

**CULPEPER COUNTY WATER AND SEWER AUTHORITY
COMMUNITY WATER SYSTEM AGREEMENT
{DRAFT}**

THIS AGREEMENT is made and entered this _____ day of _____, 20____, by and between **CULPEPER COUNTY WATER AND SEWER AUTHORITY**, a body politic and corporate (hereinafter called the “Authority”), and _____, (hereinafter called the “Applicant”).

RECITALS

R-1. The Applicant owns a certain tract of land in Culpeper County, Virginia, containing approximately _____ acres and delineated as Parcel _____, Tax Map _____ and known as the “Property”, as outlined on the plat marked Exhibit “A” attached hereto and made a part hereof.

R-2. The Authority is the public body responsible for the ownership and operation of water and sewer systems in Culpeper County, Virginia, in conformance with the provisions of the Virginia Water and Waste Authorities Act (the “Act”).

R-3. The Authority has adopted a Statement of Policy dated _____ and a Statement of Policy concerning Community Water and Sewerage Systems dated _____ (the “Policies”) which are available upon request.

R-4. The Authority has adopted Rates, Rules and Regulations for Water Service of the Culpeper County Water and Sewer Authority dated _____ (“Rates, Rules and Regulations”) and they are available upon request.

R-5. The parties have agreed that the Authority will design and build the Water Treatment System Components subject to Applicant guarantees provided hereafter and in accordance with the Policies. ***{Include the following if the Applicant will design and build the Water Treatment System Components}*** *The parties have agreed that the Applicant shall design, construct, and provide all wells, water pumping and treatment facilities, piping, and appurtenances (the “System”) in accordance with the Policies.* The parties have agreed that the Applicant shall design, construct, and provide all Water Distribution System Components in accordance with the Policies. The System is comprised of Water Treatment System Components and Water Distribution System Components. Water Treatment System Components consist of all pumps, wells, storage tanks, treatment units, structures, equipment and appurtenances, including piping directly associated with the plans and specifications for the above-stated items.

Water Distribution System Components consist of all other piping and appurtenances in the System. Upon completion and acceptance of the same by the Authority, the Applicant shall convey the System to the Authority for absolute ownership, operation, maintenance, repair and control, all as provided hereafter.

IN WITNESS WHEREOF, the parties have agreed as follows:

AGREEMENT

1. Design and Construction.

a. The design and construction of the System shall comply with the Policies and with all requirements of the Authority's Design and Construction Standards for Community Water Systems and also the Authority's Water Distribution System – Standards and Extensions. The System shall be complete and operable and shall meet or exceed all regulatory agency requirements, including without limitation those of the County of Culpeper and the Virginia Department of Health.

b. The design of the System shall provide for all necessary easements and access rights-of-way to reach all piping and facilities for construction and maintenance of the System and any planned extensions of the System.

c. The Applicant shall cause a hydrologic study to be made of the proposed System in accordance with standards adopted by the Authority, at no cost to the Authority. This study shall identify appropriate well sites and the design of the System shall include reservation and preservation of replacement well sites and sites for development of future services where indicated. The design of the System shall provide for all necessary easements and access rights-of-way to reach all facilities for construction and maintenance of the System and any planned extensions of the System.

d. *{Include the following if the Applicant will design and build the Water Treatment System Components }* Prior to beginning construction, the Applicant shall submit evidence to the Authority that all required approvals and permits for the System have been obtained by the Applicant. The System shall be constructed in accordance with the plans and specifications approved by the Authority. Review of the plans and specifications by the Authority is not intended to be exhaustive and the Authority does not take responsibility for verifying the accuracy of dimensions, hydraulic or process calculations, or equipment selection. Review by the Authority will not relieve the responsibilities of the design engineer. The

Authority, its agents and employees, shall be permitted at all times upon Property for the purpose of inspecting construction of the System.

e. Upon receipt of the foregoing approvals, and subject to all regulations, laws and ordinances of cognizant authorities, the Authority agrees upon receipt of the performance and payment bond or bonds referred to herein, to issue the official Construction Permit for the construction of the Facilities.

