

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by and between GOLDEN STATE WATER COMPANY, a California Corporation ("Golden State") on the one hand, and CITY OF CLAREMONT, a general law city ("Claremont") on the other hand (Golden State and Claremont are sometimes referred to individually as a "Party" and collectively as the "Parties) on October 11, 2017 ("Effective Date").

RECITALS

A. Golden State is an investor-owned public water corporation, as defined by the California Public Utilities Code, and is the sole provider of water utility services to over 11,000 customer service connections within the City of Claremont.

B. Claremont is a general law city located in Los Angeles County, California.

C. On December 9, 2014, Claremont filed a complaint in Los Angeles County Superior Court (Case No. BC566125) seeking to condemn the assets owned by Golden State that are used to provide water service in Claremont and to 300 subscribers outside Claremont's borders (hereinafter, "the Golden State Assets"). The lawsuit was assigned to the Hon. Richard L. Fruin, Jr., Judge presiding (hereinafter the "Litigation").

D. In the Litigation, Golden State objected to Claremont's right to take the Golden State Assets and those objections were heard and determined by the Court, pursuant to California Code of Civil Procedure §1260.120(a), in a bench trial over several weeks in June, July, and August, 2016.

E. On December 9, 2016, the Court issued an Order of Dismissal, decreeing that Claremont did not have the right to take any of the Golden State Assets. The Court further ordered, pursuant to California Code of Civil Procedure §1268.610, that Golden State shall recover from Claremont its litigation expenses and costs in the amount of Seven Million Six Hundred Two Thousand Seven Hundred Eighty-One Dollars and Twenty-Three Cents (\$7,602,781.23) (hereinafter the "Judgment Amount"). The Order of Dismissal is attached as Exhibit 1 to this Agreement.

F. On February 2, 2017, Claremont filed a Notice of Appeal from the Order of Dismissal in the Second District Court of Appeal and on March 21, 2017, Claremont filed a Notice of Appeal from the Court's Order regarding litigation expenses and costs, which appeals have been consolidated as Appeal No. B280608 (hereinafter the "Claremont Appeals").

G. The Parties have determined that it is in their respective best interests to settle the Litigation and resolve Claremont's obligation to pay the Judgment Amount, on the terms and conditions set forth in this Agreement.

DEFINITIONS

In addition to any terms defined elsewhere in this Agreement, the following terms shall have the meanings ascribed below:

“Effective Date” means October 11, 2017.

“Golden State Assets” means the assets owned by Golden State that are used to provide water service in Claremont (and to 300 subscribers outside Claremont’s borders) that were the subject of the Litigation.

“Initial Payment” means the sum of Two Million Dollars (\$2,000,000).

“Interest-Only Payments” means Forty-Eight (48) individual quarterly payments, each of Fifty-Eight Thousand Five Hundred Ten Dollars (\$58,510), due by the end of March, June, September and December each calendar year beginning on January 1, 2018 and continuing through and including December 31, 2029. The first Interest Payment is due on or before March 31, 2018.

“Judgment Amount” means Seven Million Six Hundred Two Thousand Seven Hundred Eighty-One Dollars and Twenty-Three Cents (\$7,602,781.23).

“Order of Dismissal” shall mean the Order of Dismissal attached to this Agreement as Exhibit 1.

“Unpaid Judgment Principal” means Five Million Eight Hundred Fifty-One Thousand Dollars (\$5,851,000), representing the Judgment Amount plus accrued interest, less the Initial Payment.

“The Litigation” shall have the meaning ascribed in Recital C to this Agreement.

COVENANTS

NOW THEREFORE, in consideration of the covenants and promises contained in this Agreement and other good and valuable consideration the sufficiency of which is acknowledged by the Parties, Golden State and Claremont hereby agree as follows:

1. **Dismissal of Claremont Appeal:** Within five (5) business days after the Effective Date, Claremont shall file the stipulation to dismiss the Claremont Appeals that is attached as Exhibit 3 to this Agreement and deliver a file stamped copy of said stipulation to Golden State. Golden State and Claremont agree that each Party shall bear responsibility for its own costs and attorney fees incurred on the Claremont Appeals.

2. **Satisfaction of Order of Dismissal:** In consideration of Golden State’s agreement to the covenants and promises contained in this Agreement, Claremont agrees as follows:

2.1 On or before December 31, 2017, Claremont shall pay to Golden State the sum of Two Million Dollars (\$2,000,000) as partial satisfaction of the Judgment Amount plus accrued interest (hereinafter the “Initial Payment”). Claremont shall pay the Initial Payment by confirmed wire transfer of readily available federal funds pursuant to instruction provided by Golden State to Claremont. Upon payment of the Initial Payment, the Parties agree that the

Judgment Amount shall be reduced to Five Million Eight Hundred Fifty-One Thousand Dollars (\$5,851,000) (the "Unpaid Judgment Principal").

