WASTE WATER TREATMENT 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 owns and operates the Crab Creek Wastewater Treatment Facility along with wastewater transmission facilities; and

WHEREAS, the Town currently provides the Authority through separate wastewater treatment agreements with wastewater transmission and treatment capacity that the Authority uses for the wastewater the Authority collects from the unincorporated areas identified as the Midway area, the Merrimac/Slate Branch area, the Walnut Creek subdivision area and Price Mountain area along with an overall wastewater treatment capacity at the Town Crab Creek Wastewater Treatment Facility; and

WHEREAS, the Town also provides the Authority with wastewater volume transmission capacity at the Town's Slate Branch pump station; and

WHEREAS, these Wastewater Treatment 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 wastewater treatment agreements and have this Agreement serve as the Wastewater Treatment Agreement by which the Town agrees to accept, transport and treat identified quantities of Authority wastewater from the four identified wastewater service areas 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. Wastewater.

The Town agrees to accept, transport and treat wastewater collected by the Authority from the Authority wastewater customers located within the four service areas identified herein not to exceed a maximum allowable wastewater volume of four hundred fifty-seven thousand, five hundred (457,500) gallons per day at the Town wastewater treatment plant.

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

The Town agrees to accept, transport and treat wastewater collected in the four existing service areas identified as the Midway service area, the Merrimac/Slate Branch service area, the Walnut Creek Subdivision service area and the Price Mountain service area. The Town agrees to accept, transport and treat the following quantities of wastewater at the identified points of connection for each of the following four (4) identified service area:

(1) Midway Service Area.

a. The Midway service area is located north of the Town boundary on both sides of Rt. 460 and the Rt. 460 Bypass up to the Town of Blacksburg boundary.

b. The Town agrees to accept, transport and treat in bulk quantities wastewater collected by the Authority from this service area at the point of connection established by a master meter located just north of the Town's Midway Pump Station located behind 3385 North Franklin St. (Rt. 460).

c. The Town agrees to accept, transport and treat the wastewater collected by the Authority in this service area at the above referenced point of connection up to a maximum of twenty thousand (20,000) gallons per day.

(2) Merrimac/Slate Branch Service Area.

a. The Merrimac/Slate Branch Service Area is located north of the Town boundary west of Rt. 460 and south of the Town of Blacksburg boundary.

b. The Town agrees to accept, transport and treat in bulk quantities wastewater collected by the Authority from this service area at the point of connection established by a master meter located just north of the Town's Slate Branch Pump Station located behind 50 Florence Drive and south of the Norfolk Southern Railway.

c. The Town agrees to accept, transport and treat wastewater collected by the Authority in this service area at the above referenced point of connection up to a maximum of one-hundred fifty-four thousand, seven hundred (154,700) gallons per day.

d. The Town agrees to accept and transport from the Authority a maximum wastewater volume of two hundred thousand (200,000) gallons per day through the Town's Slate Branch Pump Station.

(3) Walnut Creek Subdivision Service Area.

a. The Walnut Creek Subdivision Service Area is located north of the Town boundary near the end of Industrial Drive, west of I-81 and east of the Rt. 460 By-Pass.

b. The Town agrees to accept, transport and treat in bulk quantities wastewater collected by the Authority from this service area at the point of connection located on Industrial Drive.

c. The Town agrees to accept, transport and treat wastewater collected by the Authority in this service area at the above referenced point of connection up to a maximum of ninety-seven thousand, five hundred (97,500) gallons per day.

(4) Price Mountain Service Area.

a. The Price Mountain Service Area is located north of the Town boundary and includes only the southside of Price Mountain which is south of the Town of Blacksburg boundary, west of Merrimac Road (Rt. 657) and south of Oilwell Road (Rt. 824).

b. The Town agrees to accept, transport and treat in bulk quantities wastewater collected by the Authority from this service area at a point of connection to be established at a later date by mutual agreement between the Director of the Authority and Town Manager.

c. The Town agrees to accept, transport and treat wastewater collected by the Authority in the service area once a point of connection is established up to a maximum of eighty-seven thousand, eight hundred (87,800) gallons per day.

The average daily gallons per day (GPD) shall be based upon a minimum of 180 days of meter reading. The average GPD flow shall be the total flow for the 180 days divided by 180.

If the average daily GPD of wastewater exceeds the maximum gallons per day allowed in any service area, the Authority agrees to provide a moratorium on any further connections to its system 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 wastewater 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. Town Wastewater Service.

