WATER PURCHASE AGREEMENT BETWEEN
THE TOWN OF CHRISTIANSBURG AND
THE MONTGOMERY COUNTY PUBLIC SERVICE AUTHORITY

THIS AGREEMENT is made and entered into this _____ day of _____, 2010, by and between the Town of Christiansburg, Virginia, a Municipal Corporation of the Commonwealth of Virginia, ("the Town") and the Montgomery County Public Service Authority, a Water and Sewer Authority created pursuant to the Virginia Water and Waste Authorities Act, Chapter 51 of Title 15.2 of the Code of Virginia, (1950) as amended, ("the Authority").

W I T N E S S E T H :

WHEREAS, the Town currently sells water to the Authority through separate water purchase agreements that serve the Shawsville/Elliston area, the Midway/Merrimac Area, the Mud Pike Area and the Price Mountain area of the unincorporated area of Montgomery County; and

WHEREAS, these Water Purchase Agreements are set to expire in January 2011; and

WHEREAS, the Town and the Authority desire to enter into this Agreement to replace the existing water purchase agreements and have this Agreement serve as the Water Purchase Agreement by which the Town agrees to sell potable water to the Authority in bulk quantities for distribution by the Authority in the four service areas identified in this Agreement and from any future areas agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the Town and the Authority agree as follows:

1. Water to be Supplied.

The Town agrees to furnish to the Authority potable water obtained from the Regional Water Authority for the purpose of resale by the Authority to Authority water customers located within the certain service areas identified below. The Authority agrees to pay the Town a monthly charge for water delivered pursuant to this Agreement which shall be equal to 125% of the Town's cost per gallon incurred in purchasing water from the Regional Authority during the same period of time. The parties recognize that the Town's ability to purchase water from the Regional Water Authority for resale to the Authority is subject to certain requirements and limitations in the Purchase Agreement between the Town and the Regional Authority. For that reason, the Town's obligation to sell water to the Authority is conditioned upon compliance with all requirements of that contract. The Town agrees to use all reasonable efforts to obtain the consent, where necessary, of the Regional Authority and to meet any other requirements of its agreement with the Regional Authority to enable the Town to sell water to the Authority on the terms and conditions set forth herein.

2. Service Area, Points of Connection and Capacity of Water.

The Town agrees to sell to the Authority potable water for the purpose of resale by the Authority in the four existing service areas identified as the Shawsville/Elliston service area, the Midway/Merrimac service area, the Mud Pike service area and the Price Mountain service area. The Town agrees to provide the following quantities of water at the identified points of connection for each of the following four (4) identified service area:

(1) Shawsville/Elliston Service Area.

a. The Shawsville/Elliston service area is located east of the Town water service area and includes the unincorporated communities of Shawsville, Elliston, Alleghany Springs and Lafayette.

b. The Town agrees to deliver potable water in bulk quantities for use by the Authority in this service area at the point of connection established by a master meter located along Rt. 11/460 approximately 3,300 feet west of the Rt. 11/460 intersection with Den Hill Road (Rt. 641).

c. The Town agrees to provide and make available to the Authority for resale in this service area at the above referenced point of connection five hundred thousand (500,000) gallons of potable water per day.

(2) Midway/Merrimac and Price Mountain Service Areas.

a. The Midway/Merrimac Price Mountain / service area is located north of the Town water service area which is south of the Town of Blacksburg boundary west of Merrimac Road (Rt. 657) and south of Oilwell Road (Rt. 824) including the unincorporated areas of Merrimac, Midway, Prices Fork and the south side of Price Mountain.

b. The Town agrees to deliver potable water in bulk quantities for use by the Authority in this service area at the point of connection established by a master meter located along Merrimac Road (Rt. 657) near the Merrimac Road intersection with Virginian Drive (Rt. 641).

c. The Town agrees to provide and make available to the Authority for resale in this service area at the above referenced point of connection one hundred fifty thousand (150,000) gallons of potable water per day.

