



CLIFTON PARK WATER AUTHORITY

BOARD MEETING MINUTES

AUGUST 11, 2021

Those present were: Mr. Helmut Gerstenberger, Chairman; Mr. Peter Taubkin, Board Member; Mr. William Butler, Treasurer; Mr. Donald Austin Jr., Administrator; Mr. Ronald Marshall, Superintendent; and Mr. James Trainor, Attorney. Absent: Mr. John Ryan, Vice Chairman and Ms. Alexis Osborne, Secretary.

Mr. Gerstenberger called the meeting to order at 7:06pm.

PRIVILEGE OF THE FLOOR

No members of the public present.

OLD BUSINESS

PROJECT TO INCREASE CAPACITY FROM SCWA

Mr. Austin reported that the pumpstation has been installed. They are working on the electrical, plumbing and SCADA system.

SCWA WATER PURCHASE AGREEMENT RENEWAL

Mr. Trainor reported that the SCWA Board has agreed to the standard force majeure provision and will remove one conflicting sentence in that same paragraph. He currently has the redline version of the contract but will send the board a final copy in a few days.

Mr. Taubkin made a **motion** authorizing the Chairman to execute the revised Agreement with the Saratoga County Water Authority; seconded by Mr. Gerstenberger.

RESOLUTION# 16, 2021 – AUTHORIZE CHAIRMAN TO EXECUTE THE REVISED AGREEMENT WITH THE SARATOGA COUNTY WATER AUTHORITY

RESOLVED, the Clifton Park Water Authority Board hereby authorizes the Chairman to execute the revised Agreement with the Saratoga County Water Authority for the period of 2021 through 2031, as attached.

Roll Call Vote:

Mr. Gerstenberger	- Aye
Mr. Ryan	- Absent
Mr. Taubkin	- Aye
Mr. Butler	- Aye
Ms. Osborne	- Absent

PROJECT TO INVESTIGATE CAPACITY IMPROVEMENTS IN PRESERVE

Mr. Austin reported the pumping is finished on the one well and are waiting for Smith Well Drilling to come back and move the equipment over to the other well.

Mr. Austin brought up an issue he has with C.T. Male Associates regarding this project. Smith Well Drilling was hired by C.T. Male Associates to do this work and the well drilling was part of C.T. Male's original proposal. The proposal shows the test wells as a lump sum fee of \$25,000. Smith Well Drilling has presented an invoice dated April 23, 2021 to C.T. Male for the drilling of the two test wells in the

amount of \$34,125. Mr. Austin sent Mr. Kortz an email on July 28th questioning the difference but has yet to get a response from him. Mr. Austin reviewed the bill and stated that C.T. Male had estimated a drilling depth of 65 feet, and it ended up being 79 feet. He understands that there is no way they can know the depth until they actually drill. The screen length was changed from 10 feet to 15 feet. This was a change C.T. Male made prior to drilling but after the CPWA authorized the work. They also left out the well development part from their proposal. He believes the Smith Well Drilling invoice to be correct for the work they did, but the problem is that it's not what C.T. Male presented in their proposal to the CPWA. The Board is very disappointed with the proposal and their lack of response. Mr. Gerstenberger also shared that he had a conversation with Mr. Kortz a few days prior to July board meeting letting him know that the CPWA has not been happy with their level of service and is going to be putting out a Request for Qualifications for future engineering services. The Board directed Mr. Austin to email Mr. Kortz again copying the Chief Operating Officer, Dan Reilly, requesting a meeting to resolve these issues now. The Board stressed that they need to understand Smith Well Drilling needs to get paid and because the CPWA deals with Smith Well Drilling in the course of its operations, this issue potentially creates a major problem. It should also recap the entire situation that has led us to the point of going out to bid for future engineering services.

VERIZON REQUEST FOR INSTALLATION OF TELECOMMUNICATIONS TOWER AT BOYACK WTP

Mr. Trainor was unable to complete his review of the contract before tonight's meeting. Verizon sent Mr. Austin an updated site plan which included the change of placement of the electronic panel as requested. They should be ready for board approval at next month's meeting.

