

AT A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE JAMES CITY SERVICE AUTHORITY, JAMES CITY COUNTY, VIRGINIA, HELD ON THE 4TH DAY OF DECEMBER, NINETEEN HUNDRED NINETY-FIVE, AT 9:20 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Stewart U. Taylor, Chairman
Robert A. Magoon, Jr., Vice Chairman
Perry M. DePue
Jack D. Edwards
David L. Sisk

David B. Norman, Secretary
Robert H. Smith, Treasurer
Frank M. Morton, III, County Attorney
Larry M. Foster, General Manager

B. CONSENT CALENDAR

Mr. Taylor asked whether any Board member wished to remove an item from the Consent Calendar.

Mr. Magoon made a motion to approve the Consent Calendar.

The motion passed by unanimous voice vote.

- 1. Wallace Estates Sewer Service Agreement

RESOLUTION

ATLANTIC HOMES - SEWER SERVICE AGREEMENT

WHEREAS, Atlantic Homes proffered to enter into an agreement with the James City Service Authority for providing service to the property included in Rezoning Case No. Z-2-94; and

WHEREAS, the agreement has been developed and is acceptable to both parties; and

WHEREAS, the agreement provides that Atlantic Homes will make two installments totaling \$179,000 that will be used by the JCSA to install a gravity sewer line to serve the property or upgrade an existing sewer pump station and build another pump station.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby endorses the agreement and authorizes its Chairman to sign the agreement with Atlantic Homes on behalf of the JCSA.

2. Waterline Extension - Browning's Grant, Phase II

RESOLUTION

WATER EXTENSION AGREEMENT BROWNING'S GRANT - PHASE II

WHEREAS, Busch Properties desires to extend a waterline with the Kingsmill Development to serve the Browning's Grant - Phase II area; and

WHEREAS, Newport News Waterworks provides water services in this area and requires an Agreement with the James City Service Authority prior to approving the extension of its water system; and


WHEREAS, Busch Properties has agreed to pay Newport News Waterworks \$13,313 in associated fees for the waterline extension.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes its Chairman to sign an Agreement with Newport News Waterworks providing the terms for the extension of the water to Browning's Grant - Phase II.

Mr. Magoon made a motion to adjourn.

The motion passed by unanimous voice vote.

The Board adjourned at 9:21 p.m.



David B. Norman
Secretary to the Board

AGREEMENT

THIS AGREEMENT, made and entered into this 4th day of December, 1995, by and between **ATLANTIC HOMES DEVELOPMENT CORPORATION** (the "Developer"), **JAMES CITY SERVICE AUTHORITY** (the "Authority") and **BERNARD M. FARMER, JR.**, as Building Official for James City County, Virginia, and his successors ("Building Official").

WITNESSETH:

WHEREAS, the Developer is the contract purchaser of the real property more fully described in Exhibit A, together with all improvements thereon and all rights and appurtenances thereunto pertaining, all of which is hereinafter referred to as the "Property".

WHEREAS, the Authority constructs, owns, operates and maintains all public sewer utilities in James City County.

WHEREAS, the Developer and the Authority desire to enter into an agreement regarding sewer utilities and service to the Property.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree and covenant as follows:

1. Developer agrees to pay to Authority One Hundred Seventy-nine Thousand and 00/100 Dollars (\$179,000.00) for all sewer improvements necessary to serve the approximately one hundred eighty-five (185) single family homesites to be developed within the Property, which sum shall be paid as follows:

a. Forty Thousand and 00/100 Dollars (\$40,000.00) prior to the issuance of the thirty-fifth (35th) building permit for a single family home within the Property. The Developer shall not request and the Building Official shall not be required to issue the thirty-fifth (35th) or subsequent building permit until Developer has paid the Forty Thousand and 00/100 Dollars (\$40,000) to the Authority. If this sum has not been paid to the Authority within one (1) year from the date of this agreement, then such sum shall increase by the percentage change in the Consumer Price Index from July 1995 to July 1996, producing the adjusted sum. The adjusted sum will be cumulatively increased, on a quarterly basis, by the change in the Consumer Price Index for the most recent three month period, as published by the Bureau of Labor and Statistics, until such sum has been paid in full to the Authority.

b. One Hundred Thirty-nine Thousand and 00/100 Dollars (\$139,000.00) prior to the issuance of the One hundred twenty-second (122nd) building permit for a single family home within

the Property. The Developer shall not request and the Building Official shall not be required to issue the one hundred twenty-second (122nd) or subsequent building permit until Developer has paid the One Hundred Thirty-nine Thousand and 00/100 Dollars (\$139,000) to the Authority. If this sum has not been paid to the Authority within one (1) year from the date of this agreement, then such sum shall increase by the percentage change in the Consumer Price Index from July 1995 to July 1996, producing the adjusted sum. The adjusted sum will be cumulatively increased, on a quarterly basis, by the change in the Consumer Price Index for the most recent three month period, as published by the Bureau of Labor and Statistics, until such sum has been paid in full to the Authority.

