



Upper Occoquan Service Authority

Leader in Water Reclamation and Reuse

14631 COMPTON ROAD, CENTREVILLE, VIRGINIA 20121-2506
(703) 830-2200

May 17, 2018

VIA ELECTRONIC AND US POSTAL MAIL

Mr. William Patrick Pate
City Manager
City of Manassas
9027 Center Street
Manassas, Virginia 20110

Mr. Bryan J. Hill
County Executive
Fairfax County
12000 Government Center Parkway
Suite 552
Fairfax, Virginia 22035

Mr. Laszlo Palko
City Manager
City of Manassas Park
One Park Center Court
Manassas Park, Virginia 20111

Mr. Christopher Martino
County Executive
County of Prince William
1 County Complex Court
Prince William, Virginia 22192

RE: Executed Water Quality Credit Exchange Agreement

Gentlemen:

Pursuant to previous correspondence, all of the Upper Occoquan Service Authority's (UOSA's) Member Jurisdictions have approved and executed the Water Quality Credit Exchange Agreement, and a fully executed copy is enclosed for your records.

Please feel free to contact me if you have any questions.

Regards,

A handwritten signature in cursive script that reads "Charles P. Boepple".

Charles P. Boepple
Executive Director

Enclosure (1)

cc: UOSA Board of Directors
Sally H. Hostetler, UOSA Legal Counsel

WATER QUALITY CREDIT EXCHANGE AGREEMENT

THIS WATER QUALITY CREDIT EXCHANGE AGREEMENT (this "Credit Agreement") is made this 17th day of May, 2018, by and between the Upper Occoquan Service Authority ("UOSA") and the jurisdictions of the City of Manassas, the City of Manassas Park, Prince William County and Fairfax County, Virginia (each a "Jurisdiction" or "Member Jurisdiction" and jointly the "Jurisdictions" or "Member Jurisdictions").

BACKGROUND

A. The UOSA Plant. UOSA owns and operates a wastewater reclamation plant that is authorized to discharge the nutrients, total nitrogen ("TN") and total phosphorus ("TP") as well as sediment as total suspended solids ("TSS") to the Chesapeake Bay watershed. The UOSA Plant has TN, TP and TSS waste load allocations ("WLA") assigned by the State Water Control Board and the Virginia Department of Environmental Quality (jointly, "DEQ") pursuant to the Water Quality Management Planning Regulation, 9 VAC 25-720, and by the U.S. Environmental Protection Agency ("EPA") pursuant to the Chesapeake Bay Total Maximum Daily Load ("TMDL") and related Virginia Watershed Implementation Plan ("WIP").

The UOSA Plant provides wholesale wastewater reclamation services to the Jurisdictions under a "Service Agreement", made as of the 15th day of May, 1972, and restated and amended, by and between UOSA, a public body politic and corporate duly created to the Virginia Water and Waste Authorities Act, and the CITY OF MANASSAS and the CITY OF MANASSAS PARK, municipal corporations of the Commonwealth of Virginia, and the BOARD OF SUPERVISORS OF FAIRFAX COUNTY and the BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, acting for and on behalf of said counties and the sanitary districts thereof, which are located in whole or in part within the Service Area, as defined in the Service Agreement.

The UOSA Plant is subject to the General Virginia Pollutant Discharge Elimination System ("VPDES") Watershed Permit Regulation for TN and TP Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia, 9 VAC 25-820, most recently reissued by DEQ effective January 1, 2017, as hereafter modified or reissued from time to time (the "Watershed General Permit"). UOSA's permit compliance strategy typically results in discharges of TN, TP and TSS that are consistently beneath UOSA's WLA for these parameters. Based on Virginia Statutes, upon the completion of a calendar year, the actual mass of the parameter discharged during the year subtracted from the corresponding WLA is considered a credit that can be traded or transferred to another entity.

B. The Locality MS4. The Jurisdictions own and operate separate municipal stormwater sewer systems ("MS4") authorized to discharge TN, TP and TSS to the Chesapeake Bay watershed. Like the UOSA plant, the MS4s are subject to the Chesapeake Bay TMDL as derived from the Virginia WIP and to a VPDES Permit issued to the Jurisdictions by DEQ. Pursuant to the TMDL, WIP and VPDES Permit for the MS4, it is anticipated that the Jurisdictions

will reduce MS4-related TN, TP and TSS discharges pursuant to individually developed and DEQ-approved TMDL Action Plans.

