

SEWER SERVICE AGREEMENT

THIS AGREEMENT made this 26th day of July, 2004, by and between the TOWNSHIP OF HALIFAX, Dauphin County, Pennsylvania, a township of the second class organized and operating under the laws of the Commonwealth of Pennsylvania, with its offices at 214 North River Road, Halifax, PA, 17032, hereinafter referred to as the "Township," and the HALIFAX MUNICIPAL AUTHORITY, a municipality authority incorporated under the laws of the Commonwealth of Pennsylvania with offices located at 2nd & MARKET ST Halifax, PA, 17032, hereinafter referred to as the "Authority."

RECITATIONS

The Authority owns and operates a wastewater collection system and a wastewater treatment plant, collectively referred to as the "Sewer System," operating under permits issued by the Pennsylvania Department of Environmental Protection (hereinafter "DEP"); and

The Township has determined that certain areas of the Township are not acceptable for on-site sewage disposal and require sewage service; and

The Authority's Sewer System has capacity to provide sewer service to additional customers and can be expanded to provide additional capacity if necessary; and

The Township desires that sewer service be provided to Township residents by the Authority; and

The Township desires that the Authority be permitted to administer the operation and use of the Sewer System in a businesslike manner, including the collection of such fees and charges as the Authority has established for connection to and use of the Sewer System, and for the Authority to establish the standards for the construction and maintenance of the parts of the Sewer System so as to make it effective and useful;

NOW THEREFORE, for and in consideration of the mutual promises contained herein, and each party intending to be legally bound hereby, the parties agree and covenant as follows:

Incorporation of Recitations

1. The foregoing Recitations are incorporated into and made a part of this Agreement.

Provision Of Sewer Service Within The Township

2. Subject to the terms and conditions of this Agreement, the Township agrees to allow the Authority to: (1) provide sewer service within the Township; (2) require all sewer construction within the Township for sewers intended to be, or with the potential to become, dedicated to the Authority to meet the Authority's construction standards; and (3) assess and collect fees, charges, and costs from Township residents served or to be served by the Sewer System.

Sewer Service Planning

3. The Township will designate those areas of the Township in which the Authority may provide sewer service by means of delineation of the areas in the Comprehensive Plan adopted under the provisions of the Municipal Planning Code, or in the Sewage Facilities Plan adopted under the provisions of the Sewage Facilities Act. The designated areas may be revised from time to time by revision of the Comprehensive Plan or by adoption of a Sewage Plan Revision or a DEP Module effecting an amendment of the Sewage Facilities Plan.
4. Except as specially provided in this Agreement or as otherwise agreed by the parties in a subsequent agreement, designation by the Township of an area to receive sewer service shall not obligate the Authority to construct any Sewer System facilities or to provide sewer service to such areas.
5. The Authority will cooperate with the Township during the planning process by providing necessary information so that the Comprehensive Plan or the Sewage Facilities Plan update or amendment may be completed or revised in a timely and accurate fashion. When a Sewage Facilities Plan is involved, the Township shall include the Authority in its planning activities in an advisory role.
6. The cost of preparing Comprehensive Plan revisions and Sewage Facilities Plan amendments and updates shall be paid as follows:
 - a. All costs associated with making revisions to the Township Comprehensive Plan shall be borne by the Township.
 - b. All costs associated with routine Sewage Facilities Plan Revisions initiated by a DEP Module shall be borne by the Township.

