

**SMITH MOUNTAIN LAKE WATER FACILITY
AGREEMENT**

between the

BEDFORD REGIONAL WATER AUTHORITY

and the

WESTERN VIRGINIA WATER AUTHORITY

Dated May 7, 2014



SMITH MOUNTAIN LAKE WATER FACILITY AGREEMENT

THIS SMITH MOUNTAIN LAKE WATER FACILITY AGREEMENT, dated as of May 7, 2014 (the “Agreement”), is made pursuant to the provisions of Chapter 13 of Title 15.2 of the Code of Virginia, as amended (the “Joint Exercise of Powers Act”), between the BEDFORD REGIONAL WATER AUTHORITY (the “BRWA”), a water and sewer authority organized and existing under Chapter 51 of Title 15.2 of the Code of Virginia, 1950, as amended (the “Virginia Water and Waste Authorities Act”) and the WESTERN VIRGINIA WATER AUTHORITY (the “WVWA”), a water and sewer authority organized and existing under the Virginia Water and Waste Authorities Act, (the BRWA and the WVWA being referred to herein from time to time as a “Party” or as “the Parties”);

WHEREAS, the BRWA is in the process of developing a progressive design build contract for the design and construction of the Smith Mountain Lake Water Treatment Plant (“SMLWTP”); and,

WHEREAS, the Parties have determined to jointly study, evaluate, design, and construct the SMLWTP; and,

WHEREAS, the BRWA and the WVWA desire to share in the ownership, operation, and liabilities of the SMLWTP; and,

WHEREAS, Bedford County has authorized the transfer of approximately 69 acres of real estate to the BRWA for the development of the joint facility; and,

WHEREAS, the SMLWTP is being constructed to meet the customer needs of the BRWA and the WVWA, in accordance with the approved engineering reports and regional water supply plans; now,

THEREFORE, in consideration of the mutual promises and performances set forth herein and for the purpose of securing a safe and reliable source of water for the citizens and customers of the Parties, the Parties hereby agree to the following:

ARTICLE I: DEFINITIONS, TERMS OF CONSTRUCTION AND REQUIRED PROVISIONS

Section 1.1. Definitions: The following words and terms shall have the following meanings unless the context otherwise requires:

“**Act**”: the Virginia Water and Wastewater Authorities Act, §§15.2-5100, *et seq.* of the Code of Virginia, 1950, as amended.

“**Assets**”: the Improvements, including the SMLWTP and all tangible and intangible assets purchased or otherwise acquired by the Parties and used in the operation of the Smith Mountain Lake Water Facility.

“Bonds”: those separate water revenue bonds issued by each Party from time to time, or refunded or refinanced, the proceeds of which have been contributed to the Smith Mountain Lake Water Facility and are allocable under generally accepted accounting principles to the financing or the operations of the Smith Mountain Lake Water Facility.

“Expansion Capacity”: the expansion capabilities to be designed into the SMLWTP as follows:

- a) up to 6 mgd without major building construction, primarily consisting of installing additional membrane skids inside an existing structure; and,
- b) up to 12 mgd with a building addition that fits with the initial construction.

“Ground Lease”: the ground lease dated May 1, 2014 between the BRWA and the Smith Mountain Lake Water Facility pursuant to which the BRWA leases all Real Estate upon and under which the Improvements will be installed, constructed, or used by the Smith Mountain Lake Water Facility.

“HighPoint WTP”: the HighPoint Water Treatment Plant, which is an asset of the BRWA, as situated on a parcel of land in Bedford County with a tax map number of 232A2-6-108 which is located at 574 High Point Road in Moneta, and includes:

- a) water treatment plant building
- b) 1 million gallons per day of membrane filtration equipment
- c) 60,000 gallon glass lined bolted steel tank
- d) 48,000 gallon glass lined bolted steel tank
- e) 120 kilowatt propane generator

“Improvements”: all construction, betterments, buildings and improvements now or hereafter existing on the Real Estate, including without limitation, the Structures, as defined in the Ground Lease, and any walkways, landscaping, fencing or other amenities on the Real Estate, as defined in the Ground Lease, both above and below ground level.

