

# **WATER PURCHASE AGREEMENT**

between the

**CITY OF LYNCHBURG**

and the

**BEDFORD REGIONAL WATER AUTHORITY**

Effective Date: October 1, 2016



**WATER PURCHASE AGREEMENT**  
between the  
**City of Lynchburg**  
and the  
**Bedford Regional Water Authority**

THIS AGREEMENT, made this 30 day of June, in the year 2015 by and between the Bedford Regional Water Authority, hereinafter referred to as the "BRWA", a water and sewer authority ("Authority") organized and existing under Chapter 51 of Title 15.2 of the Code of Virginia, 1950, as amended being the Virginia Water and Waste Authorities Act (the "Act") and the City of Lynchburg, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "City";

**WITNESSETH**

That for and in consideration of the mutual benefits resulting from the undertakings of the parties to this Agreement and the covenants and agreements contained herein, the BRWA and the City covenant and agree, each with the other as follows:

I. GENERAL

- A. Both parties desire to enter into an Agreement which will govern the sale and purchase of potable water between the two parties.
- B. Upon the effective date of this contract, all previous agreements to purchase or sell water are superseded by this Agreement and upon execution of this Agreement are hereby cancelled, terminated and of no further force and effect.
- C. That both parties agree that it is in the mutual interest of the parties to cooperate with each other in the provision of water services.
- D. The City currently provides treated water to the BRWA for the Forest Area of Bedford County, and the City has the ability to provide additional treated water to the BRWA for other areas of Bedford County as either back-up or recurring service should additional water transmission mains be constructed by the BRWA in Bedford County. The BRWA plans to construct additional water treatment facilities and is considering the construction of additional transmission mains in Bedford County, some of which could serve the Forest Area of Bedford County.
- E. Both parties agree that it is in their mutual interest, for at least the duration of this contract, for the City to continue to provide treated water to Bedford County. Both parties agree to continue to cooperate on regional water supply matters and to plan for an effective long term use of their respective water supply assets.

- F. The City agrees to sell water to the BRWA for the BRWA's use and for resale, including wholesale, to BRWA customers. Nothing in this agreement shall limit BRWA from expanding its current service area to other parts of Bedford County (the "County") and using water purchased from the City to supply service for such expansions provided such capacity is available from the City.
- G. The BRWA expects that its requirements for water will increase and the City is willing to supply water to meet BRWA's increasing demands as long as the City has adequate capacity to do so.

## II. TERM and RENEWAL

- A. This Agreement will be in force for twenty (20) years commencing October 1, 2016 (Effective Date) and ending on June 30, 2036, unless terminated as stated herein.
- B. At the conclusion of the initial 20 year period, either party may terminate the agreement for any reason. Unless either party provides written notification of termination, the Agreement will be automatically renewed in 10 year increments upon the conclusion of the initial 20 year period.
- C. In the event that BRWA does not complete construction of the Route 460 waterline connecting the Smith Mountain Lake and Town of Bedford Central Water System to the Forest Water System by July 1, 2018 this contract will terminate and the contract between the City of Lynchburg and the Bedford County Service Authority dated July 1, 2007 shall be reinstated for the remainder of that contract term.
- D. At any time after the first five years if the initial term during the period in which this Agreement is in force, the Agreement may be terminated under the following conditions:
  - 1. Written notice of termination must be provided at least two (2) years prior to the termination under these conditions.
  - 2. Along with the written notice, the party requesting termination must submit a financial analysis justifying the reason for termination.
  - 3. Within 30 days upon receipt of the notice of termination, by a written response, the party receiving the request for termination may elect to have a third party consultant with experience in municipal water and sewer rate analysis review and verify the financial analysis.
  - 4. The third party consultant shall be mutually selected by both parties with the associated cost shared equally.
  - 5. In lieu of termination, both parties may agree to renegotiate the effective water rate. In this case the remaining terms of the Agreement including future rate increases will remain in full effect.

- E. The parties may mutually agree to revise and/or amend the terms and conditions of the Agreement at any time while the Agreement is in force.

