

APPENDIX

APPENDIX A
APPLICATIONS

**COMMERCIAL/RESIDENTIAL WATER/SEWER CONNECTION
APPLICATION AND PERMIT**

PERMIT NO. _____

DATE: _____

TO THE FREDERICKSBURG SEWER & WATER AUTHORITY

The undersigned, being the _____ of the property.
(OWNER, OWNER'S AGENT)

Located at _____ does hereby
(NUMBER) (STREET)

request a permit to install and connect a water/sewer service to serve the residence/business at said location.

1. The following person or firm will perform the proposed work.

(NAME) (ADDRESS)

2. Attached hereto are plans and specifications for the proposed work.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT THE UNDERSIGNED AGREES:

1. To accept and abide by all provisions and regulations of the several Ordinances of Bethel Township pertinent to this connection and all provisions and regulations of all future pertinent Ordinances.
2. To maintain the building water/sewer service at no expense to the Fredericksburg Sewer & Water Authority or Bethel Township.
3. To notify the Plumbing Inspector when the building water/sewer service is ready for inspection and connection, but prior to any portion of the work being covered.
4. Annual Estimated Consumption (applies only to other than residential) _____

DATE: _____

SIGNED: _____
(APPLICANT)

CONNECTION FEE: \$ _____ RECEIVED _____ DATE

INSPECTED, APPROVED & PERMIT ISSUED

(APPLICANT'S ADDRESS)

DATE: _____

(APPLICANT'S PHONE NO.)

SIGNED: _____
(PLUMBING INSPECTOR)

SIGNED: _____
For the Fredericksburg Sewer & Water Authority

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is dated as of the _____ day of _____, 199_____, and is entered into by _____ (hereinafter the "Owner") and _____ (hereinafter the "Contractor").

WHEREAS, the Owner desires to connect a property located at _____ to the sewer system owned and operated by Fredericksburg Sewer & Water Authority ("FSWA"); and

WHEREAS, inasmuch as the Contractor and Owner will be responsible for making the connection to FSWA's system, the Contractor and the Owner agree to provide indemnification to FSWA.

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Inasmuch as the Owner is responsible for paying all costs in connection with the installation of the lateral and connection to FSWA's system and the Contractor is responsible for performing all work in connection with the actual installation of the lateral and the connection to FSWA's system, Owner and Contractor each agree to perform all duties imposed by FSWA.

2. The Owner is required to indemnify FSWA for property damage including damage to the EXISTING FSWA line, immediate repair if damage does occur and bypass pumping of flow through that line until repairs are made, and personal injury or death which may occur in connection with the Project. If a claim, is ever asserted against FSWA under the terms of said indemnification, Owner and Contractor each agree to defend, indemnify and save harmless FSWA, its officers, directors, agents and employees from and against any and all claims, suits or actions, at law or in equity, losses, expenses including reasonable attorney fees, arising out of or resulting from the Project including damage to property or injury or death of any person if such claim is made with respect to the road opening permit for the Project. The Contractor and the Owner shall, at their sole cost and expense, defend any such claims, proceedings, suits or actions, groundless or not, which may be commenced against FSWA in respect to the PROJECT

and shall pay any and all judgments which may be recovered against FSWA or any sums owing by FSWA as a result of the settlement of such claims.

3. The Owner and Contractor each agree to defend, indemnify and save harmless FSWA, and its officers, directors, agents and employees from any and all liability for damages to property or injury to, or death of, any persons in a claim or suit seeking to impose liability on FSWA, its officers, directors, agents or employees, arising out of an act or omission of the Owner, the Contractor, any agent, servant or employee of the Contractor or Owner or any person engaged or employed in, or upon the work done in connection with the Project, by, or at the instance of or with the approval or consent of the Owner or Contractor. Contractor shall obtain a Certificate of Insurance naming FSWA as an additional insured with respect to the Project, and shall provide contractual liability insurance insuring its obligations to FSWA under the terms of this Agreement.

IN WITNESS WHEREOF, the Owner and Contractor have executed this Agreement the _____ day of _____, 19____.