- c. Costs associated with Sewage Facilities Plan Update Revisions undertaken by a formal Plan Update process shall be shared by the Township and the Authority as follows:
 - i. All costs shall be itemized on a Task Activity Report ("TAR") submitted to and approved by the DEP, which may be revised from time to time with DEP approval;
 - ii. During development of the TAR, the Township will cooperate with the Authority to provide a TAR that is acceptable to both parties; should the parties be unable to agree, however, the Township, as the entity regulated by the Sewage Facilities Act, shall have the final word on the contents of the TAR;
 - iii. The engineer that prepares the TAR shall, to the extent practicable, provide an itemization of those costs associated with Plan elements that are expected to be associated with areas in which sewer service by the Authority is planned;
 - iv. Upon completion of the Sewage Facilities Plan Update process, and following DEP approval of the revised Sewage Facilities Plan, the engineer will provide a cost breakdown based on actual costs of planning activities associated with areas in which sewer service by the Authority is planned; it is recognized by both parties that the final costs may differ from the cost estimates discussed in item iii above;
 - v. The net DEP-approved planning costs associated with areas in which sewer service by the Authority is planned (after adjustment for any grants received) shall be shared equally by the Township and Authority. Upon presentation of an itemization of these costs to the Authority by the Township, the Authority shall pay its half-share to the Township.
7. This Agreement is not exclusive. Should the planning activities identify an entity that can provide sewer service to some portion of the Township that is not being served by, or is not designated to be served by the Authority and is not located within a reasonable distance of the Sewer System, and which the Township determines to be competent and capable of providing such service, the Township may enter into a service agreement with that entity. Provided, however, that those portions of the Township already served by or designated to be served by the Authority shall not be served by another entity unless the Authority agrees

otherwise in writing.

- a. For purposes of the above paragraph, the term “those portions of the Township already served by, or designated to be served by the Authority” is hereby defined as areas identified in the Township’s Sewage Facilities Plan as areas to be served by the Authority, or areas within a reasonable distance of such an identified area such that extension of sewers into the area by the Authority can be done practicably and economically.

Township To Enact A Sewer Service Ordinance As A Condition Precedent

8. The Township will enact an Ordinance (hereinafter, the “Sewer Service Ordinance”) that requires all properties on which any portion of the principal residence or building is within one hundred fifty (150’) feet of a sewer to connect to the sewer within sixty days of receipt of a notice to connect served on the property owner by the Township. The Ordinance shall provide that such connections shall be required regardless of whether sewer service is available by gravity or by a pressure connection.
9. The Sewer Service Ordinance shall provide that all sewage-related facilities constructed by property owners for connection to the Sewer System, or intended to be dedicated to the Township or the Authority, shall be constructed according to the standards established by the Authority.
10. The Sewer Service Ordinance shall provide that a notice to connect (“NTC”) may be served on property owners by the Authority after not less than thirty days’ notice to the Township of the Authority’s intent to serve the NTC. Upon receipt of said notice, the Township shall have the right to notify the Authority that the NTC must be deferred for a period chosen by the Township, not to exceed five years after receipt of the notice of intent to issue the NTC.
 - a. The right to defer shall apply only to residential properties existing at the time this Agreement is executed. No right to defer shall apply where the Authority initiates any construction of sanitary sewer lines.
 - b. Should the Township’s Sewage Enforcement Officer determine that the property in question is not adequately served by a properly functioning on-lot sewer system, then the Township’s right to require deferral of the NTC shall not apply.
 - c. The Authority agrees that the decision of the Township whether or not to defer service of a NTC to a property owner under the terms of the Sewer

Service Ordinance and this Agreement shall be at the sole discretion of the Township.

