

the Location of a Proposed Lease Area and (3) Proposed Temporary Construction Easements to Be Acquired through the Property Owned by the City of Richmond Parcel ID: C0010891016,” prepared by H&B Surveying and Mapping, LLC, and dated November 9, 2017. The First Amendment to Amended Water Contract shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. That the Department of Public Utilities shall plant and maintain, or cause to be planted and maintained, in the area between West Huguenot Road and the new water pumping station and new ground storage tank to be constructed pursuant to the First Amendment to Amended Water Contract, trees of a type and number selected with the approval of the Department of Public Works’ Urban Forestry Division and the Department of Parks, Recreation, and Community Facilities to screen the view of the new water pumping station and new ground storage tank from West Huguenot Road to the maximum extent possible at the maturity of the trees.

§ 3. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

4-7147
OCT 19 2017

Office of the
Chief Administrative Officer

O&R REQUEST

DATE: October 19, 2017

EDITION: 1

TO: The Honorable Members of City Council

RECEIVED

THROUGH: The Honorable Levar M. Stoney, Mayor

JS 11/7/17

NOV 07 2017

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

Signature

OFFICE OF CITY ATTORNEY

THROUGH: Robert C. Steidel, Deputy Chief Administrative Officer, Operations

Signature

FROM: Rosemary H. Green, Interim Director of Public Utilities

RHG 10-19-17

RE: First Amendment to Chesterfield County Wholesale Water Contract of 1994

ORD. OR RES. No. _____

PURPOSE: To authorize the CAO to execute a First Amendment to Chesterfield County Wholesale Water Contract of 1994.

REASON: Chesterfield County wishes to increase its purchase of water from the City from the current 27 million gallons per day to a new volume of 32 million gallons per day. The City's treated water supply is sufficient to allow the County to increase the amount of water purchased at the Huguenot Road delivery point. This action will not only provide safe drinking water to residents of the County and support regional development, but also improve reliability of the City water system.

RECOMMENDATION: That Richmond City Council authorize the Chief Administrative Officer to sign the attached First Amendment to Chesterfield County Wholesale Water Contract of 1994.

BACKGROUND:

In 1989 the City and the County entered into an agreement whereby the City would sell a certain quantity of treated water to the County for resale by the County to its customers. In 1994, the City and County agreed to replace that original agreement with the Chesterfield County Wholesale Water Contract of 1994 to meet the County's growing demand for treated water. The First Amendment to Chesterfield County Wholesale Water Contract of 1994 would amend the 1994

agreement, which is currently in effect, to once again allow the City to increase its sales of treated water to the County to meet growing County demand.

The terms of the First Amendment to Chesterfield County Wholesale Water Contract of 1994 call for construction of New Water Capacity Facilities at a mutually agreeable location on property owned by the City of Richmond which property would be adjacent to the City's existing Huguenot Road pumping station and the City's Huguenot Road Fire Station. Encroachment into Larus Park as part of this project is in accordance with Richmond City Code. Chesterfield County will compensate the City of Richmond \$91,136 for mitigation of tree removal that is necessary for the project. The mitigation funds will be appropriated to the General Fund to allow for the purchase of adjacent forested property that will become a part of Larus Park.

Operational benefit to the City will be enhanced reliability for the City maintenance of its existing Huguenot ground storage tank and establishment of fire protection to residents in the 4th council district on Hayden Hill Lane.

FISCAL IMPACT / COST: Additional water sales of up to 5 million gallons per day from Chesterfield County and a one-time payment of \$91,136 for trees removed for the project.

FISCAL IMPLICATIONS: Increased customer base to the water utility budget spreading the cost burden across more customers per unit volume of water sold and more efficient utilization of existing Water Utility infrastructure.

BUDGET AMENDMENT NECESSARY: Yes

REVENUE TO CITY: \$4,103,000 five year total starting in 2021

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: November 13, 2017

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Land Use November 20, 2017

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: NA

AFFECTED AGENCIES: Department of Public Utilities, Department of Parks, Recreation and Community Facilities

RELATIONSHIP TO EXISTING ORD. OR RES.: City of Richmond Ordinance 94-242-225

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS:

- First Amendment to Amended Water Utility Contract
- Chesterfield Water Contract Department of Public Utilities Estimated Costs
- Letter dated October 17, 2017 from Joseph P. Casey, Ph.D., Chesterfield County Administrator to Ms. Selena Cuffee-Glenn
- Water Utility CIP Project Allocation Sheet Chesterfield County and City of Richmond Huguenot Supply Option (Pipeline) – Zone 5
- Ordinance 94-242-225

STAFF: Rosemary H. Green, Interim DPU Director
 Robert C. Steidel, Deputy Chief Administrative Officer

FIRST AMENDMENT TO
AMENDED WATER CONTRACT

THIS FIRST AMENDMENT, dated the _____ day of _____, 2017 to the AMENDED WATER CONTRACT of October 24, 1994 (the "Amended Water Contract") by and between the CITY OF RICHMOND, a municipal corporation of the Commonwealth of Virginia (hereinafter "City") and the COUNTY OF CHESTERFIELD, a political subdivision of the Commonwealth of Virginia (hereinafter "County") provides as follows:

RECITAL ONE: WHEREAS, by Contract dated December 1, 1989, the City and the County entered into an agreement whereby the City would, under the terms and conditions set forth therein, sell water to the County for resale by the County to its customers; and

RECITAL TWO: WHEREAS, by the Amended Water Contract dated October 24, 1994 (the "Amended Water Contract"), the City and the County entered into a new, amended agreement whereby the City would, under the terms and conditions set forth in the Amended Water Contract, sell water to the County for resale by the County to its customers; and

RECITAL THREE: WHEREAS, the Amended Water Contract currently provides, in Section 4b for the County to purchase 20.5 percent of the City's water utility plant rated capacity of 132 million gallons per day (MGD), which is equivalent to 27 MGD of water from the City; and

RECITAL FOUR: WHEREAS, the County has notified the City that the County wishes to increase its purchase of water from the City from the current 27 MGD peak day volume to a new peak day volume of 32 MGD; and

RECITAL FIVE: WHEREAS, the City is willing to sell additional water to the County, and the County is willing to purchase additional water from the City in accordance with the County's notification, as set forth in Recital Four above, under the following terms and conditions.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived by the parties herein, the City and County covenant and agree, each with the other, that the Amended Water Contract is hereby amended as follows:

1. Section 4b of the Amended Water Contract is deleted in its entirety and replaced with the following:

4b. For the purposes of making the percentage calculations for payment of Joint Capital Costs in other parts of this Section 4, the peak day volumes desired by the County shall be the numerator and the Water Utility plant rated capacity shall be the denominator. The percentage of Water Utility capacity to be purchased by the County shall be 20.5 percent until increased to 24.2 percent (the "New Water Capacity") pursuant to the following requirements:

a. In order to provide the infrastructure necessary to allow for the delivery of additional water to the County by the City, the County shall design, construct,

own, and operate a new water pumping station and new ground storage tank (the "New Water Capacity Facilities") in the City of Richmond.

- i. The New Water Capacity Facilities shall be built at a mutually agreeable location on property owned by the City of Richmond which property is adjacent to the City's existing Huguenot Road pumping station and the City's Huguenot Road Fire Station.
 - ii. The City shall lease to the County the land for the New Water Capacity Facilities for the rental fee of \$1 per year. The lease of the land necessary for construction and operation of the New Water Capacity Facilities shall be subject to the provisions of Virginia Code Section 15.2-2100. If the lease is not renewed pursuant to Section 15.2-2100, then either the City shall pay the County a one-time lump sum payment equivalent to the then fair market value of the New Water Capacity Facilities, subject to appropriation; or the City shall credit the County the same value towards the County's share of future Joint and Direct Capital Costs. In the alternative, the parties may agree within the initial lease and any lease extensions to a mutually acceptable and equitable alternative mechanism for addressing the County's capital investments in the New Water Capacity Facilities at the end of the lease term.
 - iii. The property on which the New Water Capacity Facilities are to be constructed shall at all times be owned by the City.
- b. The County shall design, construct, own, operate, and maintain an additional approximately 4.4 miles of transmission water main, to be located on the discharge side of the new water pumping station.
 - c. The City shall design, construct, own, operate, and maintain approximately 4,000 feet of new water transmission main to supply the new ground storage tank.
 - d. After completion of the construction of the new ground storage tank, the County shall provide and install a flow meter for billing purposes, in a location mutually deemed most practical by the City and the County. The County will dedicate the flow meter to the City for purposes of operation and maintenance.
 - e. The County shall design and construct a new access road to the New Water Capacity Facilities. The City shall own and maintain the new access road.
 - f. The City and the County, by mutual agreement, shall establish appropriate controls in order to regulate instantaneous flow from the City's system in connection with the construction of the New Water Capacity Facilities. The County shall implement all reasonable measures necessary to ensure that it does not take a peak day water volume in excess of 105% of the County's

then available peak day capacity at this location under this Agreement. The City may implement measures, including but not limited to flow restrictions devices, to enforce this provision.

- g. The cost for facilities designed, constructed, owned, and maintained by the County shall be borne by the County. The cost for facilities designed, constructed, owned, and maintained by the City shall be allocated in accordance with the terms and conditions of the Amended Contract and attachments. The information contained in the attachments is the current good faith estimate of the parties and is subject to change.
- h. The County began design of the New Water Capacity Facilities, the additional transmission water mains, and the new access road during the 2016 Fiscal Year. The City began design of the new supply line feeding the new ground storage tank in the 2017 Fiscal Year and shall be complete by Fiscal Year 2021. It is anticipated that all facilities shall be complete by the 2021 Fiscal Year. The City shall begin billing and the County shall make payment for Joint and Direct County Capital Costs in the Fiscal Year of Substantial Completion of the New Water Capacity Facilities, or for Fiscal Year 2021, whichever comes first, for the new 32 MGD peak day volume.
- i. Upon completion of the New Water Capacity Facilities, the additional transmission water mains, the new supply line, and the new access road, the County shall have rights to 24.2% of the City's water capacity and shall be entitled to purchase 32 MGD of water from the City. For purposes of this section, "completion" shall mean the designation of "substantial completion" pursuant to contracts for construction of such facilities, by the designing engineer(s) for such facilities.
- j. The County shall contribute \$91,136.00 to the City for mitigation of the New Water Capacity Facilities project disturbance, namely tree removal, to be used at the City's discretion.
- k. The City may elect, at the option of the Director of the Department of Public Utilities of the City ("Director"), to have the County design and construct ten (10) parking spaces for public parking in locations mutually agreed upon by the City and the County. The Director shall notify the County by December 31, 2018 if it elects to exercise this option. If the Director exercises this option, the Director shall approve the design of the parking spaces which shall be owned and maintained by the City after completion of construction.