### III. SERVICES PROVIDED

- A. The quality and pressure of water delivered to the BRWA under this Agreement shall be the same as that furnished to City customers in the areas from the main or mains from which the water is taken by the BRWA 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. Existing delivery points, with the exception of individual meters, will be at the locations specified in Exhibit A. Future delivery points may be established as mutually agreed upon. The costs for constructing additional master meter facilities or other facilities requested by the BRWA shall be the responsibility of the BRWA and the costs for additional or revised facilities requested by the City shall be the responsibility of the City. Costs for any backflow prevention devices that are required by regulatory agencies shall be the responsibility of the BRWA.
- C. The BRWA shall be responsible for the provision of pumping and storage facilities to its system to meet the demands within its service area. Notwithstanding this, the BRWA and the City may agree to modify City facilities to provide enhanced service within the BRWA's service area. Cost sharing for these improvements will be negotiated in advance of improvements. When available, the City may provide additional storage for the BRWA.
- D. The City will annually allocate at least as much available capacity to the BRWA as the average of the prior three years volume of water purchased by the BRWA from the City.
- E. The BRWA agrees to purchase at least an average of 1.25 million gallons of water per day from the City measured on an annual basis for the period beginning July 1, 2016 and ending June 30, 2017 and at least an average of 1.0 million gallons of water per day measured on an annual basis thereafter until the termination of the Agreement. These minimum purchases are contingent upon the City having enough water available to sell the BRWA these volumes of water, and that the quality and pressure of the water meet the other provisions of this Agreement.
- F. Upon request by the BRWA, the City may annually designate a portion of its pumping and storage capacity to satisfy regulatory requirements, provided such capacity is available in the City's system.

IV. CONNECTIONS and METERING

- A. The City will read and maintain the master meters at each major delivery point as identified in Exhibit A. The BRWA and the City agree that it is in the best interest of both parties to limit the number of individual service connections from City lines that serve homes in Bedford County and that all delivery points be served by master meters wherever practical.
- B. Individual service connections may be made for County residents whose property abuts the right of way or easement containing a City transmission main located wholly in the County when there is no respective BRWA owned line that is practically available for connection by the County residents. The connection and installation of the meter shall be done by the City. The customers served by these connections shall be billed as the BRWA customers. The BRWA shall remit to the City such portion of the facility fee and connection charges as is equal to the City's comparable charges. In cases where an extension from the City system to the City/County line is requested by the BRWA the extension shall be at the sole cost of the BRWA.

Beginning with the effective date of this contract, in circumstances where the property is divided by the City/County boundary for new connections the following guidelines apply:

1. The jurisdiction in which the meter box is located is responsible for billing and collecting the connection, availability, deposits, administrative, and normal user charges.
  2. In cases where water service is provided by the City and sewer service is physically provided by the BRWA, the City shall bill the customer for both water and sewer services. The sewer use shall not count towards the BRWA's sewer capacity or the BRWA's sewer use.
  3. In cases where water service is provided by the BRWA and the sewer service is physically provided by the City, the BRWA shall bill the customer for both water and sewer services. The sewer use shall count towards the BRWA's sewer capacity and the BRWA's sewer use.
- C. To determine consumption totals for the BRWA, all master meters and individual service meters for the City customers that are fed by the BRWA owned lines will be read monthly by the City and all service meters connected directly to City mains for the BRWA customers will be read by the BRWA. 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 BRWA shall be the sum of the measured flows through the City installed master meters and individual meters which serve County residents directly from City lines minus the sum of the consumption recorded from City meters served by the BRWA lines and any water used for line flushing or firefighting purposes on the City lines served by the BRWA.

