

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

WASTEWATER CONTRACT

THIS CONTRACT MADE AND ENTERED into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the COMMISSIONERS OF PUBLIC WORKS OF THE TOWN OF MOUNT PLEASANT, SOUTH CAROLINA, also known as the MOUNT PLEASANT WATERWORKS, (hereinafter sometimes referred to as the "Commission") and \_\_\_\_\_ (hereinafter sometimes referred to as the "Applicant").

WITNESSETH

WHEREAS the Commission is a body politic and corporate under the laws of the State of South and is responsible for the acquisition and distribution of supplies and fresh water and for providing wastewater collection and treatment services in the Mount Pleasant area of Charleston County; and

WHEREAS the Applicant desires to improve or develop property known as \_\_\_\_\_ (hereinafter sometimes referred to as the "Development") and has requested permission to construct certain wastewater facilities whereby wastewater service could be provided to the aforementioned development; and

WHEREAS the Applicant has submitted to the Commission plans, profiles and specifications for the construction of the proposed wastewater facilities; and

WHEREAS the Applicant desires to transfer and convey to the Commission the wastewater facilities to be constructed pursuant to this Contract and the Commission desires to accept such conveyance subject to the terms of this Contract.

NOW, THEREFORE, it is mutually agreed by the parties hereto as follows:

1. The Applicant agrees that it will construct and, in and for the sum of FIVE (\$5.00) DOLLARS and the premises herein, will convey and transfer unto the Commission the wastewater facilities which it has constructed, together with the easements for the operation, maintenance, repair and replacement of same, as shown on the plans and specifications for said wastewater facilities prepared by \_\_\_\_\_, bearing the date of \_\_\_\_\_, which plans and specifications are made a part hereof and incorporated herein by this reference. By way of explanation, and not by way of limitation, the term "wastewater facilities" shall include the following:

*The Wastewater System and all property used for wastewater transportation serving \_\_\_\_\_, Charleston County, South Carolina, as is more particularly shown and depicted on the plans and specifications for said wastewater system prepared by \_\_\_\_\_ bearing the date of \_\_\_\_\_, which plans and specifications are made a part of this description by this reference, including but not limited to all wastewater collection lines, interceptor wastewater lines, spray irrigation system, gravity lines and mains, manholes and connecting lines, valves, ties and adaptors, pumps, pumping stations and connecting lines, lift stations and connecting lines, all accessories and appurtenant fixtures to service lines and wastewater service equipment, all permanent and transmissible easements for constructing and maintaining wastewater lines, all easements, leases, permits, contract rights and/or rights-of-way for wastewater service lines, connections and equipment located in or connecting to \_\_\_\_\_, Charleston County, South Carolina; apparatus, real property, equipment and wastewater maintenance supplies and all other property, equipment, rights and privileges as are a part of the said wastewater system.*

All labor and materials for the subject construction will be at the expense of the Applicant unless otherwise provided herein. The Applicant will construct the wastewater facilities according to the plans and specifications approved by the Commission. All construction will be in accordance with the ordinances and regulations of the Commission and the South Carolina Department of Health and Environmental Control, as they may be amended from time to time.

2. The Applicant will pay to the Commission administrative fees at rates in effect at time of payment and will reimburse the Commission for any expenses, including legal fees, incurred in connection with the construction of these facilities and the transfer of the facilities to the Commission. The Administrative fee shall be paid to the Commission prior to the commencement of construction and shall be based upon the rates in effect at time of payment. A Commission Conditional Permit to Construct will not be provided to the Development until full payment of this administrative fee and expenses has been made to the Commission.

3. Prior to the commencement of construction, the Applicant will obtain and furnish to the Commission copies of all encroachment and construction permits required for the construction of these wastewater facilities. The Applicant agrees to comply with any general and special provisions of said encroachment permits, including clean up and final restoration requirements. No wastewater service will be provided to the Development until the Applicant provides the Commission with written verification from the agency issuing the encroachment permit that all general and special provisions of the encroachment permit, including clean up and final restoration requirements have been satisfied.

4. Impact fees will be quoted prior to issuance of a Commission Conditional Permit to Construct. Impact fees must be paid in full prior to the Commission accepting the wastewater system for operation and maintenance. Capacity in the Commission's wastewater system is not guaranteed until impact fees are paid in full. Issuance of a Commission Conditional Permit to Construct does not guarantee capacity in the Commission's system until all impact fees have been paid. Construction of a wastewater system without payment of impact fee is at the developer's risk. Impact fees are subject to change at any time. The Applicant will be responsible for paying impact fees at the rates in effect at the time of payment regardless of any fee quotes provided earlier to the Applicant.

5. Upon completion of construction, the wastewater facilities, free of liens and encumbrances, will be conveyed to the Commission. The Applicant will furnish to the Commission recorded property deeds, grants of easements and rights-of way, along with the appropriate plats, that are required for the operation and maintenance of the said wastewater facilities.

6. At the closing of the transfer of the wastewater facilities from the Applicant to the Commission, the Applicant shall provide the Commission with a certification of title from an attorney licensed to practice law in South Carolina that the land, equipment, facilities, pipes, valves, wastewater lines, lift stations, pump stations, easements and all other property comprising the wastewater facilities are free from any and all manner of liens and encumbrances at the time of transfer to the Commission and that the property is being transferred to the Commission with good and marketable title.