WATER MAIN REPLACEMENT ON PLANK ROAD

The work to re-route the water main under the new box culvert that was being installed by the Town started on Friday, July 30th. When the water main was put together the contractor did not construct the gravity blocks correctly. When the water main was turned back on at 7pm it started to come apart. The water main was shut back down which had been off since 9am. The main was put back together with a temporary fix so the water could be turned back on at reduced pressure for six days. The contractor made the necessary repairs on Monday and Tuesday which required the main to be shut down for a good portion of those days as well. The water main was returned to full pressure on Thursday.

Mr. Austin received an email from Peter Christiano, the Town's engineer from Barton & Loguidice, saying that Carver Construction is claiming additional costs as a result of the water main break. They are claiming the concrete required was much greater than originally priced, the Hymax couplings that were originally quoted did not fit due to the oversized ACP, they ended up replacing some additional ACP and were required to stay much later than expected prior to the water main being turned back on. Mr. Austin replied back on stating that the contractor did not interpret the thrust block detail correctly. They poured two thrust blocks that were a total of four yards of concrete. Each one of the thrust blocks needed to be eight yards of concrete. They only poured 25% of what needed to be poured to provide enough weight to hold the 45° vertical bend connection together. The Hymax couplings originally bought were fine and would have worked had it not been for the incorrect thrust restraint installation. Once the restraint failed and the pipe moved within the coupling, the coupling was no longer usable, as the gasket was then compromised. He may consider paying the price differential between the originals and the replacements, as the replacements were of better quality. The additional pipe that was replaced was only necessary because of the original failure, which is solely the fault of the contractor's misinterpretation and he will not pay for the additional work. The contractor was required to stay late on Monday, August 2nd, but this all stems back to the original failure and our need to perform corrective work as quickly as possible.

Mr. Austin feels that if the thrust restraint detail had been correctly interpreted by the contractor prior to starting this job, there would have been additional costs included in their proposal for the additional concrete, and for that he is willing to reimburse. The only other item he will consider is the price difference between the original ACH to Ductile couplings and the replacements. The remainder of their claim is, in the opinion of the C.T. Male inspector and Mr. Austin, that these costs were a direct result of the contractor's failure to correctly interpret the thrust restraint detail prior to providing their proposal and starting the work.

Mr. Austin's sent his response to Mr. Christiano on Tuesday, August 10th but has not heard back from him as of the board meeting. The Board requested the additional costs the contractor incurred as a result of the relocation of the waterline before they can make a decision.

DISH NETWORK REQUEST FOR INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT ON KNOLLTOP WATER STORAGE TANK

Mr. Austin has not received anything from DISH Network since last month's meeting.

VERIZON REQUEST FOR EQUIPMENT MODIFICATION AT KNOLLTOP WATER STORAGE TANK

Verizon went back to engineering and they figured out a way to mount the new equipment without any additional attachments to the tank surface. They will instead install a stand-off that will attach to their existing bracket that is already attached to the tank. This can be done without any additional welding on the tank. Mr. Austin is agreeable to this change. He sent this information to C.T. Male for review and approval.

NEW BUSINESS

REIMBURSEMENT TO TOWN FOR CARLTON ROAD REPAIR

A **motion** was made by Mr. Butler authorizing reimbursement for the Carlton Road repair; seconded by Mr. Taubkin.

RESOLUTION #17, 2021 – AUTHORIZE REIMBURSEMENT FOR CARLTON ROAD REPAIR

WHEREAS, the Clifton Park Water Authority (CPWA) had a water main break on Carlton Road in Clifton Park on June 11, 2021, and

WHEREAS, the water main break caused significant damage to the paved roadway on Carlton Road, and

WHEREAS, the Town of Clifton Park Highway Department hired a contractor to reconstruct that portion of Carlton Road including additional improvements to the road construction, and

WHEREAS, the Town of Clifton Park Highway Department requests that the CPWA reimburse 50 percent of the cost of the road reconstruction and,

WHEREAS, the CPWA Board of Directors and the CPWA Administrator agree that the reimbursement request is fair restitution for the damage caused by the water main break, now therefore be it

RESOLVED, that the CPWA Board of Directors hereby authorizes reimbursement to the Town of Clifton Park Highway Department in the amount of \$20,790.12, which represents 50 percent of the total amount billed by the contractor to the Highway Department for reconstruction of the portion of Carlton Road damaged by the water main break on June 11, 2021.