“Initial Capacity”: an initial capacity of the SMLWTP to meet the projected needs for a minimum of ten (10) years, expected to be between 2 mgd and 4 mgd.

“mgd”: million gallons per day.

“Notes”: those notes given by the Smith Mountain Lake Water Facility to the Parties which will provide debt service payments to each Party for its Bonds.

“Obligations”: all obligations of the Smith Mountain Lake Water Facility to pay its expenses as they come due in the normal course of its operations, including its notes to be given the Parties to provide debt service payments on the Parties’ respective indebtedness incurred for capital contributions to the Smith Mountain Lake Water Facility.

“Operation and Maintenance Expenses”: the costs of operating and maintaining the Smith Mountain Lake Water Facility including rent payable pursuant to the Ground Lease determined under generally accepted accounting principles, including (i) interest and principal on any debt payable from Revenues,

(ii) depreciation and other items not requiring the expenditure of cash, (iii) any amounts expended for capital replacements, repairs and maintenance not recurring either annually or biannually, depending on the customary practice of performing operation and maintenance, or reserves therefor, and (iv) reserves for administration, operation and maintenance occurring in the normal course of business.

“Real Estate”: the real estate leased to the Smith Mountain Lake Water Facility pursuant to the Ground Lease.

“Revenues”: (i) all rates, fees, rentals, charges and other income properly allocable to the SMLWTP under generally accepted accounting principles or resulting from the ownership or operation of the System and all rights to receive the same, whether now existing or hereafter coming into existence, exclusive of user and other deposits subject to refund until such deposits have become the Parties’ assets, (ii) the proceeds of any insurance covering business interruption loss relating to the Smith Mountain Lake Water Facility, (iii) interest on any money or securities related to the Smith Mountain Lake Water Facility held by or on behalf of either Party and (iv) any other income from other sources now or hereafter pledged or specifically made available by or on behalf of the Smith Mountain Lake Water Facility to or for the payment of Operation and Maintenance Expenses or debt service on the Bonds.

“SMLWTP”: the facilities needed to produce potable water in accordance with regulatory requirements, and proposed to include, but not be limited to, the following:

- a) Intake Facilities:
 - i) intake structure, with backwash capability;
 - ii) raw water pump station; and,
 - iii) raw waterline to transmit the water source to the treatment plant.
- b) Water Treatment Plant Facilities:
 - i) building structure and any site improvements
 - ii) pretreatment;
 - iii) water filtration equipment, most likely high pressure membrane filter;
 - iv) post treatment facilities;
 - v) waste disposal system; and,
 - vi) any other facilities needed to produce potable water.

“Smith Mountain Lake Water Facility”: the SMLWTP and its operations, to be treated as a separate operating center independent of the Parties’ other operations. The assets, Revenues, Operation and Maintenance Expenses and Obligations attributable to the Smith Mountain Lake Water Facility shall be considered as part of one integrated facility, operated and administered jointly by the Parties.

“Water System”: the infrastructure useful or necessary in the delivery of water to the Parties’ respective water distribution systems. Water System includes the infrastructure owned by each Party beyond the meters that measure the water sold to the Parties by the Smith Mountain Lake Water Facility. Each Party will

continue to provide service to their customers within their Water System service areas.

“Withdrawal Permit”: the Virginia Water Protection Individual Permit No. 96-0707 Smith Mountain Lake Water Treatment Plant Withdrawal Project, Bedford County, Virginia, as modified by Final Major Modification No. 1 dated September 19, 2013.

Section 1.2. Context: The following stipulations shall apply to the construction of this Agreement unless the context requires otherwise:

- A) Singular words shall connote the plural number as well as the singular and vice versa.
- B) The headings and table of contents as used in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

Section 1.3. Terms Required by the Joint Exercise of Powers Act.

