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**INTERLOCAL AGREEMENT REGARDING
REGIONAL SEWER INTERCONNECT BETWEEN THE CITY OF MOUNT HOLLY AND
THE CITY OF CHARLOTTE**

This **INTERLOCAL AGREEMENT** (the "Agreement") is made and entered into and deemed effective as of the 27 day of August, 2018, by and between the City of Mount Holly (referred to herein as "MH") and the City of Charlotte (referred to herein as "CLT"), each a "Party," (or collectively the "Parties"), and each a duly incorporated municipality under the laws of the State of North Carolina.

I.

BACKGROUND AND PURPOSE

WHEREAS, the purpose of this Agreement is to eliminate the treatment and discharge from the MH System into the Catawba River and to provide for the treatment of MH wastewater by CLT thereby creating a regional wastewater treatment interconnect.

WHEREAS, CLT owns and operates the Long Creek Pump Station ("LCPS") and appurtenant pipes and facilities in Mecklenburg County, North Carolina and desires to design and construct a new regional wastewater treatment facility near the confluence of Long Creek and the Catawba River (the "Long Creek WWTP" or "New Plant") and make other renovations and improvements to the CLT System to provide wastewater treatment capacity for multiple jurisdictions in western Mecklenburg County and eastern Gaston County and maintain water quality protection for Lake Wylie (the "LC Facilities Expansion Project" or the "Regional Project");

WHEREAS, pursuant to a Purchase and Sale Agreement dated on or about May 13, 2013, CLT purchased approximately one hundred eighty (180) acres of real property in Mecklenburg County from Clariant Corporation, and 90% of the permitted Nitrogen and Phosphorous allocations in Clariant's NPDES permit to prepare for the construction of the LC Facilities Expansion Project;

WHEREAS, MH owns and operates a wastewater treatment plant (the "MH WWTP") together with appurtenant pipes and facilities in Gaston County, North Carolina (collectively the "MH System") that is in need of renovation, expansion and/or replacement to meet the needs of MH's customers and remain in regulatory compliance;

WHEREAS, pursuant to a Memorandum of Agreement between the Parties dated January 14, 2013, (the "MOA") the Parties agreed it is in their mutual interest to pursue cooperatively the construction of the Regional Project hereinafter defined;

WHEREAS, pursuant to the MOA and as consideration for the collaboration on the design and construction of the Regional Project, CLT agrees to provide MH with four (4) MGD upgraded treatment capacity at one or more of CLT treatment plants at no capital cost to MH other than as provided for herein and MH agrees to transfer to CLT at no cost the nutrient discharge allocation into Lake Wylie currently assigned to MH and thereafter close and decommission the MH WWTP;

WHEREAS, in accordance with the provisions of the MOA, and pursuant to the authority under Article 16 of Chapter 160A of North Carolina General Statutes related to Public Enterprises and under Article 20 thereof related to Interlocal Cooperation, the Parties desire to enter into this Interlocal Agreement to set forth the terms and conditions upon which CLT and MH will cooperate to develop, design, construct and operate the Regional Project so the Parties may obtain the benefits associated therewith.

NOW THEREFORE, in consideration of the foregoing recitals and mutual covenants contained herein, the Parties hereto agree as follows:

AGREEMENT

II. DEFINITIONS

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

- A. "Agreement" means this Interlocal Agreement Regarding Regional Sewer Interconnect between MH and CLT.
- B. "Bid Documents" means the plans and specifications, together with all contract documents and bid instructions, relating to construction of each component of the Project.
- C. "Billing Period" means the period between periodic billings to MH for wastewater treatment on an every thirty (30) day cycle or as determined by CLT in its reasonable discretion.
- D. "CLT" means the City of Charlotte, North Carolina, and includes Charlotte Water, and the Director of Charlotte Water.

- E. "CLT Component" means a portion of the Regional Project consisting of the New Plant, a renovated, expanded and/or relocated Long Creek Pump Station, CLT Force Main connecting said Pump Station to the New Plant, CLT Equalization Basins, the secondary MH Force Main, and appurtenances and related lines, all to be located on property owned or controlled by CLT, all of which to be constructed, owned and operated by CLT in conjunction with the Regional Project.
- F. "CLT Permit" means the NPDES Permit No. NC0089630 for the discharge of treated wastewater into the Catawba River.
- G. "CLT System" means the facilities, equipment and appurtenances owned by CLT, related to its sewer utility system, including future additions and expansions thereof.
- H. "Contracts" means the contracts, permits, approvals, and licenses relating to or arising out of the acquisition, construction and operation of the Project.
- I. "Effective Date" means the last date of execution of this Agreement by the Parties; provided all of the Parties must execute this Agreement for it to be effective.
- J. "Long Creek Pump Station" or "LCPS" means the pump station structure and related facilities, equipment and appurtenances owned by CLT at or near the future Long Creek Wastewater Treatment Plant, including additions and expansions thereof.
- K. "MGD" means million gallons per day.
- L. "MH" means the City of Mount Holly, North Carolina, and includes the sewer department and the Director of this department.
- M. "MH Component" includes a Pump Station, Flow Equalization Basin, Discharge Meter and Metering Facilities, a primary Force Main, and property transfer and/or easements, appurtenances, and related lines, all to be located on property belonging to MH or under the Catawba River, all of which to be constructed, owned, maintained, and operated by CLT in connection with the Regional Project.
- N. "MH Flow Equalization Basin" means a basin that is part of the MH Component and will hold MH wastewater or a portion thereof until such wastewater can be pumped through the MH Pump Station into its Force Main. The MH Flow Equalization Basin will have a design capacity that is sufficient to: permit MH to operate and maintain its wastewater collection system under all normal foreseeable conditions; and permit the operation of the MH Pump Station in accordance with the provisions of this Agreement and such operating agreements as the Parties may approve. The terms under which said basin will be designed, constructed, re-constructed, expanded or subjected to any substantial repair will be approved by CLT, such approval not to be withheld or delayed unreasonably. Without limiting the foregoing, it is expressly understood that said basin may include or otherwise incorporate all or any portion of one or more existing facilities that are suitable for use as part of said basin.

E.A.M.

