

ERIE WATER WORKS
WATER SERVICE AGREEMENT
FOR THE INSTALLATION OF WATER MAINS BY A DEVELOPER

THIS AGREEMENT, dated the ___ day of _____, 2018, is entered into between the Erie Water Works (hereinafter called “**EWW**”) a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act, Act of June 19, 2001, P.L. 287, No. 22 , as amended (53 Pa. C.S. § 5601 et seq.), located at 340 West Bayfront Parkway, Erie, PA, 16507, and

Developer’s Name, a Pennsylvania **partnership/corporation** located at **Developer’s address** (hereinafter called the “**Developer**”).

WITNESSETH THAT:

WHEREAS, EWW provides water service to the City of Erie and surrounding municipalities in Erie County, Pennsylvania and;

WHEREAS, the Developer has requested water service within EWW’s service area for a development known as **name of development** (hereinafter referred to as the “**Development**”);

WHEREAS, to make EWW's water supply available, water mains (**insert language about other facilities such as pumping stations or tanks that are also necessitated by the proposed development if applicable**) must be extended from EWW's existing facilities to the Development in accordance with those plans prepared by **Engineering Firm** in the form as approved by EWW, and dated **date** (hereinafter called the "**Plans**");

WHEREAS, the Developer is willing, upon the terms and conditions of this Agreement, to extend water main and appurtenances (**insert language for additional assets needed if applicable**) in accordance with the Plans to provide water service to the Development;

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and conditions hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I **DEFINITIONS**

- 1.1 **Water Main Extension** shall mean all permanent water piping, isolation and control valves, fire hydrants, or any other appurtenance necessary to provide water service to and /or within the Development.
- 1.2 **Water Service Line Connection** shall mean the pipe, valves and other facilities by means of which EWW conveys water to the Development from its distribution mains in the street, right-of-way or permanent water utility easement, to the curb stop to be located at or near to the road right-of-way / property line or permanent water utility easement line of the premises. Specifically included are the corporation stop or other means of connections to the main, the service line connected to the corporation stop and extending to the point of connection to the curb stop, the curb box and such other facilities. There are three types of service lines; domestic, fire, and combined.
- 1.3 **Customer's Water Service Line** shall mean the pipe, valves and other facilities by means of which water is conveyed from the EWW curb stop to a point on the outlet side of the customer's water meter to be located inside the walls of a heated building, above-ground heated enclosure or meter pit, if approved, and specifically includes the service line extending from a point of connection at the curb stop or property/easement line to a point inside the walls of the premises, heated enclosure or meter pit (where approved), a stop and waste valve placed immediately ahead of the meter, a pressure reducing valve (if required by EWW), connections for the inlet and outlet sides of the meter, a dual check valve or a testable backflow prevention assembly (type to be determined by EWW), and a stop and waste valve on the outlet side of the meter.

ARTICLE II **DESIGN PLANS AND PERMITTING**

- 2.1 The Developer shall prepare and submit all necessary permit applications, forms, payment and other requirements to EWW for review prior to submission to the permitting agency. Developer and its agents shall fully comply with all terms and conditions thereof and pay all necessary application fees.
- 2.2 Prior to construction, the Developer shall submit one (1) 24 inch x 36 inch set of the proposed Plans for review by EWW as well as a PDF electronic version. Each plan relating to water main construction shall have a plan and profile view in a scale acceptable to EWW. Upon receipt of written design approval by EWW and prior to commencement of the construction of the water mains and appurtenances, the Developer shall furnish to EWW three (3) 24 inch x 36 inch paper sets and one PDF of the EWW approved Plans and permits obtained as relating to the water main or construction thereof.
- 2.3 The Developer, or its successors and assigns, shall submit written applications for water service on forms prescribed by EWW. Each application shall be accompanied by payment of the proper water tapping privilege and connection fees (as applicable).