- A) Duration of Agreement: Contained in Article II of this agreement.
- B) Purpose of Agreement: To develop and operate a water intake and a water treatment plant on Smith Mountain Lake, and to sell water to the Parties and other political subdivisions.
- C) Manner of Financing and Maintaining Budget: These provisions are contained in this Agreement, primarily in Article III, at Sections 3.3-3.5.
- D) Methods to Be Employed on Termination and Disposition of Assets (meaning “property” as such term is used in the Joint Exercise of Powers Act): These provisions are contained in this Agreement, primarily in Article III, at Sections 3.7 and 3.8.

ARTICLE II: TERM OF AGREEMENT

Section 2.1. Effective Date. This Agreement shall become effective and be in full force when authorized, executed, and delivered by and to each Party.

Section 2.2. Initial Term. This Agreement shall continue in effect until June 30, 2030, unless renewed or terminated as stated herein.

Section 2.3 Renewal. This Agreement may be renewed for an unlimited number of ten (10) year terms beginning on July 1, 2030.

Section 2.4 Termination. This Agreement may be terminated, as stated herein, following a one (1) year notice period by the Party requesting the termination. On termination the Parties may agree on the distribution of the assets and the assumption of the liabilities of the Smith Mountain Lake Water Facility, or, in the event they shall not agree, the assets and liabilities will be distributed to the Parties in accordance with their respective capital contributions and each Party shall be

responsible for its Bonds and any other indebtedness incurred by it with regard to the Smith Mountain Lake Water Facility.

ARTICLE III: OPERATION AND MAINTENANCE OF SMITH MOUNTAIN LAKE WATER FACILITY

Section 3.1. Authority to Operate: The Parties shall operate and maintain the SMLWTP in an efficient and economical manner, making all necessary and appropriate repairs, replacements and renewals, consistent with good business and operating practices as for comparable facilities.

Section 3.2. Billing: The BRWA and the WVWA agree to establish a billing structure for the Smith Mountain Lake Water Facility that is similar (if not identical) to the current billing methodology employed by each Party for bulk water sales to the other Party.

- A) The BRWA will be initially charged with the responsibility to keep records of the financial activities of the Smith Mountain Lake Water Facility and will maintain a separate set of general ledger codes to separately track the revenues and expenses of the Smith Mountain Lake Water Facility, and provide a quarterly and year-to-date accounting to the WVWA within thirty (30) days of the end of each calendar quarter. The financial management may be transferred to the WVWA at any time, provided both parties are in agreement to do so.
- B) A sample Calculation Methodology for Water Rates and Charges is attached as Exhibit A. The billing structure will have two components as follows:
 - 1) Operation and Maintenance Expenses; and
 - 2) A capital cost recovery component to cover the initial cost of construction and any additional capital improvements.

Section 3.3. Shares in Capital Cost: The Parties' ownership interests in the Smith Mountain Lake Water Facility shall be in proportion to their respective capital contributions, and may be periodically adjusted in accordance with generally accepted governmental accounting principles. The Parties agree to contribute the capital necessary to design, construct, and expand the SMLWTP in the following proportions:

- A) Initial Capacity: Each Party will share equally in the study, design, and construction costs of the Improvements needed to provide for the Initial Capacity, generally as shown on the schedule of values attached hereto as Exhibit A
- B) Each Party will, unless and until the Parties agree otherwise in a written amendment to this Agreement, make equal capital contributions to the Smith Mountain Lake Water Facility.
- C) Expansion Capacity: If either party determines that additional capacity is needed or desired for their Water System, then at that time both parties agree to evaluate

the current plant capacity and determine the costs associated with the expansion. Upon reviewing the findings, the parties may:

- 1) share equally in the costs of the expansion, if it is determined by both parties that it is best interest to do so; or,
- 2) determine the proportionate share of the expansion that is beneficial for each party, and prorate the expansion costs accordingly to each party.

Section 3.4: Shares in Operating Costs: The quantity of water purchased by each Party from the Smith Mountain Lake Water Facility will determine the proportionate share of each Party toward payment of the total cost of the Operation and Maintenance Expenses.