Roll Call Vote:

Mr. Gerstenberger	- Aye
Mr. Ryan	- Absent
Mr. Taubkin	- Aye
Mr. Butler	- Aye
Ms. Osborne	- Absent

OTHER BUSINESS

- Mr. Austin is compiling a list of engineering firms to send out the Request for Qualifications to. He is going to call around to some of the local, larger water systems to see who they are using and whether they are happy with them. Mr. Austin will resend the email with the RFQ to the Board for review.

APPROVE MINUTES OF JULY 21, 2021

A **motion** was made by Mr. Gerstenberger to approve the minutes of July 21, 2021; seconded by Mr. Taubkin. The **motion** carried 3-0, 2 absent.

The CPWA's next board meeting is scheduled for September 15, 2021 at 7pm.

A **motion** was made by Mr. Gerstenberger to adjourn the meeting at 8:13pm; seconded by Mr. Butler. The **motion** carried 3-0, 2 absent.

Respectfully submitted,

Sheri Collins

Recording Secretary

cc: CPWA Board of Directors
Trainor Law PLLC

WATER PURCHASE AND SALE AGREEMENT

BETWEEN

SARATOGA COUNTY WATER AUTHORITY

AND

CLIFTON PARK WATER AUTHORITY

2021

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This Agreement, dated as of September 2, 2021 ("Effective Date"), between the **Saratoga County Water Authority**, a public benefit corporation having its place of business at 260 Butler Road, Fort Edward, New York 12828 ("SCWA") and the **Clifton Park Water Authority** ("CPWA"), a public benefit corporation having offices at 661 Clifton Park Center Road, Clifton Park, NY 12065 ("CPWA").

WITNESSETH:

WHEREAS, SCWA operates a County-wide water system which obtains untreated water from the upper Hudson River at a location in the Town of Moreau, Saratoga County, treats the water at a water treatment plant to make it suitable for human consumption and transports it by means of a pipeline south through Saratoga County to deliver water to various locations in the County; and

WHEREAS, the water system (the "System") is capable of delivering potable water suitable for a public water system for purchase by municipal and other permissible users located within SCWA's approved service area; and

WHEREAS, the cost of water to municipal users is based on the costs of construction and the maintenance costs of the System, including debt service for funds borrowed for construction of the System; and

WHEREAS, the CPWA wishes to obtain a supply of potable water from SCWA;

NOW, THEREFORE, IN EXCHANGE FOR VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED TO BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. WATER PURCHASE AND TERM

A. Subject to the terms and conditions set forth herein, SCWA agrees to provide and CPWA agrees to purchase a minimum of 1,000,000 gallons per day (gpd) of potable water. In addition, SCWA agrees to provide up to 2,500,000 gpd during peak flow. CPWA is obligated to pay for the amount of water received or 1,000,000 gpd, whichever is greater.

B. Water volume purchased shall be calculated by measuring the mean average daily use during each calendar year and billing of such volume shall be in accordance with Paragraph 6.

C. This Agreement shall take effect as of the "Effective Date" set forth herein and shall extend for a period of ten (10) years from that date.

2. PURCHASE PRICE

A. SCWA shall charge a maximum price of \$2.322 per 1,000 gallons through December 31, 2020. Except as otherwise set forth in this Agreement, for the remainder of the term of this Agreement, the Maximum Price chargeable by SCWA each year shall be no greater than the Maximum Price chargeable in the previous year plus one and one half percent (1.5%).

B. The price shall never be more than that charged to any other Municipal user of the system.

C. In the event that SCWA expands or modifies its facilities or SCWA makes any other material change to either the System or its operations, SCWA may increase the applicable water rate sufficient to pay the cost of the required expansion or modification.

3. DELIVERY LOCATION

SCWA will deliver water to the CPWA via a suitable connection to SCWA's transmission main at a location agreed to by the parties.