Owner: _____

Title: _____

Attest: _____

(SEAL)

Contractor: _____

Attest: _____

FOR LATERAL IN TOWNSHIP ROAD

INDEMNIFICATION AGREEMENT

This indemnification Agreement (the "Agreement") is dated as of the _____ day of _____, 199____, and is entered into by _____ (hereinafter the "Owner") and _____ (hereinafter the "Contractor").

WHEREAS, the Owner desires to connect a property located at _____ to the sewer system owned and operated by Fredericksburg Sewer & Water Authority ("FSWA"); and

WHEREAS, in order to connect said property to FSWA's system, it will be necessary to construct a sanitary sewer lateral in a portion of the Township's right-of-way; and

WHEREAS, in order for the Contractor to construct the sanitary sewer lateral for the Owner (the "Project"), it will be necessary for the Owner to obtain a road opening permit for the Contractor to do such work; and

WHEREAS, inasmuch as the Contractor and Owner will be responsible for making the connection to FSWA's system, the Contractor and the Owner agree to provide indemnification to FSWA.

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Inasmuch as the Owner is responsible for paying all costs in connection with the installation of the lateral and connection to FSWA's system and the Contractor is responsible for performing all work in connection with the actual installation of the lateral and the connection to FSWA's system, Owner and Contractor each agree to perform all duties imposed by FSWA.

2. The Owner is required to indemnify FSWA for property damage including damage to the existing FSWA line, immediate repair if damage does occur and bypass

pumping of flow through that line until repairs are made, and personal injury or death which may occur in connection with the Project. If a claim is ever asserted against FSWA under the terms of said indemnification, Owner and Contractor each agree to defend, indemnify and save harmless FSWA, its officers, directors, agents and employees from and against any and all claims, suits or actions, at law in equity, losses, expenses including reasonable attorneys' fees, arising out of or resulting from the Project including damage to property or injury or death of any person if such claim is made with respect to the road opening permit for the Project. The Contractor and the Owner shall, at their sole cost and expense, defend any such claims, proceedings, suits or actions, groundless or not, which may be commenced against FSWA in respect of the Project and shall pay any and all judgments which may be recovered against FSWA or any sums owing by FSWA as a result of the settlement of such claims.

3. The Owner and Contractor each agree to defend, indemnify and save harmless FSWA, and its officers, directors, agents and employees from any and all liability for damages to property or injury to, or death of, any persons in a claim or suit seeking to impose liability on FSWA, its officers, directors, agents or employees, arising out of an act or omission of the Owner, the Contractor, any agent, servant or employee of the Contractor or Owner or any person engaged or employed in, or upon the work done in connection with the Project, by, or at the instance of or with the approval or consent of the Owner or Contractor, including a failure of the Contractor or any person to comply with the road opening permit of the Township. Contractor shall obtain a Certificate of Insurance naming FSWA as an additional insured with respect to the Project, and shall provide contractual liability insurance insuring its obligations to FSWA under the terms of this Agreement.

IN WITNESS WHEREOF, the Owner and Contractor have executed this Agreement the _____ day of _____, 199____.

Owner: _____

Title: _____

Attest: _____

(SEAL)

Contractor: _____

Attest: _____

**FOR LATERAL IN STATE ROAD
INDEMNIFICATION AGREEMENT**

This indemnification Agreement (the "Agreement"), is dated as of the _____ day of _____, 199____, and is entered into by _____ (hereinafter the "Owner") and _____ (hereinafter the "Contractor").

WHEREAS, the Owner desires to connect a property located at _____ to the sewer system owned and operated by Fredericksburg Sewer & Water Authority ("FSWA"); and

WHEREAS, in order to connect said property to FSWA's system, it will be necessary to construct a sanitary sewer lateral in a portion of the Commonwealth of Pennsylvania's right-of-way; and

WHEREAS, in order for the Contractor to construct the sanitary sewer lateral for the Owner (the "Project"), it will be necessary for FSWA to obtain a highway occupancy permit for the Contractor to do such work; and

WHEREAS, in order to obtain the highway occupancy permit, FSWA is required to indemnify and hold harmless the Commonwealth of Pennsylvania; and

WHEREAS, inasmuch as the Contractor and Owner will be responsible for making the connection to FSWA's system, the Contractor and the Owner agree to provide indemnification to FSWA with respect to its duties and obligations to the Commonwealth of Pennsylvania, Department of Transportation(PennDOT).