- O. "MH Force Main" means two (2) force mains that will transport MH wastewater from the MH Pump Station under the Catawba River to the CLT System. Each MH Force Main will have a design capacity of at least twelve (12) MGD. The Parties agree that there shall be two force mains constructed of equal design capacity under the Catawba River, one (1) primary and one (1) secondary, to provide flow in case the initial force main shall fail or shall undergo routine repair or maintenance. The primary force main will be considered part of the MH Component cost with the secondary force main a part of the CLT Component cost.
- P. "MH Permit" means the NPDES Permit No. NC0021156 for the discharge of treated wastewater into the Catawba River.
- Q. "MH Pump Station" means a pump station, with a design capacity of twelve (12) MGD, that will pump wastewater from MH into the MH Force Main.
- R. "MH Purchased Treatment Capacity" means the maximum quantity of wastewater which MH is authorized to pump at the O & M Rate into the MH Force Main in accordance with the terms of this Agreement during a Billing Period (stated in terms of gallons of wastewater, expressed as a daily average and calculated over the course of a Billing Period) for transport to and treatment (including without limitation disposal of by-products of the treatment process) in the CLT System. The MH Purchased Treatment Capacity on the Effective Date of this Agreement is four (4) MGD and is subject to increase in accordance with the provision of Section IX of this Agreement up to the MH Maximum Treatment Allocation (6 MGD) with potential for future additional increases in accordance with the provisions of Section IX.E.
- S. "MH Wastewater Discharge" means the total amount of wastewater pumped by MH into the MH Force Main during any specified period of time. No reduction or other adjustment will be made for ground water, rain water or water from any other source which enters the MH wastewater collection system in any manner and is discharged into the MH Force Main.
- T. "MH System" means the facilities, equipment and appurtenances owned by MH, related to its sewer utility system, including future additions and expansions thereof.
- U. "MH WWTP" means the wastewater treatment plant owned and operated by MH.
- V. "New Plant" means a wastewater treatment plant known as Long Creek Wastewater Treatment Plant, to be designed and constructed by CLT in Mecklenburg County at or near the confluence of Long Creek and the Catawba River.
- W. "New Plant Costs" means the total of all reasonable costs incurred by CLT in undertaking a study, design and/or construction of the New Plant, including costs of engineering services, design, construction, permits, property and right of way acquisition costs, but not including MH Component costs.

- X. "New Plant Expansion" means a substantial expansion, improvement or other modification to the New Plant, as either desired or requested by either Party, or as necessitated by applicable regulatory requirements.
- Y. "New Plant Expansion Costs" means the costs incurred by CLT in any substantial expansion, improvement or other modification to the New Plant, including costs of an engineering study, design, construction, permits, property and right of way acquisition costs.
- Z. "New Plant Treatment Capacity" means the MGD of capacity CLT will be permitted to treat at the New Plant under applicable State and Federal law at any point in time. For purposes of this Agreement, no NPDES permit that has not been accepted by CLT shall be considered. If no NPDES permit for the New Plant has been issued on the Effective Date of this Agreement then the anticipated initial Long Creek Treatment Capacity is fifteen (15) MGD.
- AA. Omitted on purpose.
- BB. "O & M Sewer Treatment Rate" means a charge per gallon for the treatment of wastewater, such charge being calculated within a reasonable time after the adoption by CLT's governing body of the annual budget for CLT and being equal to the quotient of the sum of the direct operating budgets of every wastewater treatment plant owned and/or operated by CLT included in said annual budget (which sum of direct operating budgets shall not include any capital cost of construction or expansion of any wastewater facilities related to the initial four (4) MGD of plant capacity used by MH) divided by the number of gallons of wastewater which are projected to be treated in wastewater treatment plants operated by CLT in the fiscal year covered by said annual budget. Notice of such Rate will be given by CLT to MH within thirty (30) calendar days after such Rate is calculated, however, failure to give 30 days' notice does not relieve MH's responsibility for the treatment cost under the applicable rate. New rates will typically be calculated for each new fiscal year.
- CC. "Party" or "Parties" means CLT and MH, individually or collectively, as applicable.
- DD. "Preliminary Engineering Report" means the study conducted by Black & Veatch Engineering Company for the purpose of evaluating among other things the feasibility and costs associated with the development of the wastewater interconnect between MH and CLT.
- EE. "Regional Project" means, collectively, a.) the CLT Component which includes the Long Creek Facilities Expansion Project, a renovated/expanded/relocated Long Creek Pump Station, Force Main, Equalization Basin, a new Long Creek Wastewater Treatment Plant; and b.) the Mount Holly Component which includes a Force Main, Pump Station, Flow Equalization Basin, Discharge Meter, and Metering Facilities.

FF. "TMDL" means Total Maximum Daily Limit.

GG. "Standard Sewer Treatment Rate" means the rate, exclusive of surcharge for exceeding nutrient limits of NPDES Permit, charged by CLT to sewer customers of CLT in Mecklenburg County. If more than one rate is established by CLT for sewer service to CLT customers within Mecklenburg County, the rate(s) for such service applicable to MH will be the same rate(s) for service provided to CLT commercial, sewer customers within the Long Creek basin in Mecklenburg County, except as otherwise expressly provided herein.

HH. "Sewer Use Ordinance" or "SUO" means the ordinance, as adopted (and amended from time to time) by the governing board of MH or CLT, whichever may apply, that governs wastewater discharge into the MH or CLT system, whichever may apply, which complies with applicable law and with this Agreement.

II. "Significant Industrial User" or "SIU" means any user of the Publically Owned Treatment Works (POTW) who:

- 1) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact cooling, and boiler blowdown wastewater; or
- 2) Contributes process wastewater which makes up five percent or more of the NPDES or non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and NH₃; or
- 3) Is required to meet a national categorical pretreatment standard; or
- 4) Is found by CLT, the Division of Environmental Quality or the Environmental Protection Agency to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- 5) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraphs (1) and (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.

- 6) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a non-significant categorical industrial user.
- 7) Subject to division approval under 15A NCAC .0907(b), the control authority may determine that an industrial user meeting the requirements of paragraph (3) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C) and 403.12(e)(3).

III. DEVELOPMENT OF THE PROJECT

A. Components and Description. The Regional Project consists of two primary components: the CLT Component and the MH Component. The Regional Project will be constructed in accordance with plans and specifications approved by both Parties consistent with the outline specifications generally described and illustrated in that Preliminary Engineering Report by Black & Veatch Engineering Company incorporated herein by reference.

B. Design and Construction of the Project. CLT shall take any and all actions necessary or useful to design and construct the Regional Project. The Parties agree to cooperate so that the work can be performed consistent with the terms and conditions described herein and otherwise in accordance with the terms and conditions of such construction plans and specifications hereafter prepared for and approved by the Parties (the "Approved Plans and Construction Documents"). In addition, the Parties agree to follow all state and federal requirements so that MH's cost of the MH Component and MH's cost of decommissioning its wastewater plant qualify for funding through the North Carolina Clean Water State Revolving Fund. CLT further agrees to use its best efforts to meet all milestones as outlined in the "Letter of Intent to Fund Wastewater Treatment Plant Regionalization Project April 2018 Application Cycle Project No.: CS370747-01 dated August 1, 2018" which is incorporated herein by reference.

