courier service, in which case notice shall be deemed delivered as of the date shown on the courier's delivery receipt; or (c) telecopy sent during business hours of the recipient, in which case notice shall

be deemed delivered when transmitted provided that a transmission report is generated reflecting the accurate transmission of the notice; as follows:

San Gabriel Valley Water Company  
Post Office Box 6010  
11142 Garvey Avenue  
El Monte, CA 91734-2010  
Attention: M. L. Whitehead, President

and

Gregory Canyon Ltd.  
1550-G Tiburon Boulevard, Suite 614  
Tiburon, CA 94920  
Attention: Jerry A. Riessen, President

16. Governing Law; Venue, Attorneys' Fees. This Agreement shall be deemed to have been made in, and shall be construed pursuant to the laws of the State of California and the United States. In the event of any litigation arising under this Agreement, such litigation shall be held in the Superior Court of California, County of Los Angeles. If any claim, controversy or legal action arises under this Agreement, the prevailing party will be entitled to recover from the other party reasonable attorneys' fees, costs, expenses, and other fees incurred by the prevailing party.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

SAN GABRIEL VALLEY WATER COMPANY

By:  \_\_\_\_\_

M. L. Whitehead

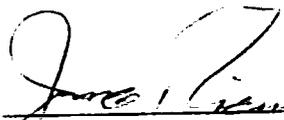
Its: President

By:  \_\_\_\_\_

T. V. Ryan

Its: Secretary

GREGORY CANYON LTD. LIMITED LIABILITY  
COMPANY

By:  \_\_\_\_\_

Jerry A. Riessen

Its: President

Revised

Cal. P.U.C. Sheet No. 1843-W

Cancelling

Revised

Cal. P.U.C. Sheet No. 1771-W

**SCHEDULE NO. LA-6**  
**Los Angeles County Tariff Area**  
**RECLAIMED WATER METERED SERVICE**

**APPLICABILITY**

Applicable to all reclaimed water metered service.

**TERRITORY**

Portions of Arcadia, Baldwin Park, El Monte, City of Industry, Irwindale, La Puente, Montebello, Monterey Park, Pico Rivera, Rosemead, San Gabriel, Santa Fe Springs, South El Monte, West Covina, Whittier and vicinity, Los Angeles County.

**RATES**

Quantity Rates:

For all water delivered per 100 cu. ft..... \$ 1.3307 (1)

Service Charge:

Per Meter

Per Month

For 5/8 x 3/4-inch meter .....	\$ 20.04	(1)
For 3/4-inch meter .....	30.06	
For 1-inch meter .....	50.10	
For 1-1/2-inch meter .....	100.20	
For 2-inch meter .....	160.30	
For 3-inch meter .....	300.60	
For 4-inch meter .....	501.00	
For 6-inch meter .....	1,000.00	
For 8-inch meter .....	1,600.00	
For 10-inch meter .....	2,300.00	
For 12-inch meter .....	3,310.00	
For 14-inch meter .....	4,410.00	(1)

(continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice Letter No. 362

M. L. Whitehead

Date Filed JUN 19 2008

Decision No. 08-06-022

NAME

Effective JUL - 1 2008

President

Resolution No. \_\_\_\_\_

TITLE

**SCHEDULE NO. LA-6**  
 Los Angeles County Tariff Area  
RECLAIMED WATER METERED SERVICE  
 (continued)

RATES - (continued)

Per Battery  
 Per Month

For two 2-inch meters .....	\$ 321.00	(1)
For three 2-inch meters .....	481.00	
For four 2-inch meters .....	641.00	
For two 3-inch meters .....	601.00	
For three 3-inch meters .....	902.00	
For two 4-inch meters .....	1,002.00	
For three 4-inch meters .....	1,500.00	
For one 8-inch meter, one 2-inch meter .....	1,760.00	(1)

The Service Charge is a readiness-to-serve charge which is applicable to all metered service and to which is added the charge for reclaimed water used computed at the Quantity Rates.

SPECIAL CONDITIONS

1. The Quantity Rate is set at 85% of the Quantity Rate of Schedule No. LA-1.
2. The customer is responsible for compliance with all local, state, and federal rules and regulations that apply to the use of reclaimed water on the customer's premises.
3. The utility will supply only such reclaimed water at such pressure as may be available from time to time from the reclaimed water system. The customer shall indemnify the utility and save it harmless against any and all claims arising out of service under this schedule and shall further agree to make no claims against the utility for any loss or damage resulting from service under this schedule.
4. All bills are subject to the reimbursement fee set forth on Schedule No. AA-UF.
5. A reserve account surcharge of \$0.0954 per Ccf is to be applied to the quantity rates for a 12-month period from the effective date of Advice Letter No. 354.

(To be inserted by utility)  
 Advice Letter No. 362  
 Decision No. 08-06-022

Issued by  
M. L. Whitehead  
NAME  
President  
TITLE

(To be inserted by Cal. P.U.C.)  
 Date Filed JUN 19 2008  
 Effective JUL - 1 2008  
 Resolution No. \_\_\_\_\_