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Inasmuch as the Owner is responsible for paying all costs in connection with the

installation of the lateral and connection to FSWA's system and the Contractor is responsible for performing all work in connection with the actual installation of the lateral and the connection to FSWA's system, Owner and Contractor each agree to perform all duties imposed by PennDOT on FSWA or, where such performance is impossible, to reimburse FSWA for any and all costs incurred and/or paid by FSWA in the performance of the duties imposed by PennDOT on FSWA with respect to the highway occupancy permit for the Project.

2. FSWA is required to indemnify PennDOT for property damage and personal injury or death which may occur in connection with the Project. In the event PennDOT ever asserts a claim against FSWA under the terms of said indemnification, Owner and Contractor each agree to defend, indemnify and save harmless FSWA, its officers, directors, agents and employees from and against any and all claims, suits or actions, at law or in equity, losses, expenses including reasonable attorneys' fees, arising out of or resulting from the Project or FSWA's indemnification to PennDOT including damage to property or injury or death of any person if such claim is made by the Commonwealth with respect to the highway occupancy permit for the Project. The Contractor and the Owner shall, at their sole cost and expense, defend any such claims, proceedings, suits or actions, groundless or not, which may be commenced against FSWA by reason of its indemnification of the Commonwealth of Pennsylvania in respect of the Project and shall pay any and all judgments which may be recovered against FSWA or any sums owing by FSWA as a result of the settlement of such claims.

3. The Owner and Contractor each agree to defend, indemnify and save harmless FSWA, and its officers, directors, agents and employees from any and all liability for damages to property or injury to, or death of, any persons in a claim or suit seeking to impose liability on FSWA, its officers, directors, agents or employees, arising out of an act or omission of the Owner, the Contractor, any agent, servant or employee of the Contractor or Owner or any person engaged or employed in, or upon the work done in connection with the Project, by, or at the instance of or with the approval or consent of the Owner or Contractor, including a failure of the Contractor or any person to comply with the highway occupancy permit or the provisions of PennDOT regulations at 67 Pa. Code, Chapter 459. Contractor shall obtain a Certificate of Insurance naming FSWA as an additional insured with respect to the Project, and shall provide contractual liability insurance insuring its obligations to FSWA under the terms of this Agreement.

IN WITNESS WHEREOF, the Owner and Contractor have executed this Agreement the

____ day of _____, 199____.

Owner: _____

Title: _____

Attest: _____

(SEAL)

Contractor: _____

Attest: _____

SANITARY SEWER/PUBLIC WATER EXTENSION AGREEMENT

This *Sanitary Sewer/Public Water Extension Agreement* is made and entered into this _____ day of _____, _____ (the "Effective Date").

BY AND BETWEEN

Fredericksburg Sewer & Water Authority, an authority duly organized and existing under the municipal laws of the Commonwealth of Pennsylvania, having its principal office situate at 113 East Main Street, P.O. Box 161, Fredericksburg, Bethel Township, Lebanon County, Pennsylvania, hereinafter sometimes referred to as "Authority"

AND

_____,
or its assignees, hereinafter sometimes referred to as the "Company."

WITNESSETH THAT:

WHEREAS, the parties hereto desire to enter into an agreement relating to the construction of a sanitary sewage collection and/or public water distribution system within Bethel or Swatara Townships, Lebanon County, PA, which will connect to the Authority's waste water treatment plant and public water system located in Bethel or Swatara Townships, PA, and various other matters in connection therewith.