2. The City and the County shall assist and cooperate with each other in the development, construction, and operation of all facilities contemplated to be built in order to effectuate this agreement. Such cooperation shall include each party providing to the other access to all property under that party's control, as necessary to design, construct, maintain, and operate the facilities and shall also include cooperating on joint visits and

inspections, joint maintenance, exchange of engineering plans and details, sharing of operational data, and cooperation in the review of plans.

3. Except as set forth herein, all other terms and conditions of the Amended Water Contract shall remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound thereby, the City and the County have hereunto signed and sealed this agreement this ____ day of _____, 20__.


CITY OF RICHMOND

By: _____

Title: _____

Date: _____

Approved as to Form:


Senior Assistant City Attorney

COUNTY OF CHESTERFIELD

By: _____

Title: _____

Date: _____

Approved as to Form:

Chesterfield Water Contract
Department of Public Utilities
Estimated Costs - FY17 Through Future
Assumes Project will Go Live by FY2021

		Original Project Costs			Project Costs w/additional 5 MGD			
Year of Spending	Year of Payment	Joint Capital Projects ¹	Direct/Proportional Projects ¹	Total Chesterfield Projects ¹	Korah 3 Pump Station Costs ²	5 MGD Higher Joint Costs ³	Total	Difference from 10-26-16 Email ¹
2016-17	2017-18	2,564,504	518,163	3,082,667	953,571	530,709	8,443,160	1,484,280
2017-18	2018-19	3,520,450	2,842,811	6,363,261		122,031	856,810	122,031
2018-19	2019-20	2,034,592	1,862,143	3,896,735		108,334	1,405,913	108,334
2019-20	2020-21	2,936,864	2,058,849	4,995,713		76,212	1,285,376	76,212
2020-21	2021-22	2,940,413	4,018,467	6,958,880		337,224	7,415,386	337,224
2021-22	2022-23	676,118	58,661	734,779		193,214	6,884,106	193,214
2022-23	2023-24	600,227	697,352	1,297,579		188,001	1,383,187	188,001
2023-24	2024-25	422,254	786,910	1,209,164				
2024-25	2025-26	1,868,402	5,209,760	7,078,162				
2025-26	2026-27	1,070,510	5,620,382	6,690,892				
Future		1,041,626	153,560	1,195,186				
FY17 - FY26 and Future Spending Total		\$19,675,960	\$23,827,058	\$43,503,018	\$953,571	\$1,555,724	\$46,012,313	\$2,509,295
FY22 - FY27 Avg Annual Payment				\$3,994,909			\$4,381,792	\$386,882

Notes & Comments

¹ Project costs as outlined under estimate describing planned capital costs found in email dated October 26, 2016 (Email from Ken Cooper)

² Korah 3 Pump Station Improvements with share of additional costs at 17.86% (5 MGD/28 MGD Huguenot Capacity)

³ 5 MGD of Richmond Water Plant (from 20.5% to 24.2% (32 MGD/132 MGD)) multiplied by Shared Project Cost



Chesterfield County, Virginia

Joseph P. Casey, Ph.D., County Administrator

9901 Lori Road – P.O. Box 40 – Chesterfield, VA 23832-0040

Phone: (804) 748-1211 – Fax: (804) 717-6297 – Internet: chesterfield.gov

BOARD OF SUPERVISORS

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October 17, 2017

Ms. Selena Cuffee-Glenn
Chief Administrative Officer
City of Richmond
900 East Broad Street, 2nd Floor
Richmond, VA 23219

Re: First Amendment to the Amended Water Contract

Dear Ms. Cuffee-Glenn:

As part of the proposed First Amendment to the Amended Water Contract between Chesterfield County and the City of Richmond, Chesterfield County will be responsible for the construction of the Huguenot Water Pump Station and Ground Tank located in the City of Richmond, adjacent to the City of Richmond's existing Fire Station Number 25, existing water ground tank and pumping station. The agreed tree replacement cost for this project is \$91,136. Adequate funds have been appropriated to this project for these anticipated costs.

Once the First Amendment to the Amended Water Contract is approved and executed by both the City and the County, Chesterfield County will issue the City of Richmond a check for the replacement cost of the trees to assist in your expeditious pursuit of their replacement. Our Director of Utilities, Mr. George Hayes, will continue to work with you through the execution of the amendment and project construction.