C. General Ownership, Interests and Access Rights to Components of the Project. Upon completion of the MH Component, CLT shall own and be responsible for the operation and maintenance, including repairs and replacements necessitated by any cause, of all facilities associated with the CLT Component and the MH Component at CLT's sole cost without contribution or reimbursement from MH. MH will convey to CLT sufficient property, at no cost to CLT, upon which to construct, access, and maintain such portions of the MH Component as are located on the west bank of the Catawba River. In addition, CLT will acquire in CLT's name, sufficient easements under the Catawba River for the installation, maintenance, repair, and replacements of the MH Force Mains, the reasonable cost of which shall be included as part of the MH Component costs, subject to the limitations in Section IV.D below. The parties agree that the ownership and operation by CLT of the Regional Project, including the MH Component, creates a potential substantial liability of CLT for damages to persons and property which could result from any cause whatsoever, including, but not limited to, operational or equipment failures, breaches, vandalism, Acts of God, or sabotage. Such liability includes environmental contamination, health and safety risks, and property damage. CLT assumes any liability associated with ownership and operation of the Regional Project, including the MH Component, subject to any defenses it may have, including governmental immunity, which defenses CLT expressly does not waive herein.

IV. DESIGN OF THE PROJECT

A. Design, Engineering and Construction Management Service. Except as otherwise provided for in this Agreement, CLT agrees to procure and coordinate the professional engineering services, construction management services, and all permits, approvals, certificates of completion and certifications, necessary to design and construct the Regional Project (hereinafter the "Professional Services"). To the extent the design has not yet commenced as of the Effective Date, CLT agrees to use its best efforts to award a contract in accordance with applicable law to an engineer or design-build team acceptable to MH (the "Engineer or DB Team") for Professional Services for the design of the MH Component and such portions of the CLT Component necessary for MH to connect into CLT's system and begin discharging wastewater to CLT within nine (9) months of the Effective Date.

B. Project Design Approval. CLT will provide MH with copies of all work product produced by Engineer or DB Team. MH shall have the right to review and comment on the design plans associated with the MH Component during schematic design phase, the design development phase and the construction documents phase. CLT will have final approval of work product by the Engineer or DB team. Once approved, such final plans and specifications shall be the "Approved Plans and Construction Documents."

C. Construction Budget. CLT and MH further agree that as part of the Professional Services rendered by the Engineer or DB Team, the Engineer or DB Team will develop a detailed construction budget for the MH Component, taking into account all of the work contemplated by the Approved Plans and Construction Documents (the "Construction Budget"). The Construction Budget shall provide estimated construction costs associated with the MH Component.

CLT

D. Construction Estimate. Under the terms on the MOA, MH committed to an expenditure up to a maximum of \$14,000,000 for the MH Component, which included one (1) force main. The Parties have now agreed that there should be a second MH Force Main, which was not contemplated in the MOA. In addition, the Parties have now agreed upon how the costs of the MH Component above \$14,000,000, if any, will be paid. Therefore, the Parties agree to work collaboratively during the design phase to ensure the needs of the MH Component of the Project are met and also to maintain cost-effectiveness. If bids and/or final pricing from a DB Team for the MH Component nevertheless exceed \$14,000,000, CLT and MH agree to review the project scope to determine whether revisions can be made to reduce scope and keep the project within or below the targeted \$14,000,000 cost.

In the event that bids or final pricing from a DB team exceed \$14,000,000 for the MH Component, and the effort to reduce scope and cost is not successful, the parties agree to share the financial responsibility of cost in excess of \$14,000,000, up to a cost of \$15,400,000, according to the ratio of treatment capacity in the New Plant being allocated to each entity. Using this ratio (4 MGD/15 MGD), the MH cost share shall be 26.67% of any cost above \$14,000,000. The CLT cost share shall be 73.33% of any cost above \$14,000,000. The 26.67% MH cost share shall be limited to \$375,000 for actual cost above \$14,000,000 for the MH Component, as finally determined, exclusive of the cost of a second MH Force Main, which shall be bid as an alternate, and CLT shall pay the balance of the costs of the MH Component up to a cost of \$1,025,000, exclusive of the cost of a second MH Force Main. CLT shall also pay the cost of the second MH Force Main as part of the CLT Component costs.

E. Cost of Design. Except as otherwise provided herein, CLT will advance and be responsible to pay the cost of the Professional Services relating to the Project, subject to its right to reimbursement from MH for a portion of such costs related to the MH Component. Professional Services relating to the MH Component, including but not limited to engineering, design and architectural, geotechnical investigations, and surveying, shall be deemed part of the costs of construction of the MH Component and subject to the limitation of financial responsibility of MH as outlined in Section IV.D above.

F. Omitted on purpose.

G. Retention of Design Accounting Records. CLT shall keep or supervise the keeping of complete records of all receipts and all disbursements and all other materials necessary to show the financial condition of the Design Budget. In connection with this information, CLT will distribute to MH such periodic financial reports regarding the MH Component as CLT may receive or prepare from time to time. Copies of any and all agreements made by CLT shall be maintained together with the financial records. All of these documents may be inspected by MH upon request.

RAM

H. Changes in Design. Without invalidating this Agreement, the Parties may agree to add services to the Engineer's or DB Team's contract. Payment for any such additional services shall be the responsibility of the Party that requires the additional service. If the service applies to and benefits both Parties equally, payment for the additional services shall be allocated equitably between the Parties or as otherwise agreed upon.

V.
CONSTRUCTION OF THE MH COMPONENT

A. General. All physical facilities to be constructed or acquired as part of the Regional Project, including the MH Component, shall be constructed by CLT. The Parties agree that it is their mutual intent that the construction proceed and be completed as expeditiously as possible. Accordingly, CLT may elect to pursue alternative project construction methodology for purposes of expediting completion of the Project, such as Design Build ("DB") or Construction Manager at Risk ("CMAR"). If the MH Component shall be constructed under a contract separate from the Regional Project contract, then MH may elect to have CLT proceed with the selected construction methodology unless this method shall not be deemed to be cost effective.

B. Award of MH Component Construction Contract. CLT, itself or through the actions of an alternate delivery construction method, will solicit bids for the construction of the MH Component, including all of the labor, materials and services necessary to execute the work associated with the Approved Plans and Construction Documents, and award the contract for said work ("Contract") to a qualified contractor or contractors ("Contractor") in accordance with applicable law. Before awarding any contract, CLT must notify MH of all bid amounts for MH Components. CLT will not award a contract for MH Components without MH approval, which approval shall not be unreasonably withheld, and given within thirty (30) days of notification.

C. Conditions of Bid Documents and Contract. The Bid Documents shall provide that the contract between CLT and the Contractor shall be substantially in the form of a standard industry (i.e. EJCDC, AIA, or DBIA) documents as determined by CLT. In addition, the Bid Documents relating to the MH Component must include the following requirement related to the construction of the MH Component:

1. Each contractor bidding on the Regional Project must segregate all bid costs related to each component of the Regional Project, so CLT's and MH's cost for their respective component may be calculated;
2. MH shall be named as an additional insured on the contractors' insurance policies;
3. MH shall be named as an additional beneficiary under the contractor's performance and payment bonds. In the event a surety will not agree to this condition, then the Parties acknowledge that CLT may secure performance and payment bonds under which CLT is the only designated beneficiary; and

4. MH shall be named as a third party beneficiary under the contract for construction of the MH Component.

In the event the Parties do not agree upon the Bid Documents for the MH Component, CLT agrees it will not proceed with the MH Component until the Parties resolve the matter through the dispute resolution process set forth in this Agreement.