NOW THEREFORE, for and in consideration of the mutual covenants herein contained, the receipt whereof is hereby acknowledged, the parties do hereby covenant and agree, intending to be legally bound hereby, as follows:

1. **Design and Permits for Sanitary Sewer Collection/Public Water Distribution Systems.**

Company is in the process of designing a sanitary sewer collection and/or public water distribution system that will connect an area within Bethel/Swatara Township, Lebanon County, PA, to the Authority's wastewater treatment plant and/or public water distribution system located in Bethel/Swatara Township, PA, as itemized financially in Exhibit "A", and detailed more specifically in Exhibit "B" (the "Project"). Company represents that it will receive all permits necessary for the Project, including, without limitation, those required from the Pennsylvania Department of Environmental Protection and all necessary rights-of-way. The draft design for the sanitary sewer and public water distribution systems which comprise the Project are detailed more fully in those certain engineered drawings captioned "_____"

prepared by _____, dated _____, and last revised _____, bearing job number _____ (hereinafter, the "Plans"). The Plans are incorporated herein by reference as if set forth in full in this Agreement and are reproduced in Exhibit "B". Authority represents that the Plans, once finally approved by Authority, will meet all of its rules and regulations and may be constructed, without deviation, by Company, conditioned upon Company's compliance with the terms and conditions contained herein. Company covenants that, once the Plans are finally approved by Authority, no changes, modifications or alterations of the Plans will be made unless and until the same shall have been approved by the Authority and Authority's consulting engineer. Notwithstanding the foregoing, the location of the utility lines shown on the attached Exhibits may change during the land development approval process. The location of the utility lines depicted on the final approved land development plans shall control in the event they conflict with those set forth on the attached Exhibits.

2. **Construction of Sanitary Sewer Collection and Public Water Distribution Systems by Company.**

A. Within thirty (30) days of the Effective Date, Company shall initiate securing the necessary permits and rights-of-way necessary and begin construction of the sanitary sewer and public water systems detailed in the Plans and which collectively comprise the Project, at Company's sole cost and expense. Construction shall be completed no later than three hundred sixty-five (365) consecutive calendar days thereafter.

B. Authority shall have the right to inspect the Project at reasonable times during the entire course of construction and installation. Authority will prepare reports on construction progress with percentage of completion on a monthly basis, but will not approve contractor invoices for payment. Neither Authority, nor the Authority's consulting engineer, shall be responsible for the means, methods or sequence of construction except as described in the final Plans. Authority shall have the right to recoup any costs or expenses associated with this inspection as provided herein.

C. Company agrees to give Authority ten (10) days' written notice of its intention to begin construction so that all work may be properly inspected by the Authority. Company shall cause its contractor or contractors, as the case may be, to keep a copy of the approved plans and specifications, as well as any shop drawings approved by Authority, on all active work sites and available to Authority and its consulting engineer.

D. Authority shall not be a party to the contract(s) for the construction of the sewer and water systems detailed in the Plans and that collectively comprise the Project. It is the belief of the Company and Authority that the construction of the Project by Company does not constitute a "public work" within the meaning of the Pennsylvania Prevailing Wage Act (the "Prevailing Wage Act"). In the event it is held by any lawful authority that any portion of the

construction of the Project is subject to the Prevailing Wage Act, Company agrees to pay any additional labor costs attributable to the prevailing wage rates. Company, at its sole cost and expense, shall have the right to contest the validity of any and all decisions of any lawful authority finding that any portions of the construction of the Project is subject to the Prevailing Wage Act. For that purpose, Company shall have the right to institute such proceeding or proceedings in its own name or in the name of Authority, as circumstances may require, provided that all expenses incurred by reason of the proceedings shall be paid by the Company.

E. Within thirty (30) days of the Effective Date, Company shall furnish Authority with a performance bond, with corporate surety and in a form satisfactory to Authority, to cover all expenses incurred in connection with the Project in an amount equal to one hundred ten (110%) percent of the cost thereof, which cost will be verified by submission of evidence of bona fide bids from any contractor or contractors chosen by Company or, in the absence of such, as established by Authority's consulting engineer. In lieu of a performance bond, Company may post alternate financial security in the form of a cash escrow, at the amount specified above, or in an irrevocable letter of credit or restricted escrow account in an appropriate lending institution, provided, however, that any such irrevocable letter of credit or escrow agreement is satisfactory to and in the form approved by Authority. If the construction is not completed within one (1) year from the date of posting of such financial security, the amount of financial security may be increased, at the sole discretion of Authority, by an additional (10%) percent for each one-year period beyond the first anniversary date from the posting of the financial security or to one hundred ten (110%) percent of the cost of completing the work contemplated by this Agreement as re-established on or about the expiration of the preceding one-year period. Such security shall be released upon completion of the Project, conditioned upon acceptance of the sanitary sewer/water lines and appurtenances that collectively comprise the Project by Authority and an agreement to provide maintenance as set forth more fully herein.

