

**AMENDMENT NO. 1 TO  
WATER & WASTEWATER SYSTEMS  
OPERATION AND MAINTENANCE  
AGREEMENT**

**BETWEEN THE  
TOWN OF POTSDAM  
AND  
VALLEY WATER SOLUTIONS, INC.**

**OCTOBER 2007**

This Amendment No. 1 to the **Water & Wastewater Systems Operation and Maintenance Agreement**, dated March 2003, is entered into on October 5, 2007 by and between the Town of Potsdam, herein referred to as TOWN and Valley Water Solutions, Inc. herein referred to as VWS.

#### RECITALS

- A. It is recognized that VWS operates and maintains certain components of the TOWN's water and wastewater systems as delineated in the May 2003 agreement. The term of the existing agreement expires April 30, 2008.
- B. The parties have each determined that an amendment to the Agreement is necessary and appropriate to provide continued operation and maintenance services beyond the existing expiration date.
- C. All other provisions of the May 2003 agreement not amended herein shall remain in full force and effect through the end of the new term. The parties have attached hereto as Exhibit "A" a copy of the original agreement.

#### AMENDMENT

##### 1. Term

The parties hereby amend Paragraph 1, *Term* by continuing the payment for services by extending the ending date of the Term from April 30, 2008 to April 30, 2013.

##### 2. Items Not Covered

The parties hereby amend Paragraph 3, *Items Not Covered* as follows:

VWS shall not be responsible for grass cutting and trimming of the water and wastewater plant sites.

**3. Payment for Services**

The parties hereby amend Paragraph 10, *Payment for Services* as follows:

- a) For operation and maintenance of the Water Treatment Plant, TOWN shall pay VWS Five Hundred Dollars (\$500.00) each month for the entire term of this amendment.
- b) For operation and maintenance of the Wastewater Treatment Plant, TOWN shall pay VWS One thousand Two Hundred Dollars (\$1,200.00) each month for the entire term of this amendment.
- c) For work outside the scope of the agreement, as defined in paragraphs 2,4,5,6 and 7, and authorized by the Town in writing, VWS will charge \$40.00 per man-hour.

In witness hereto, the parties signify their agreement by signature affixed below:

**Town of Potsdam, St. Lawrence County, New York**

By:

Marie C. Regan                      10/11/07  
Marie Regan, Supervisor                      Date

**Valley Water Solutions, Inc.**

By:

StL L Sid                      5 OCT 2007  
Stephen L. Siddon                      Date

On this \_\_\_\_\_ day of October 2007, before me the subscriber, personally appeared MARIE REGAN to me personally known and known to me to be the same person described in and who executed the within instrument and he acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public

On this 5 day of October 2007, before me the subscriber, personally appeared STEPHEN L. SIDDON to me personally known and known to me to be the same persons described in and who executed the within instrument and they acknowledged to me that they executed the same.

Cindy Goliber  
Notary Public



# Exhibit "A"

**WATER & WASTEWATER SYSTEMS  
OPERATION AND MAINTENANCE  
AGREEMENT**

**BETWEEN THE  
TOWN OF POTSDAM  
AND  
VALLEY WATER SOLUTIONS, INC.**

**A PUBLIC-PRIVATE PARTNERSHIP**

**MAY 2003**

# **WATER & WASTEWATER SYSTEMS OPERATION AND MAINTENANCE AGREEMENT**

Valley Water Solutions, Inc., a New York corporation and herein referred to as VWS, and the Town of Potsdam, a political subdivision of New York State situated in St. Lawrence County, New York and herein referred to as TOWN, enter into this agreement for the purpose of providing operation and maintenance services for the Hamlet of Unionville Water and Wastewater Treatment Plants. This agreement is entered into on July \_\_\_\_, 2003. The TOWN states that it owns the water and wastewater systems and components serving Water District #1 and Sewer District #1 and has authority to enter into this agreement. VWS and the TOWN hereby agree:

## **1. Term**

The term of this agreement shall begin on the signing date and continue until April 30, 2008.

## **2. Services Covered**

This is a service contract only for operation and maintenance of certain water system and wastewater system components. The services included in this agreement are general operation & maintenance, water and wastewater quality testing & reporting, distribution system recommendations and meeting attendance, as more specifically detailed in paragraphs 4 through 7. The water system components covered by this agreement include the treatment plant building, two (2) submersible well pumps, chlorination equipment, sequestering equipment, two (2) bladder tanks, two (2) distribution pumps, a standby power generator, appurtenant valves, gauges and piping, secondary electrical services, controls and instrumentation. The wastewater system components covered by this agreement include the treatment plant building, packaged activated sludge – extended aeration treatment system including processes for commutation, aeration, clarification, chlorine contact and sludge storage, three (3) aeration blowers, chlorination system, appurtenant valves, gauges and piping, secondary electrical services, controls and instrumentation.