ARTICLE III
INSTALLATION OF WATER MAINS

- 3.1 The Developer shall be responsible for the installation of the water mains and all appurtenances, as shown on the EWW approved Plans. All materials and workmanship shall be in accordance with EWW's Specifications and Standard Construction Details, copies of which are attached hereto or previously transmitted to the Developer. Developer shall further rely on manufacturer's installation instructions as well as American Water Work Association (AWWA) standards and best practices.
- 3.2 The Developer shall install all water mains and appurtenances prior to the paving of the roads in the Development. EWW requires standard trench backfill materials and methods in improved areas as further described in EWW-Construction Detail (CD)-017, and in unimproved areas as further described in EWW-CD-018. If the water main extension installed as part of this agreement will underlie areas that will in the future be improved as individual lots are developed, and the specific extents of improved areas in the individual lots are not known at the signing of this agreement, the Developer will assume all responsibility for proper backfill of trenches in anticipated or future improved areas such as private driveways, sidewalks etc. EWW will not be held responsible for failure of pavement in areas underlain by water main in trenches which are not backfilled per EWW's standard requirements including those outlined in EWW-CD-017. The Developer shall properly backfill all trenches to prevent settlement, and shall comply with all applicable State, City, Township or Borough ordinances and rules and regulations relating to road repaving and restoration. No water mains shall be installed within the Development until all streets and roads in the Development have been rough graded to within six (6) inches of finished grade.
- 3.3 All curb boxes, valve boxes, fire hydrants and other appurtenances shall be accessible and in good working order and operating condition when construction is completed and at the expiration of the maintenance period referred to in Paragraph 9.3 and 9.4 of Article IX. EWW staff will perform a walk-through immediately after construction and also prior to the expiration of the maintenance period. Any issues or non-compliant installations must be corrected by the Developer at no cost to EWW.
- 3.4 After the water main has been properly constructed and flushed, a hydrostatic test conforming to ANSI/AWWA C600 shall be conducted at a minimum pressure of 150 pounds per square inch (psi) or 1.5 x working pressure, whichever is greater, at any point of testing. The time period of said test shall not be less than two hours and the pressure shall not vary by more than plus or minus 5 psi during the duration of the test. All air shall be completely expelled from the section of line to be tested, prior to application of the test pressure. Testing shall include service lines to the curb stop and branch lines to fire hydrants.

No section of water main will be accepted if, as a result of the aforementioned hydrostatic test, leakage is greater than an amount determined by the following formula:

$$L = \frac{SD P^{0.5}}{148,000}$$

- L: Allowable leakage, gallons per hour
- S: Length of pipe tested, feet
- D: Diameter of pipe, inches
- P: Average test pressure, pounds per sq. in.

If the testing of any section of line discloses leakage greater than that amount, the Developer shall, at his sole expense, locate the problem and make all necessary repairs and retest until the pipeline conforms with the specified allowance. Any and all visible leaks which are detected shall also be repaired, regardless of the amount of leakage. Water required for additional testing shall be at the expense of the Developer.

- 3.5 All water mains constructed under this Agreement shall be disinfected in accordance with the "Continuous Feed Method" as stipulated in AWWA C651-14 (or as revised). EWW will collect and analyze samples for chlorination and bacteria tests. Developer shall be responsible for EWW costs, labor, and expenses, associated with chlorination and associated testing.

Bacteria tests must be scheduled to start on a Monday, Tuesday or Wednesday due to EWW's staffing requirements. Chlorination tests can be scheduled to start Monday through Thursday. All tests must be scheduled with EWW a minimum of three days in advance.