F. In the event Company fails to complete the Project within the time specified in paragraph 2.A, Authority shall be entitled to draw upon the financial security and complete the Project provided Authority first provides Company with thirty (30) days' written notice of its intention to do so.

G. Company, its successors and assigns, shall be solely responsible for any and all damage, injury or loss caused by the acts or omissions of Company, its agents or employees in the construction of the Project and shall, at its own expense, repair any damage resulting from such act or omission to the property of Authority or other persons. Company shall indemnify, save harmless and defend Authority, its agents and consultants from and against all loss or liability for or on account of any injury to any person or damage received or sustained to the property of any person or persons by reason of any act or negligence on the part of Company, its agents or employees, or by reason of the installation or construction of the Project or any activity undertaken by Company pursuant to this Agreement.

3. Acceptance of Sanitary Sewer Collection and Water Distribution Systems by Authority.

A. Upon the satisfactory completion of the Project, Company shall prepare and deliver deeds of dedication for same to Authority. Authority agrees to accept the deeds of dedication and thereafter the sanitary sewer and public water distribution systems, including all parts and appurtenances thereof, shall become and remain the sole, absolute, and permanent property of Authority, or its assigns, free and clear of any liens, limitations or other liabilities in favor of Company, its successors or assigns, its contractor or contractors, its and their subcontractor or subcontractors, laborers and material men and any of their creditors, or in favor of any other person or corporation, to the same end and effect as if Authority had constructed the systems with its own labor and at its own expense.

B. As a prerequisite to Authority accepting the deeds of dedication for the sanitary sewer collection and public water distribution systems, (1) Company will certify to Authority that the systems, and all of their components, are free and clear of all liens and encumbrances; (2) Company will execute a waiver of liens in favor of Authority; and (3) Company will certify that it has no claims, causes of action or lawsuits, actual or threatened, against Authority except as set forth in this Agreement.

C. Company, at its cost, by an instrument in form approved by the Authority, shall convey to Authority free of cost or charge an easement and right-of-way over and under Company's property to the extent necessary or desirable with respect to Authority's ownership, maintenance and operation of the sewer and water lines and appurtenances which collectively comprise the Project.

D. Authority shall accept dedication of the sewer and water lines provided, however, that the Project is constructed in accordance with the Plans, including specifications relating to material, equipment and workmanship, as based upon a determination by the Authority's consulting engineer.

E. Upon completion of the Project, Company shall provide Authority with a complete set of as-built drawings and shall notify the Authority, in writing, by certified or registered mail, of the completion of the Project with a copy thereof sent to the Authority's consulting engineer. Authority shall, within ten days after receipt of such notice, direct and authorize the Authority's consulting engineer to inspect all of the improvements constructed as part of the Project. The Authority's consulting engineer shall file a report, in writing, with the Authority, and shall promptly mail a copy of said report to the Company by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Authority's consulting engineer of the aforesaid authorization from the Authority. Said report shall be detailed and shall indicate approval or rejection of the Project, either in whole or in part, and if the Project, or any portion thereof shall not approved or shall be rejected by the Authority's

consulting engineer, said report shall contain a statement of reasons for such non-approval or rejection.

F. Authority shall proceed with due diligence to take action on the request for acceptance of the Project at a duly advertised meeting of the Authority following receipt of the Authority's consulting engineer's report. Authority shall notify the Company, in writing, by certified or registered mail of such action promptly following the meeting.

G. If any portion of the Project shall not be approved or shall be rejected by Authority, Company shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein shall be followed.

H. Company shall provide or cause to be provided a maintenance surety and a warranty, in form and substance acceptable to Authority, on all equipment, material and workmanship for all items related to the Project to be effective for a period of eighteen (18) months from the date of acceptance of the Project by Authority. Upon provision by Company of the required security, subject to all conditions contained herein, Authority shall thereafter accept the sewer and water lines which collectively comprise the Project and assume responsibility for all repairs, operations and maintenance and shall operate and maintain the lines in accordance with all applicable laws and regulations.