D. Construction Management Services. CLT shall provide or cause to be provided (a) construction management and contact administration services and (b) routine engineering inspection and payment verification services with respect to the design and construction elements of the MH Component in the same manner as it will provide such services in connection with the design and construction elements of the CLT Component.

E. CLT Obligation for Inspection. CLT agrees to use good faith and reasonable efforts to ensure that the MH Component is completed in accordance with the Approved Plans and Construction Documents and other requirements set forth in the Bid Documents (the "Contract Documents"). CLT will notify MH of any construction defects that come to its attention as soon as practicable and in no event later than five (5) calendar days (excluding CLT holidays) after obtaining knowledge of the defect.

F. MH Right of Inspection. MH shall have a reasonable right to access and inspect the Regional Project as construction progresses and CLT shall not interfere with such access or inspection by MH or its designated representative(s). In the event MH discovers any construction defect during an inspection of the Regional Project, MH shall promptly report any such defect to CLT.

G. CLT Payment Responsibilities for Construction. All construction contracts and other agreements relating to the construction of the Regional Project, including the MH Component, will contain provisions to the effect that CLT shall be the party responsible for making all payments of sums coming due thereunder. All pay requests shall specify the percentage of construction completed for the Project and CLT will ensure that each invoice for payment shall segregate costs and services related to each component of the Regional Project for proper allocation of costs between the Parties.

H. MH Rights of Review. Upon CLT's approval of each invoice for payment, CLT will transmit a copy of the invoice to MH accompanied by documentation accounting for the costs. If MH does not request additional information, or object to any invoice of costs related to MH Components within ten (10) business days of receipt thereof, such invoice shall be deemed reasonable and payable. Upon objection or requests for additional information, the Parties agree to work together to resolve any issues relating to any invoice, or failing that to submit to alternative dispute resolution as outlined in Section XIII below. Thereafter, CLT will promptly pay each undisputed invoice as they become due.

I. MH Payment Responsibilities for Construction. Except as otherwise agreed by the Parties in Section IV.D above, the payment obligation of MH for the MH Component shall not exceed Fourteen Million and 00/100s Dollars (\$14,000,000), and shall not include the costs of a second MH Force Main, which MH payment obligation will be financed by CLT at MH's election at the most favorable interest rate and other terms available at that time. Such payment shall be in accordance with the terms and conditions of such financing arrangements as are agreed upon between the Parties as shown in Exhibit A. Depending upon the payment terms established by the Parties, MH will transfer the appropriate amount of funds to CLT within the applicable time period.

J. Retention of Accounting Records for Construction. CLT shall keep or supervise the keeping of complete records of all receipts and all disbursements and all other materials necessary to show the financial condition of the construction budget. In connection with this information, CLT will distribute to MH such periodic financial reports regarding the MH Component as CLT may receive or prepare from time to time. Copies of any and all agreements made by CLT shall be maintained together with the financial records. All of these documents may be inspected by MH upon request.

K. Schedule. CLT shall commence the MH Component pursuant to Contract documents and the terms of this Agreement. The projected schedule for the MH Component shall be contained within the Contract documents.

L. Sequence of Construction. The construction of the MH Component will precede the construction of the New Plant and will be staged for completion as soon as possible based upon MH's notice, herein given, of its election to discharge all of its wastewater, up to four (4) MGD, into CLT's System. The rate charged by CLT to MH will be the O & M Sewer Treatment Rate. At such time as the conditions precedent in Section VII below have been completed, then MH will begin discharging its wastewater into CLT's System and MH shall decommission its wastewater plant without undue delay. The rate to be paid by MH under the provisions of this paragraph will be the same rate as would have been charged by CLT to MH as if the discharge were being treated in the New Plant. If MH should elect additional discharge in excess of four (4) MGD, prior to completion of the New Plant, then MH may request such additional Purchased Treatment Capacity under the terms and conditions of Section IX below. In the event MH should discharge in excess of Purchased Treatment Capacity, then such overage would be subject to the rate outlined in Section VIII.B below.

M. Construction Delay Damages. The Parties agree that under no circumstances will failure to complete the Project, including any or all portions of the MH Component so that the MH System is not fully operational by the agreed upon date or any other date established by the Parties, subject CLT to liability of any kind to MH or any other person or entity. The Parties further agree that MH shall have no interest in any damages (whether considered as compensatory, liquidated or any other classification) that are or may be collected by CLT from any Contractor constructing all or any portion of the Regional Project, including without limitation delay in the completion of all or any portion of the MH Component, except to the extent such delays negatively impact the MH Discharge Permit or cause MH to be subject to regulatory fines.

J & B W

N. Regulatory Fines/Penalties. CLT shall reimburse MH for any lawful fine and/or penalty assessed against MH by a governmental agency for a violation of applicable law under the following conditions:

1. A delay occurs in the completion of the MH Component that is caused by any act(s) and/or omission(s) by CLT, its employees, contractors, and/or officers which are negligent or a violation of applicable law or a violation of this Agreement; and
2. Such delay causes MH to violate any applicable law; and
3. MH took all actions necessary or convenient to avoid, and if avoidance was not reasonably possible, to minimize such violation. For purposes of this subsection, the only actions that MH is required to take are those that are reasonable and practical under the circumstances and which do not involve incurring an unreasonable expense or other liability.

O. Administration. CLT shall identify one or more of its employees to serve as the construction manager (the "CLT Project Manager") to: (i) act as CLT's representative, (ii) coordinate the work, (iii) facilitate communication with MH and others concerning the work, (iv) coordinate the work with all affected utility companies and agencies, and (v) to forward invoices to MH for review. MH shall identify an employee to act as its project manager (the "MH Project Manager") to (a) act as MH's representative, (b) make periodic inspections on behalf of MH to determine compliance of the work with contract documents, (c) serve as liaison between CLT and agencies of MH, and (d) review and approve invoices and make the periodic payments to CLT based upon approval of such approved invoices. The names and addresses of the initial Project Managers for the parties are as follows:

CLT Project Manager:	Nicole Bartlett Charlotte Water 5100 Brookshire Boulevard Charlotte, NC 28216 704.497.8801
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MH Project Manager:	Miles Braswell Mount Holly City Hall Mount Holly, NC 28120 704.951.3018
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P. Changes. Without invalidating this Agreement, CLT may order changes in the work, including the MH Component, pursuant to change orders with or change directives to its Contractor, subject, however, to approval by MH (acting through the MH Project Manager) of any proposed change that results in an increase in the amount payable to the Contractor on the MH Component. If MH does not request additional information, or object to the proposed change order or change directive within five (5) business days of receipt by the MH Project Manager of a request from CLT for review and approval, such change order or change directive shall be deemed reasonable and payable. Thereafter, the requisite paperwork will be executed and CLT will pay the increased amount under an invoice as it becomes due and the financial obligation of MH shall be increased in the same amount, subject to the limitation of financial responsibility of MH as outlined in Section IV.D above. If any such change results in an increase in the amount payable to the Contractor on account of the CLT Component, the payment obligation of CLT shall be increased in the same amount. CLT may, with notification to MH, order minor changes in the work that do not adversely affect the quality or design of the work and that do not require increases in the payment by MH.

