

**WATER PURCHASE CONTRACT**  
**between**  
**Appomattox County and Campbell County Utilities and Service Authority**

THIS CONTRACT, made this 1<sup>st</sup> day of Jan., 2011, by and between the Campbell County Utilities and Service Authority, hereinafter referred to as the "Authority", and Appomattox County, a County of the Commonwealth of Virginia, hereinafter referred to as the "County."

WITNESSETH

WHEREAS, the Authority owns and operates water treatment and distribution facilities;

WHEREAS, the County desires to purchase water from the Authority for use by the County, including resale to its water customers;

WHEREAS, it is in the mutual interest of the parties to cooperate as the Authority has the ability to treat and produce more water than is currently consumed by its customers, the County lacks such facilities to treat and produce water for its customers, and that by jointly using the existing facilities of the Authority both parties will benefit.

WHEREAS, the Authority is willing to sell water to the County and the County is willing to purchase Water from the Authority on the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the mutual benefits resulting from the undertakings of the parties to this contract and the covenants and agreements contained herein, the Authority and the County covenant and agree, each with the other as follows:

I. GENERAL

A. Nothing in this agreement shall limit the Authority from expanding its current service area to other parts of Campbell County and using Authority water to supply service for such expansions. The Authority expects that its requirements for water will increase and the County's requirements for water will increase as well. For purposes of considering the system design, it is expected that the Town of Appomattox will utilize water from the Authority in the future as well. The Authority is willing to supply water to meet the County's increasing demands as long as the Authority determines that it is in a position to do so. The Authority and the County further agree that for the duration of this contract, there will be no reduction in the amount the County can purchase, except for conditions noted in Section VII. E. below.

B. Unless approved by the Authority, the County will not resell any water purchased from the Authority to other localities except for the Town of Appomattox. The Authority shall be notified as soon as practical that the Town of Appomattox is connecting to the County water system. It shall be understood that an exception to this provision will be allowed in the event of emergencies. The County shall insure that any localities to which the County sells water supplied by the Authority shall not resell any water supplied by the Authority to other localities.

## II. TERM AND RENEWAL

A. The initial term of this contract shall be for a period of twenty years, beginning on January 1, 2011 and ending on December 31, 2030.

B. Prior to the end of the eighteenth year of the Agreement, that is December 31, 2028, each party will notify the other, in writing, of its intention to terminate the contract at the end of year twenty, December 31, 2030, or to renew the contract as provided for in Section C immediately below. The Agreement shall terminate on December 31, 2030 if either party provides notice of its intent to terminate.

C. Unless terminated by either party pursuant to Paragraph II.B above, after year twenty, the contract will automatically be renewed in ten year increments (each a "Renewal Term"). During any Renewal Term, either party may provide written notice to the other party of its intention to terminate the contract not less than two years prior to the end of then current Renewal Term. The Agreement shall terminate on the last day of the then effective Renewal Term if either party provides notice of its intent to terminate in accordance with this Section C.

D. The methodology described in Section V for determining the price of water sold by the Authority the County shall apply to all water purchased and sold pursuant to this contract.

## III. GOODS AND SERVICES PROVIDED

A. The Authority agrees to deliver potable water to the County at one or more Delivery Points specified herein. The quality and pressure of water delivered to the County under this contract shall be the same as that furnished Authority customers in the areas from the main or mains from which the water is taken by the County at the metering point or points at the time of delivery and shall meet the requirements of the Virginia Department of Health and/or other State or Federal agencies which have jurisdiction over public water supplies.