4. METERING EQUIPMENT

All water furnished by SCWA to the CPWA pursuant to this Agreement shall be measured by a flow totalizer (meter) installed and furnished by the CPWA and owned and maintained by SCWA at the point of delivery. SCWA will not take ownership of such equipment before first approving the equipment and manner of installation. A bypass and flow port connections shall be provided for the meter to allow for calibration and maintenance. Flow ports shall be located upstream and downstream of the meter and allow for testing. The flow meter shall be located such that confined space access by SCWA personnel is not required, unless otherwise approved. The CPWA is responsible for installation, ownership and maintenance of a chlorine analyzer and pressure monitor to be located upstream of any chlorine or pressure boosting system and separate continuous flow meter along with a transmitter capable of sending and reporting this information on a continuous basis to the SCWA computer control system located at the water filtration plant. The system shall be capable of reporting water flow in gallons per minute (gpm) and the totalizer reading from the billing meter in addition to

pressure and free chlorine residual. The CPWA is responsible for the initial control upgrades located at the SCWA filtration plant required to receive and make the information available to SCWA personnel.

5. WATER RESALE

A. The CPWA is hereby authorized to resell water to end users only, provided that such water is offered for sale on the same terms as to the general public including at generally applicable and uniformly applied different rates offered to volume purchasers, provided the differences are customary and reasonable.

B. The CPWA is prohibited from reselling water to any wholesale purchaser without prior written consent of SCWA, which may be withheld for any reason except that in the event such resale is prompted by an emergency situation, such consent will not be unreasonably withheld, but may be conditioned. The Village of Round Lake is a pre-existing customer of the CPWA and is exempt from the prior written consent requirement contained in this paragraph.

C. Notwithstanding any other provision of this Agreement, in no event may the CPWA enter into any arrangement with a nongovernmental entity for the resale of water that would potentially impact the tax-exempt status of any obligations issued by SCWA, including, but not limited to, any arrangement that may constitute i) a "take contract", ii) a "take or pay contract" or iii) a "requirements contract" that is similar to a "take contract", "take or pay contract" or "wholesale requirement contract" as such terms are defined in Sections 1.141-7(b) and 1.141-7(c) of the Federal income tax regulations set forth in Title 26 of the Code of Federal

Regulations. Bond Counsel opinion shall be obtained to confirm that the potential arrangement for the resale of water by the CPWA would not violate this provision and the CPWA agrees to pay reasonable Bond Counsel fees and to provide all information and documentation necessary to procure such Bond Counsel opinion.

D. This Agreement shall not limit the rights the CPWA may otherwise have to sell water it obtains from sources other than SCWA.

6. BILLING

Once water purchase has begun pursuant to the terms set forth herein, SCWA will bill CPWA on a quarterly basis, as follows: on the 15th day of April (for January 1 through March 31), on the 15th of July (for April 1 through June 30), on the 15th of October (for July 1 through September 30), and on the 15th of January (for October 1 through December 31). Adjustments will be made to the final bill for the year (the January bill) to reflect the CPWA's obligation to pay the greater of the daily minimum purchase obligation then in effect multiplied by the number of days in the year or the actual volume of water received. CPWA shall pay all amounts within forty-five (45) days of the date of the bill. CPWA shall pay interest at the rate of one percent (1%) per month on amounts paid after said 45-day period. In the event that CPWA fails to pay any amount within ninety (90) days after the due date, SCWA reserves the right, upon prior written notice to CPWA, to terminate water service to CPWA until such time as any such past due amounts and related charges, including the service charge set forth in SCWA's Rules and Regulations, are paid in full. Such service charge shall not be imposed until the payment due date has passed. CPWA waives any requirement of

any other notice or any other preconditions or consents prior to termination. Upon CPWA's full payment of any past due amounts and related charges, SCWA shall promptly reestablish service to CPWA.

7. USE OF FUNDS

All money paid by the CPWA to SCWA for water hereunder shall be used exclusively for the operation, maintenance, repair, replacement, improvement and/or extension of SCWA's water System, including establishment and maintenance of a reserve fund for capital improvements and payment of indebtedness incurred for the construction and/or expansion of the System.