C. **Legal Authority.** Pursuant to Virginia Code § 62.1-44.19:21, the Jurisdictions may acquire and use TN and TP credits for purposes of compliance with the Chesapeake Bay TMDL loading reductions of its MS4 VPDES Permit, including credits generated by the UOSA Plant by discharging less TN or TP than permitted under the Watershed General Permit. Pursuant to Virginia Code § 62.1-44.19:21.1, the Jurisdictions may also acquire and use TSS credits for purposes of compliance with the Chesapeake Bay TMDL loading reductions of its MS4 VPDES Permit, including credits generated by the UOSA Plant by discharging less TSS than allocated under the Chesapeake Bay TMDL. With respect to all three parameters, it is recognized that this authority does not limit or otherwise affect the authority of DEQ to establish and enforce more stringent water quality-based effluent limitations in permits where such limitations are necessary to protect local water quality and, further, that the use of water quality credits does not relieve an MS4 permit holder of any requirement to comply with applicable local water quality-based limitations.

D. **MS4 TMDL Obligations.** The Jurisdictions may determine that utilizing UOSA-generated TN, TP and TSS credits may provide a more cost-effective alternative to the construction of stormwater retrofit projects. This agreement is designed to facilitate UOSA credit availability to the Jurisdictions where appropriate and when available.

E. **UOSA Credit Availability.** This agreement is structured to allow Member Jurisdictions to utilize the actual, historical TN, TP, and TSS credits generated in any given calendar year for MS4 compliance purposes (or for any other purpose permitted by law). While UOSA typically generates significant credits each calendar year, UOSA cannot guarantee the availability of credits in future calendar years. Individually or in combination weather, biological, mechanical, or electrical events or circumstances can impact the amount and availability of credits. Each Member Jurisdiction shall make its own determination regarding the risk of reliance on the availability of UOSA credits in future years.

F. **UOSA Transfer Credit Costs.** The Member Jurisdictions currently fund all the costs associated with TN, TP and TSS removal and UOSA will not incur significant additional costs to make TN, TP and TSS credits available to the Member Jurisdictions. Consequently, pursuant to this agreement, and in consideration therefore, these credits will be provided to Member Jurisdictions at no cost.

NOW, THEREFORE, in consideration of the foregoing premises (hereby incorporated as if fully set forth herein), the mutual covenants and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which UOSA and the Jurisdictions acknowledge, the parties hereby agree as follows.

1. **Annual Credit Transfers Feasibility Determination.** Pursuant to the procedures herein, UOSA shall annually notify and transfer to the requesting Jurisdictions their allocated share of available water quality credits to help meet the Jurisdictions' requirements under its DEQ-

Approved Chesapeake Bay TMDL Action Plan for its MS4 (or for any other purpose permitted by law). UOSA shall notify each Jurisdiction of its prior year available credits, based on the allocations as provided in section 1.b, by January 15 of each year. By February 15 of each year, each Jurisdiction will in turn notify UOSA of the amount of its available prior year credits that they plan to utilize for MS4 compliance purposes. The annual transfer shall be made by UOSA's execution and delivery to the Jurisdictions of the Annual Water Quality Credit Transfer Form (Attachment A hereto) on or before April 1 immediately following each calendar year of UOSA's credit generation. The balance of any credits that the Jurisdictions decline to request for MS4 compliance purposes will remain as credits within the Virginia Nutrient Exchange Association with which UOSA participates. Each Jurisdiction electing to have its share of credits remain with the Virginia Nutrient Exchange Association will receive a credit for the Virginia Nutrient Exchange Association end of year valuation for those credits.

- a. Credit Transfer Ceilings. UOSA's annual credit transfer obligations to the Jurisdictions shall not exceed the actual available and allocated credits to the Jurisdictions.
- b. Allocation of Credits. The Jurisdictions' allocation of UOSA's annual available credits are the same as the flow allocations documented in the Restated and Amended Service Agreement and any subsequent capacity sales agreements. The UOSA annual available credits are determined by taking the difference between UOSA's annual TN, TP and TSS WLAs and its actual discharge mass of TN, TP and TSS for that calendar year.
- c. Term & Termination of Initial Credit Transfers. UOSA's annual credit transfer obligations to the Jurisdictions under this Paragraph 1 shall expire upon (i) termination as specifically authorized by any other provision of this Credit Agreement, or (ii) December 31, 2036, whichever occurs first.

2. Regulatory Plans & Approvals. Each Jurisdiction shall be responsible for all compliance submissions necessary to DEQ or others for use of the Credit Transfers from UOSA. UOSA shall have no responsibility for the failure or refusal of DEQ or other governmental authority to approve such transfers.