2.2 Following the Initial Payment, for a period of Twelve (12) years Claremont shall pay to Golden State annually the amount of Two Hundred Thirty-Four Thousand and Forty Dollars (\$234,040) by making quarterly payments of Fifty-Eight Thousand Five Hundred Ten Dollars (\$58,510) by the end of March, June, September, and December each calendar year beginning on January 1, 2018 and continuing through and including December 31, 2029 (the "Interest-Only Payments"). Claremont shall pay the Interest-Only Payments by confirmed wire transfer of readily available federal funds pursuant to instruction provided by Golden State to Claremont. Claremont and Golden State hereby agree that Claremont's payment of the Interest-Only Payments shall not reduce the Unpaid Judgment Principal.

2.3 If at any time before December 31 2029, Claremont takes formal action to condemn the Golden State Assets, either by providing notice of a hearing for the purposes of adopting a Resolution of Necessity, pursuant to Code of Civil Procedure §1245.330, *et. seq.* to acquire any of the Golden State Assets, or by otherwise adopting a Resolution of Necessity or commencing litigation to acquire any of the Golden State Assets by the power of eminent domain, the sum of the following shall be immediately due and payable by Claremont to Golden State:

(a) The Unpaid Judgment Principal; plus

(b) The amount, if any, of the accrued and unpaid Interest-Only Payment for the calendar year in which Claremont takes such formal action. The prorated portion of the Interest-Only Payment shall be calculated by multiplying a daily rate of Six Hundred Forty-One Dollars and Twenty-One Cents (\$641.21) by the number of days between the due date of Claremont's most recent prior Interest-Only Payment to Golden State and the date of receipt of the Unpaid Judgment Principal.

2.4 If Claremont makes all of the Interest-Only Payments as provided in in Section 2.2 above and does not take any formal action to condemn the Golden State Assets on or before December 31, 2029, then on January 1, 2030 the Unpaid Judgment Principal will be deemed satisfied by Claremont without further payment to Golden State and Claremont shall have no further obligation to pay any amounts pursuant to the Order of Dismissal attached as Exhibit 1 to this Agreement.

2.5 If Claremont fails to make the Initial Payment as required in Section 2.1 above, or any of the Interest-Only Payments as required in Section 2.2 above, Golden State shall be authorized to terminate this Agreement upon Fifteen (15) days written notice to Claremont and Golden State shall retain the right to enforce the Order of Dismissal attached as Exhibit 1 to this Agreement.

ADDITIONAL TERMS

3. California Law: This Agreement, and the rights, remedies, or obligations provided for hereunder, shall be construed and enforced in accordance with the laws of the State of California.

With a Copy to: George M. Soneff, Esq.
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Boulevard
Los Angeles, CA 90064-1614

If to Claremont: City of Claremont
207 Harvard Ave.
Claremont, CA 91711
Attention: City Manager

Any party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Parties notice in the manner herein set forth.

THE PARTIES HAVE READ, UNDERSTAND, AND AGREE TO THE FOREGOING.

GOLDEN STATE WATER COMPANY

Dated: Oct. 9, 2017

By: Robert J. Sprowls
Printed Name: Robert J. Sprowls
Title: President & CEO

APPROVED AS TO FORM:

Manatt Phelps & Phillips, LLP

By: [Signature]
Attorneys for Golden State Water Company

CITY OF CLAREMONT

Dated: 10/10/2017

By: Larry Schroeder
Printed Name: Larry Schroeder
Title: Mayor

APPROVED AS TO FORM:

Rutan & Tucker, LLP

By: _____
Attorneys for City of Claremont

EXHIBIT 1

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FILED
Superior Court of California
County of Los Angeles

DEC 09 2016

Shari R. Carter, Executive Officer/Clerk
By [Signature] Deputy
E. Garcia

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CITY OF CLAREMONT, a general law
city,

Plaintiff,

vs.

GOLDEN STATE WATER COMPANY,
a California corporation; DOES 1-1000;
and ALL PERSONS UNKNOWN
CLAIMING AN INTEREST IN THE
PROPERTY,

Defendants.

Case No. BC566125

Assigned to Judge Richard L. Fruin, Jr.

Dept. 15

ORDER OF DISMISSAL

Complaint Filed: December 9, 2014
Legal Issues Trial Date: June 14, 2016

~~[PROPOSED]~~

JUDGMENT

12/12/2016

ORDER OF DISMISSAL
JUDGMENT

This eminent domain proceeding came on for trial by the Court pursuant to Code Civ. Proc. §§1260.110 *et seq.* on the objections asserted by defendant Golden State Water Company to the right to take. The Court heard opening statements, received testimony and documentary evidence, and heard presentations and final argument of counsel on June 14, 15, 16, 20, 21, 23, 24, 27, 28, 29, 30, July 1, 6, 7, 8, 11, 12, 13, 14, 15, 19, and August 10, 11, 2016. Plaintiff City of Claremont was represented by Kendall MacVey, John H. Holloway and Christopher Pisano of Best Best & Krieger LLP. Defendant Golden State Water Company was represented by George M. Soneff, Edward G. Burg, and Dinesh R. Badkar of Manatt, Phelps & Phillips, LLP.