MH's financial obligation shall also be increased to the extent that CLT incurs actual costs for (a) subsurface or otherwise concealed conditions which differ from those indicated in the Contract Documents at the unit prices specified therein, if applicable, or (b) unknown physical condition of an unusual nature which differ from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, subject to the limitation of financial responsibility of MH as outlined in Section IV.D above.

Q. Acceptance. Upon final completion of construction of the MH Component, and prior to acceptance and final payment of retainage to the MH Component contractor, CLT shall obtain certification from the Engineer that the MH Component has been fully completed in accordance with Contract Documents and any applicable change orders, and that the facilities have been tested and approved for use in accordance with the approved Contract Documents and as required by any and all regulatory agencies.

R. Contract Terms. Matters pertaining to Warranties, Records, Dispute or Litigation, Insurance and Risk Management will be as set forth in the applicable Contract Documents used by CLT relating to the MH Component.

VI.
**FUTURE PLANT IMPROVEMENTS
AND EMERGENCY REPAIRS**

A. General. The initial total capacity of the New Plant is currently projected to be fifteen (15) MGD, of which amount 4 MGD would be allocated to MH. Notwithstanding the foregoing, the actual capacity of the New Plant and the allocation of the facility capacity between the Parties may change by agreement of the Parties. CLT will keep MH informed of CLT's actions to modify the New Plant in order to substantially increase the treatment capacity of the New Plant and, upon request by MH, provide MH with information and documentation related thereto.

B. CLT Assume Lead for Expansions. Except as otherwise agreed upon by the Parties, CLT shall be responsible for design and construction of any expansions in which both CLT and MH participate. The design, construction and payment of such expansions shall proceed in accordance with the terms and conditions set forth in this Agreement under Sections IV, V, and IX.

C. Cooperation During Maintenance or Emergency. The Parties will cooperate during periods of an emergency or required maintenance of the New Plant and/or related facilities of the CLT System and, if necessary, CLT will discontinue, cycle, test, inspect or otherwise operate and maintain CLT's wastewater systems and the MH Component at CLT's expense in a manner necessary to the safe and efficient completion of repairs or the replacement of the Project's facilities, the restoration of service, and the protection of the public health, safety, and welfare of each of the Party's customers. CLT will use its best efforts to provide MH reasonable notice under the circumstance of the actions to be undertaken by CLT and cooperate to try to minimize inconvenience to MH and MH's customers.

VII.
**MH NUTRIENT TRANSFER, CLT ACCEPTANCE OF FLOW, AND
DECOMMISSIONING OF MH WWTP**

A. MH Nutrient Transfer.

1. In anticipation of this Agreement, the parties requested a permit modification to the MH Permit which will set forth conditions for the transfer of MH's permitted Nitrogen and Phosphorus Allocations ("Nutrient Allocation") to CLT, as set forth in the draft "Projected Nitrogen and Phosphorus Limits Lake Wylie Nutrients TMDL Catawba River Subwatershed" dated February 10, 2017 ("Draft TMDL"), incorporated herein by reference. This proposed permit modification supports the Nutrient Allocation transfer and requires the following:

- a. The daily limits for Total Nitrogen and Total Phosphorous set forth in MH's Permit include the transfer of Total Nitrogen and Total Phosphorous from the permit formerly held by Clariant Corporation ("Clariant Nutrient Allocation") now retained by CLT. The transfer of daily limits from CLT to MH as set forth in the Draft TMDL shall become effective upon a permit modification issued by the NC Department of Environmental Quality.
- b. MH has elected to discharge all of its wastewater into CLT's System prior to the completion of the New Plant in accordance with Section V.L above, therefore once all conditions for the nutrient transfer have been satisfied, MH shall transfer the entire Nutrient Allocation within its permit to CLT as CLT shall direct.

2. Once all conditions for the nutrient transfer have been satisfied, or at any other time agreed to by the Parties, MH at its sole expense shall take the steps reasonably necessary to fully and unconditionally undertake and complete the nutrient transfer and shall provide the North Carolina Department of Environmental Quality with a written notification as prescribed in the MH Permit authorizing the transfer to CLT of all nutrient allocations from the MH Permit. CLT agrees to cooperate with MH and reasonably assist MH in the completion of the Nutrient Transfer in a timely manner.

3. In consideration of the nutrient transfer and other mutual promises set forth herein, CLT agrees to provide to MH the MH Purchased Treatment Capacity of four (4) mgd, effective on the date when the nutrient transfer is completed and is not subject to further condition or contingency.

4. Each party shall use its best efforts to maintain and preserve the Nutrient Allocation for use by CLT in accordance with this Agreement and applicable law as reflected in the MH Permit and as transferred to CLT.

5. As a condition of the discharge of all of MH's wastewater into the CLT System and the Nutrient Allocation being fully transferred to CLT, MH must discontinue the treatment of wastewater at its wastewater plant. MH is also fully responsible for the closure and decommissioning of that wastewater plant. MH may request, and CLT may agree, to the extent permitted by applicable law, to finance MH's cost in decommissioning its wastewater plant at the most favorable interest rate and other terms available at that time, as shown in Exhibit A.

B. Conditions Precedent to Pump MH Wastewater into MH Force Main. Upon completion of the following, CLT shall take such actions without undue delay as are necessary to permit MH to discharge wastewater into the MH Force Mains in accordance with the terms of this Agreement:

1. Completion of:
 - a) The MH Force Mains,
 - b) The MH Pump Station,

- c) The MH Flow Equalization Basin,
 - d) The MH Discharge Meter and Metering Facilities; and
2. The issuance of a SIU permit to MH for the MH Wastewater Discharge pursuant to Section XI; and
 3. Omitted on purpose.
 4. CLT will operate and maintain the MH Component as of the time that MH begins to discharge wastewater into the MH Force Mains pursuant to this Agreement; and
 5. The full and unconditional completion of the Nutrient Transfer to CLT simultaneously with sewer discharge from MH to CLT.

VIII.

WASTEWATER TREATMENT SERVICE RATES

A. Wastewater Treatment Service Rates. MH will pay for wastewater treatment at the O & M Sewer Treatment Rate for wastewater discharge up to the MH Purchased Treatment Capacity. The O & M Sewer Treatment Rate is a rate equal to the average per gallon budgeted cost to operate and maintain the five (5) existing wastewater plants in the Mecklenburg portion of the CLT Water system, as set forth in Section II (BB).

B. MH Payment for Wastewater Treatment over MH Purchased Treatment Capacity. MH shall pay the O & M Sewer Treatment Rate for treatment of wastewater during any Billing Period. However, should MH discharge wastewater to CLT in excess of the MH Purchased Treatment Capacity during any one (1) Billing Period, then MH will pay the Standard Sewer Treatment Rate on the volume of flow in excess of the MH Purchased Treatment Capacity.