- a. Jurisdictions TMDL Action Plan. For purposes of annual transfers, the Jurisdictions shall include in their Chesapeake Bay TMDL Action Plan a provision for the receipt and use of TN, TP and TSS credits from the UOSA Plant (in no more than the amount of Credit Transfers available to that Jurisdiction as calculated herein).

3. Authorized Use of Credits. Each Jurisdiction agrees that its sole and limited use of the TN, TP, and TSS credits transferred under this Credit Agreement shall be for the purpose of MS4 Permit compliance and Chesapeake Bay TMDL implementation (or for any other purpose permitted by law) and that it shall not transfer any portion of UOSA-generated credits (or WLA, if applicable) to any other person or entity, except as provided in subparagraph 3.a.

a. **Inter-Jurisdictional Trading of Credits.** All Jurisdictions may make a portion or all of their annual allocation of available credits available to other Jurisdictions through mutual agreement. This annual transfer shall be made by one Jurisdiction's execution and delivery to the other Jurisdiction of the Annual Water Quality Credit Inter-Jurisdictional Transfer Form (Attachment B hereto) on or before May 20 immediately following each calendar year of UOSA's credit generation. Notification of all Inter-Jurisdictional trading of credits shall be made to UOSA at the same time.

4. **Permits & Approvals.** If for any reason any federal, state, regional or local government or agency fails to issue any necessary permit, approval or other authorization for the transfers contemplated by this Credit Agreement, UOSA shall be excused from its performance hereunder.

5. **Change in Law.** In the event of any change in applicable laws or regulations, by which UOSA is unable to perform its transfer obligations as provided herein, each Jurisdiction shall be solely responsible for otherwise meeting its TMDL and MS4 Permit obligations.

6. **Credit Supply Constraints.** UOSA makes no representation regarding the sufficiency of credits to satisfy each Jurisdiction's MS4 compliance obligations or the amount of credits that may be available for transfer to each Jurisdiction. UOSA's obligations hereunder shall be limited to transferring to each Jurisdiction its allocated share of UOSA's available credits. UOSA assumes no obligation under this Credit Agreement to install, upgrade, improve, or alter the operation of any portion of its sewerage system or treatment works for purposes of providing water quality credits (or allocations).

7. **No Third-Party Beneficiaries.** This Credit Agreement is solely for the benefit of the Jurisdictions hereto and their permitted successors and assigns and shall not confer any rights or benefits on any other person or entity.

8. **No Assignment.** No Jurisdiction may transfer or assign this Credit Agreement, or its rights or obligations hereunder, without the prior written consent of UOSA.

9. **Member Jurisdictions right of first refusal to transfer of credits to non-Member Jurisdiction entities.** Notwithstanding anything else in this agreement to the contrary, a Member Jurisdiction may request UOSA to transfer that Member Jurisdiction's credits (as identified in paragraph 1) to another appropriate entity within the same tributary (as that term is defined in the statute permitting the transfer). In such event, as a prerequisite to that transfer, the non-requesting Member Jurisdictions shall have the right to receive the requesting Jurisdiction's credits on the same terms as offered to the non-Member Jurisdiction entity. In the event no Member Jurisdiction elects to receive the requesting Jurisdiction's credits, *and* the receiving appropriate entity executes an agreement substantially similar to this agreement (with the entity substituted for Member Jurisdictions) affirming that neither the requesting Jurisdiction nor UOSA has any ongoing responsibility related to the credit transfer, UOSA shall then transfer the requesting Jurisdiction's credits to another appropriate entity.

10. **Expenses; Commissions.** Except as provided herein, each Jurisdiction shall pay its own fees and expenses, including its own counsel fees, incurred in connection with this Credit Agreement or any transaction contemplated hereby. The Jurisdictions represent and warrant to each other that they have not dealt with any business broker or agent who would be entitled to a brokerage commission or finders fee as a result of this Credit Agreement or any related transactions.

11. **Governing Law; Venue; Severability.** This Credit Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia. This Credit Agreement is a Virginia contract deemed executed and accepted in Fairfax County; and all questions with respect to any of its provisions shall be instituted, maintained, and contested in a court of competent jurisdiction in Fairfax County, Virginia. If any word or provision of this Credit Agreement as applied to UOSA or any Jurisdiction or to any circumstance is adjudged by a court to be invalid or unenforceable, the same shall in no way affect any other circumstance or the validity or enforceability of any other word or provision.

12. **Termination.** UOSA may terminate this Credit Agreement at any time for any reason by giving Ninety (90) days notice to the Jurisdictions. Any Jurisdiction that chooses not to participate in the Credit Transfers set forth herein, shall so advise UOSA in writing prior to February 15 as set forth in Paragraph 1.