Sincerely,

Joseph P. Casey, Ph.D.
County Administrator

cc: Robert Steidel, Deputy CAO Operations
Rosemary Green, Interim DPU Director
William D. Dupler, Deputy County Administrator
George B. Hayes, Director of Utilities
Stylian Parthemos, Deputy County Attorney

**Water Utility
CIP Project Allocation
Chesterfield County and City of Richmond**

<input type="checkbox"/>	Initial
<input type="checkbox"/>	Supplemental
<input checked="" type="checkbox"/>	Final
<input checked="" type="checkbox"/>	FY 2013
<input type="checkbox"/>	CIP Budget Sheet Attached

Date: November 3, 2013

CIP Project Name: Huguenot Supply Option (Pipeline) - Zone 5

CIP Estimated/Actual Construction Cost: \$ 1,800,000

Approximate Year For Design: 2014

CIP Estimated Project Cost: \$ 1,800,000

Approximate Year For Construction: 2018

Brief Project Description: Install 4,000-lf of 24" main in Huguenot Rd from Chippenham Parkway to Huguenot Fire Station to a new pump station and water storage tank to be constructed and operated by Chesterfield County for Chesterfield County's purchase of an additional 5 to 10 MGD of water from the City of Richmond. The new tank and pump station will be located adjacent to the Richmond's Huguenot Fire Station on property (Larus Park) leased from the City of Richmond's Recreation and Parks Department. The project includes installation of new wholesale customer metering point.

City of Richmond Asset Name: Distribution Mains, Meter

Contract Information: New Existing Modified

Installed: _____ Asset Age: _____ Useful Life Duration: _____ Previous Allocation: 100%

City of Richmond Component Name: pipe, valves, meters and associated appurtenances

Contract Information: New Existing Modified

Type of Improvement (see Water CIP Sheet for additional justification):

- | | |
|---|---|
| <input type="checkbox"/> Restoration, Replacement-partial/ total | <input type="checkbox"/> Safety/Security _____ |
| <input type="checkbox"/> Regulatory Compliance (mandate) _____ | <input type="checkbox"/> Enhancement, Upgrade _____ |
| <input checked="" type="checkbox"/> Capacity Increase, Expansion of Service _____ | <input type="checkbox"/> Other - Explain: _____ |
| <input type="checkbox"/> Performance, Reliability, or Efficiency _____ | |

City of Richmond Asset Classification:

- Source of Supply, Plant and Treatment, Pumping, Transmission/Distribution, General - Plant

Comments and/or Elements of Change per Section 8: _____

Type of Project Capital Costs:

- Joint - 20.5% (Peak Day Volume/Plant Capacity) or Elements of Change (Joint - serve both the City of Richmond and Chesterfield County)
 Direct - Chesterfield Max Day Flow through Facility or Elements of Change (Direct - facilities constructed or in place that only or predominantly serve Chesterfield County)

Proposed Percent Allocation: 100 % (Complete the attached Chesterfield County Contract Worksheet)

Applicable Contract Section(s):

(Circle those which are applicable - Complete the attached Chesterfield County Contract Worksheet and check off all that apply)

- 4a, 4b, 4c, 4d, 4f, 4g, 4h, 4i
- 7
- 8 - All required information attached. Reason For Change: n/a

Responsible Individuals:

Submitted by City Tech Services: [Signature] 11/4/13 Date: _____
 City of Richmond: Finance: [Signature] 1/13/13 Deputy Director: [Signature] 11-3-13
 Chesterfield County: Finance: [Signature] 1/31/14 Deputy Director: [Signature] 1/29/14

[Signature]
 City of Richmond, Dept of Public Utilities Director - Robert C. Stedel

11/11/13
 Date

[Signature]
 County of Chesterfield, Dept of Public Utilities Director - Roy E. Covington, P.E.

2/4/14
 Date

Comments and/or Elements of Change (per Section 8) - continued:

Chesterfield County to provide Projected Peak Day Needs for proposed new Metering Point for next 10-years.

**City of Richmond Water Allocations Workshop
With Chesterfield County
January 17, 2012 – Meeting Notes**

5.0 - City provided an update on progress of Huguenot PS Improvements – site layout acceptable to City's Parks Department has been established. Next step is for DPU Director to discuss with council representatives. Legal issues have been evaluated and proposed use seems to be within the allowed uses under the conservation ordinance that governs this property.

AN ORDINANCE *No. 94-242 -225*

ADOPTED OCT 24 1994

To authorize the City Manager, Robert C. Bobb, to execute an Amended Water Contract between the City of Richmond and the County of Chesterfield.

Patron - City Manager

Approved as to form and legality
by the City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the City Manager, Robert C. Bobb, for and on behalf of the City of Richmond, be and is hereby authorized and directed to execute an Amended Water Contract between the City of Richmond and the County of Chesterfield. Such Amended Water Contract shall be substantially in the form of the document attached to this ordinance and approved as to form by the City Attorney.

§ 2. This ordinance shall be in force and effect upon adoption.

AMENDED WATER CONTRACT

THIS AMENDED CONTRACT, made this ____ day of October 1994, by and between the CITY OF RICHMOND, a municipal corporation of the Commonwealth of Virginia hereinafter referred to as "City", and the COUNTY OF CHESTERFIELD, a political subdivision of the Commonwealth of Virginia hereinafter referred to as "County";

WHEREAS, the City and County entered into a contract dated December 1, 1989 whereby, *inter alia*, the City would sell water to the County for resale;

WHEREAS, the City and County desire to amend the contract to extend and modify the aforementioned contract for their mutual benefit;

WITNESSETH:

NOW, for and in consideration of the mutual benefits to be derived by the parties herein, the City and the County covenant and agree, each with the other that the contract of December 1, 1989 be amended and read as follows:

1. As used in this contract, the following terms shall have the following meanings:

- a) **Book Value - Capital Costs** minus accumulated depreciation
- b) **Ccf - hundred cubic feet**
- c) **Capital Costs** - All expenditures for assets with an expected life of more than one year, as recorded in the property records of the City's Water Utility ("Water Utility"). This includes Plant In Service, Construction Completed But Not Classified and Construction Work in Progress.
- d) **Capitalized Interest** - The amount of interest that is charged to the capital accounts as a cost of construction. The amount shall be accrued at the Water Utility's average cost of long term debt.
- e) **Construction Completed But Not Classified** - The portion of Capital Costs that have not been classified into the final Water Utility property accounts which include, but are not limited to, the water purification plant, pumping stations, and transmission and distribution system.
- f) **Construction Work In Progress** - The portion of Capital Costs as recorded in the Water Utility's property records as under construction. Construction Work In Progress is the amount actually expended on construction projects that are not yet in service.
- g) **Direct County Capital Costs** - Capital Costs for facilities constructed or in place that only or predominantly serve the County.
- h) **Joint Capital Costs** - Capital Costs that serve both the City and the County.
- i) **MGD** - million gallons per day.

j) **Operating Expenses** - All expenditures including, but not limited to, personnel, contractors, electricity, chemicals, and all other costs needed for the operation and maintenance of the Water Utility that are not Capital Costs. Operating Expenses are divided, in the City's Water Utility accounting records, into the following categories:

- Water Purification, Power and Pumping
- Operations Support
- Distribution
- Technical Services
- Customer Service
- Executive and Administration
- Social Security taxes
- Payments in lieu of taxes
- Depreciation

k) **Plant In Service** - The portion of Water Utility Plant recorded in the City's Water Utility property records as in use including, but not limited to, the water purification plant, pumping stations, and transmission and distribution system.

l) **Water Plant Sendout** - The total water, expressed in gallons per hour or per day, delivered from the water purification plant.

2. The City shall provide water from the City's water distribution system to the County for resale by the County.

3. Payments for providing water to the County shall be of three types: payments for Joint Capital Costs, payments for Direct County Capital Costs, and payments for Operating Expenses. All payments shall be based on actual cost to the City as set forth in Sections 4, 5 and 7 of this contract. The payments for Joint Capital Costs shall be calculated as provided for in Section 4 herein. The payments for Operating Expenses shall be calculated as provided for in Section 5 herein. The payments for Direct County Capital Costs shall be calculated as provided for in Section 7 herein.

4. This Section sets forth the procedures for calculating Joint Capital Costs.

4a. Within thirty days of executing this contract, the City shall invoice the County for a percentage of Water Utility capacity. The foregoing capacity billing shall be based on the Book Value of Plant In Service, Construction Completed But Not Classified, and Construction Work In Progress as of June 30, 1989 as agreed to by the Directors of Public Utilities of the City and County by letter dated October 6, 1989 which is included as an attachment to this contract. Immediately upon receipt of the City's invoice, the County shall proceed to make the necessary capital budget changes, bonding processes and any other steps needed to finance the payment of the City's invoice. The County will pay the invoice as promptly as possible, but in no event later than July 31, 1990.

4b. The percentage of Water Utility capacity to be purchased by the County for the term of this contract shall be 20.5 percent. For purposes of making the percentage calculations for payment of Joint Capital Costs in other parts of this Section, the peak day

volumes desired by the County shall be the numerator and the Water Utility plant rated capacity shall be the denominator.

4c. The City shall bill the County annually by October 1 for any additional Joint Capital Costs incurred during the previous July 1 to June 30 fiscal year. These costs shall include, but are not limited to, the County's share of Capitalized Interest recorded in the Water Utility's construction work orders based on an accrual at the Water Utility's average cost of debt. These annual billings shall be the product of the most recent percentage calculated pursuant to Section 4b herein and the Book Value for any such additional Joint Capital Costs. The County shall pay invoices within sixty days of receipt by the County.

4d. At any time, the County may make payments in excess of those required under Sections 4a and 4c herein to pay for future Joint Capital Costs. Any such excess payments shall be held by the City and applied toward subsequent year's billings, until depleted. The City shall credit the County for interest earned each month on these excess payments at the weighted average interest rate earned on the Water Utility's investments, less one percent.

4e. If the Water Utility's plant capacity increases, the County's peak day capacity rights automatically shall increase based on the most recent percentage of total Water Utility plant capacity calculated pursuant to this Section 4, unless such increases in total system capacity are a result of construction undertaken exclusively to increase capacity, which the County has chosen not to participate in under Sections 4f or 4h herein. In that case, the additional capacity shall belong exclusively to the City or to whatever other entity

or entities purchases the capacity and the County's percentage, pursuant to Section 4b herein will be reduced accordingly. The new percentage shall be calculated using the County's peak day MGD capacity rights as of the date the City notified the County in accordance with Section 4h herein as the numerator and the new projected water plant capacity as the denominator.

4f. If the County desires additional peak day volumes during the term of this contract it shall inform the City of the date by which it needs the volumes, but in no case less than sixty months in advance. Subject to the limitations set forth in Section 4i, no later than October 1 following the date of such notice or by such other date as is mutually agreed to in writing by the Directors of Public Utilities of the City and County the City shall bill the County for the difference between (a) the total amounts actually paid to the City for Joint Capital Costs as of the date of such billing and (b) the County's share of Joint Capital Costs as the most recently completed fiscal year end as calculated at the new percentage rate. Subsequent annual billings under Section 4c herein shall then be at the new higher percentage.

