

## SECOND AMENDMENT TO WATER SERVICE AREA AGREEMENT

This Second Amendment to Water Service Area Agreement (the "Second Amendment"), made and entered into this 5<sup>th</sup> day of MAY, 2005, by and between the Board of County Commissioners of Frederick County, a body politic and corporate of the State of Maryland (hereinafter, the "County") and the Town of New Market, Maryland, a body politic and corporate of the State of Maryland (hereinafter, the "Town").

### RECITALS

WHEREAS, the County and the Town entered into that certain Water Service Area Agreement, dated April 29, 2003, and the corresponding First Amendment to Water Service Agreement, dated November 25, 2003 (together, the "WSAA"), for the purpose of obtaining a County water supply for the properties located within the municipal boundary of the Town (hereinafter, "Town Property");

WHEREAS, pursuant to the terms of the WSAA, to date, the County has agreed to provide 500 water taps from the County water system to provide public water service to Town Property;

WHEREAS, pursuant to the terms of the WSAA, each property the Town authorizes to connect to the water system must have a corresponding sewer capacity allocation from the County;

WHEREAS, the WSAA contemplates that the County and the Town will amend the WSAA, as may be necessary from time to time, to provide water service to additional areas that become Town Property by way of annexation;

WHEREAS, on April 14, 2004, the Town enacted Resolution No. 03-01, which became effective on May 29, 2004, annexing certain property (the "Annexed Property") into the Town of New Market;

WHEREAS, prior to its annexation into the Town, the owner of the "Annexed Property" had entered into multi-year tap agreements with the County to serve the Annexed Property and other properties which were not annexed into the Town; and

WHEREAS, 100 sewer taps and 56 water taps remain available under the multi-year tap agreements;

WHEREAS, the County has agreed that following termination of those multi-year tap agreements, taps remaining under the water and sewer multi-year tap agreements may be transferred to the Town, and County has agreed to provide 44 additional water taps to complement the sewer taps reserved under the prior MYTA; and

WHEREAS, the Town desires that an additional 20 water and sewer taps be provided to it for future use within the Town; and

WHEREAS, the Town has requested, and the County has agreed, that the WSAA be amended to provide for an increased allocation of water taps for the benefit of the Town; and

NOW THEREFORE, the parties have agreed to amend, modify and supplement the WSAA as more particularly hereinafter set forth:

1. a.) The Town and County agree to provide for use within the Town, by transfer from existing multi-year tap agreements between the County and Seawright Corporation, 56 water taps and 100 sewer taps.

b.) The County agrees to provide to the Town an additional 44 water taps to equalize the water and sewer taps at 100 each.

c.) The Town has requested, and the County agrees, to provide an additional 20 water and 20 sewer taps for use within the Town.

2. All the taps specified in paragraph 1, totaling 120 water and 120 sewer taps, shall be allocated to the Town upon execution of this agreement and separate agreements between the County and Seawright Corporation terminating its multi-year tap agreements.

3. The taps to be provided under this Second Amendment shall be collectively referred to as "Additional Taps" and are intended to supplement the Initial Allocation made under the WSAA.

4. The parties hereto acknowledge and agree that the special provisions set forth in Paragraph 9 of the WSAA are not applicable as to the Additional Taps allocated hereunder, and the use of taps allocated under this Second Amendment is therefore not dependent on satisfaction of the contingencies set forth in paragraph 9 of the WSAA, but is subject to the conditions in this Second Amendment.

5. The completion of the construction of a water line to connect the existing County owned Woodspring Water System to the existing water line(s) within the Town (hereinafter "Woodspring Interconnection") is a prerequisite to the use of all of the water taps and sewer taps referenced in paragraph 1 above to be provided under this Second Amendment. However, 25 of the water and sewer taps provided under this Second Amendment may be used following the construction of a portion of the Woodspring Interconnection from the Woodspring Water System located east of Route 75 to the annexed property. The Town and County agree that the owner of the "Annexed Property" shall design and construct, in accordance with all applicable rules and regulations, this "Woodspring Interconnection."

6. All taps provided to the Town under this Second Amendment shall be purchased pursuant to the terms of the WSAA and this Second Amendment, and within 10 years of the date of this Second Amendment. At the expiration of the 10-year period, the allocation under this

agreement shall be null and void, and the County shall have no obligation to reserve or provide the taps not purchased.

7. The recitals set forth above are incorporated herein by reference and are made a material part of this of this Second Amendment.

8. All capitalized terms shall have the meanings set forth in the WSAA unless otherwise defined in this Second Amendment.

9. This Second Amendment contains the entire understanding of the parties and no amendments or modifications hereto shall be effective unless in writing signed by both parties. In the event of any conflict between the terms of this Second Amendment and any provisions of the WSAA, the terms of this Second Amendment shall control.

10. Except as modified in this Second Amendment, all other terms and conditions of the Agreement are reaffirmed and remain in full force and effect.


11. This Second Amendment may be executed in counterparts, which, when taken in their entirety, shall constitute one original.


WITNESS the execution of this Second Amendment, as of the day and year first above written.

[SIGNATURES FOLLOW ON NEXT PAGE]

WITNESS/ATTEST:

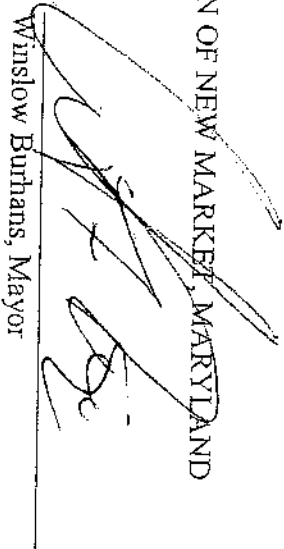
BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
Ms 5/9/05

By:   
John L. Thompson, Jr., President (SEAL)

TOWN OF NEW MARKET, MARYLAND

  
By:

  
Winslow Burhans, Mayor (SEAL)