(3) Mud Pike Service Area.

a. The Mud Pike Service Area is located west of the Town water service area and includes the unincorporated area of Mud Pike.

b. The Town agrees to deliver potable water in bulk quantities for use by the Authority in this service area at the point of connection established by a master meter located along Mud Pike (Rt. 666) approximately 300 feet east of the Mud Pike intersection with Lake Vista Drive (Rt. 1253).

c. The Town agrees to provide and make available to the Authority for resale in this service area at the above referenced point of connection two-hundred sixty-five thousand (265,000) gallons of potable water per day.

The average daily gallons per day (GPD) shall be based upon a minimum of 180 days of meter reading and shall not include any water used in fire fighting operations or water

lost due to water leaks that were repaired in a timely matter. The average GPD flow shall be the total flow for the 180 days divided by 180.

If the average daily water consumption exceeds the maximum gallons per day allowed in any service area, the Authority agrees to provide a moratorium on any further connection in that service area until the average GPD for a consecutive 12 month period is less than allowed in that service area, or until the amount is modified by mutual consent of the Parties allowing for additional capacity in the affected service area.

If the average daily GPD of water exceeds the maximum gallons per day allowed for more than 12 consecutive months, a surcharge of twenty-five percent (25%) shall be applied to the billing for that service area until the average daily GPD meets the maximum GPD allowed or an increased volume is agreed to by both parties.

2A. Existing Town Water Service.

The water service area identified in the enclosed map titled Water Agreement Boundaries, dated November 22, 2010 is hereby conceded to the Town until such time as modified by mutual agreement by the Town and Authority. The service area shall include entire properties such that if the service area boundary line bisects a property, that property shall be included within if the majority of the property falls within the service area or excluded from the service area if the majority of the property falls outside of the service area based upon the location of the service area boundary line.

3. Additional Capacity and Points of Connection.

a. If the Authority requests additional capacity for a particular service area the Town agrees to consider increasing the capacity of water provided. The Authority shall be responsible for any upgrade in the Town's water distribution system required to

provide the requested increase in capacity of water including but not necessarily limited to any required study or other improvement required by the Town to furnish additional capacity of water. Any agreed increase in capacity of water provided shall be agreed to in writing by the Parties as part of an amendment to this Agreement.

b. Any additional points of connection to the Town water system shall be properly metered at a location to be determined by mutual agreement between the Director of the Authority and Town Manager. The location of any additional agreed upon points of connection shall be based on valid engineering and cost considerations agreed to by both parties.

c. The Authority shall be responsible for paying the costs of installing master meters at every point of connection to the Town water system. All installed bulk meters shall be equipped with test ports to facilitate meter calibration. The bulk water meters shall be installed, owned, maintained and operated by the Town. All water lines, facilities and easements lying within the Town service area on the Town side of the master meter, including the meters, shall be owned and operated by the Town. All water lines, facilities and easements lying within the Authority service area on the Authority side of the master meter, not including the master meter, shall be owned and operated by the Authority. The Authority shall have the right to access the meters for reading purposes and if available, allow the Authority to remotely read the meters by radio or other means.

4. Water Quality and Water Pressure.

The Town agrees to deliver to the Authority at the points of connection water having a minimum water pressure of 20 pounds per square inch (PSI) and meeting the

specifications and requirements of the Virginia Health Department and the United States Environmental Protection Agency. The Town shall not be held responsible for water quality nor water pressure beyond the point of connection in the Authority's water system.

5. Water Shortage.

The Town agrees to notify the Authority of any interruption of water supply to any point of connection as soon as possible but no later than four (4) hours after the Town becomes aware of the interruption. In the event an occasion should arise where there is a shortage of water in the Town due to drought or other emergency, the Town shall reserve the right to ration water to the Authority under this Agreement in the same manner it rations water to its Town customers. If such a condition occurs the Authority agrees to accept such reduction in water supply equal to the reduction imposed on other Town users. The obligation of the Town to furnish water shall also be subject to and is made contingent upon any acts of God, explosions, breakage or accident to machinery, pipelines, the binding order of any court or governmental authority, or any other act or occurrence not reasonably within the control of the Town. The Town agrees to use all reasonable efforts under the circumstance and not delay in repairing and/or replacing water facilities necessary to enable the Town to sell water to the Authority on the terms and conditions set forth herein.