B. While this contract is in effect, the Authority agrees to deliver up to 750,000 gallons of potable water per day to the County. In providing water, the obligation of Authority will be to furnish an average flow. If the County desires to purchase in excess of 750,000 gallons of potable water per day, the Authority will deliver such water if it has sufficient supply and providing such water will not detrimentally

impact the normal operation of the Authority's water supply system. If additional infrastructure or facilities are required to deliver purchased water in excess of 250,000 gallons per day, such additional infrastructure and facilities will be at the County's expense. The County agrees that it is aware of the projected necessary upgrades as identified in the "Rustburg/ Concord/Appomattox Water System Analysis" prepared by Draper Aden Associates and dated October 15, 2007. The County further acknowledges that the upgrades identified in foregoing analysis are projections only and that actual upgrades could be more extensive. While this contract is in effect, the County will purchase a minimum of 31,000 gallons of potable water per day based on total monthly usage divided by the number of days in the month. If the average use during a monthly billing cycle is less than 31,000 gallons per day, then the monthly bill will be based upon said minimum required purchase. However, no purchase or penalty shall be in effect until the main water line is constructed and is available for connections. The provisions of this paragraph are subject to the limitations and provisions of Section VII. E.

C. Existing delivery points (with the exception of individual meters) (each, a "Delivery Point") will be at the locations specified in Exhibit B – Master Meter Locations. The initial Delivery Point will be located generally at the northeast corner of U.S. Route 460 at the Campbell County/Appomattox boundary line. Future Delivery Points may be established as mutually agreed upon. The costs for constructing additional master meter facilities or other facilities requested by the County shall be the responsibility of the County and the costs for additional or revised facilities requested by the Authority shall be the responsibility of the Authority. Costs for any backflow prevention devices shall be the responsibility of the County.

D. The Authority shall be responsible for the provision of additional pumping and storage facilities to its system to meet the demands within its service area. Notwithstanding this, the Authority and the County may agree to modify Authority facilities to provide enhanced service within the County's service area. Cost sharing for these improvements shall be provided by the system-wide sharing of Capital Improvement Expenditures as defined in the methodology described in Section V.

E. Upon request by the County, the Authority may annually designate a portion of its pumping and storage capacity to the County to satisfy regulatory requirements, provided such capacity is in the Authority's system.

#### IV. CONNECTIONS and METERING

A. The Authority will install and maintain master meters at each major Delivery Point. Initial installation shall be at no expense to the Authority.

B. To determine consumption totals for the County, the Authority will read all master meters monthly. Individual service meters for County customers that are fed by Authority lines will be read at an interval to be determined by the County and all service meters connected directly to County mains for Campbell County customers will be read by the Authority bi-monthly. Each party shall provide the other with an itemized

listing of the meters read and the reading for each meter. Each party shall have the right to read meters simultaneously for the purpose of verifying the accuracy of the readings. Total monthly consumption for the County shall be the sum of the measured flows through Authority master meters and individual meters which serve County residents directly from Authority water lines. Any water used for line flushing or fire fighting purposes will be accounted for through an Authority master meter.

C. Approved backflow prevention devices shall be provided at all new master meter locations installed after the date of this contract to prevent water from leaving the County's lines and entering the Authority's lines. The County shall maintain a cross connection control and backflow prevention program that meets all the requirements of the Virginia Department of Health, the International Plumbing Code, and the Uniform Building Code, and shall provide copies of this program to the Authority. Installation, maintenance, and testing of any backflow prevention devices shall be at the expense of the County.

D. The County or the Authority at its respective expense shall have the right to test and verify the accuracy of all master and service meters. If the accuracy of a tested meter is less than 95%, adjustments shall be made to cover the usage for the most recent 90 day period.

E. The measurement basis for the Authority meters shall be in hundred cubic feet (hcf).

#### V. WATER RATES AND CHARGES

A. Water rates and charges shall be determined based on the methodology described in Exhibit A – Water Utility Cost of Service Study – Final Rate Study Report, prepared by Black & Veatch Corporation, dated June 2006. The study details the methodology based on the City of Lynchburg water system operations in fiscal year 2007. The methodology is based on the "Utility Basis" as recommended by the American Water Works Association (AWWA), refer to the Executive Brief of the Study.

