

THIS AGREEMENT made this _____ day of _____ between:

THE SOUTHEAST MORRIS COUNTY MUNICIPAL UTILITIES AUTHORITY, a body corporate and politic of the State of New Jersey, having its principal office at 19 Saddle Road, Cedar Knolls, New Jersey 07927, herein designated as the "SMCMUA"; and

_____, having its principal office at _____, herein designated as the "Developer" or "Contractor".

WITNESSETH:

WHEREAS, an application has been filed with the SMCMUA for water service and/or main extension, included as Attachment A, to a development in the (municipality), known as (name of development), and located at Block _____, Lots _____, known as (the "Project"), all as shown on a certain map or plan entitled _____, prepared by _____ and dated _____, last revised _____, (the "Plan"), included as Attachment B; and

WHEREAS, the SMCMUA has obtained the consents of its creating municipalities and the Morris County Municipal Utilities Authority to provide water service to the Project; and

WHEREAS, the SMCMUA has executed an Agreement for Sale of Water with the _____(municipality) under which several properties in _____(municipality), including the Project location, are to be served by SMCMUA; and

WHEREAS, the SMCMUA hereby approves said application and the Plan subject to the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the premises and the covenants hereinafter contained, the parties hereto agree as follows:

1. The SMCMUA agrees to supply water service to the Project pursuant to the terms and conditions set forth herein.

2. Water service shall be provided to the Project in accordance with the Plan. Any material change in the Plan or any change in the streets, roads or public or private utilities shown on the Plan shall be promptly submitted to the SMCMUA for review and the SMCMUA may revoke or modify its approval of the Plan based upon such change. Failure to advise the SMCMUA of any such change shall constitute a breach of this Agreement and shall automatically revoke the SMCMUA's approval of the Application and Plan. No construction shall proceed with respect to any modified plan prior to the express written approval of the SMCMUA.

3. Water service will not normally be provided until the entire Project shown on the Plan approved by the SMCMUA is completed and the Project's connection fee is received by the SMCMUA. If it is acknowledged that the Project will be constructed in phases, water service will be provided as buildings are completed and following the issuance of a CO by the municipality and following receipt of the connection fee for the completed building.

4. A. The Developer shall at its own expense furnish and install all water mains and necessary appurtenances ("Water Facilities") at the locations and in the manner shown on the Plan. All Water Facilities shall comply with the current specifications and details adopted as "standard" by the SMCMUA ("Specifications"), available on the SMCMUA's website. The Developer agrees that, in order to ensure performance and compatibility with the SMCMUA's Water System, all hydrants, valves, equipment, fittings and appurtenances shall be supplied by manufacturers approved in advance by the SMCMUA.

B. If service is provided to any portion of the Project, the Developer shall not be excused from its obligation to furnish and install the Water Facilities to the entire Project by reason of abandonment or other failure to complete the Project. The SMCMUA reserves the right to require the Developer to complete installation of the Water Facilities at Developer's expense.

5. All water mains shall be installed a minimum of four feet (4') below the grade of the existing road or the proposed road plus pipe diameter unless otherwise shown on the Plan approved by the SMCMUA. If at any time prior to acceptance by the appropriate municipal or State entity or agency having jurisdiction, the grade of the road is changed so that there is less than three-and-one-half feet (3 ½') or more than five feet (5') ground cover over any main, the Developer shall at its own cost and expense lower or raise said main to a minimum of four feet (4') of cover below the finished road grade.

6. The Developer shall be responsible for maintaining each and every valve box at proper road grade until the final grade is established or until the building to which the water extension is connected is occupied, whichever date is later.

7. The Developer shall perform all excavating and back-filling at its sole cost and expense. The installation of all Water Facilities shall be performed in the manner prescribed by the SMCMUA and in strict accordance with the Plan and Specifications. All work performed by the Developer shall be performed in the presence of an inspector assigned by the SMCMUA and paid for by the Developer.