The wastewater service area identified in the enclosed map titled Sewer Agreement Boundaries, dated December 28, 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 amount of wastewater the Town will accept, transport and treat from a particular service area. The Authority shall be responsible for any upgrade in the Town's wastewater distribution system required to provide the requested increase in wastewater treatment capacity including but not necessarily limited to any required study or other improvement required by the Town to furnish additional capacity of wastewater. Any agreed increase in capacity of wastewater accepted, transported and treated by the Town 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 wastewater 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 wastewater system required to calculate wastewater for purposes of billing. The bulk master meters shall be installed, owned, maintained and operated by the Town. All wastewater 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 wastewater 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. If wastewater flow is insufficient to permit the proper use of master meters at a particular point of connection, then charges for transmission and treatment shall be based upon the water consumption of the Authority users discharging to that point of connection, which shall not include any water used in fire fighting operations or water lost due to water leaks that were repaired in a timely manner.

4. Quality of Wastewater.

Wastewater delivered by the Authority to the Town at the points of connection shall comply with all provision/regulations of the Town, the County of Montgomery, the Authority, the Virginia Department of Environmental Quality and the United States Environmental Protection Agency pertaining to discharge to public wastewater systems. The Authority shall ensure that an industrial discharge program is adopted and enforced as required by 40 CFR 403, as amended.

5. Cost for Transmission and Treatment.

The Authority agrees to pay the Town monthly the cost for the Town accepting, transporting and treating wastewater collected by the Authority in the Authority service areas for all service areas using sewer master meters to measure wastewater flow and every two months for all service areas using water meters to measure wastewater flow. The cost shall be determined in accordance with the following formula:

Cost = A [C/B (1+/-X)]

A=The Authority flow in 1,000 gallons during the two month billing period

B=The Town's total plant flow in 1,000 gallons during the previous fiscal year
C=The Town's total cost – which shall include 100% of all Town expenses (including payment of debt and interest thereon) during the previous fiscal year associated with the Town's ownership, operation and maintenance of the Town's wastewater treatment plant and the percentage (percentage is determined by total Authority flow to total Town flow at the Town Treatment Plant) of all Town expenses (including payment of debt and interest) during the previous fiscal year for its ownership, operation and maintenance of all Town wastewater facilities other than the Town treatment plant, including, for example, its interceptor and collector lines, force mains, and its pump stations.
X=one-half the percentage increase or decrease of operating costs which shall exclude the payment of debt and interest thereon over the immediate past two year.

The cost shall be calculated each year and adjusted on the first day of July. The cost shall not exceed the cost paid by in Town wastewater customers per 1,000 gallons.

6. Connection Charges.

The Authority agrees to pay the Town a connection fee when receiving additional wastewater treatment capacity in any of the identified service areas from the Town. The Connection Charge shall be based upon the Authority's requested additional wastewater treatment capacity and the following formula:

Connection Charges = [$\sum$ {(P+I) a----n(^{i}N,N-I,….a)}] [B/C]

B/C=the ratio of the Authority requested additional wastewater flow to the total capacity of the plant
[(P+I) a----n]=Total annual payment of principal and interest on (a) all prior Town bond issues for wastewater facilities for each of the years "a" through "n" and on (b) all future bond issues or portions thereof, that may hereafter be issued by the Town during the term of this Agreement for wastewater facilities used jointly by the Town and the Authority for each of the years "a" through "n". For purposes of this calculation, "a" shall be the calendar year in which the bonds are issued and "n" shall be the number of years from the date the bonds were issued to the anniversary of the bond issue first occurring after the connection of Authority Facilities or increase in requested wastewater flow.

7. Billing of Charges.

The Town shall bill the Authority on a monthly basis for all service areas using sewer master meters to measure wastewater flow and every two months for all service areas using water meters to measure wastewater flow for the Town's acceptance, transportation and treatment of wastewater collected by Authority and delivered to the Town at the points of connection as measured by the master meters. The Town shall submit the bill to the Authority on or about the fifth day of the 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 wastewater treated 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 volumes of wastewater as a result of sewer meter malfunction or misreading. The meter malfunction or misreading from blockages, wastewater back-ups from downstream facilities or other cases resulting in higher meter readings than actual wastewater discharge must be verifiable and reported to the Town immediately upon discovery. 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 to the sewer meter malfunction.

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 Sewer Agreement, dated September 13, 1990; Merrimac/Slate Branch Sewer Agreement, dated July 5, 1995; 1997 Utility Agreement (including Price Mountain Area), dated January 6, 1997; and Wastewater 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) Should the Authority and the County of Montgomery agree to allow the Town by separate agreement to serve an existing Authority wastewater service area the Town agrees to compensate the Authority fifty percent (50%) of the current Authority sewer facility fee on a per lot basis for residential development or fifty percent (50%) of

the current Authority sewer 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.

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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