4g. The County shall implement all reasonable measures necessary to ensure that it does not take water on any day in excess of the County's then available peak day capacity under this contract. The City may implement measures, including but not limited to, flow restriction devices, to enforce this provision. However, the City in its sole discretion may sell water to the County on any day in excess of the County's then available

peak day capacity under this contract. The City in its sole discretion may restrict the flow of water to the County on any day to the peak day capacity then available to the County under this contract, even if the City previously has sold water to the County in volumes greater than the County's then available peak day capacity.

If at any time the County takes peak day volumes in excess of one hundred five percent of the volumes it has previously purchased, the County shall update its projected peak day needs for the remainder of the contract by June 30 of the same year or within thirty days, whichever is later. No later than the October 1 following the County's updated projection of peak day needs if such volumes are higher than the County's percentage of water plant capacity would yield and subject to the limitations set forth in Section 4i, the City shall invoice the County for the County's additional Water Utility capacity based on the new volumes and percentage in the same manner as set forth in Section 4f herein. Subsequent annual billings under Section 4c herein shall be at the new higher percentage.

4h. If the City desires to contract with a third party to provide Water Utility plant capacity in excess of that needed by the City or previously contracted for by the County during the term of this contract, the City shall notify the County before offering any excess capacity to any such third party. The County then has one year to notify the City of its intent to contract for any excess capacity under the same terms that it is offered to the other party or under the same terms offered to the County under this contract at the option of the County before it is offered for sale by the City to any other party.

4i. The County has the right to take up to, but no more than its allocated percentage of the City's water plant capacity. The City shall make available to the County on any calendar day water to meet the County's demands in accordance with the projections and construction required in Section 7. Notwithstanding the foregoing, at any given time the City has no obligation to supply water to the County on any day in excess of the peak day capacity previously projected and constructed by the County and the City in accordance with Section 7 herein or in excess of the County's capacity determined in accordance with Section 4.

If the County desires additional capacity pursuant to Sections 4f or 4g, the City shall make such capacity available to the County if such capacity is not needed by the City or previously contracted for by another party pursuant to Section 4h.

4j. The City shall include a reference to this contract, and that the County has existing contractual rights hereunder, in any contract the City enters into with any other jurisdiction or water supply entity for water services.

5. This Section sets forth the procedures for calculating the monthly payment for Operating Expenses and for preparing the annual cost study and settlement to adjust the County's monthly payments, based on estimated costs, to actual cost incurred by the City to serve the County for the preceding fiscal year.

5a. The County shall pay the City for the following Operating Expenses based on the County's average day usage as a percentage of total Water Utility average day usage:

- 100 percent of all Water Purification, Power and Pumping expenses.

- 100 percent of all Operations Support expenses.
- 50 percent of all Distribution expenses.
- 0 percent of Technical Services expenses.
- 0 percent of Customer Service expenses.
- 50 percent of all Executive and Administration expenses.
- 80 percent of all Social Security taxes expenses.
- A percentage of payments in lieu of any real estate and personal property taxes, to be calculated annually. The percentage shall be the sum of total Joint Capital Costs and Direct County Capital Costs as a percent of total Capital Costs.
- 0 percent of Depreciation expenses.

Total Water Utility average day usage shall be based on total water plant Sendout divided by the number of days during the fiscal year.

If the City changes the classification of Water Utility Operating Expenses in the City's accounting records, the Directors of Public Utilities of the City and the County shall agree in writing, on the new percentages of operating expenses to be paid by the County. The new percentages shall be developed on a basis that is similar to the above percentages.

5b. Since actual costs cannot be determined until after the close of the City's fiscal year and completion of the City's annual audit, a preliminary cost study shall be completed by October 1 each year following the close of the City's fiscal year, with a final study completed within a month of completion of the City's annual audit. If the total

monthly payments for the preceding fiscal year exceed what the County should have paid as determined by the cost studies, the County shall be reimbursed for such excess payments within thirty days after completion of the cost studies or receive credit for such excess payments on the next invoice, whichever is earlier. If the County paid less than what it should have for all water purchased, the County shall pay the difference within thirty days of presentation of an invoice for such difference.

5c. Upon completion of the preliminary cost study by October 1 each year, the billing rate per Ccf should be adjusted to the actual cost for the just completed fiscal year per Ccf plus five percent. This shall be the billing rate for all volumes taken by the County until the next year's adjustment. Since the first cost study shall not be performed until the Fall of 1990, the billing rate per Ccf for all volumes taken by the County from December 1, 1989 until completion of the preliminary study for 1989-90 by October 1, 1990, will be \$.32 per Ccf.

5d. The City shall maintain separate continuous property and general accounting records of the costs directly assigned to the County and such other records as are necessary to perform the annual cost study and bill the County for its share of Water Utility plant capacity in accordance with this contract. Such records shall be available for review and audit by the County.

5e. If any study for billing is not found to be mutually acceptable, a review of the study or billing and procedures shall be conducted by the County and City, with all reasonable steps taken to address the noted deficiencies or concerns.