13. **Entire Credit Agreement; Amendments.** This Credit Agreement contains the entire agreement between the Jurisdictions as to the subject matter hereof and supersedes all previous written and oral negotiations, commitments, proposals and writings. No amendments may be made to this Credit Agreement except by a writing signed by all Jurisdictions.

14. **Counterparts; Signatures; Copies.** This Credit Agreement may be executed in counterparts, both of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or scanned signature may substitute for and have the same legal effect as an original signature. Any copy of this executed Credit Agreement made by photocopy, facsimile or scanner shall be considered the original for all purposes.

15. **Authorization.** Each Jurisdiction represents that its execution, delivery and performance under this Credit Agreement have been duly authorized by all necessary action on its behalf, and do not and will not violate any provision of its charter or enabling legislation or result in a material breach of or constitute a material default under any agreement, indenture, or instrument of which it is a Jurisdiction or by which it or its properties may be bound or affected.


IN WITNESS WHEREOF, the Jurisdictions hereto have caused the execution of this

Credit Agreement as of the date first written above.

[SIGNATURES BEGIN ON NEXT PAGE]

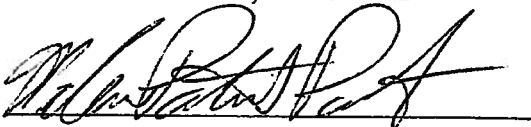
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UPPER OCCOQUAN SERVICE AUTHORITY
WATER QUALITY CREDIT EXCHANGE AGREEMENT BY AND BETWEEN
UOSA AND THE JURISDICTIONS**

UPPER OCCOQUAN SERVICE AUTHORITY

By: 
Charles P. Boepple
Executive Director

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WATER QUALITY CREDIT EXCHANGE AGREEMENT BY AND BETWEEN
UOSA AND THE JURISDICTIONS**

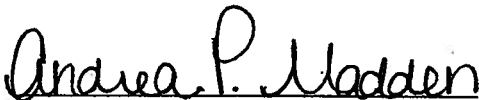
CITY OF MANASSAS, VIRGINIA

By: 

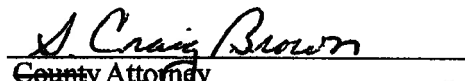
William Patrick Pate

City Manager

ATTEST:


City Clerk

APPROVED AS TO FORM:


County Attorney
City

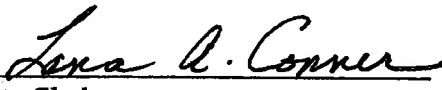
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UOSA AND THE JURISDICTIONS**

CITY OF MANASSAS PARK, VIRGINIA

By: 

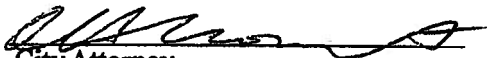
Laszlo Palko
City Manager

ATTEST:



City Clerk

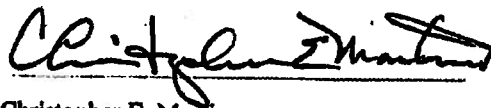
APPROVED AS TO FORM:



City Attorney

**SIGNATURE PAGE OF
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UOSA AND THE JURISDICTIONS**

PRINCE WILLIAM COUNTY, VIRGINIA

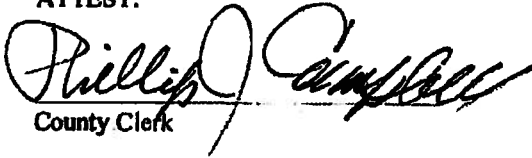
By: 

Christopher E. Martino

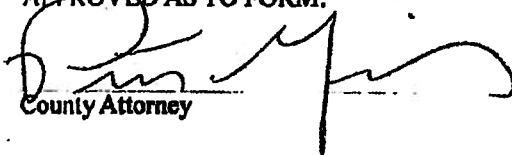
County Executive

TB
MTA

ATTEST:

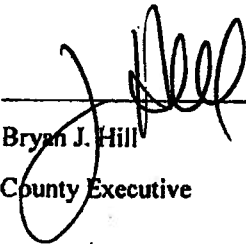

County Clerk

APPROVED AS TO FORM:


County Attorney

**SIGNATURE PAGE OF
UPPER OCCOQUAN SERVICE AUTHORITY
WATER QUALITY CREDIT EXCHANGE AGREEMENT BY AND BETWEEN
UOSA AND THE JURISDICTIONS**

FAIRFAX COUNTY VIRGINIA

By: 
Brynn J. Hill
County Executive

ATTEST:


Cynthia A. Chaves
County Clerk

APPROVED AS TO FORM:


Christopher D. Lane
County Attorney

**UPPER OCCOQUAN SERVICE AUTHORITY
WATER QUALITY CREDIT EXCHANGE AGREEMENT
ATTACHMENT A**

Annual Water Quality Credit Transfer Form

Instructions: To be completed and executed by UOSA and delivered to Jurisdictions of this Agreement on or before each April 1 immediately following the calendar year of credit generation by UOSA

By execution and delivery of this Annual Credit Transfer Form, UOSA transfers the following water quality credits in the amounts specified to the Jurisdiction in accordance with, and for the specific and limited purposes of, the Upper Occoquan Service Authority Water Quality Credit Exchange Agreement.