2. Performance Guarantees. Prior to recordation of the record plat for the Property, the Applicant shall post a surety Bond, Letter of Credit or financial guarantee suitable to the Authority to cover the design and construction costs of the Water Treatment System Components designed and built by the Authority. *{Include the following if the Applicant designs and builds the Water Treatment System Components}*. Prior to recordation of the record plat for the Property, the Applicant shall deliver to the Authority an executed performance bond and labor and materials payment bond or bonds, each in an amount of one hundred percent (100%) of the estimated cost to complete construction and payment for the System, or any portion thereof for which approval is sought, including a contingency item. *designed and built by the Authority. The amount and form of said bond or bonds must be satisfactory to and approved by counsel to the Authority. The bond or bonds shall be conditioned upon the fulfillment of this Agreement and payment of all persons supplying labor and furnishing materials in connection with the work, and having as surety thereon such surety company or companies as are approved by the Authority. In the event that the Applicant has the work done by contract and the contract price is greater than the estimated cost to complete construction of the System, or the portion thereof for which approval is sought, the amount of the performance and payment bond shall be increased accordingly.*

3. Phasing. If the Applicant constructs the System in a phased or a sectional basis, the provisions for completion, acceptance and connection to and use of the System shall apply only to the phases completed and accepted by the Authority.

4. Ownership and Operation. The System and all facilities associated therewith, together with all future extensions and additions to same, shall become and remain the property of the Authority after completion, final inspection, successful start-up, and acceptance of the same by the Authority, as provided hereafter. *{Include the following if the Applicant will design and build the Water Treatment System Components}* *Water Treatment System Components} Prior to acceptance by the Authority, the Applicant shall provide an approved Operations and Maintenance Manual and the Certificate to Operate from the Virginia Department of Health. Upon acceptance of the System by the Authority, the Authority agrees to provide all necessary administrative, legal and technical services, together with all necessary equipment and supplies to operate and maintain the System as nearly as possible to conform to*

all applicable requirements of the Virginia Department of Health. The System shall be conveyed along with all necessary easements, access rights-of-way and equipment manufacturers' warranty by general warranty deed in the form approved by the Authority and with title satisfactory to the Authority. The sites of the Water Treatment System Components Water Treatment System Components shall be conveyed to the Authority in fee simple. Upon acceptance of the System by the Authority, the Applicant shall have no further obligations with regard to operation, maintenance or repair of the System except as described in paragraphs hereafter.

5. Easements. The Applicant shall convey to the Authority, without cost, all easements and rights-of-way necessary for the installation of the said System and for the free unobstructed and uninterrupted right of access thereto, as well as for the inspection, operation, maintenance and replacement, and extension of the System. It is agreed that title to such easements will be free and unencumbered and that all expenses incident to the obtaining thereof, including examination of title and conveyancing, shall be at the cost of Applicant.

6. Service Connections. The Authority agrees that Applicant shall have the right to furnish and install water service connections to each residence, including corporation stop, service lines, curb stop and box, meter yoke and meter box. The Applicant agrees that such installation shall be in accordance with the then applicable Standards of the Authority and shall be subject to the inspection and approval of the Authority. The Authority shall furnish and install the water meter. The Applicant further agrees:

- a. To make no taps in water mains before mains are pressure tested, flushed, cleaned and sterilized as provided in Water Distribution System - Standards and Extensions.
- b. To furnish to the Authority on a suitable map the precise location and length of each and every service connection.
- d. To transfer and convey to the Authority each service line from the water main to the meter and all accessories, free of any and all encumbrances, liens or debts.
- e. To install all meter boxes at locations consistent with Authority Standards.

The Authority reserves the right to discontinue this permit to the Applicant to install service connections at any time, this being a service normally provided by the Authority; provided, however, that no such discontinuance shall be effective unless at least thirty (30) days written notice, sent by registered or certified mail to the last known mailing address of the Applicant of same, has been given to the Applicant. The Applicant agrees that the installation shall conform to the approved standards, plans, and specifications on file with the Authority and

shall be subject to inspection by the Authority or duly authorized representatives of the Authority at any time as the work progresses.

7. Rates, Fees and Charges. Upon acceptance of the System by the Authority, the Authority shall assume all costs for operation, maintenance and repair and shall charge such costs to individual customers connected to the System. The Authority shall at all times fix, charge and collect user fees and rates for use of the System in accordance with the provisions of the Act.