Section 3.5. Shares in Resources: The Parties agree to share resources (including personnel and equipment) so that the SMLWTP operates as efficiently as possible. Whenever one of the Parties allocates an employee, performs an administrative service, or otherwise contributes to the operation of the Smith Mountain Lake Water Facility, it will be entitled to a reasonable payment for the value of such contribution on the same basis of any vendor of the Smith Mountain Lake Water Facility.

Section 3.6. Joint Management Team: The BRWA and the WWA agree to establish a joint management team to the SMLWTP and collect its Revenues. This team will include equal representation from each Party; each Party is expected to appoint an Executive Director, a Senior Manager, and a Senior Operator to the management team.

Section 3.7. Resolution of Disagreement: Each party agrees to cooperate in using a Virginia Court certified mediator to help in resolving disagreements related to the operation of the SMLWTP whenever requested by the other party. If mediation is not successful, the Parties agree that that any unresolved disagreements will be resolved by binding arbitration under the then-current rules of the American Arbitration Association, or, if both parties agree, under other arbitration procedure rules.

Section 3.8. Put: Each party has the ability to transfer any portion of their ownership of capacity in the SMLWTP to the other party, at terms that are mutually agreed to at the time of the transfer. Either Party may, on or after July 1, 2024, and following a one (1) years written notice period, require the other Party to purchase its interest in the Smith Mountain Lake Water Facility at its then depreciated book value.

Section 3.9. Unwinding: The Parties may, by mutual agreement, terminate this Agreement and provide for the discontinuance of the Smith Mountain Lake Water Facility.

Section 3.10. Additional Customers: The Parties may, at any time, sell water to additional water wholesale users on such terms as the Parties shall agree.

Section 3.11. No Waiver of Sovereign Immunity: Neither party, by implication or by any interpretation of this Smith Mountain Lake Water Facility Agreement (1) waives sovereign immunity or (2) consents or agrees to liability for the debts and obligations or activities of the other Party.

Section 3.12. Signage and Publicity: All signage and other publicity designating the Smith Mountain Lake Water Facility or Facilities related to it will indicate that it is a cooperative undertaking by both the BRWA and the WVWA.

ARTICLE IV: OBLIGATIONS OF PARTIES

Section 4.1. Water Sales: The Smith Mountain Lake Water Facility shall sell, and the Parties shall purchase at the rates fixed by the Parties, water supplied by the Smith Mountain Lake Water Facility in the quantities, of the quality and under the terms and conditions herein set forth.

Section 4.2. Water Purchases: The Parties may purchase from the Smith Mountain Lake Water Facility the potable water necessary for distribution or for resale through their respective Water Systems, and the Smith Mountain Lake Water Facility shall endeavor to furnish to the Parties their requested volume of domestic potable water. At a minimum, except during times of water conservation or emergency, each party agrees to purchase substantially all of the water from the Smith Mountain Lake Water Facility for their consecutive system service areas that are located within four (4) miles of Smith Mountain Lake.

Section 4.3. Connections and Metering:

- A) Connections: The Smith Mountain Lake Water Facility shall permit the Parties to connect their Water Systems to the SMLWTP at points to be designated by agreement between Parties.
- B) Metering: The Smith Mountain Lake Water Facility will operate and maintain master water meters at all points of connection into the Parties' respective systems and will pay for and install any master meters that are needed to accurately measure the quantities of water furnished to each Party.
 - 1) The Smith Mountain Lake Water Facility will read such meters on a monthly basis and promptly present accurate bills to the Parties.
 - 2) Meters shall be tested by the Smith Mountain Lake Water Facility for accuracy no less than once every two (2) years. At the request of any Party, the Smith Mountain Lake Water Facility shall test any meter for accuracy at any time; provided, however, that should such meter prove to be accurate within a range of plus or minus five percent (5%), the cost of the meter test shall be borne by the requesting Party. In the event any meter shall fail to record within the above stated range, the Smith Mountain Lake Water Facility shall estimate such volume on the basis of a two (2) years' rolling average.