Based on the evidence received at trial and the Statement of Decision issued by the Court in this action,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

That plaintiff City of Claremont does not have the right to take any of the property it seeks to take from defendant Golden State Water Company in this proceeding and, therefore, the City of Claremont shall take nothing pursuant to its First Amended Complaint on file herein. The First Amended Complaint of the City of Claremont shall be, and hereby is, dismissed pursuant to Code Civ. Proc. §1260.120(c)(1).

Pursuant to Code Civ. Proc. §1268.610, defendant Golden State Water Company shall recover from the City of Claremont its litigation expenses and costs in the amount of \$ 7,602,781.23

Dated: Dec. 9, 2016

Richard L. Fruin, Jr.
HON. RICHARD L. FRUIN, JR.
Judge of the Superior Court

12/12/2016

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PROOF OF SERVICE

I, Soran Kim, declare as follows:

I am employed in Los Angeles County, Los Angeles, California. I am over the age of eighteen years and not a party to this action. My business address is MANATT, PHELPS & PHILLIPS, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On November 16, 2016, I served the within:

[PROPOSED] JUDGMENT

on the interested parties in this action addressed as follows:

Kendall H. MacVey, Esq.
BEST BEST & KRIEGER LLP
3390 University Avenue, 5th Floor
P.O. Box 1028
Riverside, CA 92502
(951) 686-1450 Telephone
Email: Kendall.MacVey@bbkllaw.com
Attorneys for Plaintiff City of Claremont

John H. Holloway, Esq.
Christopher M. Pisano, Esq.
BEST BEST & KRIEGER LLP
300 South Grand Ave., 25th Floor
Los Angeles, CA 90071
(213) 617-8100 Telephone
Email: John.Holloway@bbkllaw.com
Christopher.Pisano@bbkllaw.com
Attorneys for Plaintiff City of Claremont

(BY OVERNIGHT MAIL) By placing such document(s) in a sealed envelope, for collection and overnight mailing at Manatt, Phelps & Phillips, LLP, Los Angeles, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of overnight service mailing, said practice being that in the ordinary course of business, correspondence is deposited with the overnight messenger service, Federal Express, for delivery as addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 16, 2016, at Los Angeles, California.


Soran Kim

317951619.1

12/12/2016

EXHIBIT 2

TOLLING AGREEMENT

This Tolling Agreement ("Tolling Agreement") is made as of October 11, 2017, between GOLDEN STATE WATER COMPANY, a California Corporation ("Golden State") on the one hand, and CITY OF CLAREMONT, a general law city ("Claremont") on the other hand (Golden State and Claremont may be referred to individually as a "Party" or collectively as the "Parties").

RECITALS

A. On December 9, 2014, Claremont filed a complaint in Los Angeles County Superior Court (Case No. BC566125) seeking to condemn the assets owned by Golden State that are used to provide water service in Claremont and to 300 subscribers outside Claremont's borders. The lawsuit was assigned to the Hon. Richard L. Fruin, Jr., Judge presiding (hereinafter the "Litigation").

B. In the Litigation, Golden State objected to Claremont's right to take the Golden State Assets and those objections were heard and determined by the Court, pursuant to California Code of Civil Procedure §1260.120(a), in a bench trial over several weeks in June, July, and August, 2016.

C. On December 9, 2016, the Court issued an Order of Dismissal, decreeing that Claremont did not have the right to take any of the Golden State Assets. The Court further ordered, pursuant to California Code of Civil Procedure §1268.610, that Golden State shall recover from Claremont its litigation expenses and costs in the amount of Seven Million Six Hundred Two Thousand Seven Hundred Eighty-One Dollars and Twenty-Three Cents (\$7,602,781.23) (hereinafter the "Judgment Amount"). The Order of Dismissal is attached as Exhibit 1 to this Agreement.

D. On October 11, 2017, Golden State and Claremont entered into a Settlement Agreement to resolve Claremont's obligation to pay the Judgment Amount, on the terms and conditions set forth in the Settlement Agreement.

E. In the event of any breach or default of obligations under the Settlement Agreement, Golden State may be entitled to enforce the Order of Dismissal, or to assert legal or equitable claims against Claremont arising from the Order of Dismissal. California Code of Civil Procedure section 337.5(b) imposes a Ten (10) year statute of limitations on actions to enforce judgments. Golden State seeks to ensure that it may enforce the Order of Dismissal from October 11, 2017 to December 9, 2030.

