



FREDERICK COUNTY GOVERNMENT
DIVISION OF UTILITIES AND SOLID WASTE MANAGEMENT

Kevin L. Demosky, Director

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David P. Gray
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Lori L. Depies, CPA
County Manager

June 6, 2013

Mr. Zachary J. Kershner, P.E., Deputy Director of Public Works
Engineering Department
City of Frederick
140 West Patrick Street
Frederick, MD 21701

RE: First Amendment to Potomac River Water Supply Agreement (PRWSA)

Dear Zack,

As you are aware, on May 30, 2013 the Board of County Commissioners (BOCC) approved the *First Amendment to Potomac River Water Supply Agreement (PRWSA)* and executed June 4, 2013 by the BOCC President. Enclosed is one signed original for your records.

It is my understanding that the City is actively working on an updated Exhibit 4, which will be provided prior to, or in September. If you have additional questions, please do not hesitate to contact me at (301) 600-2963.

Sincerely,

Kevin L. Demosky, Director
Division of Utilities and Solid Waste Management

Enclosure

FIRST AMENDMENT TO

POTOMAC RIVER WATER SUPPLY AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND AND THE CITY OF FREDERICK

This First Amendment to Potomac River Water Supply Agreement ("First Amendment"), is made and entered into this 4th day of June 2013, by and between the BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, a body politic and corporate of the State of Maryland, hereinafter called the "County", and the CITY OF FREDERICK, a municipal corporation located within Frederick County, hereinafter called the "City".

BACKGROUND

The County and the City entered into the Potomac River Water Supply Agreement ("PRWSA") dated March 16, 2006, which among other items, contains the terms under which the County's Potomac River Water Supply System would be expanded and improved to provide for the long-term supply of potable water for the City of Frederick and the County, with the County providing a certain amount of water system capacity to the City for use and allocation subject to terms and conditions of the PRWSA.

Exhibit 4 of the PRWSA shows the future service areas planned to be served by the City from the water capacity as it becomes available under the PRWSA. The City has requested an amendment to Section 30 of the PRWSA to allow the City to update Exhibit 4 on at least an annual basis to describe the City's planned service areas and projected water demand, and to detail any changes that have occurred since the execution of the PRWSA. The City intends to use its allocation ordinance to allocate the water supply by tracking these allocations for a yearly report for the County.

The City recognizes that it will ultimately need more water to serve its customers. The tracking of the allocations on a yearly basis will enable the City to refine the amount of water actually needed, and plan accordingly to purchase additional capacity from the County over time.

While Exhibit 4 of the PRWSA was originally considered reasonable for the purpose of planning for the ultimate water supply needs of the City, over the next 20 to 30 years as growth occurs, subsequent revisions to Exhibit 4 could occur, which may not necessarily increase the capacity of water needed, particularly if it was reallocated differently within the City.

The City and the County therefore desire to revise the PRWSA as shown in this First Amendment to allow annual and other updates to Exhibit 4, as specified in Section 30 of the PRWSA, and to provide the City with flexibility, while at the same time, ensuring tracking of water capacity to prevent over-allocation.

NOW THEREFORE, the parties agree as follows:

1. The recitals set forth above are incorporated herein by reference as if fully set forth herein.
2. The first two (2) paragraphs of Section 30. PROJECTED NEEDS DATA are hereby deleted and replaced with the following three (3) paragraphs:

Exhibit 4 relates to the City's assessment of its future water needs. Specifically, Exhibit 4 shows the service areas planned to be served by the City from the water capacity available pursuant to the PRWSA, and the projected water demand associated with such service areas. The original Exhibit 4 was based on the best information available as of the effective date of the PRWSA; it is attached hereto for informational purposes, but does not form a part of the PRWSA.

Through the application of its Water and Sewer Allocation Ordinance (Frederick City Code, Chapter 25, Article IX), the City will ensure that water supply is not over allocated and that sufficient water is available prior to issuance of building permits for any City properties. Furthermore, the City will evaluate all annexation requests and Frederick County Water and Sewerage Plan classification amendment requests for conformity with the City's future needs assessment. The City shall not annex properties outside of the service boundary as delineated in original exhibit 4 of the PRWSA if the updated projected max day demand water usage exceeds 12 MGD.

On an annual basis in September, the City will submit to the County an updated Exhibit 4 describing the City's planned service areas and projected water demand, and detailing any changes that have occurred since the execution of the PRWSA. These revisions shall be consistent with the Municipal Growth Element and Future Growth Areas as depicted in the latest version of the City Comprehensive Plan. Additionally, the City shall also provide an update to Exhibit 4 as part of any annexation request submitted to the County, or at the time of any update to the City's Comprehensive Plan. Such revisions to Exhibit 4 do not constitute amendments to the PRWSA and thus do not require approval by the County.

3. Except as specifically changed herein, all other provisions of the PRWSA remain unchanged and in full force and effect.

Witness the execution of this First Amendment to PRWSA, as of the day and year first above written.

IN WITNESS WHEREOF, the parties hereby execute this Agreement.

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

THE CITY OF FREDERICK, MARYLAND

By: Blaine R. Young
Blaine R. Young, President

By: Randy McClement
Randy McClement, Mayor

Witness: Patti Morrow
Kam 6/3/13

Witness: Phyllis McAcum

Reviewed for Legal Sufficiency:

Reviewed for Legal Sufficiency:
Shandra Nichols