Section 4.4. Real Estate:

- A) The BRWA owns the real estate on which the Water Treatment Plant Facilities for the SMLWTP will be developed and other easements as defined in the Ground Lease, referred to herein as the “Real Estate.” The BRWA will lease the Real Estate to the Smith Mountain Lake Water Facility at a rate of twenty thousand dollars (\$20,000) per year for the initial term of the agreement. After the initial term, the BRWA may either:
 - 1) transfer the ownership of the Real Estate to the Smith Mountain Lake Water Facility; or,
 - 2) retain ownership of the Real Estate and lease it to the Smith Mountain Lake Water Facility at a rate of one thousand dollars (\$1,000) per year for every year thereafter.
- B) The BRWA holds a permanent easement on the land on which the Intake Facilities will be developed. This easement will continue to be owned by the BRWA, and will be leased to the Smith Mountain Lake Water Facility as part of the Real Estate.
- C) The BRWA owns the land on which the existing HighPoint WTP is located. If the land containing the HighPoint WTP is needed for the operation of the SMLWTP, the BRWA will lease the land containing the High Point WTP to the Smith Mountain Lake Water Facility at a rate of \$1,000 per year.

Section 4.5. Asset Transfer:

- A) Either party that transfers any asset(s) to the Smith Mountain Lake Water Facility will be credited for the value of the transferred asset(s) based on a valuation agreed to by the Parties, or, in the event that they cannot agree within thirty (30) days of the tender of any asset to the Smith Mountain Lake Water Facility, performed by a consultant chosen as mutually agreed upon by the Parties. Examples of assets that may be considered for transfer include, but are not limited to, the following:
 - 1) Generator for the Water Treatment Plant as currently owned by WVWA; and,
 - 2) High Service Pumps at the HighPoint WTP as currently owned by BRWA; and,
 - 3) Membrane equipment at the HighPoint WTP as currently owned by BRWA.

Section 4.6. Full Requirements: The Smith Mountain Lake Water Facility shall use its best efforts to furnish to the Parties their full requirements of potable water; provided, however, that its obligations shall be limited to the amount of water available from the SMLWTP. The Parties shall maintain their respective Water Systems in accordance with all applicable laws and regulations in order to facilitate the transmission of water to them.

Section 4.7. Limitation of Delivery of Water. In the event that it should become necessary for the Smith Mountain Lake Water Facility to limit delivery of water to

the Parties, the amount of available water shall, if necessary, be prorated between the Parties to meet the requirements of the Withdrawal Permit.

Section 4.8. Water Quality: All water sold by the Smith Mountain Lake Water Facility shall meet or exceed the requirements of the federal Safe Drinking Water Act as well as the standards of the Commonwealth of Virginia. In the event the water sold by the Smith Mountain Lake Water Facility to a Party fails for any reason to meet the foregoing standards, the Smith Mountain Lake Water Facility will immediately correct the deficiency. In the event the Smith Mountain Lake Water Facility is unable to furnish water meeting the foregoing standards, the Parties shall have the right to procure water from any other available source until the Smith Mountain Lake Water Facility determines that it is able to furnish water that does meet such standards.

Section 4.9. Legal Requirements: The Smith Mountain Lake Water Facility and each of the Parties covenant and agree to observe all applicable administrative and technical requirements legally required by any authorized regulatory body. The Parties agree that all business conducted by the Smith Mountain Lake Water Facility is in fact conducted jointly by each Party trading as Smith Mountain Lake Water Treatment Facility, and each shall file such fictitious name certificates or other notifications as shall be necessary or appropriate for such an arrangement.

Section 4.10. Customer Rates: Each of the Parties covenant and agree to fix, charge, and collect from the users of its Water System charges sufficient to make the payments required of it under this Agreement.