8. The Developer shall notify the SMCMUA at least five (5) working days in advance of the installation of any of the Water Facilities. The Developer shall not permit any Water Facilities to be installed unless an inspector from the SMCMUA is present.

9. If the Water Facilities are to be installed in a State Highway, the Developer shall prepare at its expense the necessary road opening permit and submit same to the SMCMUA for its review and approval prior to submitting to the New Jersey Department of Transportation. If the Water Facilities are to be installed in a county, municipal or private road or railroad crossing, the Developer shall obtain all necessary road opening or crossing permits at its expense following approval of the permit application by the SMCMUA. The Developer shall then submit copies of all permits approved by the respective agencies to the SMCMUA before beginning work. The Developer shall be responsible for excavation and maintenance of all road openings, restoration of the road and final pavement.

10. The Developer shall submit an application to the SMCMUA for all wet taps, cut-in connections and branch lines to new or existing mains and shall pay for the cost of such taps in accordance with the applicable schedule of service charges of the SMCMUA. All such taps and connections shall be made by the SMCMUA at the expense of the Developer, but the Developer shall perform all excavating and back-filling and shall furnish and install all tapping sleeves, valves, and valve boxes at its expense.

11. If hydrants are to be installed at any point along the proposed main, Developer agrees to obtain from the Fire Department, in the municipality involved, written approval of the exact locations of the proposed hydrants so that “tees” will be installed at proper locations as the main is installed in order to avoid future cut-ins. Developer agrees to purchase and install hydrants to meet specification of the SMCMUA and any other governmental entity or agency having jurisdiction. A copy of the written approval shall be provided to the SMCMUA.

12. Developer shall convey such easements and rights of way for the Water Facilities as may reasonably be required by the SMCMUA. Such easements and rights of way shall be in recordable form and shall be prepared or approved by counsel to the SMCMUA at Developer’s expense. No construction shall commence until all required easements and rights of way are executed and delivered to the SMCMUA.

13. The Project’s water meter(s) and any RPZ(s) (backflow preventer(s)) shall be located and installed as directed by the SMCMUA. The cost of both meter(s) and RPZ(s), as well as their replacement as and when required by the SMCMUA shall be paid for by the Developer.

14. All Water Facilities installed by the Developer shall remain the property of the Developer and/or property owner except for the water meters, which shall become the sole and exclusive property of the SMCMUA. Acceptance of the installed meters by the SMCMUA shall follow final inspection and written approval of same as a predicate to being placed into service as part of the SMCMUA’s water system. Developer shall execute and deliver to the SMCMUA such bills of sale for the Water Facilities as may be requested by the SMCMUA.

15. Leakage, disinfection and bacteriological tests of all new mains and services shall be conducted under the direction of and in the manner prescribed by the SMCMUA as set forth in the Specifications. All costs in connection with such tests shall be borne by the Developer

16. All construction and work to be performed by the Developer under this Agreement shall be commenced within one (1) year of the date hereof and completed within twelve (12) months from the date of commencement, provided that the Developer shall be entitled to reasonable extensions for commencement or completion of the work coincident with the time periods set forth in any applicable State law or municipal ordinance. Failure to commence or complete the work within the time specified shall cause this Agreement to terminate at the option of the SMCMUA but without prejudice to Developer's right to reapply for water service with respect to the Development subsequent to such termination.

17. The SMCMUA also shall have the right to refuse to supply water until all requirements of this Agreement and the Rules and Regulations of the SMCMUA ("Tariff") are fully satisfied and all metered and non-metered charges for water service are paid.

18. Before any permanent service taps are made or curb boxes are set by the SMCMUA, the Developer shall file with the SMCMUA a separate application therefore and shall pay for the cost of such taps in accordance with the applicable schedule of service charges of the SMCMUA. No service tap shall be made or curb box set by the SMCMUA until the curb has been completely constructed by the Developer.