IX.

REQUESTS FOR INCREASE IN TREATMENT CAPACITY

A. General. Subject to the terms, limitations and conditions set forth in this Agreement, MH shall have the right to an increase in the MH Purchased Treatment Capacity upon written request. MH may give CLT written notice to increase the MH Purchased Treatment Capacity above 4 mgd at any time before or after completion of the New Plant. MH may increase its discharge allocation from four (4) mgd up to six (6) mgd in single or multiple increments of 100,000 gal/day.

B. Increase Prior to Completion of New Plant. If MH chooses to increase its Purchased Treatment Capacity prior to the completion of the New Plant, the cost of each increment will be based proportionally on the New Plant Costs, i.e. determined by multiplying the New Plant Costs (once finally determined) by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the anticipated total New Plant treatment capacity.

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C. Increase After Completion of New Plant. If MH chooses to increase its Purchased Treatment Capacity after the completion of the New Plant, then CLT will determine if such requested increment increase is reasonably available in the initial phase of the New Plant. If such requested increment increase is reasonably available in the initial phase of the New Plant, then the cost of such increment will be based proportionally on the New Plant Costs only, i.e. determined by multiplying the New Plant costs by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the total New Plant treatment capacity. If the requested increment increase is not reasonably available in the initial phase of the New Plant, then the cost of each increment will be based proportionally on the sum of the New Plant Costs and the New Plant Expansion Costs, i.e. determined by multiplying the sum of the New Plant Costs and the New Plant Expansion Costs (once finally determined) by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the total New Plant Treatment Capacity immediately after the most recent substantial expansion, repair, re-construction, improvement or other modification is completed. CLT will provide MH with its analysis used to determine that the requested capacity is not available in the initial phase of the New Plant.

D. MH Treatment Allocation During Expansion Project. Except as otherwise agreed upon by the Parties, during the design and construction of an expansion of the New Plant to accommodate MH's request, MH will be subject to the following guidelines:

1. Subject to the terms of this Agreement, MH shall have the right to increase the MH Purchased Treatment Capacity up to the MH Maximum Treatment Allocation.
2. MH may request, and CLT may agree, to the extent permitted by applicable law, to finance MH's proportionate share of the capital cost of the increased Purchased Treatment Capacity at the most favorable interest rate and other terms available at that time.
3. The Parties may consolidate multiple, separate payment schedules or make other minor modifications to any payment schedule by written agreement. Only the governing bodies of the parties may approve a substantial modification to a party's obligations or rights under any payment schedule authorized by this Agreement.
4. Within a reasonable time after MH requests an increase in the MH Purchased Treatment Capacity, and in any event, prior to any increase in the MH Purchased Treatment Capacity taking effect, the Parties shall meet and determine in good faith if the conditions set forth below have been satisfied. The Parties must determine in good faith that such conditions have been satisfied before any increase in the MH Purchased Treatment Capacity can take effect:

- i) All necessary revisions to implement such increase have been issued by CLT and accepted by MH in the permit described in Section XI;
- ii) The MH Force Mains, the MH Pump Station and the MH Flow Equalization Basin can accommodate such increase.

E. The parties agree that the capital cost of any increments over six (6) mgd will be negotiated in good faith.

X.
OPERATION OF IMPROVEMENTS, COMPLIANCE WITH REGULATIONS

A. General. CLT shall operate, maintain and improve the New Plant and related facilities in the CLT System in accordance with accepted good business and engineering practices, and in accordance with requirements of the Clean Water Act, and all other applicable laws, as such laws may be amended in the future, and any rules and regulations issued and to be issued by appropriate agencies in the administration of said laws. MH shall collect and deliver wastewater to CLT, and operate, maintain and improve facilities in the MH System in accordance with accepted good business and engineering practices, and in accordance with requirements of the Clean Water Act, and all other applicable laws, as such laws may be amended in the future, and any rules and regulations issued and to be issued by appropriate agencies in the administration of said laws.

B. Metering Facilities for MH Wastewater Discharge. The volume of the MH Wastewater Discharge will be measured by metering facilities installed at MH's expense. The design, construction and location of such metering facilities shall be specified by CLT and approved by MH, such approval not to be withheld or delayed unreasonably. The parties agree that CLT is responsible for installing the metering facilities in accordance with the terms of this Agreement. Such metering facilities will be owned by CLT and will be operated and maintained by CLT in a reasonable manner and at its sole expense, except as otherwise expressly set forth herein or agreed by the Parties. CLT shall be responsible for the repair and replacement of such metering facilities; provided that, MH shall reimburse CLT for any damage to such facilities caused by the negligence or intentional acts of an employee or agent of MH. MH may inspect such metering facilities at reasonable times.

C. Calibration of Metering Facilities. CLT will cause such metering facilities to be calibrated accurately at CLT's expense at such time(s) and in such manner as the Parties may agree. CLT will maintain reasonable records of such calibrations which will be available for MH inspection. MH may request in writing that the CLT cause such metering facilities to be calibrated at any time that MH has reason to believe that such metering facilities are not properly calibrated. In the event of a malfunction in such metering facilities (including without limitation a lack of proper calibration of any metering facilities described in the immediately preceding sentence), CLT will give MH written notice of the date when such malfunction began, if known (and if not known the approximate date when such malfunction is believed to have begun), the date when the malfunction ended, and a reasonable estimate of the volume of wastewater which such metering facilities failed to measure accurately, based upon available information. If MH objects to such estimate by written notice to the CLT within thirty (30) days of receipt of the notice of the malfunction of such metering facilities, CLT will consider such objection and such additional information as the MH may submit in writing with such notice of objection. Based upon such notice of objection and any additional information MH included in such notice of objection, MH will be given a reasonable opportunity to meet and confer with the CLT concerning such estimate. If the Parties are unable to agree upon such estimate or are unable to meet and confer within thirty (30) days of receipt of such request, the estimate prepared by the CLT and any revision thereto will be final and will not be subject to further review.

XI.
MH AS SIGNIFICANT INDUSTRIAL USER;
SEWER USE ORDINANCE AND ENFORCEMENT

A. MH Permit as Significant Industrial User. MH agrees that it will be a significant industrial user in discharging wastewater into the CLT system under applicable provisions of State and Federal Statutes and Regulations and under applicable provision of ordinances of CLT. In accordance with this agreement, the Parties further agree:

1. At least one hundred eighty (180) days prior to the commencement of wastewater discharge to CLT, MH shall apply for a permit for the MH Wastewater Discharge as a SIU. Such permit shall be issued for such period of time as CLT may determine, but not in excess of five (5) years. Such permit shall limit the quantity of wastewater in the MH Wastewater Discharge, the peak flow of the MH Wastewater Discharge and may also impose limits upon one or more of the constituents and/or characteristics of the wastewater in the MH Wastewater Discharge; provided that the limit(s) imposed in such permit may not be determined or otherwise enforced in a manner which prevents the MH Wastewater Discharge during any Billing Period from equaling (so long as MH does not exceed) the MH Purchased Treatment Capacity. MH hereby expressly agrees to be fully bound by the terms of all applicable rules, regulations, ordinances, and permits of CLT concerning the operation of CLT's water and sewer systems, as the same currently exists and may be hereafter be amended.