I. Authority, or its duly authorized agent, shall be the sole judge of whether Company has complied with the requirements and specifications of Authority related to the Project and shall determine at their sole discretion, whether the Project should be approved and accepted by Authority. Authority shall not unreasonably withhold approval or acceptance and nothing herein shall be construed as a limitation on Company's right to contest or question by legal proceedings or otherwise, any determination of the Authority or the Authority's consulting engineer.

J. After the acceptance of the deeds of dedication, Authority shall maintain, repair, rebuild and otherwise act toward the systems as its own property and at its own cost and expense and Company shall have no further obligation or responsibility thereto. Nothing herein shall be construed to discharge or dilute the contractual obligations of the contractor, contractors, or subcontractors of the Company to guarantee their workmanship and to maintain the work site and improvements for such periods of time following completion as may have been agreed upon by such contractors, subcontractors and Company. Company agrees to require its contractor or contractors to provide a one (1) year warranty commencing as of the date the Authority's consulting engineer certifies that the sanitary sewer and water lines which are the subject of this Agreement are substantially complete, which certification shall not be unreasonably withheld.

4. **Reservation of Capacity in Authority's Sewer System/Tapping Fee Provisions.**

- A. In consideration of the construction of the water and sewer lines detailed in the Plans, and conditioned upon satisfactory performance of all of Company's obligations contained in this Agreement, Authority agrees to reserve up to _____ (_____) equivalent dwelling units ("EDUs") capacity in its sanitary sewer conveyance system and its sanitary sewage treatment plant. These EDUs shall be subject to the payment of any tapping fee due the Authority per the schedule approved by Resolution of the Authority and in effect at that time. Payment of the tapping fees shall accompany the delivery of this executed Agreement, or at Company's option, the payment of the tapping fees may be deferred until such time that Company applies for building permits for the residential building lots which collectively comprise the Project, under and subject, however, to the condition that Company deliver to Authority an executed copy of the Authority's standard sewer capacity reservation agreement, along with the initial annual reservation payment stipulated in that reservation agreement.
- B. In consideration for the construction of the public water lines detailed in the Plans, and conditioned upon satisfactory performance of all of Company's obligation contained in this Agreement, Authority agrees, for a period of ten (10) years from the date of the acceptance of a deed of dedication for the public water lines which are the subject of this Agreement, to reserve sufficient capacity in its public water system sufficient to accommodate the foregoing EDUs of capacity for Company, its successors and assigns. Authority agrees that no other infrastructure additions or improvements shall be required of Company, its successors and assigns, to connect these EDUs to Authority's public water system. During said period, Authority waives payment by Company, its successors and assigns, of any Authority tapping fee for connection to the public water system of any of these EDUS described herein for public water.
- C. An EDU, for both water and sewer usage, shall be determined as set forth in 53 P.S. §5607, as amended.
- D. If Company, or its successors or assigns, does not use any of the sewer EDUs after completion of the Project, then Company, or its successors or assigns, shall sell the unused sewer EDUs to Authority for an amount per EDU equal to that which Company paid to the Authority, less five percent for the costs of administration and overhead by the Authority.

5. Miscellaneous Provisions.

A. Company agrees to reimburse Authority for all reasonable costs and administrative expenses incurred with respect to the Project after the date of this Agreement and prior to acceptance of deeds of dedication for same, which costs include engineering (review and inspection) and legal costs, and any and all costs and expenses which may be incurred in connection with the Project. The anticipated costs shall be bonded as part of the financial security placed by Company as set forth in this Agreement.

B. No delay or failure of the Authority in exercising any right, power or privilege hereunder shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other power, right or privilege. Except as otherwise expressly limited herein, the rights of the parties under this Agreement are cumulative and not exclusive of any right or remedies which they would otherwise have.