8. Applicant's Subsidy. The Authority requires and the Applicant hereby agrees to subsidize the cost of operation, maintenance and repair of the System until such time as 95% of the units on the Property are sold and are using the System (the "Applicant's Subsidy"). The Applicant's Subsidy shall be the difference in cost between the actual annual total cost of service and the revenue received for service. Such subsidy shall be made at the end of each calendar year. Prior to final completion and acceptance of the System as provided in § 12 hereafter, the Applicant shall provide a bond, letter of credit or other credit guaranty all in form and credit substance acceptable to the Authority to secure the Applicant's Subsidy provided herein. Should the Applicant fail to pay the full subsidy within 90 days of receipt of the Authority's invoice, a moratorium on new connections to the System shall be imposed by the Authority until full payment is rendered or secured from the credit guaranty.

9. Water Meters. The Authority will furnish and install water meters for all homes and buildings, which are to be served by the System, at the Applicant's expense.

10. Insurance. The Applicant agrees not to begin construction on this project until it has obtained all insurance required herein and that said policies will be with a company licensed to do business in the Commonwealth of Virginia and have an A.M. Best Company rating of A- or better, and such insurance has been approved by the Authority. Furthermore, the Applicant will not allow any contractor or subcontractor to commence work on this project until all their similar insurance has been obtained and approved and certificates of insurance, naming the Authority as additional insured, have been provided as follows:

- a. **Workmen's Compensation Insurance** for all employees employed at the site of the project. The workers' compensation policy will have statutory limits and will provide coverage as set forth in the Virginia Workers' Compensation Act.
- b. **Employers Liability Insurance** with limits of \$_____ each accident for bodily injury by accident, \$_____ each employee for bodily injury by disease and \$_____ policy limit for bodily injury by disease.

- c. **General Liability Insurance** with \$_____ combined single limits for bodily injury and property damage coverage.
- d. **Professional Liability Insurance** with \$_____ coverage as provided by the engineer to be utilized by the Applicant.

The aforementioned insurance shall be maintained by the Applicant until acceptance of the System by the Authority.

11. Warranty. The Applicant will warrant that all materials and/or equipment and work performed are to be free of defects in material and workmanship, and further agrees to provide all maintenance, repairs or reconstruction of defective construction, materials and/or workmanship, including all shrinkage or settlement or other faults arising therefrom at his own expense, promptly when notified in writing to do so by the Authority and to the satisfaction of the Authority for a term of one year from the date of acceptance of the System by the Authority. The warranty shall be secured by a bond of a surety company acceptable to the Authority in an amount of five percent (5%) of the estimated construction cost of the System.

12. Engineering Review and Inspection Costs. The Applicant shall reimburse the Authority for the cost of engineering review and inspection by the Authority's staff. Engineering review fees shall be due prior to Substantial Completion and inspection fees shall be due prior to issuance of the construction permit by the Authority, minus any overages in fees paid in the application. *{Include the following if the Applicant will design and build the Water Treatment System Components} Engineering review fees will be charged as two-and-one-half percent (2.5%) of the approved bond amount for the Water Treatment System Components. Inspection fees for the Water Treatment System Components will be charged as two-and-one-half percent (2.5%) of the approved bond amount for the Water Treatment System Components. Engineering review and inspection fees for the Water Distribution System Components will be charged as specified in the most current Rates, Rules and Regulations. Prior to construction, the Applicant and general contractor shall participate in a pre-construction conference with the Authority. During the construction phase of the System, the Applicant shall submit all Shop Drawings for major equipment and materials for review and approval by the Authority. Shop Drawings for major equipment and materials shall be defined as those shop drawings which, upon submission of a list by the General Contractor, are mutually identified by the Authority and the Applicant's design engineer. Shop Drawings shall be reviewed and returned approved, or with required corrections, promptly by the Authority. Major equipment and materials shall not be installed without the approval of the Authority.*