Section 4.11. Insurance: The Smith Mountain Lake Water Facility will insure that its assets are insured to their full replacement cost and that adequate insurance is in place for each of the Parties' liability exposure for activities of the Smith Mountain Lake Water Facility. The BRWA will insure that the Smith Mountain Lake Water Facility is provided with liability coverage by its insurance provider, and the Smith Mountain Lake Water Facility will pay the cost of the insurance for the Improvements owned, leased or managed by the Smith Mountain Lake Water Facility.

Section 4.12. Withdrawal Permit Capacity: The Smith Mountain Lake Water Facility will routinely review the permitted withdrawal limits with respect to plant capacity and plant production, and take the appropriate measures to ensure that adequate capacities are granted in the withdrawal permit to provide the volume of water necessary for the SMLWTP to operate at the rated capacity of the plant. When the annual daily average production of the SMLWTP is equal to or greater than seventy five percent (75%) of the annual daily average permit limit, the Smith Mountain Lake Water Facility will, within one (1) year, apply for a modification to the withdrawal permit to increase the withdrawal limits.

Section 4.13. Financing of the Smith Mountain Lake Water Facility and Related Infrastructure: Prior to, and as a condition to the commencement of construction of the SMLWTP, the Parties shall have closed on adequate financing for each's

respective infrastructure improvements. In the event that the BRWA elects not to finance and construct the extensions currently planned along Route 122 (from Moneta to Bedford) and along Route 460 (from Bedford to New London) in Bedford Count, then the Parties shall jointly determine if the Initial Capacity shall be modified or if the construction of the SMLWTP shall be delayed until such time as these extensions are implemented.

ARTICLE V: WARRANTIES AND REPRESENTATIONS

Section 5.1. Authority Relative to this Agreement. The Parties warrant and represent that they each have the power and authority to execute and deliver this Agreement, to carry out their duties and obligations under this Agreement, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Parties and the consummation by the Parties of the transactions contemplated hereby have been duly authorized by the Parties' governing bodies. No other proceedings on the part of the Parties are necessary to authorize this Agreement and the transactions contemplated herein.

Section 5.2. Non-Contravention: The execution and delivery by the Parties of this Agreement does not, and the consummation of the transactions contemplated hereby will not, (i) violate or result in a breach of any provision of either Party's Articles of Incorporation, (ii) violate or constitute a default under the terms, conditions or provisions of any note, bond, mortgage, lien, lease, agreement, license, indenture, instrument, or other instrument or obligation to which the Parties are a party or by which any of the Parties is bound, or (iii) violate any order, writ, injunction, arbitration award, judgment, decree, statute, rule or regulation applicable to the Parties.

Section 5.3. No Litigation: There are no actions, suits, claims, investigations or proceedings (legal, administrative or arbitative) pending, or to the best of Parties' knowledge, threatened, whether at law or in equity and whether civil or criminal in nature, before any court, arbitrator, or any governmental department, commission, agency or instrumentality which would have a material adverse effect upon: (i) any license, grant, assignment, franchise, right-of-way, easement, or right reasonably necessary for the ownership and operation of the Smith Mountain Lake Water Facility; or (ii) the ability of each Party to perform its obligations under this Agreement. Furthermore, there are no existing judgments, orders, or decrees of any such court, arbitrator, governmental department, commission, agency or other instrumentality which have or would have a material adverse effect as described in the preceding sentence.

Section 5.4. Consents and Approvals: Other than as contemplated herein, no notice, consent, approval, waiver or other action of any kind is required to be obtained by the Parties by virtue of the execution hereof by the Parties or in connection with the consummation of any of the transactions contemplated herein.

Section 5.5. Licenses and Permits; Compliance with Laws: The Smith Mountain Lake Water Facility has obtained and holds all licenses, certificates, permits, franchises, approvals and rights from appropriate federal, state or other public authorities required to own and operate the Smith Mountain Lake Water Facility and to conduct its business as such business is now being conducted and for the services it provides.