C. If any provision of this Agreement is prohibited by, or is unlawful or unenforceable under any applicable law or any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof, provided, however, that any such prohibition in any jurisdiction shall not invalidate such provision in any other jurisdiction, and provided, further, however, that where the provisions of any such applicable law may be waived, they hereby are waived by the parties to the full extent permitted by law to the end that this Agreement shall be deemed to be a valid and binding Agreement in accordance with its terms.

D. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The parties agree that any matter which may be brought or pursued in court hereunder, or that is in any way connected with or related to this Agreement, shall be brought and maintained only in the Court of Common Pleas of Lebanon County, Pennsylvania, and each party consents to such venue and the court's personal jurisdiction over each party.

E. This Agreement constitutes the entire agreement with respect to the subject matter hereof and supersedes all prior written or oral agreements, arrangements and understandings relating to the subject matter hereof. No provision of this Agreement shall be waived, amended or terminated except by written instrument signed by Authority and the Company.

F. Company represents and warrants to Authority that Company has full power and lawful authority to carry out the terms of this Agreement and the execution and delivery of this Agreement, and the performance by the Company of the terms of this Agreement will not result in a breach of any of the terms of, or constitute a violation or default under any contract, indenture or other instrument by which the Company is bound.

G. Authority represents and warrants to Company that all necessary action has been taken to authorize the execution and delivery of this Agreement; Authority has full power and lawful authority to carry out the terms of this Agreement; and the execution and delivery of this Agreement will not result in a breach of any of the contract, indenture or other instrument by which Authority is bound.

H. The parties hereto shall hold each other, their attorneys, engineers and other agents, harmless as to any claims which may result from this Agreement or their reliance upon this Agreement. The only remedy which shall be available to the parties hereto upon breach of this Agreement shall be to seek specific performance of this Agreement in the Court of Common Pleas of Lebanon County, Pennsylvania.

I. All notices required or permitted to be given by this Agreement must be in writing and will be deemed given when personally delivered, or when received after mailing by registered or certified United States mail, postage prepaid, return receipt requested, or when received by facsimile verified as accepted. The addresses for notices served by mail shall be as follows, unless subsequent notice is given:

If to Authority:
Fredericksburg Sewer & Water Authority
113 East Main Street
P.O. Box 161
Fredericksburg, PA 17026

With a copy to:

If to Company:

With a copy to:

Water Authority for the purposes therein contained and desired the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

ATTEST:

**“AUTHORITY”
FREDERICKSBURG SEWER
& WATER AUTHORITY**

Secretary

By: _____
Chairman

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF LEBANON :

On this ____ day of _____, _____, before me, a Notary Public, the undersigned officer, personally appeared _____, who represented himself as the Chairman of the Board of the Authority, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as Chairman of the Board of the Fredericksburg Sewer & Water Authority for the purposes therein contained and desired the same might be recorded as such.

Notary Public

FREDERICKSBURG SEWER AND WATER AUTHORITY

SEWER RESERVATION CAPACITY AGREEMENT

THIS SEWER RESERVATION CAPACITY AGREEMENT made and entered into as of this _____ day of _____, _____, by and between the **FREDERICKSBURG SEWER AND WATER AUTHORITY**, a body corporate and politic existing by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office at 113 East Main Street, P.O. Box 161, Fredericksburg, PA 17026 (the "Authority")

and

Name (indicate whether corporate, partnership or sole proprietor - hereinafter the "Developer")

Address (Street, P.O. Box, City, State and Zip Code)

Telephone number

Fax number

Contact Person

Email address

Number of EDUs Reserved

Reservation Fee Per EDU

WITNESSETH:

WHEREAS, Developer intends to develop a certain tract or parcel of land within the service area of Authority (the "Tract"); and

WHEREAS, Developer intends to request Authority's permission to construct, at Developer's sole cost and expense, and by its own contractors or subcontractors, a sanitary sewer system within the Tract and to connect the system when completed into the Authority's existing sewage collection system; and

WHEREAS, Developer requests Authority to reserve the Equivalent Dwelling Units ("EDUs") of sewer capacity set forth below in order to permit the development of the Tract.