- 3.6 Connection to existing water main will not be permitted until the Developer constructed new water main is acceptably pressure tested and disinfected as described herein. Filling, flushing, etc., of a new line shall be through the proper number and size of taps in the new waterline connected to a fire hydrant or tap on the existing water system provided with backflow prevention. All disinfection feed equipment pumps, valves, tapping equipment, piping, hoses, dechlorination facilities, etc., shall be furnished by the Developer. A backflow preventer (up to 2-inch diameter) and meter will be furnished by EWW, which shall be utilized to fill, flush and sanitize the pipe. The Developer must make application for required backflow preventers and/or associated fire hydrant permits at least 24 hours in advance at the EWW Administration Building: 340 West Bayfront Parkway, Erie, PA 16507. The Developer shall be required to prepare a written plan for flushing, pressure testing and disinfecting the new water mains. The plan must be submitted to the EWW at least two weeks in advance of conducting any of the above mentioned testing. EWW will take samples for the bacteriological tests (must pass two consecutive chlorine tests and two consecutive bacteriological tests each, 24 hours apart). EWW will need three days notice for the acquisition of samples for the chlorine and bacteriological tests. Unless EWW allows in advance, all installation, pressure testing, disinfection, services, restoration, etc., must be complete on any segment of the project (no more than two City blocks or 1,200 linear feet) before moving to the next work zone. The Developer's schedule shall include details regarding the segmented approach. EWW will not collect or analyze samples for disinfection and/or

bacteriological testing unless the flushing and disinfection procedures outlined herein, and in the approved written plan, are strictly followed.

ARTICLE IV
DEVELOPER'S RESPONSIBILITY FOR COSTS

- 4.1 The Developer shall be responsible for all costs related to the installation of potable water infrastructure including but not limited to water mains and appurtenances. In some cases, additional infrastructure improvements may be needed beyond water main in order to provide an adequate supply of water to meet the needs of the Development and comply with applicable local, state, and federal rules and regulations. If the existing water system cannot meet the service levels and demand needs of the Development, a study will be performed by EWW's Consulting Engineer to determine the necessary improvements to be made to EWW's water system to allow the Development to occur. The cost of the study will be paid by the Developer. The results of the study, in concert with EWW rules and regulations will determine costs and responsibility of each party. The term "costs" shall include but are not limited to the following:
- a. the cost of all new water mains, valves, valve boxes, fittings, fire hydrants, appurtenances, and all other related work or infrastructure, including any and all site restoration;
 - b. the cost of connecting to EWW's existing water system;
 - c. the cost of all necessary acquisition and condemnation right-of-way and lands;
 - d. the cost of the initial \$500 Developers filing fee
 - e. the cost of all engineering, lab, legal, overhead, administrative and other costs incurred by EWW in relation to the provision of water service to the Development, including the cost of the preparation and administration of this Agreement;
 - f. the cost of resident engineering and inspection services required during the construction and testing of the water mains and appurtenances, and prior to the release of the financial security furnished for the maintenance of the installation pursuant to Paragraph 9.3 and 9.4 hereof. Costs shall include overtime pay to EWW personnel if the Developer or Contractor's construction schedule is such that requires EWW staff outside of regularly scheduled working hours. Overtime shall be paid in accordance with EWW regulations and with adherence applicable to labor union contracts.
- 4.2 The Developer shall deposit with EWW concurrently with the execution and delivery of this Agreement an amount equal to twenty percent (20%) of the estimated cost of construction of the water main and its appurtenances (the "Deposit"), to insure payment to EWW for EWW's cost of inspection, engineering, lab, legal, overhead and administration, as well as any other costs that may be incurred with this Agreement.

Upon the payment in full of all costs and upon the acceptance by EWW of the installations, the EWW shall pay to the Developer the balance, if any, of the Deposit or any other funds held by EWW under the provision of this Article.

- 4.3 All bills submitted by EWW to the Developer for costs incurred by EWW under this Article in excess of the Deposit shall be due and payable upon presentation to the Developer, and thirty (30) days thereafter shall bear interest at the maximum rate permitted by law.
- 4.4 Once all costs have been submitted to EWW, EWW will determine the “unit cost” or per foot cost of the water main installation. A reimbursement agreement may be executed to memorialize the costs as may be necessary.
- 4.5 The Developer agrees to disconnect any Water Service Line Connection from the tap to the water main that is not connected to a structure using water (via a Customer’s Water Service Line) within five (5) years of the date of installation of the connection. This work will be at the Developer’s cost, with the work to be performed by EWW’s Distribution Department. The cost for this work will be compiled on a time and material basis and billed to Developer.