2. The issuance of a permit pursuant to this Paragraph shall not be construed to change, amend or otherwise modify any term of this Agreement. Without limiting the foregoing and by way of example, the issuance of a permit authorizing MH to discharge wastewater in excess of the MH Purchased Treatment Capacity shall not limit the right of CLT to enforce any terms of this Agreement, including without limitation provisions that restrict MH's ability to discharge wastewater in excess of the MH Purchased Treatment Capacity and provisions that authorize CLT to enforce terms and pursue remedies authorized by this Agreement for wastewater discharges that exceed the MH Purchased Treatment Capacity.
3. At any time that the MH Purchased Treatment Capacity is increased, the permit in effect prior to such increase shall be re-opened and any appropriate revisions made to said permit that allow MH to receive the full benefit of such increase.
4. Upon the written request of the CLT, MH shall provide the CLT or his/her designee access to any information in MH's possession concerning sewer customers or any other person or entity discharging wastewater or any other substance into a MH sewer line. CLT shall maintain, treat and protect such records and information as described in this Paragraph to the same extent as it would if the customer(s) to whom such information relates were customers of CLT. CLT shall not release such information except as may be authorized by MH or required by applicable law and/or directed by any official with the State of North Carolina or the United States with apparent authority to do so. Upon written request from CLT, MH shall provide CLT with a grab and/or composite sample of wastewater discharge for analysis from any user discharging into MH's wastewater collection system. CLT shall provide the results of such analysis to MH. CLT may provide a representative to be present when such sample is taken.
5. At all times, MH shall maintain and enforce a sewer use ordinance ("SUO"), which shall include an industrial pretreatment program and a fats, oils, and grease (FOG) program and any other program as required by federal, state or local regulation, regulating and protecting MH sewer lines, and all facilities of CLT that collect, transport and treat wastewater discharged from MH sewer lines into the MH Force Mains. Such SUO shall be maintained in compliance with all applicable law and shall be enforced.

6. The CLT may demand in writing that MH take appropriate enforcement action against any sewer customer or other person or entity discharging wastewater or other substance into a MH sewer line in violation of the SUO. Within thirty (30) days after receipt of such demand, MH shall take such action as has been requested or advise CLT in writing why such action is not appropriate. If either Party brings enforcement action against the other, the prevailing party shall recover from the other Party its reasonable attorney fees and arbitration and/or litigation expenses.
7. Nothing in this Agreement shall limit, modify, or prohibit the enforcement of any MH ordinance now in force or hereinafter adopted pertaining to the collection of fees or rates charged to any MH waste water customer.

**XII.
SERVICE AREA TERRITORIES**

This Agreement imposes no limitations on the manner in which CLT may provide, finance or extend water and sewer service, except as expressly set forth herein. This Agreement imposes no limitations on the manner in which MH may provide, finance or extend water and sewer service, except as expressly set forth herein. It is expressly understood and agreed that CLT will not provide water or sewer service, directly or indirectly, within any portion of Gaston County located both north of I-85 and east of Hwy. 321 without first providing to MH the option of providing such service contemplated by CLT upon the same terms as CLT is proposing, which option to serve must be exercised by MH within 30 days of written notice from CLT. MH hereby agrees that this limitation does not apply to CLT's provision of water or sewer service to any property within the City of Belmont or its ETJ.

**XIII.
NEGOTIATION AND MEDIATION OF DISPUTES**

A. Alternative Dispute Resolution. It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions between CLT and MH, or their authorized designees. If a dispute arises from or relates to this Agreement or a breach thereof and the dispute cannot be resolved through direct discussions, the Parties agree to endeavor to first settle the dispute in an amicable manner by mediation administered by a professional mediator before proceeding to arbitration. All fees and expenses for mediation shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses and preparation and presentation at the mediation.

B. Any arbitrable claim or controversy arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the applicable Arbitration Rules of the American Arbitration Association.

**XIV
REQUIRED TERMS**

The following provisions are included in this Agreement as required by Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes:

- A. Purpose. The purpose of this Agreement is as set forth in Section I.
- B. Effective Date; Term of Agreement. This Agreement shall be effective on the date by which both have executed this Agreement (“Effective Date”) and shall be perpetual in duration. MH and CLT hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement. If it should be judicially determined that this Agreement is not enforceable for such perpetual duration, it is the express intent of the parties that the resulting duration of this Agreement be ninety-nine (99) years (it being the express agreement of the parties that such duration of ninety-nine (99) years is reasonable in light of the purposes of this Agreement). If it should be judicially determined that this Agreement is not enforceable for such duration of ninety-nine (99) years, it is the express intent of the parties that the resulting duration of this Agreement be the maximum period of time that is judicially determined to be enforceable.

Except as expressly set forth herein, this Agreement may be terminated only upon the agreement of the parties following the procedures described herein for amending this Agreement.

- C. Omitted on purpose.
- D. No Joint Venture. No joint venture, partnership or agency is established by this Agreement.
- E. Appointment of Authorized Personnel. No officers, employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other Party. CLT shall have the sole responsibility and authority to select, appoint or otherwise employ the personnel necessary or convenient to design, construct, operate, maintain and take all other action necessary or convenient in the management and operation of Regional Project. CLT agrees that it will give hiring priority to employees of MH who are skilled and experienced in the operation of sewer treatment facilities and whose jobs may be eliminated by construction of the Regional Project. CLT agrees that former employees of MH shall be allowed to carry over their respective tenures, vacation days, and sick leave.
- F. Modification of Agreement. This Agreement may be amended only when made in writing and approved by the governing bodies of each Party or their authorized designee and duly executed by each party.

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G. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns.

XV INDEMNIFICATION

A. CLT agrees, to the fullest extent permitted by law, to indemnify and hold harmless MH, its employees, agents, and elected officials, of and from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, suits, judgments including reasonable attorney's fees, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof, except to the extent caused by the gross negligence or the intentional misconduct of MH, its employees, agents, and elected officials.

B. MH agrees, to the fullest extent permitted by law, to indemnify and hold harmless CLT, its employees, agents, and elected officials, of and from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, suits, judgments including reasonable attorney's fees, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof to the extent caused by the gross negligence or the intentional misconduct of MH, its employees, agents, and elected officials.

C. If any claim is filed for damages related to the provisions of this agreement, then the parties agree to cooperate with each other in the defense of the same, unless there shall arise a conflict of interest between CLT and MH. The cost of defense will be handled in accordance with the foregoing provisions of this Paragraph XV.

XVI. MISCELLANEOUS GENERAL PROVISIONS

A. No Third Party Rights. This Agreement is entered into by and between the parties hereto for their exclusive benefit and is not intended and shall not be construed to create or establish any rights in any other person or entity who is not a party to the Agreement.