## **3. Items Not Covered**

VWS will not be operating nor maintaining buried water and sewer lines and attached valves, fire hydrants and individual service lines. Major building maintenance, snow plowing and trash removal shall be the work of others as directed by the TOWN. The costs of supplies, tools, consumables, repair parts and spare parts including, but not limited to, electricity, telephone, chlorine, sequestering chemicals, building heat, laboratory supplies, certified laboratory testing, meter reading, billing and equipment replacement shall be borne by the TOWN.

#### **4. General Operation and Maintenance**

VWS is responsible for keeping the physical components of the water and wastewater treatment plants operational and functioning on a day-to-day basis. VWS will provide certified operators, as required by the laws of the State of New York. VWS shall perform preventative maintenance service on the system components as recommended in the specific equipment manufacturer's standard operations and maintenance manuals and/or generally accepted industry practice. VWS will provide corrective maintenance within the capacities of its staff. VWS will also maintain applicable records and logs, provide on-site seven (7) days per week service including 24/7 on-call for water and/or wastewater treatment facility emergencies.

#### **5. Water and Wastewater Quality Testing & Reporting**

VWS will be responsible for coordinating required State water and wastewater quality sample testing. The New York State Department of Health, at the time of execution of this agreement, has set forth the following water quality test requirements for the Unionville Water Treatment System: primary inorganic chemicals, nitrate, synthetic organic chemicals, principal organic chemicals, lead and copper, total coliform, radiological, sodium, and chlorine residuals. VWS will promptly notify TOWN of any non-compliance and of any known required or recommended corrective treatment(s). Such notices shall be informative as to the type of corrective action(s) to be undertaken. VWS will advise TOWN of any required notification and will provide the content required by State law and regulation. TOWN will provide delivery of any required notification to its customers and/or the State. All such notices shall also be promptly furnished to VWS. The New York State Department of Environmental Conservation, at the time of execution of this agreement, has issued the TOWN a SPDES Permit # 002 3337 relating to the Unionville Wastewater Treatment Plant. The State has set forth the following monitoring requirements: flow, biochemical oxygen demand, suspended solids, fecal coliform (seasonally), settleable solids, chlorine residuals (seasonally), and temperature. VWS will make periodic reports to TOWN, water and sewer districts and State agencies, as required.

#### **6. Distribution System Recommendations**

VWS will provide a New York State certified distribution system operator who will provide general direction to the TOWN water distribution staff. Technical advice will be provided for safety, flushing and cleaning water mains, proper techniques for waterline disinfection including formulas for preparing chemical dosages. VWS will assist TOWN in investigating consumer complaints and answer questions from the public regarding their drinking water.

#### **7. Meetings**

VWS will attend and participate in Town Board meetings related to the water and wastewater treatment plants, as needed.

#### **8. Restricted Use**



Although not expected, in case of an emergency or other situation where the water system supply is curtailed, it may be necessary to restrict all or certain individual user's water use. It is the responsibility of TOWN to notify the homeowners when these conditions become necessary by governmental mandate or as recommended by VWS. Enforcement of any usage restrictions shall be the responsibility of the TOWN.

## **9. Liability & Insurance**

a) VWS shall not be held accountable for meeting the water system requirements in the event of source water quality change, or other acts of man or God including but not limited to government regulation or intervention, earthquake, lightning, slide, waterline break, pump or system failure, etc., unless caused by VWS.

b) TOWN shall carry liability insurance in an amount not less than one million dollars (\$1,000,000.00) and property insurance on a replacement cost basis. TOWN shall provide VWS with a satisfactory certificate of insurance naming Valley Water Solutions, Inc. as an additional insured and requiring a least thirty (30) days notice of cancellation or change in the policy.

c) VWS shall carry liability insurance in an amount not less than two million dollars (\$2,000,000.00). VWS shall provide TOWN with a satisfactory certificate of insurance naming TOWN as an additional insured and requiring at least thirty (30) days notice of cancellation or change in the policy.