ARTICLE V
CONTRACTOR: EXPERIENCE, MATERIALS, INSPECTION

- 5.1 EWW shall have the right to approve the Developer's water infrastructure Contractor. The Developer shall furnish to EWW a resume of the Contractor's experience, at least ten detailed references, the contract specifications, a detailed construction cost breakdown and evidence that such Contractor carries appropriate and sufficient liability and property damage insurance including a minimum of combined single limit for bodily injury and property damages of \$2,000,000 of comprehensive general liability coverage. The Contractor must exhibit a successful history of past utility projects with a focus on potable water or other similar construction experience. A minimum of five (5) years experience is required. At its sole discretion, EWW may consider a Contractor with fewer years of experience if the personnel involved have proper experience and associated references.
- 5.2 The Developer shall furnish evidence to EWW that all materials to be incorporated into the installations comply with the material specifications of EWW. Material shop drawings shall be submitted in PDF format electronically during the submittal review process in addition to one (1) hardcopy. Three (3) copies of the final, approved shop drawings shall be submitted to EWW for the record. Shop drawings should be created so as to clearly denote materials, sizes, and necessary approvals of what is being provided.
- 5.3 The Developer shall notify EWW, in writing, 48 hours in advance of the initiation of any construction work. The Developer shall provide a detailed construction schedule including working hours and days for the construction crew. EWW reserves the right to inspect the work as it progresses on either a full-time or a part-time basis. Contractor

shall be required to accurately install water main and appurtenances per the approved design plans and record any deviations for the as-built drawings. Deviations or changes from the approved plans can only be made by obtaining approval from Engineering Department management personnel, in advance.

- 5.4 EWW shall have the right to require all work to cease and to be discontinued if, in the opinion of EWW, the work constitutes a danger to EWW's customers or the work is not being performed in accordance with EWW Specifications and Standard Construction Details, the Approved Plans, EWW's Rules and Regulations, the terms of this Agreement or otherwise in a professional and workmanlike manner.

ARTICLE VI
PROJECT COMPLETION RELEASES

- 6.1 The Developer shall complete the construction of water main(s) and appurtenances within 120 calendar days after the initiation of the work. If the Developer discontinues work on the installations for 30 calendar days or longer for any reason whatsoever, EWW shall have the right to require performance of additional work deemed necessary to render the work acceptable to EWW.
- 6.2 Upon completion of the construction of the work, and as a condition to EWW's acceptance thereof under Article VII hereof, the Developer shall furnish to EWW releases, in form and substance satisfactory to EWW, from the owners of all properties upon which the installations were constructed, if any, releasing the Developer and EWW from all claims damages and liabilities arising out of or in connection with the construction of the installations. A Waiver / Release Form is included in Appendix A of this Agreement, which must be completed by the Developer as part of the project completion documents.

ARTICLE VII
ACCEPTANCE OF THE WORK
& TITLE TO THE INSTALLATION

- 7.1 After the Developer has fully performed its obligations under this Agreement, EWW shall accept ownership of the potable water infrastructure (such as water mains and appurtenances) described in Paragraph 7.2 below and shall so notify the Developer in writing.
- 7.2 Title to the water main(s) and appurtenances constructed pursuant to this Agreement, including water service line connections and related facilities, but excluding the Customer's Water Service Line(s), shall vest in EWW immediately upon EWW's written acceptance of the Development. The Developer shall execute and deliver, or cause to be executed and delivered, such bills of sale, assignments, deeds, conveyances and instruments, including easements, and to take such other action as deemed necessary by EWW to vest title to the water mains in EWW. EWW will have the right to extend the water mains owned by it and to make any other water main extension beyond this

installation without any obligations to provide any refund or reimbursement to the Developer.