- d. The Township shall notify every property owner that is subject to a deferral of the period that has been deferred, the necessity of connection to the sewer system when the period expires, and the need to notify a buyer of the property of the deferral.
11. The Sewer Service Ordinance shall provide that upon construction of Sewer System facilities in the Township, all new construction subject to connection to the Sewer System as set forth above (*i.e.*, where the principal building is within one hundred fifty feet of a sewer) shall be required to obtain a sewer connection permit as required by the Authority before a building permit will be issued by the Township.
12. The Sewer Service Ordinance shall provide that the Authority may directly assess those Township residents who are required to connect to the sewer system the application fees, connection fees, tapping fees, special facility fees, and other fees (hereinafter collectively referred to as "all applicable fees") as are authorized by law. Property owners subject to a deferral pursuant to Paragraph 10 above shall have the right to pre-pay all applicable fees at the then prevailing rates at the time payment is made. If property owners subject to a deferral do not pre-pay all applicable fees in effect at the time of such deferral, the amount of all applicable fees paid by such property owners will be the amount in effect at the time of connection.
13. The Sewer Service Ordinance shall provide that the Authority may directly assess Township residents that are served by the Sewer System such service fees and costs as are authorized by law and in accordance with the rates established by the Authority as provided by law.
14. The Sewer Service Ordinance shall provide that the failure of a Township resident to pay such fees or charges as may be due to the Authority shall constitute a summary offense, subject, upon conviction thereof, to such penalties as are authorized by law to be imposed for such offenses.
15. The enactment of a Sewer Service Ordinance substantially as provided above is a condition precedent and failure to enact such an ordinance within one hundred thirty (130) days of the execution of this Agreement shall render this Agreement void and discharge all of the obligations of the parties hereto; provided, however, that the time limit for enactment may be extended once in writing by the

- Authority for a period not to exceed an additional one hundred (100) days.
16. The Sewer Service Ordinance, once enacted, shall be kept in full force and effect and shall be enforced as allowed by law so as to effectuate the purposes of this Agreement. Should a violation of the Sewer Service Ordinance be brought to the attention of the Township, the Township will take such action as it determines is necessary to cause the violation to cease.
 17. Neither the Sewer Service Ordinance nor any other act of the Township shall affect the right of the Authority to require compliance with its rules and regulations for the construction and use of its sewer system, nor shall it impair the Authority's right to collect fees and charges associated with connection to and use of the sewer system.

Authority's Obligations

18. The Authority shall construct (or oversee the construction), maintain, and operate the Sewer System in accordance with accepted practices so as to keep it, and all of its components, in good repair and working order and to provide sufficient and reliable sewer service and comply with all applicable laws and regulations, current or future, and all permits, orders and requirements lawfully made by the Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, or other authorized governmental agency.
19. Upon the request of the Township, the Authority shall make available for inspection and copying any and all records related to the construction of the Sewer System or any component thereof within the Township; all records related to the calculation of fees, rates and charges imposed on any Township resident; and all records related to the assessment and collection of rates and charges from any Township resident.

Special Rate Districts In The Township Limited

20. The Authority hereby agrees and covenants that it will not establish special sewer rates for Township residents or "rate districts" within the Township that are different from rates charged to residents of Halifax Borough, unless it first presents information at a regular or special public meeting of the Township Supervisors in support of the establishment of such rates or such a rate district. Such information shall include calculations showing that the provision of sewer service to the proposed area entails costs that exceed the average cost of service for all other areas on a per-EDU basis.

Authority Reserves The Right To Plan Sewage Facilities Expansions/Improvements

21. This Agreement does not obligate the Authority to expand, improve, or augment any Sewage Facilities.
22. The Authority shall, as allowed by available resources, provide sewer service to those areas of the Township provided for by the appropriate planning documents. When an expansion, improvement, or addition to its facilities, including the wastewater treatment plant, is necessary to increase the service, the Authority will conduct such studies and inquiries as are necessary to determine how such an expansion, improvement, or addition can be effectuated in the shortest reasonable time and shall endeavor to construct such expansions, improvements, or additions within such time. Provided, however, that this Agreement does not obligate the Authority to expend resources or incur debt beyond its ability to pay.
23. This Agreement does not constitute a reservation of sewage treatment capacity by the Township or an obligation to provide sewage treatment capacity to any Township residents. Capacity availability and reservation shall be accomplished through the Sewage Facilities Planning process or by other agreements between the Authority and persons desiring to obtain such capacity.