13. Final Completion, Inspection, Conveyance and Acceptance of the System. *{Include the following if the Applicant will design and build the Water Treatment System Components} The Authority shall make such outsource inspections and tests as may be required at the Applicant's expense to ascertain acceptability of the System. After final inspections and tests have been completed, the Authority shall promptly notify the Applicant in writing of the results of the tests and inspections. If the System is acceptable to the Authority, the Applicant shall execute and deliver to the Authority a Bill of Sale including assignment of all equipment warranties and shall place of record a general warranty deed to the entire System, including all necessary easements related thereto for access, maintenance and operation, all in form and substance reasonably satisfactory to counsel for the Authority. If the System is not acceptable, the Applicant promptly shall make the needed repairs and corrections, or shall promptly reimburse the Authority for completion of needed repairs and corrections. The System shall not be placed in operation without the prior written consent of the Authority first having been obtained, such consent not to be unreasonably withheld. The System shall be conveyed to the Authority before any service connections are approved.*

14. Central Service. Should central water service provided by the Authority be available to serve the Property, the Authority, in its sole discretion, may elect to serve the Property by connection of all or a part of the System to such central water service. As to lots which are not connected to the approved System, the Authority may require the connection of those lots to central water and the payment of availability fees to the Authority provided it has been at least five years since the System was accepted by the Authority.

15. Expansion. It is expressly understood that this Agreement is for the operation and maintenance of facilities serving the Property exclusively. Until such time as the Property is connected to central water service provided by the Authority, no adjoining property shall be served by the System except upon terms acceptable to the Authority. In the event the Authority uses the System to serve adjoining properties, it shall first reimburse the Applicant for the capacity utilized in the System to serve the adjoining properties. This reimbursement obligation shall expire at the end of ten years from the date of acceptance of the System and any reimbursement shall be calculated and paid in accordance with the Authority's then applicable Standard Reimbursement Policy.

16. Applicant's Notice Obligation. Applicant hereby agrees that this Agreement may be recorded among the land records of Culpeper County, Virginia, and Applicant hereby covenants that, following the date this Agreement is fully executed and prior to recordation of this Agreement, it will not sell or offer to sell any property or lot within the Service Area in which any representations are made with respect to water service or availability, without delivering a copy of this Agreement to the purchaser or prospective purchaser, and without obtaining such purchaser's signed acknowledgement of receipt of such Agreement. Applicant shall provide

copies of these receipts to the Authority prior to its acceptance of the System. Applicant further agrees to cause to be recorded on the official record plat for the Property and in the deed of record or covenants of each parcel of the Property to be served by the System the following:

The Property is served by a freestanding water system (the “Community Water System”) owned and operated by the Culpeper County Water and Sewer Authority. This freestanding system is supplied by wells and is not connected to the Authority’s central water system. The Community Water System is limited in capacity and transmission [**is or is not**] designed to provide [**limited**] fire flow. Permanent lawn irrigation systems will not be allowed to connect to the Community Water System without the approval of CCWSA. Temporary lawn irrigation (i.e., using sprinklers attached to garden hoses) will be allowed; however, temporary irrigation should be governed by good sense practices. All water usage will be subject to the rules and regulations adopted by the Authority to include water restrictions during drought or high usage periods.

All operation and maintenance costs of the Community Water System shall be borne by the users of the System and/or owners of the property to be served by the System in accordance with Rates, Rules and Regulations established by the Culpeper County Water and Sewer Authority.

Each property owner shall be required to become a customer of, and be subject to the Rates, Rules, and Regulations of the Culpeper County Water and Sewer Authority.

All water capacity is obtained exclusively from, and will depend upon the Community Water System, independent of any other water source or System.

17. Successors and Assigns. The obligations of the parties to this Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their successors and assigns, and shall run with the land. An assignment of this Agreement by any party shall only be effective if the assignee acknowledges this Agreement and agrees to be bound by its terms and to assume all of the obligations of its assignor hereunder. Furthermore, the assignor shall not be released from any of its obligations hereunder until the other party hereto acknowledges the assignment and agrees in writing to release the assignor from its obligations hereunder. Notwithstanding the foregoing, upon the sale of an individual lot, the owner of such lot shall become responsible for the payment of any charges incurred after such sale.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

[SIGNATURES ON FOLLOWING PAGES.]

(Corporate Seal)

ATTEST: CULPEPER COUNTY WATER AND SEWER
AUTHORITY

Secretary By: _____, General Manager

STATE OF _____
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____, as General Manager of the Culpeper County Water and Sewer Authority, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

WITNESS:

_____ By: _____

STATE OF _____
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ of the _____, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____