5f. The Directors of Public Utilities for the City and County may, by mutual written agreement, modify the methodology, percentages, or any other elements of the study herein, if such a change is found to be more accurate for determining cost of service.

5g. The City shall read all meters monthly which serve the County. The County shall have the right to read such meters simultaneously with the City for the purpose of verifying the accuracy of the readings made by the City. The County at its own option and expense shall have the right to test and verify the accuracy of such meters at reasonable intervals and in the presence of the City's appropriate representatives. If the accuracy is not within reasonable American Water Works Association ("AWWA") standards the City shall reimburse the County for the reasonable costs of such testing. The City shall provide and install a demand meter at each point of delivery of water to the County under this contract, and the quantity of all water delivered to the County at each point shall be measured through the meters. The City shall maintain all meters which serve the County in accordance with its normal meter testing schedules and practices and any reasonable AWWA recommended practices. The capital costs associated with such metering facilities shall be included in the appropriate parts of the annual billing for Direct County Capital Costs. At the County's request the City shall install equipment to allow the County to monitor meter readings in accordance with mutually agreed upon specifications. Any such work shall be invoiced to the County in accordance with the procedures in Section 7 herein.

5h. The City shall render to the County each month as soon as practicable a bill for water delivered to the County through all meters after each monthly reading thereof. Such bill shall itemize the readings for each such meter. The County shall pay the amount of the bill to the City within thirty days after its receipt.

6. If any of the City's charges to the Water Utility for services provided by the City exceed the reasonable cost of providing those services or are in excess of the City's normal tax rates, the County shall not be charged for any amounts in excess of the reasonable cost or the normal tax rates.

To the extent permitted by law, the City shall operate the Water Utility as a separate enterprise, accounting for all costs of operation and all revenues received from customers separate from all other City operations. All costs and only those costs required to operate the Water Utility shall be recorded in the Water Utility accounts of the City's accounting system.

Any proposed changes in the City's Charter that have any financial or operating impact on the Water Utility shall be submitted by the City to the County before they are submitted to the General Assembly. The City shall reasonably attempt to address all concerns expressed by the County in the Charter changes submitted to the General Assembly.

7. This Section sets forth the procedures for calculating Direct County Capital Costs. The cost allocations shall be proportioned by maximum day flow through the facilities to the County.

No later than July 1 each year, the County shall notify the City in writing of its projected peak day water needs by metering point and total water needs for the following ten fiscal years and its construction program to take water in the desired quantities and at the desired times. If the County does not notify the City, the most recent notification, shall be used as the County's water requirements. No later than October 1 each year, the City shall notify the County of the estimated Direct County Capital Costs and time frames necessary to meet the County's projected water needs for the following ten fiscal years. This may include new cost estimates for the same water requirements, if the costs have changed since the most recent notification by the City. No later than January 1 each year, the County shall notify the City if it wants the City to proceed with the capital requirements to meet the projected water requirements for the following ten fiscal years.

The County shall pay for any Direct County Capital Costs in the same manner as the annual payment for Joint Capital Costs detailed in Section 4c herein.

The City shall let the contracts for these improvements if the County has notified the City to proceed with the improvements as set forth above. The County shall review and approve the City's plans prior to the City advertising for bids. The County shall review and approve the bids prior to award by the City. Contract change orders shall be reviewed and approved by the County before authorization by the City. Such approvals shall not be unreasonably withheld. Title to these water mains shall vest and remain vested in the City in fee simple.

8. The method for determining payments to the City for future Joint Capital Costs and Direct County Capital Costs may be changed from that specified in Sections 4 and 7 herein if all elements of any such change or changes are agreed to in writing by the Directors of Public Utilities of the City and County. Such change or changes shall include, but are not limited to, a recovery of any financing related costs associated with such Capital Costs and a reasonable return on the City's investment in such Capital Costs.

9. The City shall submit its proposed Water Utility capital budget to the County each year no later than September 1 for the following fiscal year. If requested by the County, the City shall answer any of the County's reasonable questions about the capital budget and provide any other reasonable explanations and information needed by the County to evaluate the appropriateness of the proposed joint use capital improvements. The County shall respond to the City in writing with its comments, if any, about the capital budget, no later than October 1. The City shall respond to the County's comments, if any, in writing no later than November 1. To the maximum extent possible, the City shall address the County's comments in the capital budget presented to City Council.

10. The quality of water delivered to the County under this contract shall be the equivalent of that furnished City customers in the area from the main or mains from which the water is taken by the County at the metering point or points and at the time of delivery, and at a minimum shall comply with the requirements of the Commonwealth of Virginia Water Works Regulations for public water supplies.

11. The County shall cause to be constructed, maintained, repaired and operated in the County such water pumping stations, reservoirs and or mains and connections thereto as are necessary to provide water service in the County under this contract. The plans and specifications therefore and the materials used in the construction, maintenance, repair and operation thereof at a minimum shall comply with the requirements of the Commonwealth of Virginia Water Works Regulations. Any construction in the County with interconnections to the City's system or any other changes by the County that could impact the City's Water Utility operations shall be submitted to the City for review prior to their construction or implementation. In no event shall the County construct, maintain, or repair its facilities to potentially or actually adversely affect, damage or impede the City's facilities or the maintenance or operation thereof.

