

Albemarle County
TMP # 07500-00-00-00100

Prepared by:
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**EXEMPTED FROM RECORDATION TAXES UNDER
SECTIONS 58.1-811.A.3 and 58.1-811E OF THE
CODE OF VIRGINIA, (1950), AS AMENDED**

FIRST AMENDMENT TO RAGGED MOUNTAIN DAM PROJECT AGREEMENT

This **FIRST AMENDMENT TO RAGGED MOUNTAIN DAM PROJECT AGREEMENT** (this “Amendment”) is made for purposes of identification on _____, 2023, by and between the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation (the “City”), Grantor and Grantee for indexing purposes; the **ALBEMARLE COUNTY SERVICE AUTHORITY**, a public body politic and corporate (“ACSA”), Grantor and Grantee for indexing purposes; and the **RIVANNA WATER AND SEWER AUTHORITY**, a public body politic and corporate (“RWSA”), Grantor and Grantee for indexing purposes.

WITNESSETH:

A. The City, ACSA, and RWSA (the “Parties”) entered into that certain Ragged Mountain Dam Project Agreement dated January 1, 2012, recorded in the Clerk’s Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 4124, page 697 (the “Project Agreement”) regarding the construction by RWSA of the New Ragged Mountain Dam, the expansion of the Ragged Mountain Reservoir, the South Rivanna Reservoir to Ragged Mountain Reservoir Pipeline (the “SRR-RMR Pipeline”), and other improvements necessary thereto, each as individually described in the Project Agreement and collectively referred to therein as the “Project,” for the purposes of replacing the existing dams at the Ragged Mountain Reservoir and increasing the pool elevation of the Ragged Mountain Reservoir to increase the safe yield of the Urban Water System (as the Urban Water System is defined in the Project

Agreement). The Urban Water System is sometimes also referred to as the “Urban Area Water System.” The Urban Area (the “Urban Area”) currently consists of all of the City and designated portions of the County that are served by public water that has been treated at one of the following three water treatment plants owned and operated by RWSA: the Observatory Water Treatment Plant, the South Rivanna Water Treatment Plant, or the North Rivanna Water Treatment Plant (collectively, the “Urban Area Water System Plants”). Other areas within the County that are served by public water that is not treated at one of the Urban Area Water System Plants (such as areas in Crozet, Red Hill, and Scottsville, each of which are served by other water treatment plants owned and operated by RWSA) are not part of the Urban Area as that term is referred to in Section 7.2 of the Four Party Agreement, and as that term is used in this First Amendment.

B. Construction of the New Ragged Mountain Dam was completed in 2014, and initial filling of the expanded Ragged Mountain Reservoir to the Initial Pool Level of Six Hundred Seventy-One (671) feet above mean sea level (the “Initial Pool Level”) was completed in 2016 (hereinafter such current operating pool level at the Initial Pool Level shall be referred to herein as the “Existing Reservoir Pool Level”). The route for the SRR-RMR Pipeline has been established, and acquisition of easements necessary for construction of the SRR-RMR Pipeline have been secured. Design and construction of the SRR-RMR Pipeline is scheduled to be completed between 2023 and 2030, or as funding permits.

C. Paragraph 3 of the Project Agreement provides that the normal operating reservoir pool level of the expanded Ragged Mountain Reservoir shall be limited to the Existing Reservoir Pool Level when initially constructed, and shall only be increased to the Additional Pool Level of Six Hundred Eighty-Three (683) feet above mean sea level (the “Additional Pool Level”) when water projections and surveys conducted pursuant to the methods described in paragraph 3 of the Project Agreement demonstrate that the Urban Area water demand is ten (10) years away from reaching Eighty-Five Percent (85%) of the available water capacity (the

“Capacity Threshold”). Paragraph 3 of the Project Agreement further provides that when the Capacity Threshold is reached, that RWSA, upon the written request of either ACSA or the City, shall modify the intake tower and remove trees and other vegetation necessary to allow the New Ragged Mountain Dam to impound and support a reservoir pool to the Additional Pool Level (the “Reservoir Modifications”), and RWSA shall raise the Existing Reservoir Pool Level by twelve (12) feet to the Additional Pool Level.

D. In the intervening years since the Project Agreement was executed in 2012, the Parties have determined that due to the current and projected future effects of a changing climate, including more frequent and severe storms, more severe and longer periods of drought, more frequent and severe heat waves, and the need to improve the resiliency and reliability of the Urban Area Water System to ensure that necessary infrastructure is in place to provide sufficient water storage and water treatment to increase the available safe water supply yield to meet the future demand for water in the Urban Area, that it is in the community’s best interest to have more water storage capacity in the Ragged Mountain Reservoir, and to raise the Existing Reservoir Pool Level to the Additional Pool Level even if the Capacity Threshold has not been met, and even if the SRR-RMR Pipeline has not been started or substantially completed.