7. The Applicant represents and warrants that it will be the lawful owner of all the property to be transferred to the Commission hereunder and comprising the wastewater facilities and that it will have the right to sell the same and does hereby bind all and singular the said property unto the Commission, its successors and assigns, against itself, its successors and assigns and every person whomsoever lawfully claiming or to claim the same or any part thereof.

8. The Commission shall have the right, at any time during the course of construction, to inspect the wastewater facilities to determine compliance with the terms of this contract. Commission shall also have the right to conduct a final inspection of the wastewater facilities in accordance with the Guidelines' for Development. Nothing contained in this paragraph shall relieve the applicant of its responsibility to construct the wastewater facilities in accordance with the plans and specifications approved by the Commission and in accordance the rules and regulations adopted by the Commission and by the South Carolina Department of Health and Environmental Control.

9. The Applicant shall, without expense to the Commission, repair and remedy any defect occurring in the wastewater facilities within two (2) years from the date the South Carolina Department of Health and Environmental Control Operating Permit was issued and caused by, arising out of or incidental to the use of defective material, improper workmanship, or the failure by the Applicant to comply with the plans and specifications or any other requirement of this Contract. The Commission, in order to protect the health and safety of the public, shall have the option to repair any defect, either temporarily or permanently, and the Applicant shall reimburse the Commission for any costs and expenses incurred within thirty (30) days after receipt of a bill from the Commission. The failure by the Applicant to repair any system defect or to reimburse the Commission for repairs made by the Commission shall result in the suspension of wastewater connections in the Development.

10. The Commission waives the requirement for the Applicant to post a performance bond. The Applicant shall post a maintenance bond in accordance with the current Guidelines for Development prior to the Commission accepting the wastewater facility for operation and maintenance in an amount equal to ten percent (10%) of the total construction and engineering cost of the wastewater system to indemnify the Commission for any costs and expenses incurred by the Commission because of the failure of the Applicant to comply with the requirements of paragraph nine (9) of this Contract. The maintenance bond, as offered by the Applicant, must be for a period of 24-months from the date the South Carolina Department of Health and Environmental Control Operating Permit was issued.

11. The Applicant will furnish the Commission "As Built" drawings in accordance with the Guidelines for Development, along with a written certification by the Engineer stating that the wastewater facilities were constructed according to the plans and specifications approved by the Commission and that the Contractor used acceptable construction practices. The Engineer shall further provide a certification of the actual construction cost of the wastewater facilities transferred to the Commission pursuant to this Contract.

12. No service will be provided by the Commission to the Applicant's wastewater facilities until the Applicant has complied with all of the requirements contained in this Contract.

13. The Commission shall, upon conveyance and acceptance of the wastewater facilities, become the sole owner thereof. The Commission will at that time assume sole responsibility for the operation and maintenance of the wastewater facilities.

14. The Commission will charge for connection to its wastewater system in accordance with applicable rates in effect for the Commission at the time of connection. The size of connections and point of connection are the responsibility of the Applicant and are shown on the approved drawings.

15. Actual connection to the system at points other than those referenced in paragraph fourteen (14) above will be charged for in accordance with applicable rates in effect for the Commission at the time of connection, the cost of

physical connection being at the expense of others than the Commission.

16. The Commission will charge for wastewater service in accordance with its applicable rates, as may be amended from time to time.

17. The Applicant covenants and agrees that it will obtain or grant to the Commission all property rights, easements and/or, rights-of-way necessary for the operation and/or maintenance of the wastewater facilities being transferred to the Commission and any expansions thereof or necessary for any expansion of or modification to the remainder of the Commission's wastewater system necessitated by the acceptance of the wastewater facilities referred to herein.

18. The Commission shall have the right to use the wastewater facilities transferred hereunder for any purpose, including providing wastewater service to property not owned by the Applicant, without compensation to the Applicant.

19. The Applicant, its successors and assigns warrant and agree that they will pay any legal fees and expenses or other costs (including, but not limited to, payment for condemned property) incurred by the Commission in defending its title to the properties which are the subject of this Contract and which comprise the wastewater facilities.

20. The Applicant agrees that nothing in this Contract or in the action taken by the Commission pursuant to this Contract shall be construed as implying an acceptance by the Town of Mount Pleasant of any roadways in the Applicant's development or as creating any duty upon the Town of Mount Pleasant to maintain any roadways in the Applicant's development.

21. The Commission does not, by virtue of this Contract, reserve capacity in its system to ultimately serve any or all of the property adjacent to or available to these wastewater facilities.

22. The provisions of this Contract shall survive the closing of the transfer of the wastewater facilities to the Commission.

23. This Contract constitutes the entire agreement between the parties relating to the transfer of the wastewater facilities, and the terms of this Contract may be modified only in writing executed by both parties.

24. By entering into this Contract, the Commission assumes no responsibility for the payment of any taxes, fees, assessments or charges that may have been levied against or any present liens on the wastewater facilities constructed by the Applicant.

25. Neither this Contract nor any right hereunder may be assigned by either party without the prior written consent of the other party. Subject to this condition, this Contract and all the provisions thereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, \_\_\_\_\_  
and the COMMISSIONERS OF PUBLIC WORKS OF THE TOWN OF MOUNT PLEASANT, SOUTH CAROLINA, a/k/a Mount Pleasant Waterworks have caused these presents to be executed in their names by their proper officers on the date first hereinabove written.