Transferor: **Upper Occoquan Service Authority**

Transferee (MS4): See Below

Calendar Year Credits Generated: _____

Date Credits Transfer: _____

MS4	TN (lbs/yr)	TP (lbs/yr)	TSS (lbs/yr)
City of Manassas			
City of Manassas Park			
Prince William County			
Fairfax County			

Signed (for Transferor): _____

Name (Print): _____

Title: _____

**UPPER OCCOQUAN SERVICE AUTHORITY
WATER QUALITY CREDIT EXCHANGE AGREEMENT
ATTACHMENT B**

Annual Water Quality Credit Inter Jurisdictional Transfer Form

Instructions: To be completed and executed by one Jurisdiction of the Service Agreement and delivered to another Jurisdiction of the Agreement on or before each May 20 immediately following the calendar year of credit generation by UOSA

By execution and delivery of this Annual Credit Transfer Form, the transferor Jurisdiction transfers the following water quality credits in the amounts specified to the transferee Jurisdiction in accordance with, and for the specific and limited purposes of, the Upper Occoquan Service Authority Water Quality Credit Exchange Agreement.

Transferor: _____

Transferee (MS4): _____

Calendar Year Credits Generated: _____

Date Credits Transfer: _____

TN (lbs/yr)	TP (lbs/yr)	TSS (lbs/yr)

Signed (for Transferor): _____

Name (Print): _____

Title: _____

DEQ Credit Exchange Notification

Pursuant to Part I.J.2.f. of the General VPDES Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9 VAC 25-820-70), the below named Permittees hereby certify that credits have been transferred between their two facilities as outlined below in full or partial satisfaction of compliance obligations:

Facility generating credits: Upper Occoquan Service Authority (UOSA), Permit #: VAN010019

Jurisdiction acquiring credits: City of Manassas, MS 4Permit # VAR040063

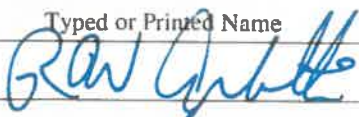
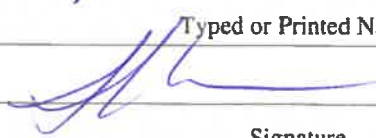
Credits Transferred

Compliance Year: 2021

Delivered Total Nitrogen Credits: 5,050 lbs/yr

Delivered Total Phosphorus Credits: 583 lb/yr

I certify under penalty of law that this notification and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Facility generating credits: UOSA	Jurisdiction acquiring credits: Manassas City
Robert W. Angelotti	Tony H. Dawood
Typed or Printed Name	Typed or Printed Name
	
Signature	Signature
703-830-2200	703-801-2439
Phone Number	Phone Number
February 25, 2022	MARCH 3, 2022
Date	Date

DEQ Credit Exchange Notification

Pursuant to Part IJ.2.f. of the General VPDES Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9 VAC 25-820-70), the below named Permittees hereby certify that credits have been transferred between their two facilities as outlined below in full or partial satisfaction of compliance obligations:

Facility generating credits: Upper Occoquan Service Authority (UOSA), Permit #: VAN010019

Jurisdiction acquiring credits: City of Manassas, MS 4Permit # VAR040063

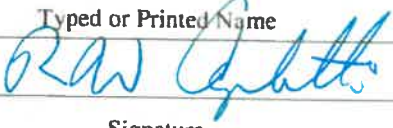

Credits Transferred

Compliance Year: 2022

Delivered Total Nitrogen Credits: 3,020 lbs/yr

Delivered Total Phosphorus Credits: 583 lb/yr

I certify under penalty of law that this notification and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Facility generating credits: UOSA	Jurisdiction acquiring credits: Manassas City
Robert W. Angelotti	Susie Orndorff
Typed or Printed Name	Typed or Printed Name
	
Signature	Signature
703-830-2200	703-257-8316
Phone Number	Phone Number
March 8, 2023	March 13, 2023
Date	Date