B. An abbreviated form of the methodology may be used if agreed upfront by both parties.

C. In the event that it is required, either by drought restrictions or conditions, compliance with drought management plan, emergency or other interruptions in normal water delivery service or increased customer demand for Authority customers for the Authority to purchase water from the City of Lynchburg, the difference in the raw cost of the water supplied by the Otter River and the cost of water purchased from the City of Lynchburg, per hundred cubic feet (HCF), will be passed on to the County. Presently, the difference is \$1.77 per HCF - \$0.91 per HCF = \$0.86 per HCF.

#### VI. BILLING and PAYMENTS

A. Annually, prior to the start of each fiscal year of the Authority the Authority will establish a provisional billing rate. This provisional rate is calculated using the Authority Operating Fund budgeted costs, the applicable rate of return percentages and estimates of system wide water consumption.

B. The Authority will bill the County each month for the total monthly consumption as determined according to the provisions of Section IV using the provisional rate established in Section VI. A above.

C. At the end of each fiscal year the actual costs incurred in accordance with Section V. above will be derived from the Authority's audited financial statements and schedules and the system wide water consumption and, based on this data, the Authority will calculate an actual rate for the previous fiscal year. This rate shall be applied to the entire consumption of the prior year and the difference in actual charges and provisional charges calculated. After determining this difference, the Authority shall invoice the County for amounts due from the County or issue a credit for amounts owed to the County, as appropriate. It is understood by the Authority and the County that these adjustments may result in either subtractions from or additions to the subsequent year's calculation of water charges to the Authority.

D. Amounts billed to the County will be paid within 45 days of the invoice date. Bills unpaid beyond 45 days will be subject to the same penalties as imposed upon other Authority customers. The County must notify the Authority in writing within 15 days of receipt of any bill for which there are questions. No penalties will be paid on any disputed charges ultimately settled in favor of the County.

## VII. OTHER ITEMS

A. To enable the County to purchase water from the Authority, it will be necessary to extend the Authority's distribution system to the County line (the "waterline extension"). This waterline extension will be constructed pursuant to the terms of a separate agreement between the County and the Authority. Under the terms of such agreement, the County will be responsible for all costs of such extension, including the cost of obtaining all necessary easements. In addition to such other terms and conditions upon which the parties may agree, notwithstanding the foregoing, title to water facilities in Campbell County vest and remain vested in the Authority in fee simple. Title to water facilities in Appomattox County constructed or provided by the County or subsequently acquired by the County shall vest and remain vested in the County in fee simple. Title to all master meter vaults shall vest and remain vested in the Authority. Title to all separate backflow protection devices shall vest and remain vested in the County. If the parties do not enter into agreement specified in this Paragraph VII.A. by January 1, 2011, this Agreement shall terminate and be of no further force or effect.

B. Notwithstanding anything herein to the contrary, unless otherwise agreed in writing, the County will not sell water to customers in Campbell County except as may be given written permission of the Authority. In a like manner, the Authority shall not

sell water to customers within the County except as may be given written permission by the County.

C. The County shall have the right, with written permission of the Authority (said permission shall not be unreasonably withheld) and permission of such other regulatory agencies as may have jurisdiction, to extend its water mains and lines within Campbell County to connect sections or parts of the County's water distribution system. The Authority will have the right to connect to these mains and lines for service of its customers as provided for in Section IV. All costs associated with such extensions and providing maintenance to these County lines shall be the responsibility of the County. The County shall comply with the standards, rules and regulations of all agencies having jurisdiction in this matter.

D. At least annually, the County will provide the Authority with estimates of future water demands for each water delivery point and the Authority will provide the County with estimates of its ability to supply these demands.

E. The Authority reserves the right to restrict County water usage during drought conditions or other emergencies. Restrictions placed on water sold to the County shall be equivalent to those restrictions placed upon other Authority categories of customers.

F. While this contract is in effect, the County agrees that it will not sell water purchased from the Authority to its residential, industrial, and commercial customers at an amount that is less than its costs of purchasing water from the Authority.