## **10. Payment for Services**

a) For operation and maintenance of the Water Treatment Plant, TOWN shall pay VWS Four Hundred Forty-Eight Dollars (\$448.00) each month for the entire term of this agreement. For operation and maintenance of the Wastewater Treatment Plant, TOWN shall pay VWS One Thousand Forty-Five Dollars (\$1,045.00) each month for the entire term of this contract. The first month will be prorated based on the number of days remaining.

b) For work outside the scope of this agreement, as defined in paragraphs 2, 4, 5, 6 and 7, and authorized by the TOWN in writing, VWS will charge \$30.00 per man-hour.

c) A grace period of 30-days after due or invoice date, whichever is earlier, is allowed for payments to reach VWS's business address at PO Box 8007, Massena, NY 13662. Interest is due and payable at 1.5% per month (18% annually) from the invoice or due date whichever is earlier.

## **11. Notifications**

VWS can be notified at:

Valley Water Solutions, Inc.  
PO Box 8007  
Massena NY 13662-8007

PHONE: (315) 250-3372  
FAX: (315) 769-2665

EMAIL: [info@valleywatersolutions.com](mailto:info@valleywatersolutions.com)

WEB: [www.valleywatersolutions.com](http://www.valleywatersolutions.com)

TOWN can be notified at:

Town of Potsdam  
35 Market Street  
Potsdam NY 13676

PHONE: (315) 265-3430  
FAX: (315) 265-3931

Change of address and/or phone for either party shall be communicated to the other party at least 10 days prior to the effective date of such change.

## **12. Amendment & Termination**

This agreement may be terminated at any time by mutual consent of VWS and TOWN. Either VWS or TOWN may terminate this agreement on April 30, 2004 if VWS or TOWN has not substantially met the provisions in this agreement, provided the other party is given at least thirty (30) days written notice of the intent to terminate. Either party may terminate this agreement with sixty (60) days written notice after a determination has been made that either party has committed a substantial material breach of any covenant, provision, term, condition, or undertaking contained in this agreement.

## **13. Force Majeure**

Neither party shall be liable to the other under this agreement for any loss or damage which may be suffered by the other party due to any cause beyond VWS' reasonable control, including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out or trade dispute or labor disturbance, the act or omission of Government, highways authorities, other telecommunications operator or administrations or other competent authority, war, military operations, acts of terrorism or riot, difficulty, delay or failure in manufacturer, production or supply by third parties of equipment or services.

## **14. Severability**

In the event that any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications of the same are received by either you or us from any relevant competent authority, VWS and TOWN shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality, or at discretion such provision may be severed from this

agreement and the remaining provisions of this agreement shall remain in full force and effect.

**15. Entire Agreement**

This agreement constitutes the entire agreement of the parties concerning the subject matter hereof, superseding all prior proposals, negotiations and agreements concerning the subject matter of this agreement. No representation or promise relating to and no amendment of this agreement will be binding unless it is in writing and signed by authorized representatives of both parties.

**16. Other Provisions**

**a) Furnishing of Materials and Equipment**

All materials, tools and equipment needed by VWS to carry out the work to be performed by VWS under this agreement shall be furnished by TOWN at TOWN's expense.

**b) VWS Personnel**

The personnel assigned by VWS to perform the services described in this agreement will be qualified to perform the assigned duties. VWS reserves the right to determine which of its personnel shall be assigned to any particular project and to replace or reassign such personnel during a project.

**c) Solicitation of Employees**

TOWN shall not, during the term of this agreement nor for a period of one (1) year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed or contracted by VWS during the term of this agreement, without the prior written consent of VWS. The remedy for breach of this provision shall include, but not be limited to, specific injunction.

**d) Exclusive Provider**

VWS is the exclusive provider of services to TOWN as defined in paragraphs 4 through 7. VWS shall not be liable for individuals that enter the maintained facilities without the express consent of VWS. TOWN shall provide notification when accessing the maintained facilities.

**In witness hereto**, the parties signify their agreement by signature affixed below:

**Town of Potsdam, St. Lawrence County, New York**

By:

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Patrick Brady, Supervisor

Date

**Valley Water Solutions, Inc.**

By:

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Stephen L. Siddon

Date

*On this \_\_\_\_\_ day of July, 2003, before me the subscriber, personally appeared PATRICK BRADY to me personally known and known to me to be the same person described in and who executed the within instrument and he acknowledged to me that he executed the same.*

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Notary Public

*On this \_\_\_\_\_ day of July, 2003, before me the subscriber, personally appeared STEPHEN L. SIDDON to me personally known and known to me to be the same persons described in and who executed the within instrument and they acknowledged to me that they executed the same.*

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Notary Public