- D. Approved backflow prevention devices shall be provided at all new master meter locations installed after the date of this Agreement to prevent water from leaving the BRWA's lines and entering the City's lines. The BRWA 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 City. Installation, maintenance, and testing of any backflow prevention devices shall be at the expense of the BRWA. It is also recognized that these are connections between potable water systems and that there may be a desire to construct connection points such that in the event of an emergency water could be back fed from the BRWA's system to the City's system. These situations will be addressed on an individual basis.
- E. The City or the BRWA at its respective expense shall have the right to test and verify the accuracy of all master and service meters. When the master meters are tested by an independent consultant that is mutually agreed upon by both parties and found to be registering less than ninety percent (90%) or more than one hundred and ten percent (110%) accuracy, the replacement of the master meters will be at the City's expense.
- F. The measurement basis for the City owned meters shall be in hundred cubic feet (hcf). The measurement basis for the BRWA owned meters shall be in gallons.

V. WATER RATES AND CHARGES

- A. For the period beginning October 1, 2016 and ending June 30, 2017, the City water delivered to the BRWA will be billed at the rate of \$1.20 per HCF.
- B. Effective July 1, 2017 and every twelve months thereafter, the rate for City water delivered to the BRWA shall be increased or decreased by the same percentage that the City Composite Rate for a City water customer with 7 HCF of monthly use increases or decreases from July 1 of the previous year to the current year. See Exhibit B – Illustration of Annual Rate Increase Percentage.
- C. Rate adjustments will be limited to the most recent annual 12 month percent change Consumer Price Index for all urban consumers for all items in the south size class B/C area as published by the United States Department of Labor Bureau of Labor Statistics ("CPI") plus 2%.

VI. BILLING and PAYMENTS

- A. At the end of each fiscal year ending June 30, the City will compare BRWA's total metered water use to its contractual commitment to purchase City water per Section 3 D of this Agreement. Should the total metered water use be less than BRWA's contractual commitment to purchase water from the City, the City shall bill BRWA for the difference at the BRWA Rate in effect in the year of the difference.
- B. Annually, after City Council adoption of the City water rates but prior to July 1st, a new City Composite Rate will be calculated. This rate calculation is illustrated in Exhibit B.
- C. The City will bill the BRWA for water consumption each month based on meter reading as described herein.
- D. Amounts billed to the BRWA will be paid within 45 days of the invoice date. Bills unpaid beyond 45 days will be subject to the same penalties and disconnection policies as imposed upon other City customers. The BRWA must notify the City 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 BRWA.

VII. OTHER ITEMS

- A. Title to water facilities in Bedford County constructed or provided by the BRWA, or subsequently acquired by the BRWA shall vest and remain vested in the BRWA in fee simple. Title to water facilities in Bedford County constructed or provided by the City or subsequently acquired by the City shall vest and remain vested in the City in fee simple. Title to all master meter vaults shall vest and remain vested in the City in fee simple. Title to all separate backflow protection devices shall vest and remain vested in the BRWA in fee simple.
- B. Other than for circumstances described in Section IV. B above, the City will not sell water to customers in Bedford County except as may be given by written permission of the BRWA. In a like manner, the BRWA shall not sell water to customers within the City except as may be given written permission by the City.
- C. The City shall have the right to extend its water mains and lines within Bedford County to connect sections or parts of the City's water distribution system. The BRWA will have the right to connect to these mains and lines for service of its customers as provided for herein. All costs associated with such extensions and providing maintenance to these City lines shall be the

responsibility of the City. The City shall comply with the standards, rules and regulations of all agencies having jurisdiction in this matter.

- D. The City and the BRWA may agree to construct jointly owned facilities outside the City in the BRWA's service area for the purpose of the City providing water service to areas outside the BRWA's service area not presently served by the BRWA's water system. Any such agreement shall contain terms and conditions mutually agreeable to the City and the BRWA. Capital costs for the construction as well as operation and maintenance costs for such facilities shall be shared on a mutually agreed basis; any water utilized or resold by the City in these jointly owned facilities shall be deducted from the BRWA's metered consumption at the point of delivery. Such costs shall be clearly delineated in and mutually agreed upon in a separate supplemental written contract to this Agreement, it being understood and agreed that both parties to this Agreement shall have the right to use such jointly owned facilities beyond the expiration date of this Agreement.
- E. Periodically, but at least annually, the City will provide the BRWA with copies of its water capital improvements program, operating budget, rate studies and/or analysis, and other relevant planning documents which could impact the BRWA. Periodically, but at least annually, BRWA will provide the City with copies of its water capital improvements program, operating budget, and other relevant planning documents which could impact the City. Periodically, but at least annually, the BRWA will provide the City with estimates of future water demands for each water delivery point and the City will provide the BRWA with estimates of its ability to supply these demands.
- F. The City reserves the right to restrict the BRWA's water usage during drought conditions or other emergencies. Restrictions placed on water sold to the BRWA shall be equivalent to those restrictions placed upon other City categories of customers.