2. The Authority shall, within six (6) months of the Authority's receipt of the \$40,000.00 payment referenced above, provide sewer capacity and service to a minimum of one hundred twenty-two (122) single family homes within the Property and, within eighteen (18) months of the Authority's receipt of the \$139,000.00 payment referenced above, provide sewer capacity and service to a minimum of sixty-three (63) additional single family homes within the Property (aggregate sewer capacity and service to a minimum of one hundred eighty-five (185) single family homes within the Property). Notwithstanding the foregoing, in the event the Developer pays Thirty-nine Thousand and 00/100 Dollars (\$39,000.00) to the Authority after the payment set forth in paragraph 1.a. above, then the Authority shall immediately begin and diligently proceed to completion the design work associated with providing the sewer capacity and service to the sixty-three (63) additional single family homes within the Property referenced above (the "Design Work"); however, the Authority shall not solicit bids for the construction of the Design Work (the "Construction Work") until the Developer provides written notice to the Authority and the Building Official that the Developer shall pay the Authority One Hundred Thousand and 00/100 Dollars (\$100,000.00) within ninety (90) days of such written notice, whereupon 1) the Authority shall within ten (10) business days solicit bids for the Construction Work and diligently proceed to completion the Construction Work; and 2) the Developer shall pay the Authority One Hundred Thousand and 00/100 Dollars (\$100,000.00) within ninety (90) days of said written notice.

3. The Authority acknowledges and agrees that the Developer will suffer immediate and material irreparable harm if the Authority does not upgrade and/or construct the sewer improvements as and when set forth above, and the Developer agrees that its sole remedy shall be the specific performance of this Agreement.

4. The payments by the Developer set forth in paragraph 1 above shall be in addition to all standard charges and fees paid to the Authority for sewer taps and hook-ups.

5. Notices and other correspondence regarding this Agreement shall be delivered to the following addresses, or to such other or additional addresses as the parties may designate in writing:

Developer: Atlantic Homes Development Corporation
2 Eaton Street, Suite 1101
Hampton, Virginia 23669
Attention: Mr. Kenneth A. Allen

Authority: James City Service Authority
101-E Mounts Bay Road
Williamsburg, Virginia 23185
Attention: General Manager

Building Official: Bernard M. Farmer, Jr., or his successor
Building Official of James City County
101-E Mounts Bay Road
Williamsburg, Virginia 23185

Address may be changed by written notice to other parties.

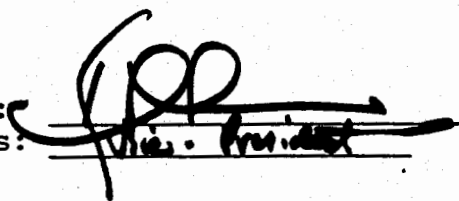
6. This agreement shall be binding upon and inure to the benefit of the respective heirs, executors, personal representatives, successors in interest, and assigns of the parties.

7. This agreement represents the entire understanding between the parties, and there are no collateral or oral agreements or understandings, and this agreement shall not be modified unless in writing of equal formality signed by both parties.

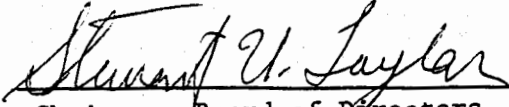
8. This agreement shall be construed according to the laws of the Commonwealth of Virginia.

WITNESS THESE SIGNATURES:

ATLANTIC HOMES DEVELOPMENT CORPORATION

By: 
Its: President

JAMES CITY SERVICE AUTHORITY

By: 
Its: Chairman, Board of Directors

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BUILDING OFFICIAL OF JAMES CITY COUNTY

By: Bernard Farmer, Jr.
Bernard M. Farmer, Jr.

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