8. COMMENCEMENT OF PURCHASE OBLIGATION

CPWA's obligation to purchase water shall begin on the Effective Date of this Agreement.

9. AUTOMATIC RENEWAL

Upon expiration of the initial term of this Agreement, this Agreement will be deemed automatically renewed for one (1) year periods thereafter unless either party has provided written notice to the other of its intention to terminate. Notice of intention to terminate must be provided to the other party at least one (1) year in advance of the date that the Agreement is scheduled to terminate or, if terminated during a renewal period, at least three (3) months prior to the end of such period. Termination prior to expiration of the initial term of this Agreement requires mutual consent of the parties.

Termination of this Agreement during any renewal period may be done unilaterally by either party.

10. SERVICE INTERRUPTION

SCWA reserves the right to interrupt service if it deems it necessary to do so for purposes of testing, repairs, addressing water quality issues, investigating and/or addressing potential infrastructure problems and in emergency situations. In the case of scheduled repairs necessitating interruption in service, SCWA shall provide prior written notice to the CPWA of any such planned interruption and shall reasonably coordinate the scheduling thereof with the CPWA in order to minimize the impact of any such planned interruption on the CPWA's operations. SCWA shall endeavor to provide written notice to the CPWA of unplanned interruptions, such as in the case of an emergency, as soon after SCWA becomes aware of any need to interrupt service as is reasonable under the circumstances, which notice shall describe the nature and cause of the interruption and expected duration thereof. When an interruption is not planned and written notice is not feasible under the circumstances, SCWA shall provide verbal notice to the Administrator of the CPWA as soon and in whatever manner most practicable and will provide written notice as soon thereafter as may be feasible. In all cases, SCWA shall complete all work required to resume service as soon as possible so as to limit the duration of any such interruption to the maximum extent possible under the circumstances. In the event of an unplanned interruption of service, written notice provided by e-mail shall be effective when sent.

11. ASSIGNMENT

SCWA has the unilateral right to assign this Agreement to the County of Saratoga. CPWA has the unilateral right to assign this Agreement to the Town of Clifton Park. However, other than such assignments, neither party may assign this Agreement without the prior written consent of the other. Other than through express assignment to the County of Saratoga, in the event SCWA obligations are assumed by any municipal or governmental entity having legal authority to do so, such assumption shall not be deemed an assignment. This Agreement shall be binding upon the parties, their lawful successors and/or lawful assigns.

12. FORCE MAJEURE

A. No failure or delay in performance of this Agreement by either party shall be deemed to be a breach if such failure or delay is due to Force Majeure.

B. "Force Majeure" shall include any and all circumstances which are not within the control of the affected party and which circumstances such party is unable to prevent or overcome by the exercise of commercially reasonable due diligence which prevents or delays a party from performing its obligation hereunder. In no event shall economic hardship, the financial condition of either party, SCWA's ability to sell the water at a greater price than that specified in this Agreement and/or CPWA's ability to purchase water at a lower price than that specified in this Agreement constitute Force Majeure.

C. Under no circumstances shall the CPWA be excused from its obligation to make payments for potable water delivered to CPWA at the agreed-upon location prior to any interruption of service occasioned by Force Majeure.

D. In the event that a party is prevented or delayed in the performance of its obligations hereunder by reason of Force Majeure, such party shall promptly provide written notice to the other party of such Force Majeure event, shall remedy the Force Majeure as soon as possible if commercially reasonable to do so, and shall resume performance of its obligations hereunder immediately after conclusion of the Force Majeure event.

E. If SCWA fails to provide the minimum amount of water specified in Paragraph 1 (A) of this Agreement for fifteen (15) consecutive days or more due to a Force Majeure event, CPWA may immediately terminate this Agreement provided that CPWA gives SCWA ten (10) days' written notice of its intention to do so in order to provide SCWA the opportunity to cure any failure within said ten (10) day period. In the event CPWA experiences a Force Majeure event that impacts its infrastructure and its ability to receive water for a period of fifteen (15) consecutive days or more, SCWA may immediately terminate this Agreement provided that SCWA gives CPWA ten (10) days' written notice of its intention to do so in order to provide CPWA the opportunity to cure any failure within said ten (10) day period.

