

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

THIS AGREEMENT is made and entered this \_\_\_\_ day of \_\_\_\_\_, 2005, 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 Wastewater Service of the Culpeper County Water and Sewer Authority dated \_\_\_\_\_ (“Rates, Rules and Regulations”) and is available upon request.

**R-5.** The parties have agreed that the Authority will design and build the Sewerage Sewerage Treatment Components subject to Applicant guarantees provided hereafter and in accordance with the Policies. The parties have agreed that the Applicant shall design, construct, and provide all Sewerage Collection System Components in accordance with the Policies. ***{Include the following if the Applicant will design and build the Sewerage Treatment Components}*** *The parties have agreed that the Applicant shall design, construct, and provide all wastewater collection, 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 Sewerage Collection System Components in accordance with the Policies. The System is comprised of Sewerage Collection System Components and Sewerage Treatment Components. Sewerage Collection System Components include all piping and appurtenances that bring raw sewage to the treatment works. Sewerage Treatment Components consist of all equipment, structures, pipes, and appurtenances that comprise the treatment works from and including any wastewater treatment plant influent pump station(s) through and including*

*any final effluent discharge piping.* 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.

**R-6.** The parties have agreed that the Applicant shall secure sufficient allocations to offset every pound of nitrogen and phosphorus discharged in excess of their "permitted design capacity" as of July 1, 2005. Permitted design capacity is the capacity authorized in a Certificate to Construct issued by the Department of Environmental Quality ("DEQ") before July 1, 2005. Allocations and offsets must be approved by the DEQ. Before accepting responsibility for the design, construction, ownership and/or operation of any new or expanded wastewater treatment plant that is subject to the offset requirement, the County/Authority will require evidence satisfactory to the County that (1) the DEQ has approved sufficient allocations to offset every pound of nitrogen and phosphorus to be discharged in excess of the plant's permitted design capacity as of July 1, 2005, (2) the offsets are permanent, and (3) the County/Authority will assume no obligation for the cost of maintaining the offsets. The County/Authority must also approve any allocation and offset-related VPDES permit conditions for the new or expanded discharge prior to accepting responsibility for the design, construction, ownership and/or operation of any new or expanded wastewater treatment plant that is subject to the offset requirement.

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 Wastewater Systems and also the Authority's Sewer 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. ***{Include the following if the Applicant will design and build the Sewerage Treatment 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.

d. 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 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 Sewerage Sewerage Treatment Components designed and built by the Authority. ***{Include the following if the Applicant designs and builds the Sewerage Sewerage Treatment 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. 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 bonds 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 Sewerage Treatment Components}*** Prior to acceptance by the Authority, the Applicant shall provide an approved Operations and Maintenance Manual and the Certificate to Operate from the Department of Environmental Quality. 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 Department of Environmental Quality. 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 Sewerage Treatment 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 sewer lateral from each residence. 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 Applicant further agrees:

- a. To pay in lieu of the service, as provided in Schedule \_\_\_\_\_ of the Rates, Rules and Regulations for Sewer Service published by the Authority, the amount of \_\_\_\_\_ per unit or user connection for the residential inspection service and \_\_\_\_\_ for commercial inspection service.
- b. To furnish to the Authority on a suitable map the precise location and length of each and every lateral connection.

The Authority reserves the right to discontinue this permit to the Applicant to install laterals 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. User

fees and rates will be reviewed and adjusted, if necessary, after each full calendar year. A monthly fixed user fee shall be charged to lots that are not connected to the System, as determined by the Authority, in its discretion and as provided in the Act. Quarterly user fees for metered lots shall include a basic charge and Authority-approved consumption charges per 1,000 gallons metered.

**8. Applicant's Subsidy.** The Authority requires and 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 § 14 hereafter, 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 install water meters for all homes and buildings, which are to be served by the System, in accordance with Authority Standards.

**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. *{Include the following if the Applicant will design and build the Sewerage Sewerage Treatment Components} Engineering review fees will be charged as two-and-one-half percent (2.5%) of the approved bond amount for the Sewerage Treatment Components. Inspection fees for the Sewerage Treatment Components will be charged as two-and-one-half percent (2.5%) of the approved bond amount for the Sewerage Treatment Components. Engineering review and inspection fees for the Sewerage Collection System Components will be charged as specified in the most current Rates, Rules, and Regulations. 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. 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. Regional Laboratory.** The Authority is providing a regional laboratory to support Community Water and Wastewater Systems more efficiently. This regional laboratory will allow laboratories at each community water and wastewater facility to be smaller and contain less equipment. In recognition of this, prior to issuance of the construction permit for the System, the Applicant agrees to pay the sum of \$\_\_\_\_\_ toward the regional wastewater laboratory.

**14. Final Completion, Inspection, Conveyance and Acceptance of the System.** *{Include the following if the Applicant will design and build the Sewerage Treatment 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 so 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.*

**15. Pump & Haul of Wastewater Prior to Plant Start-Up.** CCWSA will sponsor a request to the Culpeper County Health Department for temporary pump and haul services for the wastewater. On the Applicant's behalf, CCWSA will contract with a responsive, responsible pump and haul contractor for these services. The cost for these services will be paid initially by CCWSA and considered operating costs. The Authority will only allow pump and haul services to take place once the water system is substantially complete and houses are ready for occupancy and until a sufficient number of homes are generating wastewater to provide sufficient loading to operate the wastewater treatment plant. For the Applicant's community, this equates to **[Fill in number]** houses for which the Authority will sign occupancy permits.

**16. Central Service.** Should central sewer 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 part of the System to such central sewer service. As to lots which are not connected to the approved System, the Authority may require the connection of those lots to central sewer 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.

**17. 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 sewer 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.

**18. 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 sewer 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 sewage from this property is discharged to a wastewater conveyance and treatment facility owned and operated by the Culpeper County Water and Sewer Authority. The conveyance and treatment facility (the "Community Sewer System") provides a high level of treatment and discharges to **[name of receiving stream.]** Cooperation from each homeowner is required in order to minimize costs associated with operating and maintaining the facility. It is the obligation of each property owner to prevent the discharge of household hazardous wastes into the System.

All operation and maintenance costs of the Community Sewer 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 the 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 sewer capacity is obtained exclusively from, and will depend upon the Community Sewer System, independent of any other sewer source or System.

**19. 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:  
AUTHORITY

CULPEPER COUNTY WATER AND SEWER

\_\_\_\_\_  
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: \_\_\_\_\_