Relations Between the Parties

24. The parties hereto covenant and agree that neither shall be liable to the other in damages for a failure to strictly comply with the terms of this Agreement by reason of or resulting from an act of God, riot, sabotage, public calamity, flood, fire, strike, or other event beyond its reasonable control. In the event of damage to the Sewer System from such a cause, the Authority shall proceed promptly to remedy the consequences of the event at its own cost and expense.
25. Each party hereto agrees to indemnify, defend, and save harmless the other party against all costs, losses, damage, causes of action, or penalties incurred on account of any injury to any person or property occurring in the performance of this Agreement and due to the negligence or wrongdoing of the party, including its agents, assigns, contractors, or employees.

This Agreement

26. This Agreement represents the entire agreement between the parties and no prior or contemporaneous agreement, understanding, or communication shall be admissible to prove the terms hereof.

27. This Agreement may only be amended in writing by agreement of the parties.
28. Should any provision of this Agreement for any reason be held to be illegal, unenforceable, void or invalid, no other provision of this Agreement shall be affected and this Agreement shall then be construed and enforced as if such illegal, unenforceable, void or invalid provision had not been contained herein.
29. The failure of a party to insist on the strict performance of this Agreement or any of its terms shall not serve as a waiver or a course of dealing in any future dealings with regard to that term or of any other.

Assignment by the Authority

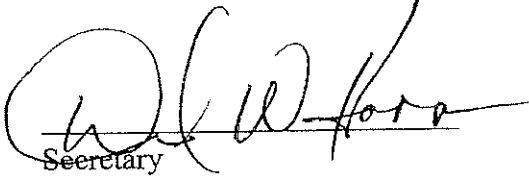
30. This Agreement concerns matters of public health and safety and shall be kept in effect so as to protect public health, safety and welfare.
31. The Authority may assign this Agreement to another entity serving the same function of providing sewer service, including another municipality authority, a private enterprise, or a municipality, provided that the assignee shall sign an agreement to abide by the terms of this Agreement and any amendments hereto, and provided that prior to the assignment the Authority notifies the Township of its intention of doing so.
32. Should the Authority be dissolved by the Borough of Halifax as provided by law, this Agreement shall be assigned by the Authority prior to such dissolution to the entity that acquires the Sewer System or that portion of the Sewer System situate in the Township. Such an assignment, if not explicitly made, shall be deemed to have been made by the operation of this Agreement prior to the dissolution of the Authority.

Term

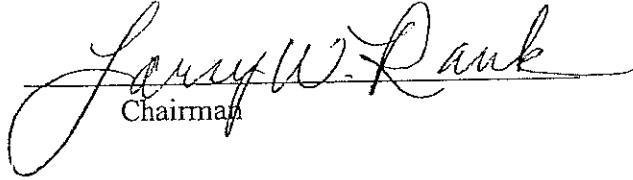
33. This Agreement, including any amendments thereto, shall remain in effect for a period of twenty years from the date of execution. Thereafter, this Agreement shall automatically renew for consecutive periods of ten years unless one party provides written notice to the other at least one year in advance of the termination date of its intent to terminate the Agreement.

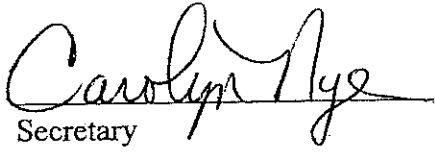
The parties hereto have caused this Agreement to be executed by their respective duly authorized officers, attested, and their corporate seals affixed as authorized by resolutions adopted by their respective Boards at public meetings, as appears in the minutes.

ATTEST

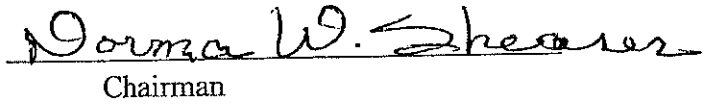

Secretary

HALIFAX MUNICIPAL
AUTHORITY


Chairman


Secretary

HALIFAX TOWNSHIP


Chairman