Section 5.6. No Violations of Law: To the best of the Parties' knowledge, their participation in this Agreement does not cause a violation of any federal, state or local law, statute, rule, regulation or ordinance related to or in any way connected with matters contained in this Agreement.

ARTICLE VI: RATES AND CHARGES

Section 6.1. Charges to Parties: The Smith Mountain Lake Water Facility shall fix and determine from time to time charges for water furnished to the Parties. Such charges shall be established by the Smith Mountain Lake Water Facility at such levels as may be necessary to provide funds, together with other available funds, sufficient at all times to pay:

- A) the cost of maintaining, repairing and operating the Smith Mountain Lake Water Facility, including reserves for such purposes and for replacement and depreciation and necessary extensions;
- B) the principal of, premium, if any, and interest on the indebtedness to the Parties evidenced by the Notes as the same shall become due and reserves therefore; and,
- C) a margin of safety for making such payments.

Section 6.2. Uniform Rate: Each Party shall pay for all water furnished to it at the rate fixed by the Smith Mountain Lake Water Facility. In fixing such rate the Smith Mountain Lake Water Facility shall establish a uniform rate for all Parties. Bills for water furnished will be calculated on a monthly basis and shall be paid not later than thirty (30) days after receipt.

Section 6.3. Interest on Late Payments: In the event that a Party shall fail to make such payment within the time specified above, interest on such amount shall accrue at the highest rate of interest payable by the Parties on any bonds allocated to the Smith Mountain Lake Water Facility then outstanding from the date such payment becomes due until paid in full. In the event the Smith Mountain Lake Water Facility has no bonds outstanding, interest shall be charged at the then applicable legal interest rate.

ARTICLE VII: MISCELLANEOUS

Section 7.1. Power and Authority: The Parties each represent and warrant that they have full power and authority to enter into and perform this Agreement.

Section 7.2. Books and Records: The Smith Mountain Lake Water Facility shall keep proper books and records in accordance with accepted accounting practices which shall be available for inspection at all reasonable times by the Parties through their duly authorized agents. The Parties shall include the review of the Smith Mountain Lake Water Facility revenue and expenditures with the annual audit of their books and records as made by an independent certified public accountant at the end of each fiscal year and a copy thereof to be filed promptly with each Party.

Section 7.3. Agreement Binding: This Agreement shall be binding upon, insure to the benefit of, and be enforceable by the Parties hereto and their respective successors and assigns.

Section 7.4. Laws. This Agreement shall be subject to all applicable valid rules, regulations and laws of the United States of America, Commonwealth of Virginia, or any governmental body, agency or representative of either of them.

Section 7.5. Integration. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision thereof.

Section 7.6. Counterparts. This Agreement shall be executed in several counterparts, any of which shall be regarded for all purposes as one original.

Section 7.7. Notices. Any and all notices herein provided for or relating to the transactions herein provided for will be in writing and will be deemed to have been sufficiently given to the Parties if delivered by hand or mailed, postage prepaid, by first class mail, addressed to:

- A) Bedford Regional Water Authority
1723 Falling Creek Drive
Bedford, Virginia 24523
Attention: Executive Director
- B) Western Virginia Water Authority
601 South Jefferson Street
Roanoke, Virginia 24011
Attention: Executive Director, Water Operations

Section 7.8 Further Assurances. From time to time after the Closing, the Parties will execute such additional instruments of assignment and conveyance and other documents and take such other actions as may be necessary or appropriate to carry out the intent of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and their seals to be affixed and attested by their duly authorized officers, all as of the date first above written.