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound hereby, the parties hereto agree as follows:

1. Reservation of Sewer Capacity.

- A. Reservation/Term. In consideration of the payments by Developer set forth below, Authority agrees to reserve the number of EDUs of sewer capacity for improvements to be constructed on the Tract (the "Reserved EDUs") from the date this Agreement is approved by Authority through and including December 31 of that calendar year. Thereafter, this Agreement shall automatically renew for a maximum of five (5) successive one (1) year periods, commencing January 1 and ending December 31, if Developer is not then in default, unless either party provides the other party with written notice of its intention not to renew not less than thirty (30) days prior to the last day of the current term. The terms and conditions of this Agreement for any and all renewal terms shall be identical with the initial term except for any increase with regard to the Annual Fee (as hereinafter defined). The Reserved EDUs will be allocated at the time of application for connection to the sewer system.
- B. Annual Fee. In consideration of the reservation of sewer capacity by Authority set forth above, Developer shall pay to Authority the non refundable annual fee established from time to time by Authority per EDU (the "Annual Fee"). The Annual Fee for the first year shall be paid within three (3) business days of the date this Agreement is approved by Authority and, if necessary, shall be *pro rated* on a per diem basis. Thereafter, the Annual Fee shall be paid on or before the fifth (5th) day of January of each calendar year this Agreement is in effect. If the Annual Fee is not paid when due, Authority may declare this Agreement null, void and of no further force or effect.
- C. Utilized Capacity. Any Reserved Capacity utilized by Developer by connection to Authority's sanitary sewer system during any calendar year shall result in a *pro rata* reduction in the Annual Fee for the succeeding calendar year.
- D. Credit Against Tapping Fee. If any Reserved Capacity is utilized by Developer by connection to Authority's sanitary sewer system during any calendar year, Developer shall be given credit against the tapping fee then prevailing for the sewer service to be provided by Authority in an amount equal to the *pro rata* portion of Reserved Capacity utilized during that year.

2. No Guarantee of Availability. Authority does not guarantee Developer the ability to connect to Authority's treatment plant. The parties acknowledge and agree that the capacity at Authority's treatment plant depends upon, and is subject to, the criteria promulgated from time to time by the Department of Environmental Protection ("DEP"). By this Agreement, Authority only represents that under current DEP criteria (1) there is sufficient capacity at Authority's treatment plant to accommodate the EDUs set forth above; and (2) Authority will reserve sufficient capacity to accommodate the EDUs set forth above so long as this Agreement is in effect.

3. **Miscellaneous Provisions.**

- A. This Agreement is binding on and enforceable by and against the parties, their successors, legal representatives, heirs and assigns.
- B. The person or entity signing on behalf of the Developer has full legal authority to do so.
- C. Developer shall not have the right to assign or transfer this Agreement, or any rights hereunder, without the written consent of Authority.
- D. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania. The parties agree that any matter which may be brought or pursued in court hereunder, or that is in any way connected with or related to this Agreement, shall be brought and maintained only in the Court of Common Pleas of Lebanon County, Pennsylvania, and each party consents to such venue and the court's personal jurisdiction over each party.
- E. No part of this Agreement will be affected if any other part of it is held invalid or unenforceable.
- F. The section headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
- G. The parties to this Agreement acknowledge that they have had the opportunity to participate equally in the negotiations leading to the execution of this Agreement and that in the event of a dispute, no party shall be treated, for any purpose, as the author of this Agreement nor have any ambiguity resolved against him or it on account thereof.

- H. All notices required or permitted to be given under this Agreement must be given in writing, and will be deemed given when personally delivered or, if earlier, when received after mailing by registered or certified U.S. mail, postage prepaid, with return receipt requested.
- I. Any party's failure to insist on compliance or enforcement of any provision of this Agreement shall not affect its validity or enforceability or constitute a waiver of future enforcement of that provision or of any other provision of this Agreement.
- J. More than one (1) copy of this Agreement may be executed, and all parties agree and acknowledge that each executed copy shall be a duplicate original.
- K. Whenever the context of this Agreement requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural, and vice versa.

[The remainder of this page has been intentionally left blank - signature page follows.]

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

WITNESS/ATTEST:

“DEVELOPER”

By: _____

ATTEST:

Secretary

**FREDERICKSBURG SEWER AND
WATER AUTHORITY**

By: _____
Chairman