F. SCWA and CPWA shall not be required under this Agreement to take any actions to resolve a Force Majeure event if they deem remedying such event to not be in its financial best interests, in which case that Party shall provide written notice

to the other Party of its decision not to remedy within thirty (30) days of such Force Majeure event.

G. CPWA will be obligated to pay for all water received, however, CPWA's minimum purchase obligation set forth in Paragraph 1(A) of this Agreement will be prorated during any Force Majeure event. In the event SCWA cannot deliver water due to a Force Majeure event affecting CPWA or its infrastructure, SCWA's delivery obligation is likewise prorated during any such Force Majeure event.

13. LIABILITY LIMITATIONS

Under no circumstance shall SCWA or CPWA be responsible for the other party's lost revenues, profits or costs arising from or in any way relating to either party's breach of this Agreement, unless such claims arise from transmission by SCWA of non-potable, contaminated water. In no event shall SCWA or CPWA be liable for direct, consequential, incidental, punitive, exemplary or indirect damages, lost profits, lost revenues or other business interruption damages, by statute, in tort, contract, or otherwise in connection with their respective performance of or failure to perform this Agreement, except that this shall not apply to claims arising from transmission by SCWA of non-potable, contaminated water. SCWA shall not be responsible for and does not guarantee the supply of water sufficient or necessary for fire prevention or suppression and shall in no manner be held liable for any resulting damage or claimed damage. SCWA shall not be responsible for maintaining any particular water pressure, water volume or water quality, except as may be required elsewhere in this Agreement or by any applicable Federal or New York State statute or regulation. Notwithstanding

the foregoing, in the event of any party's gross negligence or willful misconduct, the other party's damages shall be limited to direct actual damages and shall not include incidental damages, consequential damages, third-party damages, liquidated damages, punitive damages or any other type of indirect damages. CPWA hereby acknowledges that SCWA's inability to deliver or process sufficient water to the CPWA as a result of a Force Majeure event as defined in this Agreement necessary to maintain and operate part or all of the System and SCWA's decision not to remedy due to a Force Majeure event shall not constitute gross negligence or willful misconduct on the part of SCWA. This provision shall control in the event of any conflict with any other provision of this Agreement.

14. APPROVAL CONTINGENCY

This Agreement and all actions to be undertaken in furtherance thereof are contingent upon SCWA and the CPWA obtaining and maintaining any and all regulatory approvals and real property rights and interests that are necessary to fully and lawfully perform hereunder. Notwithstanding failure to obtain or maintain any approvals, the CPWA shall be obligated to make payment for any water it actually receives from SCWA.

15. INSURANCE

SCWA and CPWA shall maintain in full force and effect Comprehensive General Liability in the amounts of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage including products and completed operations and Automobile Liability. Each party shall name the other as an additional insured.

A. The parties may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. Coverage must be on a follow-form basis. Coverage under such a policy shall be primary and non-contributory to CPWA and any others noted above and must be maintained for at least five (5) years after the expiration of this Agreement.

B. All certificates of insurance furnished by CPWA to SCWA shall include a waiver of subrogation in favor of SCWA and all policies of insurance in which SCWA is a named insured shall be primary and non-contributory to any other insurance providing coverage to SCWA.

16. PUBLIC AUTHORITIES LAW AND SCWA RULES

The parties each represent and warrant to the other that they have complied with all applicable requirements set forth at New York State Public Authorities Law Section 1199-aaa et seq. CPWA represents and warrants that the Town of Clifton Park Town Board has adopted the resolution specified in Public Authorities Law Section 1199-eee (20). CPWA further represents and warrants that it will comply with SCWA's Rules and Regulations and Cross-Control Rules and Regulations as well as all other applicable laws, rules and regulations. In the event of any conflict between the provisions of SCWA's Rules and Regulations and Cross-Control Rules and Regulations and the terms and conditions of this Agreement, the terms of this Agreement shall apply.

17. NO THIRD PARTY BENEFICIARIES

This Agreement is intended solely for the benefit of the parties hereto and nothing herein shall be construed to create any duty to or standard of care with reference to, or any liability to, any person or entity not a party hereto.