6. Billing of Charges.

The Town shall bill the Authority on a monthly basis for the water delivered to Authority system at the points of connection as measured by the master water meters. The Town shall submit the bill to the Authority on or about the fifth day of each month with the bill payable by the Authority within thirty (30) days after the billing date. The Town billing invoices shall include the date of billing, the volume of water purchased and the meter readings for each master

meter. A ten percent (10%) penalty shall be added to any billing if the payment is made more than thirty (30) days after the billing date. The Authority shall be eligible for adjustments due to higher than average water consumption resulting from water leak(s) or breaks in the Authority water system. The Authority shall be required to repair any leaks or breaks within a reasonable amount of time after becoming aware of the leak or break. Reasonable time shall include an allowance for locating such leak or break using current acceptable methods and technology. The billing for the period of adjustment shall be at the agreed upon bulk rate for a volume equal to the average of the past three billing cycles prior the leak or break.

7. Blacksburg-Christiansburg-VPI Water Authority Membership.

In the event the County of Montgomery becomes a member of the Blacksburg-Christiansburg-VPI Water Authority, this Agreement may be voided by the Authority upon thirty (30) days written notice to the Town. In the event that the County of Montgomery becomes a member of the Blacksburg-Christiansburg-VPI Water Authority, the Town and the Authority shall negotiate an agreement acceptable to both parties for the transmission of Authority water through the Town water system.

8. Term and Effective Date.

This Agreement shall take effect on January 17, 2011. This Agreement shall remain in full force and effect for a term of thirty (30) years from the effective date. Upon taking effect the terms and conditions of the Midway/Merrimac Water Agreement, dated February 9, 1990; Shawsville/Elliston Area Water Agreement, dated July 16, 1991; Mudpike Area Water Agreement, dated September 27, 1994; 1997 Utility Agreement (includes Price Mountain area), dated January 6, 1997; and Water Purchase Agreement Between the Town of Christiansburg,

County of Montgomery and Montgomery County Public Service Authority, dated September 2, 1987 are hereby revoked and superseded in their entirety by the provisions of this Agreement.

9. Amendments.

This Agreement may be amended, modified or supplemented in whole or in part, by mutual consent of the Town and the Authority by a written document duly executed by the authorized representatives of the Town and Authority.

10. Miscellaneous.

(1) It is mutually understood and agreed that neither the Town or the Authority shall be deemed in breach or held responsible for damages caused by delay or failure to perform hereunder when such delay or failure is due to fires, strikes, floods, epidemics, acts of God; acts of war or terrorism, legal acts of public authorities or delays or defaults caused by public carriers which cannot reasonably be forecast or prevented against.

(2) If any clause, provision or section of this Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction. Such determination shall affect only the specific portion determined to be invalid, illegal or unenforceable and will not affect any of the remaining clauses, provisions or sections of this Agreement which shall remain and continue in full force and effect.

(3) The Town agrees that Should the Authority and the County of Montgomery agree to allow the Town by separate agreement to serve an existing Authority water service area that the Authority may be compensated at fifty percent (50%) of the current Authority water facility fee on a per lot basis for residential development or fifty percent (50%) of the current Authority water facility fee based on

the requested meter size for commercial development. It is understood that the Developer(s) or Property Owner(s) of any such service area released by the Authority shall pay the above identified compensation to the Authority. The compensation shall be due and payable to the Authority when the residential and/or commercial lot(s) are recorded by plat or when a building permit is requested for existing lots.

(4) The parties agree that any questions or disputes arising between the parties hereto that cannot be mutually resolved between the parties shall first be submitted for non-binding mediation before pursuing any other legal remedies. Mediation services shall be provided by an organization recognized for mediation services in the State of Virginia that is mutually agreeable by both parties. The cost for mediation shall be shared equally by the parties.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the governing bodies of the Town and Authority have by resolution caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, by their respective Mayor or Chair and attested by authorized officials.

TOWN OF CHRISTIANSBURG, VIRGINIA

ATTEST:

By: _____
Mayor

_____

Clerk of Council

MONTGOMERY COUNTY PUBLIC
SERVICE AUTHORITY

ATTEST:

By: _____
Chair

_____
Secretary of the PSA