COVENANTS

NOW THEREFORE, in consideration of the foregoing and mutual covenants contained herein, the Parties agree as follows:

1. **Term of Agreement:** The term of this Tolling Agreement shall be from October 11, 2017 to October 11, 2021 ("Term"), a period of Four years.

2. **Tolling of Statute of Limitations:** The Parties agree that the running of any and all applicable statutes of limitations pertaining to the time within which Golden State may initiate an action upon the Order of Dismissal, including the limitations period set forth in Code of Civil Procedure section 337.5, shall be tolled and suspended during the Term of this Tolling Agreement.

3. **No Admission of Liability:** The execution of this Tolling Agreement shall not operate as an admission of liability or responsibility by any of the Parties to any person or entity and nothing herein shall prejudice or affect any other rights or liabilities of any of the Parties. This Tolling Agreement shall not be used in evidence in any action or proceeding for any purpose other than the enforcement of its terms.

4. **Counterparts:** This Tolling Agreement may be executed in one or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

5. **Authority:** Each signatory to this Tolling Agreement represents and warrants that they have authority to sign on behalf of, and to bind, the person or entity on whose behalf they are signing.

6. **Entire Agreement:** This Tolling Agreement contains the entire understanding between the Parties. This Tolling Agreement may not be modified except in writing signed by all Parties.

THE PARTIES HAVE READ, UNDERSTAND, AND AGREE TO THE FOREGOING.

GOLDEN STATE WATER COMPANY

Dated: Oct. 9, 2017

By: Robert J. Sprawls
Printed Name: Robert J. Sprawls
Title: President & CEO

APPROVED AS TO FORM:

Manatt Phelps & Phillips, LLP

By: [Signature]
Attorneys for Golden State Water Company

CITY OF CLAREMONT

Dated: 10/10/2017

By: [Signature]
Printed Name: Larry Schroeder
Title: Mayor

APPROVED AS TO FORM:

Rutan & Tucker, LLP

By: _____
Attorneys for City of Claremont

EXHIBIT 3

B280608

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION SEVEN**

**CITY OF CLAREMONT,
*Plaintiff and Appellant,***

v.

**GOLDEN STATE WATER COMPANY,
*Defendant and Respondent.***

APPEAL FROM LOS ANGELES COUNTY SUPERIOR COURT
RICHARD L. FRUIN, JR., JUDGE • CASE No. BC566125

STIPULATION TO DISMISS APPEALS

HORVITZ & LEVY LLP
DAVID M. AXELRAD (BAR No. 75731)
*JOHN A. TAYLOR, JR. (BAR No. 129333)
3601 WEST OLIVE AVENUE, 8TH FLOOR
BURBANK, CALIFORNIA 91505-4681
(818) 995-0800 • FAX: (844) 497-6592
daxelrad@horvitzlevy.com
jtaylor@horvitzlevy.com

**ATTORNEYS FOR PLAINTIFF AND APPELLANT
CITY OF CLAREMONT**

MANATT, PHELPS & PHILLIPS, LLP
*GEORGE M. SONEFF (BAR No. 117128)
EDWARD G. BURG (BAR No. 104258)
JOANNA S. McCALLUM (BAR No. 187093)
DINESH R. BADKAR (BAR No. 216908)
11355 W. OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(310) 312-4000 • FAX: (310) 312-4224
gsoneff@manatt.com
eburg@manatt.com
jmccallum@manatt.com
dbadkar@manatt.com

**ATTORNEYS FOR DEFENDANT AND RESPONDENT
GOLDEN STATE WATER COMPANY**

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION SEVEN**

CITY OF CLAREMONT,
Plaintiff and Appellant,

v.

GOLDEN STATE WATER COMPANY,
Defendant and Respondent.

STIPULATION TO DISMISS APPEALS

Pursuant to California Rules of Court, rule 8.244(c), the parties hereby stipulate to the dismissal of the two appeals filed by defendant City of Claremont on February 2, 2017 and March 15, 2017, both docketed as B280608, with each side to bear its own costs and attorney fees on appeal. The parties request that the Court direct immediate issuance of the remittitur.

October __, 2017

HORVITZ & LEVY LLP
DAVID M. AXELRAD
JOHN A. TAYLOR, JR.

By: _____
John A. Taylor, Jr.

Attorneys for Plaintiff and Appellant
CITY OF CLAREMONT

October 9, 2017

MANATT, PHELPS & PHILLIPS, LLP
GEORGE M. SONEFF
EDWARD G. BURG
JOANNA McCALLUM
DINESH R. BADKAR

By  _____
George M. Soneff

Attorneys for Defendant and Respondent
GOLDEN STATE WATER COMPANY