ARTICLE VIII
AS-BUILT PLANS AND EASEMENTS

- 8.1 Upon completion of the installation of the water mains, the Developer shall provide record or 'as-built' plans which accurately document the water infrastructure installed including geographic locations and asset specific details. EWW will provide any available GPS points taken in relation to installed infrastructure locations in order to assist the Developer's Engineer in the preparation of the as-builts. The Developer shall supply both an AutoCAD and PDF version of the As-Built Plans & Profile on CD or DVD and one (1) set of 24 inch x 36 inch paper as-built plans. These plans shall be a minimum scale of 1 inch = 100 feet for overall plan views (cover sheet), 1 inch = 50 feet for Construction (plan view) As-Built Drawings with a profile scale equal to "Horizontal 1 inch = 50 feet and Vertical 1 inch = 5 feet. EWW may require the Developer to make modifications to the As-Built Drawings as deemed necessary prior to finalization.
- 8.2 The Developer shall grant and convey, or dedicate, or cause to be granted, conveyed or dedicated to EWW, permanent easements having a width of 20 feet (10 feet to either side of the water main) for all water mains and appurtenances, title to which is to vest in EWW under Paragraph 7.2 hereof, giving EWW, its successors and assigns, the free and uninterrupted use, liberty and privilege to construct, install and maintain water mains with all necessary connection, appurtenances and related facilities that may be required, together with the right of free ingress, egress and regress to and for EWW, its successors and assigns, at all times hereafter to enter upon such easements for the purpose of construction, installing, maintaining, repairing and replacing water mains, appurtenances and related facilities. Where practicable, the Developer shall cause all such easements to be shown on the recorded plan of the Development, and if requested by EWW, the Developer shall revise and re-record such plan in order that all such easements shall be shown thereon. All instruments of conveyance shall be as to form and substance satisfactory to EWW.

ARTICLE IX
FINANCIAL SECURITY & MAINTENANCE

- 9.1 The Developer shall furnish to EWW prior to or contemporaneously with the execution and delivery of this Agreement, surety bonds, letters of credit or any other type of financial security authorized by Section 4B (s.1) of the Municipality Authorities Act of 1945, as amended (the "Act"), in an amount equal to 100% of the estimated cost of the installations, as submitted to and approved by EWW in advance, all of which financial security shall be in form and substance satisfactory to EWW and conditioned upon the prompt performance of the construction of the installations and the prompt payment of all material furnished and all labor supplied or performed in the construction of the installation.

- 9.2 As a condition precedent to the release by EWW of any security provided under Paragraph 9.1 hereof, the Developer shall deliver to EWW a signed certificate (in a format acceptable to EWW) setting forth the name of all contractors, subcontractors, material, and persons who have supplied labor or materials with respect to the installation of the water mains, and stating that all persons have been paid in full.
- 9.3 The Developer shall maintain all work performed under this Agreement in good condition and repair for a period of eighteen (18) months from the date of the final acceptance of the work by EWW. As security for the performance by the Developer of its obligations under this Paragraph 9.3 and as a condition precedent to EWW's acceptance of the work, the Developer shall furnish to EWW a surety bond, letter of credit or any other type of financial security authorized by Section 4B (s.1) of the Act in an amount equal to 15% of the actual cost of the installations and in form and substance satisfactory to EWW. Upon acceptance of the work, receipt of As-Built Plans, easements, waivers and releases, and receipt of the 15% financial security, the 100% financial security provided under Paragraph 9.1 will be released.
- 9.4 Upon any written request of EWW made within 18 months of EWW's acceptance of the work, the Developer will, at its expense, promptly adjust all appurtenances to finished grade and perform such other work as may be required by EWW to allow proper operation and maintenance of the water mains and appurtenances. The Developer agrees to an 18-month inspection of the installation. The Developer's contractor will verify with EWW the operation of all valves, fire hydrants, curb boxes and other appurtenances. If the 18-month inspection falls due during the winter, EWW reserves the right to delay the final inspection and subsequent punch list until weather conditions permit. The Developer's responsibility to repair any work not in conformance with EWW's standards will remain during this time.