G. To extend its water distribution system, the Authority has installed or will install a 16 inch diameter water line and related facilities generally described as running from the water tank located behind Concord Elementary School to the intersection of Routes 24 and 460 (the "460 Water Line Extension"). The Authority determined that a 12 inch diameter line would provide sufficient water capacity for the Authority to serve its existing and future customers. To insure the County's access to water capacity resulting from the 460 Water Line Extension, the County has paid or will pay approximately \$216,072 to the Authority to upgrade the water line from 12 inches to 16 inches in diameter (the "Upgrade"). The additional water capacity resulting from the Upgrade is referred to as the "Additional Capacity." Subject to limitations provided herein, the Authority reserves the right to utilize the Additional Capacity to provide normal water service to Authority customers, provided, however, that in such event the Authority will reimburse the County for a portion of the County's costs of the Upgrade as follows: If the Authority provides normal water service to its customers from the Additional Capacity, then the Authority shall reimburse the County in an amount (the "Cost Share Amount") equal to a) the total cost paid by the County to the Authority for the Upgrade, not to exceed \$216,072 multiplied by b) the percentage of the Additional Capacity required by the Authority to provide normal water service to its customers as determined herein. The percentage of the Additional Capacity used by the Authority to provide normal water service to its customers shall be equal to a) average daily total

volume of normal water service provided by the Authority to its customers from the Additional Capacity; divided by b) the total daily volume made available by the Additional Capacity. The average daily total volume of normal water service shall be determined by the Authority over a one year period beginning on the date on which the Authority first began providing water to its customers from the Additional Capacity. By way of example, assume that a) the County pays the Authority \$220,000 in costs for the Upgrade; b) the Authority has used 10% of the Additional Capacity to provide normal water service to the Authority customers (according to the above-defined formula), then the Authority would reimburse the County a total of \$22,000 ( $\$220,000 \times 0.10$ ). For purposes of this Agreement, "normal water services" shall mean the provision of water service by the Authority from the 460 Water Line Extension to new or existing customers of the Authority for a minimum of 60 consecutive days, provided, however, that the provision of water in the event of a bona fide emergency shall be excluded. The determination of the capacity used by the Authority may be recalculated from time to time (with the one year measuring period beginning on a date selected by the County in its reasonable discretion), but the Authority shall receive a dollar-for-dollar credit in the amount of any prior Cost Share Amount paid to the County in calculating any subsequent Cost Share Amount due under this paragraph. The provisions of this paragraph shall expire 10 years after the date of this Agreement, after which time the Authority shall have no obligation to calculate or pay any Cost Share Amount.

#### VIII. REPRESENTATIONS

A. The making, execution, and delivery of this contract have been induced by no representations, statements, warranties, or agreements other than those herein expressed. This contract embodies the entire understanding of the parties hereto, and except for the attached appendix, there are no further or other agreements or understandings, written or oral, in effect between the parties related to the subject matter hereof, and this contract supersedes all previous agreements that may have existed between the parties hereto with respect to the subject of equal formality signed by the parties hereto or by their duly authorized officers or representatives.

B. Modifications, additions, amendments, and or alterations to any of the provisions of this contract shall be in writing and signed by duly authorized representatives of the parties hereto.

C. This contract shall be governed in its entirety by the laws of the Commonwealth of Virginia.

D. In the event of any occurrence rendering the Authority or County incapable of performing under this contract, any successor of the Authority or County whether the result of legal process, assignment, or otherwise shall succeed to the rights of its predecessor hereunder.

THE CAMPBELL COUNTY UTILITIES AND SERVICE AUTHORITY

BY: Carl I. Elliott CHAIRMAN

ATTEST:

H. Michael James

THE COUNTY OF APPOMATTOX, VA

BY: Geoff Tanner

ATTEST:

Robert J. Ferguson COUNTY ADMINISTRATOR