E. As such, the Parties desire to amend the Project Agreement to remove the restriction on raising the Existing Reservoir Pool Level to the Additional Pool Level until the Capacity Threshold has been met, to permit RWSA to carry out the Reservoir Modifications at any time following full execution of this Amendment, and to commence raising the Existing Reservoir Pool Level to the Additional Pool Level.

F. Capitalized terms not expressly defined herein shall have the meanings set forth in the Project Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of the premises, the cost allocations and other expense reimbursements set forth in the Cost Allocation Agreement (as the Cost Allocation

Agreement is defined in the Project Agreement), and other good and valuable consideration, the receipt of all which is hereby expressly acknowledged, the Parties hereby agree as follows:

1. Paragraph 3 of the Project Agreement is hereby amended to delete the last sentence of Paragraph 3 in its entirety.

2. Notwithstanding any other provision in the Project Agreement to the contrary, any conditions limiting, or any references to limitations on raising the Existing Reservoir Pool Level to the Additional Pool Level (including such references in Paragraph 1(a), 1(c), and (1(f), and Paragraph 2) are hereby deleted and shall be disregarded.

3. Upon the written request of either ACSA or the City, and without further authorization or approval from the other party, RWSA may commence and carry out the Reservoir Modifications at any time.

4. Following substantial completion of the Reservoir Modifications, RWSA may commence increasing the Existing Reservoir Pool Level to the Additional Pool Level, even if the SRR-RMR Pipeline and related elements of the Project have not yet started or been substantially completed. RWSA estimates that the Reservoir Modifications will commence approximately one (1) year following full execution of this Amendment, and thereafter take approximately one (1) additional year to complete.

5. Prior to the completion and operation of the SRR-RMR Pipeline and related elements of the Project, RWSA will utilize the Sugar Hollow Reservoir and the existing pipeline connecting the Sugar Hollow Reservoir to the Ragged Mountain Reservoir to raise the Existing Reservoir Pool Level to the Additional Pool Level only (i) when water inflow to the Sugar Hollow Reservoir is measured at or greater than thirty (30) million gallons per day, or as otherwise required by any permit issued to RWSA by the Virginia Department of Environmental Quality ("DEQ"); (ii) when the water level in the Ragged Mountain Reservoir falls below the Existing Reservoir Pool Level; or (iii) during any emergency situation, such as, but not limited to, drought, or damage to or contamination of the South Rivanna Reservoir or the Ragged Mountain Reservoir. Upon

completion and operation of the SRR-RMR Pipeline and related elements of the Project, if the Existing Reservoir Pool Level has not yet been fully raised to the Additional Pool Level, further work to raise the Existing Reservoir Pool Level to the Additional Pool Level shall utilize the SRR-RMR Pipeline and related elements of the Project, and use of the Sugar Hollow Reservoir for purposes of filling the Ragged Mountain Reservoir shall cease.

6. This Amendment shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns.

7. The Project Agreement is hereby amended to the extent necessary to give effect to this Amendment, and the terms of this Amendment shall supersede any contrary terms in the Project Agreement. All references in the Project Agreement to “this Agreement” shall be deemed to refer to the Project Agreement as amended hereby. In all other respects, the terms and conditions of the Project Agreement remain unmodified and are hereby ratified and confirmed by the Parties.

IN WITNESS WHEREOF, the duly authorized officers of the City of Charlottesville, Virginia, the Albemarle County Service Authority, and the Rivanna Water and Sewer Authority have executed this Amendment as of the date first above written.

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

*[SIGNATURE PAGE 1 of 3 OF FIRST
AMENDMENT TO RAGGED MOUNTAIN DAM PROJECT AGREEMENT]*

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Samuel Sanders, Jr., City Manager

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing instrument was acknowledged by me this _____ day of _____, 2023, by Samuel Sanders, Jr., City Manager of the City of Charlottesville, Virginia.

Notary Public

Registration No.: _____

My Commission expires: _____

APPROVED AS TO FORM:

Jacob Stroman, City Attorney

*[SIGNATURE PAGE 2 OF 3 OF FIRST
AMENDMENT TO RAGGED MOUNTAIN DAM PROJECT AGREEMENT]*

ALBEMARLE COUNTY SERVICE AUTHORITY

By: _____
Gary B. O'Connell, Executive Director

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing instrument was acknowledged by me this _____ day of _____, 2023, by Gary B. O'Connell as Executive Director of the Albemarle County Service Authority.

Notary Public

Registration No.: _____

My Commission expires: _____

*[SIGNATURE PAGE 3 OF 3 OF FIRST
AMENDMENT TO RAGGED MOUNTAIN DAM PROJECT AGREEMENT]*

RIVANNA WATER AND SEWER AUTHORITY

By: _____
William I. Mawyer, Jr. P.E., Executive Director

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing instrument was acknowledged by me this _____ day of _____, 2023, by William I. Mawyer, Jr. P.E. as Executive Director of the Rivanna Water and Sewer Authority.

Notary Public

Registration No.: _____

My Commission expires: _____