ARTICLE X

INDEMNIFICATION OF AUTHORITY

- 10.1 The Developer shall protect, indemnify and save harmless EWW and its members, directors, officers, employees, attorneys and agents against and from any and all liabilities, suits, actions, claims, demands, losses, expenses and cost of every kind and nature incurred by, or asserted or imposed against EWW and its members, directors, officers, employees, attorneys and agents, or any of them, by reason of any accident, injury (including death) or damage to any person or property, however caused (other than the negligence or the willful misconduct of EWW), resulting from connected with or growing out of any act of commission or omission of the Developer or any officer, employee, agent, assignee, contractor or subcontractor of the Developer or any use, non-use, possession, occupation, condition, operation, service, design construction acquisition, maintenance or management of, or in connection with, the water mains, appurtenances, or any part thereof, and regardless of whether such liabilities, suits, actions, claims members, directors, officers, employees, attorneys or agents, or officers, agents or other persons to shown EWW or any of its members, directors, officers, employees, attorneys or agents may become liable therefore. EWW shall not be liable for

any damage of injury to the person or property of the Developer or any of its directors, officers, agents, contractors, subcontractors, and employees, or any other person or entity who or which may be upon the Development. The Developer may, and if so requested by EWW shall, undertake to defend, at its sole cost and expense, any and all suits, actions and proceedings brought against EWW or any of its members, directors, officers employees, attorneys or agents in connection with any of the matters indemnified against in this Paragraph 10.1. EWW shall give the Developer timely notice and shall forward to the Developer every demand, notice, summons or other process received with respect to any claim or legal proceeding within the purview hereof, but the failure of EWW to give such notice shall not affect any right to indemnification hereunder.

ARTICLE XI

MISCELLANEOUS

- 11.1 The Developer shall designate in writing prior to construction a person or persons authorized to act on behalf of the Developer. Whenever under the provisions of this agreement or in the construction of the work, the approval of the Developer is required or EWW is required to take some action at the request of the Developer, such approval or request shall be given for the Developer, and EWW shall be authorized to rely upon such approval of request.
- 11.2 The Developer agrees that the right to water service from the water main and appurtenances installed, under the terms of this Agreement, shall at all times be subject to the rates and the Rules and Regulations of EWW.
- 11.3 Neither this Agreement nor any terms hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement, change waiver, discharge or termination is sought.
- 11.4 This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and shall supersede all prior understandings and agreements between the parties with respect to such subject matter. The captions in the Agreement are for purposes of reference only and shall not limit or otherwise affect any of the terms hereof. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 11.5 The Developer may not assign or transfer its rights hereunder without the prior written consent of EWW.
- 11.6 The Agreement shall be a covenant running with the land and may be recorded.
- 11.7 This Agreement shall bind the parties hereto their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DEVELOPER

ERIE WATER WORKS

By: _____

By: _____
Paul D. Vojtek, CEO/CFO

WITNESS:

WITNESS:

APPENDIX A
WAIVER OF LIEN & GENERAL RELEASE

To Whom It May Concern:

WHEREAS the undersigned has previously entered into a Water Service Agreement with the Erie Water Works (EWW), dated _____ , to extend water main and appurtenances for the development known as _____ , which shall vest in EWW upon satisfactory and timely completion of all items outlined within said Water Service Agreement.

NOW THEREFORE, the undersigned does hereby waive and release any and all liens or claims, or right to lien or claim, on the above described premises and improvements thereon, and on the monies or other considerations due or to become due from the owner, on account of labor or services, material, fixtures or apparatus to be furnished by the undersigned for the above described premises.

Furthermore, the undersigned certifies that all of their contractors, subcontractors, and persons who have supplied labor or materials with respect to the installation of the water mains and appurtenances have been paid in full.

Signed this _____ day of _____ 20____.

By:

Witnessed By:

Developer (Print & Sign)

Printed Name

Company Name

Signature

Title

Title