

AUGUSTA COUNTY SERVICE AUTHORITY

Reservation of Treatment Capacity Agreement – Partial Payment

This Agreement is made and entered into this ____*____ of ____*____, *_____, by and between ____*____, herein called the “Developer” and the Augusta County Service Authority, herein called the “Authority”.

RECITALS

A. Developer attests that a complete application (the “Application”) has been submitted to the Augusta County Community Development for a proposed development (herein called the “Project”). The Application complies with all requirements of the Augusta County Code and the Authority applicable to the Project.

B. The Project is: Commercial *____ Industrial *____ Residential *____

C. The Project is identified as follows on the Application:

Subdivision *____

Section *____

Site Plan or Plat Title *____

D. The Project was acquired by Developer by _____ [Deed Book & Page or Instr. No.]

E. The Authority’s Engineering Department has reviewed the Project and has determined that water and sewer capacity is available for the Project based on the information contained in Developer’s Application.

F. The Authority’s Engineering Department has authorized the Authority to enter into this Agreement as evidenced by the signature at the bottom of this Agreement.

G. The Authority is willing to reserve capacity for public water and/or sewer for the Project, provided the Developer enters into and subsequently complies with all of the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, conditions and agreements herein contained, the parties agree as follows:

1. The Developer has paid not less than twenty-five percent (25%) of the Authority’s current Availability Fee as of the date of this Agreement for the reservation of water and/or sewer capacity for the Project.

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The formula used to calculate the Availability Fee as of the date of this Agreement is:

Water @ _____/connection x _____ Connections x 25% = \$ _____

Sewer @ _____/connection x _____ Connections x 25% = \$ _____

Fee is based on _____ Inch meter size Total amount paid is: \$ _____

2. The balance of the Availability Fee shall be payable in full upon the earliest to occur of the following events: 1) five (5) years from the date of full execution of this Agreement when the entire unpaid balance on the Availability Fee as to the entire Project is due; (2) upon transfer of title to any part of the Project (hereinafter referred to as a lot) (as to that lot); or (3) at the time of application for service for a lot (as to that lot).

3. The balance due of the Availability Fee at any time shall be computed on the basis of the then current Availability Fee less the credit available from the initial partial payment with respect to any lot.

4. Transfer of title for any lot does not relieve the Developer of Developer's personal responsibility to pay in full the Availability Fee or other fees for that lot, provided, however, that the Authority shall not be obligated to collect from the Developer before exercising its other remedies under this Agreement or by law with respect to any lot sold by the Developer.

5. Upon the earliest to occur of (1) payment in full of the Availability Fee as to any lot, (2) transfer of title of a lot, or (3) five (5) years from the date of full execution of this Agreement, and provided a lot has not been connected to the utility system, a bimonthly fixed charge will commence and continue to be assessed with respect to that lot. This charge will be the same fixed charge billed to active customers and will be billed bimonthly to the Developer; or if the balance of the Availability Fee has been paid and the Authority is provided with appropriate evidence of transfer of ownership and contact information for the new owner by the Developer, then to the subsequent owner of a lot, until there is an application for service. This charge will maintain the continued reservation of capacity for that lot.

6. **If the Availability Fee(s) are not paid when due, the reservation of capacity is terminated, any partial payment is forfeited and it cannot be applied to any future application for service, and the Agreement will terminate as to the affected lot(s).**

7. The obligation to pay the balance of the Availability Fee, the appropriate hookup fee, and the bimonthly fixed charge must be satisfied in full before a water meter will be set or a sewer tap made for a lot. In a case where the balance of the Availability Fee has not been paid when due, and/or the bimonthly fixed charge has not been paid when due to maintain a reservation of capacity, no connection to the utility

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system shall be made until the Authority receives payment of all delinquent bimonthly fixed charges and applicable penalties and interest imposed pursuant to Policy No. 5.6, if any, and the then current Availability Fee, less the credit available for any partial payment. In such a case, connection shall be further subject to verification by the Authority of current capacity.

8. Upon disapproval of an application submitted through County Code Section 21-9 Site Plans, Master Plan and Plans of Development, or failure of the Developer to obtain approval of such an application within one year of the date of its last submission to the Authority, the Authority, in its discretion, may terminate this Agreement and the reservation of capacity contained therein, provided in such event the Authority shall refund to Developer any Availability Fee or portion thereof paid previously.

9. A. Once paid in whole or in part, Availability Fees and other fees or charges are not refundable unless otherwise specifically provided by Authority policy.

B. The Authority shall have the right to demand immediate payment of all fees and charges related to the Project and to exercise all its rights and remedies under this Agreement if:

(1) Any Availability Fee owed to the Authority under the terms of this Agreement is not paid when due.

(2) Developer fails to pay when due any other fees or charges related to the Project to the Authority pursuant to the terms of this Agreement.

C. The Authority will not approve any building permit or provide service for any lot unless and until the Availability Fee and all other fees and charges for that lot has been paid in accordance with the agreement.

D. The Authority shall be under no obligation to accept payment of Availability Fees for any phase of the Project unless Developer is current in payment of all other amounts due the Authority associated with the Project or any other project or property owned by the Developer at the time such payment is tendered.

E. Inspection and ancillary fees related to the Project will be billed separately by the Authority to Developer, with bills payable within 30 days of their date.

F. Except as expressly set out in this Agreement, the relationship between Developer and the Authority shall be governed by the Authority's policies, procedures and rules in effect at any given time.

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G. If any fee is not paid by the responsible party (Developer or Developer's successor in title) the responsible party shall be liable for all damages, costs and expenses, including attorney's fees, incurred by the Authority related to or as a result of the default, in collecting payment, or in enforcing this Agreement.

H. This Agreement shall be binding on the parties signing it as Owner/Developer with respect to all or any part of the Project, and on successors in title to the Developer who assumes Developer's obligations, in every case jointly and severally, and is to be recorded in the Clerk's Office of the Circuit Court of Augusta County. Certain terms and conditions of this Agreement affect lots in the Project owned by successors in title to the Developer even if they do not assume Developer's obligations.

I. In the event of any changes in governmental laws or regulations applicable to the Service Authority utility system which effectively reduces system capacity, the Service Authority, in its discretion, may terminate this Agreement and the reservation of capacity contained therein, provided in such event the Service Authority shall refund to the then current owner of the Project, or of any lot therein which is separately titled, any Availability Fee or bimonthly fixed charges, or portions thereof, paid previously.

J. Nothing in this Agreement shall be construed to modify or limit any right or remedy available to the Authority under applicable law.

WITNESS the following signatures:

_____ [Entity]

By: _____ (SEAL)
Title

COMMONWEALTH OF VIRGINIA
COUNTY OF AUGUSTA

The foregoing instrument was acknowledged before me this ___ day of _____, 20___, by _____ (name), _____ (title) of _____, (entity) a Virginia _____, on behalf of the _____ (entity)

Notary Public
Registration No. _____

My commission expires: _____

Seen and approved:
Engineer's Approval _____