

THIRD AMENDMENT TO WATER SERVICE AREA AGREEMENT

This Third Amendment to Water Service Area Agreement (the "Third Amendment"), made and entered into this 29 day of July, 2009, by and between the Board of County Commissioners of Frederick County, a body politic and corporate of the State of Maryland (hereinafter, the "County") and the Town of New Market, Maryland, a body politic and corporate of the State of Maryland (hereinafter, the "Town").

RECITALS

WHEREAS, the County and the Town entered into that certain Water Service Area Agreement, dated April 29, 2003 ("Original WSAA"), and the First Amendment to Water Service Agreement, dated November 25, 2003 ("First Amendment"), for the purpose of obtaining a County water supply for the properties located within the municipal boundary of the Town (hereinafter, "Town Property");

WHEREAS, the County and the Town entered into the Second Amendment to Water Service Area Agreement, dated May 5, 2005 ("Second Amendment") to allocate a total of 120 additional water and sewer taps to the Town, and to expand the area to be served under the WSAA by the addition of newly annexed property owned by Seawright Corporation;

WHEREAS, the WSAA contains provisions which control the timing of the release of taps reserved for use in the Town, keyed to the completion of construction of certain infrastructure improvements;

WHEREAS, since the execution of the WSAA in 2003, the County revised its approach and phased the water infrastructure improvements, resulting in water capacity becoming available prior to the full expansion of the New Design Road WTP to 26 MGD as provided in paragraph 9 of the WSAA;

WHEREAS, the County also revised its wastewater infrastructure improvement phasing and by this Third Amendment seeks to clarify what wastewater infrastructure improvements must be completed before additional wastewater capacity, beyond that already reserved for the Town, can be allocated to properties within the WSAA service area; and

WHEREAS, the parties also want to modify the date by which owners of existing structures may elect to pay water capacity fees over a ten (10) year period.

Now therefore, the parties agree as follows:

1. Paragraph Number 8 of the Original WSAA shall be of no further force or effect and shall be replaced with the following:

Allocation Schedule: Six hundred twenty (620) water and sewer taps are allocated to the Town and available for purchase. Water and sewer taps for Royal Oaks and Marley Gate listed in Table 1 must be secured by separate multi-year tap agreements, unless the taps were previously purchased.

	Total Allocated		Town of New Market <small>(Not Under MYTA)</small>		Royal Oaks		Marley Gate	
	Water	Sewer	Water	Sewer	Water	Sewer	Water	Sewer
	Taps	Taps	Taps	Taps	Taps	Taps	Taps	Taps
Original	500	500	275	275	120	120	105	105
2 nd Amendment	120	120	120	120	0	0	0	0
Total Available	620	620	395	395	120	120	105	105
Future	150	150	150	150	0	0	0	0
Grand Total	770	770	545	545	120	120	105	105

Taps designated in Table 1 herein for the Town of New Market, include water taps to serve properties presently provided with public sewer service, and for additional development and for increased capacity needs of existing properties. The properties presently receiving sewer service are set forth in Exhibit B (to the Original Agreement).

Owners of existing structures within the municipal boundaries of the Town, that connect to the water system on or before June 30, 2015, shall have the option to pay the capacity fee due to the County over a ten year period, with interest*, payable in full upon transfer of the property, provided the property owners execute the necessary documents with the County which are to be recorded among the Land Records.

2. Paragraph Number 9 of the original WSAA shall be of no further force or effect and shall be replaced with the following:

Allocation and Availability of Water and Sewer Capacity:

All 620 water and sewer taps reflected in Table 1 in Paragraph 8 above, are currently allocated and available for purchase and use within the areas of the Town to be served under this WSAA, as amended.

Those one hundred (150) water and wastewater taps identified as "Future" in the shaded portion of the chart in Paragraph 8, shall be reserved under this WSAA, however the water and wastewater taps shall not be allocated or available

* 1 % above the County's cost of borrowing.

until the completion of the construction of the Bush Creek
Interceptor and the Ballenger-McKinney WWTP project.

3. The recitals set forth above are incorporated herein by reference and a material part of this Third Amendment.

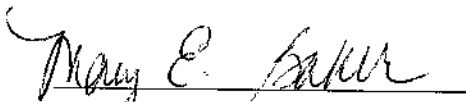
4. This Third Amendment contains the entire understanding of the parties and no amendments or modifications hereto shall be effective unless in writing signed by both parties. In the event of any conflict between the terms of this Third Amendment and any provision of the WSAA, the terms of this Third Amendment shall control.

5. Except as modified by the First, Second, and Third Amendments, all other terms of the WSAA remain in full force and effect.

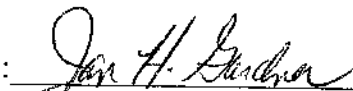
WITNESS the execution of this Third Amendment, as of the day and year set forth above.

WITNESS:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND




7/29/09

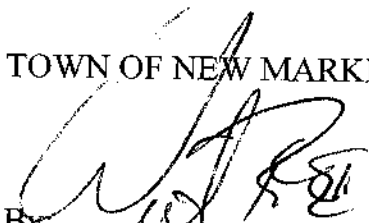
By: 

Jan H. Gardner, President

TOWN OF NEW MARKET, MARYLAND



7/29/09

By: 

Winslow Burhans, Mayor