[SIGNATURE PAGE TO SMITH MOUNTAIN LAKE WATER FACILITY AGREEMENT]

BEDFORD REGIONAL WATER AUTHORITY



Elmer C. Hodge, Chairman

(SEAL)

Attest:



Brian M. Key, Executive Director

WESTERN VIRGINIA WATER AUTHORITY



Shirley B. Holland, Vice-Chair

(SEAL)

Attest:



Gary Lee Robertson, Executive Director, Water Operations

Exhibit A

Schedule of Values

Smith Mountain Lake Water Treatment Plant - Preliminary Cost Estimate		
Description	Cost	General Scope/Comments
Intake – 4mgd	\$209,894	Single 36" intake pipe with 2 intake screens
Raw Water Pump Station	\$1,477,326	Pump station at grade with vertical turbine can pumps
Generator Option	\$0	Pump station generator not included
Raw Water Pipeline	\$1,620,063	18" fusible PVC raw water pipeline
General Conditions	\$371,322	GC's, indirects, specific to RW work
Subtotal	\$3,678,605	
Treatment Plant - 4mgd	\$10,078,986	Water treatment plant with 3 membrane skids, 2 backwash recovery skids, 1 GAC contactor, no raw water break tank and 250,000 gallon clearwell, no backup generator and reduced admin facility (Lab/Control Room, 3 offices, Kitchenette with sink, refrigerator, dishwasher, 6 cubicles, Network room, Men's and Women's bathroom)
General Conditions – Plant	\$1,131,608	GC's, indirects, specific to plant work
Subtotal	\$11,210,594	
SMLWTP Project Total	\$14,889,199	

Exhibit B

Procedure for Determining the Cost of Water to be Sold by the Smith Mountain Lake Water Facility

The Smith Mountain Lake Water Facility will calculate the cost of water based upon Operating Cost categories and Capital Cost Recovery categories as shown in the attached Cost Calculation Protocol.

1. Operating Cost shall include the items shown plus any other items that the Parties may agree and will be based on actual costs provided, however, that administration and mileage will be calculated.
2. The Capital Cost Recovery shall include all of the capital items involved in the operations of the SMLWTP.
3. Financing costs of capital shall be agreed by the Parties and the total water production rate cost shall be the combination of the two on a per thousand gallon basis.

Each year the Smith Mountain Lake Water Facility will calculate the provisional costs for such year and will charge during such year the calculated amount. At the end of such year the final audited costs shall be calculated and the difference paid by customers of the Smith Mountain Lake Water Facility.

Total [Estimated] [Actual] Production for Fiscal Year through 6-30-20__ (gallons): _____ a.

Equivalent average daily production (MGD): _____

Operating Cost - Rate Calculations

Description	Notes	Units	Unit Cost	Total Cost	Basis.
Supplies & Chemicals			\$	\$	Actual Cost.
Contract Maintenance			\$	\$	Actual Cost.
Phone			\$	\$	Actual Cost.
Power costs (including the Pump Station)			\$	\$	Actual Cost.
Fuel Costs (Propane)			\$	\$	Actual Cost.
Insurance			\$	\$	Actual Cost.
Lab & testing Fees			\$	\$	Actual Cost.
Raw Water Withdrawal Costs			\$	\$	Actual Cost.
Road Maintenance Fees			\$	\$	Actual Cost.
Direct Labor (in Hours)			\$	\$	Actual Cost.
Administration	Percent of direct labor		\$	\$	calculated.
Mileage (average ___ trip[s] per week)	___ Miles Roundtrip		\$	\$	calculated.
				Total Annual Operating Cost \$	_____ b.
				Operating Cost per 1000 gallons (b.÷(a.÷1000)) \$	_____ c.

Capital Cost Recovery - Rate Calculations

Description	Capital Cost	Useful Life (years)	Year of Final Payment	Annual Cost (cap.cost ÷ life)	Date in Service.
[List Capital Components, including depreciation]	\$			\$	
	\$			\$	
	\$			\$	
	\$			\$	
	\$			\$	
	\$			\$	
	\$			\$	
	\$			\$	
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	\$			\$	
	\$			\$	
Totals	\$			\$	d.
			Financing Cost of Capital @ ___%	\$	e.
			Total Annual Capital Costs to Recover (d.+e.)	\$	f.
			Capital Cost for the Fiscal Year per 1000 gallons (f.÷(a.÷1000))		g.

Total Water Production Rate Costs **Water Rate per 1000 gallons (c.+g.)** h.