12. Title to water facilities in the County constructed or provided by the County or caused to be constructed or provided the County under the provisions of Section 11 herein shall vest and remain vested in the County in fee simple.

13. The City and County shall not sell water to customers in each other's jurisdiction without the approval of the respective jurisdiction; however, the City and County shall be permitted to continue service to existing customers in the other jurisdiction until such time as the respective jurisdiction elects to provide service under the provisions of Section 14 below.

14. Whenever the City or County desires to sell or distribute water within its jurisdictions to any customer being supplied with water by the other jurisdiction, the

jurisdiction desiring to provide service shall have the right to do so with the approval of the jurisdiction providing service on the condition that the jurisdiction desiring to provide service shall thereafter sell or distribute water to such customer and the contract in force between the jurisdiction providing service and such customer shall be terminated by such jurisdiction as soon as possible.

15. The County may sell water to customers outside the City and County that are south of the James River. The County may sell water to customers north of the James River with the permission of the City. The City may sell water to any customers outside the County.

16. Neither the City nor the County shall be liable in damages to the other for any act, omission, or circumstances occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests, sabotage and restraints of rules and people, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome. Failure to prevent or settle any strike or strikes shall not be considered to be a matter within the control of the party claiming suspension.

Such causes or contingencies affecting the performance hereunder by either the City or the County, however, shall not relieve it of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve either party from its obligations to make payment of amounts then due hereunder in respect of water theretofore delivered.

17. Nothing in the contract shall be construed to convey to the County any ownership of property rights in the City's water utility system, including, without limitations, the City's water purification plant, pumping stations, and transmission and distribution system. The County shall have no responsibilities or obligations for actual operations of the City's water utility system, nor shall the County be responsible for any damages that may arise out of such operations except to the extent that such damages result from the County's own acts.

18. The rights granted under this contract may be exercised by any successor or successors, assignee or assignees of either party when approved by the governing body of that jurisdiction, but such transfer shall not operate to relieve such governing body of any of its obligations under this contract. If the City's Water Utility operations are sold or control transferred to any other entity, the County shall retain all rights granted under this contract. If either party intends to transfer its rights under this contract, it shall give the other party written notice of its intent to transfer at least 90 days in advance of the transfer.

Notification shall be given by the Director of Public Utilities of the transferring party to the Director of Public Utilities of the other party.

19. The City and County covenant and agree each with the other that this contract shall be in full force and effect until July 1, 2045, unless modified as agreed to by both parties, and shall continue in force thereafter until terminated by either the County Administrator giving to the City Manager five years written notice of termination or the City Manager giving the County Administrator ten years written notice of termination, unless a shorter notice for time is mutually agreed to in writing by the City Manager and County Administrator. The earliest date the County Administrator may give termination notice to the City Manager is July 1, 2040; the earliest date the City Manager may give termination notice to the County Administrator is July 1, 2035.

If the County terminates the contract before the County's share of Joint Capital Costs and Direct County Capital Costs are fully depreciated, the City shall reimburse the County for such costs up to the Book Value of such Joint Capital Costs and Direct County Capital Costs as of the termination date, but only after the City sells or otherwise directly uses the capacity purchased by the County under this contract within twenty years after the termination date. The percentage of Book Value to be reimbursed to the County shall be the percentage of capacity sold or directly used by the City to the percentage of capacity previously purchased by the County under this contract. Reimbursement shall be made no later than the second succeeding October 1 following the date the capacity is sold or directly used.

If the City terminates the contract before the County's share of Joint Capital Costs and Direct County Capital Costs are fully depreciated, the City shall reimburse the County for such costs at their Book Value as of the termination date. Reimbursement shall be made no later than the termination date of the contract.

If the City terminates the contract and desires to sell Water Utility plant capacity in excess of that needed by the City, the City shall notify the County before selling any such excess capacity to other parties. The County has six months or until the termination date of the contract, whichever is shorter, to notify the City of its intent to purchase any excess capacity under the same terms that it is offered to the other party or parties before it is offered for sale to any other party.

20. This contract shall not be construed to prohibit the parties from creating, either between themselves or jointly with other jurisdictions, a water authority under the laws of the State of Virginia.

21. In the event either party fails to comply with a deadline set forth hereunder or otherwise is in default hereunder, the party that has failed to comply with such deadline or that otherwise is in default shall cure such default within thirty days of receiving written notice of such default from the party not in default, or any such longer period to which the parties may agree in writing.

22. Unless otherwise specified herein, all notices required or given pursuant to this contract shall be provided in writing to and from the Directors of Public Utilities of the City and County.

IN WITNESS WHEREOF, the City has caused its name to be hereunto signed by the City Manager, attested by its Clerk, said action being authorized by Ordinance No. _____ adopted by the Council of the City of Richmond on the ___ day of October 1994, and the County has caused its name to be hereunto signed by its County Administrator, and attested by its Clerk, that said action being authorized by a resolution adopted at a duly called meeting of the Board of Supervisors on the ____ day of October 1994. WITNESS the following signatures:

CITY OF RICHMOND, VIRGINIA

By _____
City Manager

ATTEST:

Clerk

APPROVED AS TO FORM:

Acting City Attorney

COUNTY OF CHESTERFIELD, VIRGINIA

By _____
County Administrator

ATTEST:

Clerk

APPROVED AS TO FORM:

County Attorney