

TUCKASEIAGEE WATER & SEWER AUTHORITY

DEVELOPER AGREEMENT

THIS AGREEMENT made on the _____ day of _____, _____, by and between the TUCKASEIGEE WATER & SEWER AUTHORITY, hereinafter referred to as "Authority" and _____, hereinafter referred to as "Developer."

WITNESSETH:

WHEREAS, the Authority owns and operates the water system / wastewater system that will service the area or subdivision as described below; and

WHEREAS, the Developer has made application for water and/or sewer service;

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties herein contained, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the parties hereto have entered into the following Agreement:

1. Upon completion by the Developer of all the Authority's requirements set forth herein, the Authority hereby agrees to and will permit the Developer to connect onto the Authority's lines and to install the lines and other facilities necessary for proper installation. The Developer is to install the facilities for the water and/or sewer service strictly in accordance with the drawings, plans, and specifications as approved by the Authority. These drawings, plans, and specifications are attached to the Agreement and made a part hereof as though copied herein.

2. The Developer agrees to follow all health, safety, workers' compensation, and all other applicable federal, state, and local statutes or governmental agency regulations in performing its obligations under this Agreement.

3. The Developer will pay for all material and labor necessary to install and complete the facilities in accordance with all drawings, plans, and specifications of this Agreement.

4. At the time of execution of the Agreement, the Developer will pay to the Authority all fees and charges currently established the Authority for:

(a) Plans review fees;

5. At the time of the execution of this Agreement, the Developer will give a surety bond or letter of credit for one hundred percent (100%) of the construction costs as estimated by the Authority in accordance with the requirements of the Authority's policies.

6. The Authority shall have a continuous right to inspect the work on the facilities to assure the Authority that the same are being installed as approved. If work is found not to meet the Authority's standards, the Authority has the right to stop said work on all or any portion of the work until work is upgraded to the Authority's standards.

7. Upon project completion and upon the Authority giving written notice of acceptance, the Authority shall be and become the sole owner of the facilities free and clear of the claims of any person or entity without the necessity of any further writing, contract, or deed; however, the Authority may also require a deed of exchange thereof. The parties intend that this Agreement shall operate as a conveyance of the facilities when the same are installed and accepted.

8. The Developer agrees to produce and submit to the Authority as-built drawings for all the facilities it constructs.

9. The Developer hereby warrants all facilities installed pursuant to the provisions of this agreement against defects in workmanship and material for a period of one (1) year from the date of acceptance thereof in writing by the Authority. Further, the Developer shall immediately repair, at its own cost and expense, all breaks, leaks, or defects of any type whatsoever arising from any cause whatsoever occurring within one (1) year from the date the facilities are accepted in writing by the Authority. Upon the failure of the Developer after reasonable notice to take immediate steps to make such repairs, the Authority is hereby authorized by the Developer to make such repairs at the reasonable cost and expense of the Developer, or to have such repairs made by a third party at the reasonable cost and expense of the Developer hereunder. The Developer hereby warrants that the facilities shall be paid for in full and that no liens or encumbrances shall remain in regard to the facilities.

10. In the event the Developer fails to install the facilities in accordance with the terms of this Agreement, the Utility may, in its sole discretion, elect to accept all or a portion of the facilities installed. Should the Utility choose to accept all or a portion of these facilities, the Utility shall become the sole owner of the accepted facilities upon giving the Developer written notice of its acceptance without the necessity of any further writing, contract, or deed. The Utility's election to accept such facilities under this paragraph shall not be construed as an assumption of any obligation related to these facilities of the Developer or of any third party.

11. In the event the Developer fails to install the facilities in accordance with the terms of this Agreement, the amounts paid to the Authority under paragraph 4 are not refundable to the Developer.

12. The Developer shall require any contractor or contractors who perform work to install the facilities to furnish the Developer bonds covering faithful performance of work and the payment of obligations arising from work on the facilities.

13. The Developer shall provide a copy of this Agreement to any lender or contractor who performs work on the installation of these facilities before entering into any contract with such lender or contractor.

14. The Developer covenants and agrees to hold the Authority harmless from the claim of any person, firm, corporation or entity, to defend any action at law or equity brought, and to protect the Authority against any judgments rendered growing out of the installation herein provided for whether the same be on private or public property.

15. In the event the Developer breaches this Agreement, the Developer shall bear the cost of the Authority's reasonable expenses, including attorney's fees and other expenses incurred in any efforts to enforce this Agreement whether by negotiation, litigation, or otherwise.

16. The Developer understands and agrees that no third party shall obtain any benefits or rights under this Agreement with respect to water or sewer tapping privileges, and no connection shall be made to any residence or other customer site until all necessary arrangements have been made in accordance with the Authority's Rules and Regulations.

17. A copy of such Rules and Regulations is attached to this Agreement and made a part of this Agreement, and in the event of any discrepancies between the terms of this agreement and the Rules and Regulations, the latter shall control.

Suggested Change

and the Water and/or Sewer Allocation Policy and the Customer Contract the latter shall control.

18. The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of the remaining provisions.

19. This Agreement shall constitute the entire agreement of the parties. This Agreement may be modified or amended only by an instrument in writing executed by all parties hereto.

20. Any and all notices permitted or required under this Agreement shall be deemed given if hand-delivered, or mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the following address: 1246 West Main Street, Sylva NC 28779.

21. The developer agrees to pay to the Authority on a monthly bases a "Capacity Assurance Fee". This charge is a per unit fee that is calculated to cover the Authority's cost of depreciation of the water and/or sewer being installed under this contract. The fee shall be paid until the unit(s) has a tap installed. Failure to pay said fees shall relieve the Authority from any obligation to provide service to this development. The fee for this project is \$_____ per unit per month.

Suggested Change

The fee commences in accordance with the Water and/or Sewer Allocation Policy and continues until the water and/or sewer meter is installed and activated. Failure to pay said fees shall relieve the Authority from any obligation to provide service to this development. The fee for this project is provided in the current user rates in accordance with the schedule set forth in the Water and/or Sewer Allocation Policy.

22. The developer agrees to pay to the Authority on a monthly bases a "Flushing Fee". This charge is a per though and gallon fee that is calculated to cover the utilities cost of flushing the water line being installed under this contract. The fee shall be paid until the unit(s) have been sold and the

new owner has had a tap installed. Failure to pay said fees shall relieve the Authority from any obligation to provide service to this development. The fee for this project is \$_____ per thousand gallons per month.

Suggested Chang:

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IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and date first above written.

TUCKASEIGEE WATER & SEWER AUTHORITY	DEVELOPER	NAME

BY: _____ Date: _____
 DATE: _____

BY: _____

Jackson County Property Identification Number: _____

Adoption Date: August 16, 2005

Revised Date: _____