18. MUTUAL WORK PRODUCT

This Agreement is the mutual work product of the parties and shall not be construed against one party or the other as a result of the preparation, submission or other event of negotiation, drafting or execution hereof. Both parties have been represented by the attorneys of their own choosing in the drafting of this Agreement.

19. AGREEMENT AUTHORIZATION

By executing this Agreement, both parties represent that they have obtained all necessary approvals in order to make this Agreement binding and effective. Nothing contained in this Agreement shall be interpreted or be construed as SCWA agreeing to act in a manner that is inconsistent with its obligations under any pre-existing SCWA agreements. Nothing contained herein shall be construed to require SCWA or CPWA to take any action which violates any applicable law or regulation or any binding order, stipulation, judgment or decree of any Court or governmental authority of competent jurisdiction or other pre-existing and binding contractual or legal obligation and this Agreement shall be null and void to the extent it requires SCWA or CPWA to violate any of the foregoing. The CPWA and SCWA represent and warrant that neither is a party to any binding order, stipulation, judgment or decree of any Court or

governmental authority of competent jurisdiction or other pre-existing contractual or legal obligation that would prevent it from fulfilling its obligations under this Agreement.

20. DISPUTE RESOLUTION

The parties agree that any claim or controversy arising out of the application or interpretation of or relating to this Agreement shall first be referred in writing to a representative of each party for resolution. If such representatives are unable to resolve the dispute within fifteen (15) days after written notice thereof is provided or such other period as the parties may mutually agree to in writing, the parties may pursue any legal or equitable remedies that may be available.

21. GOVERNING LAW AND VENUE

Construction of this Agreement shall be governed by the laws of the State of New York. One or more waivers by either party of any provision or condition hereof shall not be construed as waiver of any subsequent breach of that same provision or condition or any subsequent breach of any other provision or condition. Any legal action arising from or relating in any way to the subject matter of this Agreement shall be maintained in New York State Supreme Court, Saratoga County, New York or, if the jurisdictional threshold of such Court is not met, then the appropriate Court located in Saratoga County.

22. NOTICES

Unless otherwise specified in this Agreement, notices shall be in writing and may be delivered by hand delivery, United States Mail or overnight courier service. Notices

shall be effective at the close of business on the day actually received, if received during business hours on a business day, and otherwise shall be effective at the close of business on the next business day. Notwithstanding the foregoing, any notices that are hand-delivered shall be effective upon delivery. A party may change its contact information below by providing notice in this manner.

Notices to SCWA shall be sent to:

Ed Hernandez, Executive Director
Saratoga County Water Authority
260 Butler Road
Gansevoort, NY 12831

Email: executivedirector@saratogacountywaterauthority.com

With a copy to:

Mark Schachner, Esq.
MILLER, MANNIX, SCHACHNER & HAFNER, LLC
49 Burlington Ave., 2nd Floor - PO Box 578
Round Lake, NY 12151

Email: mschachner@mmslaw.com

SCWA Contact in Case of Emergencies:

Ed Hernandez, Executive Director
(518) 761-2058

Notices to CPWA shall be sent to:

Donald J. Austin Jr., Administrator
Clifton Park Water Authority
661 Clifton Park Center Road
Clifton Park, NY 12065

Email: daustin@cpwa.org

With a copy to:

James P. Trainor, Esq.
TRAINOR LAW PLLC
2452 US Route 9, Suite 203
Malta, NY 12020

CPWA Contact in Case of Emergencies:

Donald J. Austin Jr., Administrator
(518) 383-1122

23. COMPLETE AGREEMENT

This Agreement reflects the final intent of the parties. Any purported modifications, rescissions or waivers will be effective only if in writing and signed on behalf of both parties with the same formalities used herein.

24. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all which taken together shall constitute one instrument.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed.

SARATOGA COUNTY WATER AUTHORITY

By: John Lawler _____ DATE
John Lawler, Chairman

CLIFTON PARK WATER AUTHORITY

By: _____ DATE
Helmut Gerstenberger, Chairman