19. In the event of default by the Developer, the SMCMUA shall have such remedies as may be provided herein or as may be otherwise provided in law or at equity. Nothing herein shall preclude the SMCMUA from completing the work upon default by the Developer where necessary to protect the public health, safety and welfare in which event Developer shall be responsible for the full cost of such completion incurred or paid by the SMCMUA; provided the SMCMUA shall have no obligation to complete such work as permitted by this Section.

20. A. The Developer shall pay a connection fee ("Connection Fee") representing its fair contribution to the cost of the SMCMUA's Water System as permitted by N.J.S.A. 40:14B-21. The Connection Fee shall be in accordance with the applicable rate schedule of the SMCMUA's Tariff in effect at the time of the particular connection(s) and shall be in addition to the actual cost of physical connection or tapping fee charged to customers connecting to the Water System. The SMCMUA shall not be obligated to provide water service to any portion of or unit within the Development until the applicable tapping fees and connection fees are paid in full.

B. Upon execution of this Agreement by the Developer, the Developer shall submit \$_____ to the SMCMUA to be held in escrow by the SMCMUA and from which all legal and engineering costs and other out-of-pocket expenses incurred by the SMCMUA in connection with Developer's application including the expense of reviewing the Plan, preparing this Agreement and such other services as shall be rendered in connection with the application, this Agreement or enforcement of the SMCMUA's rights and privileges hereunder, shall be paid. The above deposit amount is an estimate and may be increased at the reasonably exercised discretion of the SMCMUA, its counsel or consulting engineer from time to time so as to provide sufficient funds to complete the work. In the event there shall be any surplus after completion and acceptance by the SMCMUA of the work covered by the deposit, such surplus shall be promptly returned to the Developer except for the non-refundable application fee and deposit required by the SMCMUA's Tariff.

21. Prior to the final release of the cash deposit or other security required by this Agreement and as a condition of the SMCMUA's acceptance of the Water Facilities installed hereunder, the Developer shall submit "As-Built" plans prepared by and certified by a licensed New Jersey professional engineer and land surveyor, which plans shall be subject to the approval by the SMCMUA's engineer and which shall show the location of the Water Facilities installed by the Developer.

22. The Developer understands that SMCMUA does not guaranty the supply of any uniform quality or quantity of water or to maintain any fixed pressure for fire protection or any other purpose. Developer agrees that SMCMUA will not be responsible or liable for any loss or damage sustained as a result of service interruption or irregularity due to accident, breakdown, emergency or from other causes beyond the control of the SMCMUA and hereby releases the SMCMUA from any such liability.

23. The Developer shall comply with all applicable rules and regulations of the SMCMUA and all laws, ordinances, rules, regulations and orders of any other governmental agency or entity having jurisdiction.

24. In the event of a sale or transfer of the Project to another party, Developer agrees that it will secure from its successor in title or interest a written undertaking whereby such successor agrees to assume and fully perform all of the obligations of this Agreement. Developer agrees to promptly advise the SMCMUA in writing of any such sale or transfer provided that this provision shall not apply to a sale or transfer to an individual lot purchaser.

25. Developer shall be responsible for assuring that all agents, servants, employees, contractors and subcontractors involved in the construction of the Project shall fully comply with all provisions of this Agreement.

26. This Agreement shall be binding upon the Developer, its successors or assigns, notwithstanding the fact that the Project may be sold or transferred to another party. This Agreement shall be governed by the laws of the State of New Jersey. Any proceeding to interpret or enforce this Agreement shall be brought and maintained in the appropriate courts of the State of New Jersey, venued in Morris County.

In addition to the foregoing covenants and commitments, the parties agree to the following:

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

WITNESS OR ATTEST:

THE SOUTHEAST MORRIS COUNTY
MUNICIPAL UTILITIES AUTHORITY

By: _____

RALPH R. ROTANDO, Chairman

WITNESS OR ATTEST:

(APPLICANT)

By: _____

Print Name and Title

Print Name and Title

Attachment A: Application

Attachment B: Plan