B. Severability. If any section or part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.

C. Notices. Whenever written notice is required under this Agreement, said notice shall be sufficient when received by the person identified below for each party. Said notice may be mailed or delivered by any other means but shall not be effective unless actually received. Any notice directed to CLT shall be sent to:

Director of Charlotte Water
4222 Westmont Drive
Charlotte, North Carolina 28217

Any notice directed to MH shall be sent to:

City Manager
City of Mount Holly
P.O. Box 406
Mount Holly, North Carolina 28120

With a copy to:
Office of City Attorney
124 W. Catawba Ave.
Mount Holly, North Carolina 28120

Either Party may change the person authorized to receive notice or its address, by giving written notice of such change. Unless so changed, the persons authorized to receive notice and the addresses set forth above will apply.

D. Entire Agreement. This Agreement contains the entire agreement between CLT and MH and supersedes all prior discussions and agreements.

E. Applicable Law. This Agreement shall be enforced, interpreted and construed by and under the laws of the State of North Carolina.

F. Omitted on purpose.

G. Omitted on purpose.

H. Waiver. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement, unless stated to be such through written approval of the non-breaching Party and attachment of such written approval of this Agreement.

I. Insurance. Each Party shall obtain and maintain insurance coverage from a solvent insurance provider, solvent insurance pool or self-insurance program that is sufficient to address and cover the duties, responsibilities and obligations of this Agreement. Upon request, a Party shall provide evidence of insurance coverage, in the form of a certificate of insurance from an insurance provider or a letter confirming coverage from an insurance pool or self-insurance program.

12/11/11

J. Regulatory Agencies. This Agreement is subject to any rules, regulations or laws as may be applicable to similar wastewater treatment service agreements in the State of North Carolina, and CLT and MH shall collaborate for the benefit of each other in obtaining any required permits. By its signature below, CLT agrees to follow and abide by all ordinances, rules, regulations and requirements of MH applicable to its customers, including CLT. By its signature below, MH agrees to follow and abide by all ordinances, rules, regulations and requirements of CLT applicable to its customers, including MH.

K. Captions. Headings used in this Agreement are intended for convenience or reference only and will not control or affect the meaning or construction of any provision of this Agreement.

L. Multiple Originals. This Agreement is executed in multiple originals, one of which is being retained by each of the parties hereto and each of which shall be deemed an original hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

This the _____ day of _____ 2018.

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SIGNATURES ON FOLLOWING PAGE



CITY OF MOUNT HOLLY

ATTEST:

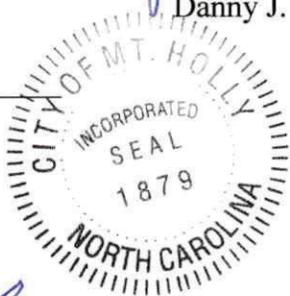
By:

Danny J. Jackson

Danny J. Jackson, City Manager

Amy Miller

Clerk



Approved as to form:

Greg A. Michael

City Attorney

This instrument has been preaudited in the manner required by G.S. 159-28(a1).

Alyssa 8/28/18

Finance Officer

12PM

EXHIBIT A

REPAYMENT OF PROJECT COST

CLT and MH agree that construction costs of the MH Component will initially be paid by CLT on a reimbursement basis using proceeds of construction period financing (short-term, variable rate debt). The construction period financing will subsequently be refinanced by CLT using proceeds of long-term fixed-rate revenue bonds. The proceeds of the portion of the revenue bonds allocable to MH will not exceed \$14 million, including bond premium and issuance cost. MH will pay to CLT the total principal of revenue bonds allocable to MH over a 20-year period using level annual principal payments. Interest will accrue on the principal amount payable by MH at the rate equal to the "all-in true interest cost," commonly referred to as the All-In TIC, on the long-term fixed rate revenue bonds issued by CLT related to the project. Payments will be made by MH to CLT on the same basis as principal and interest on the long-term fixed rate revenue bonds issued by CLT related to the project. See example of payment schedule (Exhibit A-1). MH may prepay its payment obligations on the same basis as the long-term fixed rate revenue bonds issued by CLT related to the MH Component.

CLT agrees to apply all payments from MH towards the bond principal and/or interest payment that is due at that respective time. CLT reserves the right to refinance the long-term fixed rate revenue bonds at its sole discretion.

In the event MH does not elect to finance the costs of the MH Component through CLT, then the parties shall reach a further agreement on the terms of reimbursement by MH to CLT.

Exhibit A-1

Date	Principal	Interest (for example 5.5%)	Total	Remaining Debt Balance
7-1-XX				\$ 14,000,000
1-1-XX	-	385,000	385,000	14,000,000
7-1-XX	700,000	385,000	1,085,000	13,300,000
1-1-XX	-	365,750	365,750	13,300,000
7-1-XX	700,000	365,750	1,065,750	12,600,000
1-1-XX	-	346,500	346,500	12,600,000
7-1-XX	700,000	346,500	1,046,500	11,900,000
1-1-XX	-	327,250	327,250	11,900,000
7-1-XX	700,000	327,250	1,027,250	11,200,000
1-1-XX	-	308,000	308,000	11,200,000
7-1-XX	700,000	308,000	1,008,000	10,500,000
1-1-XX	-	288,750	288,750	10,500,000
7-1-XX	700,000	288,750	988,750	9,800,000
1-1-XX	-	269,500	269,500	9,800,000
7-1-XX	700,000	269,500	969,500	9,100,000
1-1-XX	-	250,250	250,250	9,100,000
7-1-XX	700,000	250,250	950,250	8,400,000
1-1-XX	-	231,000	231,000	8,400,000
7-1-XX	700,000	231,000	931,000	7,700,000
1-1-XX	-	211,750	211,750	7,700,000
7-1-XX	700,000	211,750	911,750	7,000,000
1-1-XX	-	192,500	192,500	7,000,000
7-1-XX	700,000	192,500	892,500	6,300,000
1-1-XX	-	173,250	173,250	6,300,000
7-1-XX	700,000	173,250	873,250	5,600,000
1-1-XX	-	154,000	154,000	5,600,000
7-1-XX	700,000	154,000	854,000	4,900,000
1-1-XX	-	134,750	134,750	4,900,000
7-1-XX	700,000	134,750	834,750	4,200,000
1-1-XX	-	115,500	115,500	4,200,000
7-1-XX	700,000	115,500	815,500	3,500,000
1-1-XX	-	96,250	96,250	3,500,000
7-1-XX	700,000	96,250	796,250	2,800,000
1-1-XX	-	77,000	77,000	2,800,000
7-1-XX	700,000	77,000	777,000	2,100,000
1-1-XX	-	57,750	57,750	2,100,000
7-1-XX	700,000	57,750	757,750	1,400,000
1-1-XX	-	38,500	38,500	1,400,000
7-1-XX	700,000	38,500	738,500	700,000
1-1-XX	-	19,250	19,250	700,000
7-1-XX	700,000	19,250	719,250	-

RAN