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VIII. REPRESENTATIONS

- A. The making, execution, and delivery of this Agreement have been induced by no representations, statements, warranties, or agreements other than those herein expressed. This Agreement 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 Agreement 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 Agreement shall be in writing and signed by duly authorized representatives of the parties hereto.
- C. This Agreement shall be governed in its entirety by the laws of the Commonwealth of Virginia.
- D. In the event of any occurrence rendering the BRWA or the City incapable of performing under this Agreement, any successor of the BRWA or the City whether the result of legal process, assignment, or otherwise shall succeed to the rights of its predecessor hereunder.

CITY OF LYNCHBURG, a Municipal Corporation

Kimball Payne

6/25/15

L. Kimball Payne, III, City Manager

Date

ATTEST: Valerie P. Ooster

BEDFORD REGIONAL WATER AUTHORITY

Brian M. Key  
Brian M. Key, PE; Executive Director

6/30/15

Date

ATTEST: Megan Repp

## Exhibit A

### Master Meter Locations

Location Description	Meter Size
Trents Ferry And Foxhill (small dial)	2
Trents Ferry And Foxhill (large dial)	8
In front of Boonsboro Methodist	6
Woods Subdivision-Off Wiggington Road	6
Vault At Mill Lane	3
Mill Wood Subdivision	6
Walnut Hollow And Fox Hollow	6
Saint Andrews Court (large dial)	3
Saint Andrews Court (small dial)	3
Woods Sub Div-Off Wiggington	2
Round Vault Past Oakmont	2
Vault Outside Gate at Abert Plant (small dial)	2
Vault Outside Gate at Abert Plant (large dial)	10
Saint Andrews Court	6
Vault Past Hunting Wood Vault	6
Rt 221 Across From Southern Air (small dial)	2
Rt 221 Across From Southern Air (large dial)	10
Vault Rt Front 1841 Graves Mill (large dial)	10
Vault-Rt Front 1841 Graves Mill (small dial)	2
Left Front Randolph Riding Stables	10

## Exhibit B

### Illustration of Annual Rate Increase Percentage

The following is an illustration of the calculation to be prepared annually to determine the change in the water rates applicable to City water delivered to BRWA effective July 1, of each year.

Description	Prior Year	Current Year
1.City water volume rate per HCF	\$2.43	\$2.45
2.City residential monthly use in HCF	7	7
3.Monthly volume cost (line 1 x line 2)	\$17.01	\$17.15
4.City Account Charge	\$3.68	\$3.68
5.Half of account charge (line 4 ÷ 2)	\$1.84	\$1.84
6.City Fixed Charge	\$4.00	\$6.00
7. Applicable % of fixed charge (33% of line 6). See note A.	\$1.32	\$1.98
8.Total City Composite bill @ 7 HCF (line 3 + line 5 + line 7)	\$20.17	\$20.97
9.City Composite Rate (line 8 ÷ line 2)	\$2.88	\$3.00
10.Change in City Composite Rate (line 9 current – line 9 prior)	\$0.12	
11. Change in City Composite Rate (line 9 current ÷ line 9 prior - 1). See Note B.	4.2%	

- A. The Applicable % of fixed charge is based on the percentage of water fund debt service to the total debt service of the City's water and sewer fund.
- B. The maximum amount of the rate change is as defined in Section V. of this Agreement. In this illustration, the CPI for the prior calendar year 2014 was 1.5%; therefore, the amount of the rate increase would be capped at 3.5%.