

After recording, return to:
City of Cumming
Department of Utilities
100 Main Street
Cumming, Georgia 30040

The above space is reserved for recording purposes.

SEWER CAPACITY PURCHASE AGREEMENT

Name of Development and/or Property Owner

THIS SEWER CAPACITY PURCHASE AGREEMENT (the "Purchase Agreement") is made this day ____ of _____, between the **City of Cumming, Georgia,** 100 Main Street, Cumming, Georgia 30040 (the "City"), and **PROPERTY OWNER NAME & MAILING ADDRESS**, (the "Purchaser").

W I T N E S S E T H:

Purchaser has, as of the date hereof, a contract to purchase or has purchased the real property (the "Property") described on Exhibit "A-B" attached hereto and by this reference made a part hereof. Purchaser desires to purchase from the City certain sanitary sewer capacity for the benefit of Purchaser's use and development of the Property.

NOW, THEREFORE, for and in consideration of Ten (\$10.00) Dollars and other good and valuable consideration set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Purchase of Sewer Capacity. The City hereby sells _____ **gallons per day ("GPD")** of sewer capacity with respect to the Property to the Purchaser for the sum of **\$30.00 per GPD** and a total amount of _____.

2. Development of Property and Assignment of Capacity. Purchaser may assign all or a portion of the sewer capacity purchased to the end user of any lot or parcel in Purchaser's development of the Property by notifying City Department of Utilities. The City shall make the determination of the amount of capacity to be used by each end user and said amount shall be deducted from Purchaser's purchased capacity on the City's records. Once Purchaser has used all of its purchased capacity, Purchaser agrees that it may not further develop the property for any use that would require sewer without purchasing additional capacity from the City, if available. Purchaser agrees that the sewer capacity purchased herewith runs with the Property

and shall be transferred with the Property to any subsequent purchaser. In the event Purchaser sells all or a portion of the Property to a subsequent purchaser other than an end user, Purchaser shall contemporaneous with said sale execute a Sewer Capacity Assignment in accordance with the form provided by the City.

3. Resale of Capacity to the City. In the event Purchaser does not need all of the sewer capacity purchased for its development of the Property, the City may, at the City's option, repurchase from Purchaser all or a portion of the sewer capacity at the same GPD rate set forth in Paragraph 1 of this Purchase Agreement. In the event Purchaser or its end users do not begin using some of the sewer capacity purchased within three (3) years of the date hereof, Purchaser agrees to resell to the City, at the City's option, all of the capacity purchased pursuant to this Purchase Agreement at the same GPD rate as set forth in Paragraph 1.

4. Sewer Infrastructure Certification. Please check one of the following:
 The City currently has adequate capacity to collect, transmit, and treat the additional wastewater flows generated by this development.

Sewer system improvements must be completed to enable the City to collect, transmit, and treat the additional wastewater flows generated by this development. See exhibit "C" for details.

5. Water Infrastructure Certification: Please check one of the following:
 The City currently has adequate water pressure, volume, and infrastructure to provide proper water service and fire flows to all elevations of this development.

Water System improvements will be required to enable the City to provide adequate water pressure, volume, and fire flows to all elevations of this development. See exhibit "C" for details.

6. Compliance. Developments shall comply with all federal, state, and local rules, laws, and regulations associated with water, sewer, and storm water systems. No development shall be granted water and sewer service until the Department of Utilities receives an approved Survey-Grade As-Built Drawing and/or Survey-Grade Final Plat Drawing of each phase of the Development. The required drawing(s) shall include but not be limited to as-built conditions for all water, sewer, and stormwater infrastructure, systems, and appurtenances. In addition, electronic copies of all files shall be provided to the Department of Utilities in AutoCAD format.

7. Miscellaneous. The sale of sewer capacity is an appurtenance to, touches and concerns, and benefits the Property. This Purchase shall bind, and inure to the benefit of, Purchaser and their respective successors and assigns. The sewer capacity runs with the Property and cannot be sold or assigned to any other Property without the express prior written consent of

the City. This Purchase Agreement will not be effective until signed by all parties, recorded on the real estate records of the Clerk of Superior Court of Forsyth County and after recording filed with the Department of Utilities of the City of Cumming, 100 Main Street, Cumming, Georgia 30040.

Signed, sealed and delivered in the presence of:

CITY OF CUMMING, GEORGIA:

Unofficial Witness

By: _____

Printed Name: Jonathon W. Heard

Title: Director of Utilities

Notary Public

[CITY SEAL]

[NOTARY SEAL]

Signed, sealed and delivered in the presence of:

PURCHASER:

Unofficial Witness

By: _____

Printed Name: _____

Title: _____

Notary Public

[CORPORATE SEAL]

[NOTARY SEAL]

Received and filed by the City of Cumming Department of Utilities:

By: _____ Date: _____

Jonathon W. Heard, Director of Utilities

The City of Cumming (the “City”), by executing this document, does not thereby affirm or represent that title to the capacity (or any land associated therewith) is in any individual or entity. The City is not responsible for or liable in any manner for the capacity allegedly transferred by this agreement should it be discovered that the Seller actually had no authority to consummate the transfer. This agreement is only effective *vis a vis* the City inasmuch as the Seller actually did possess the sewer capacity herein referenced as an appurtenance of the land to which the capacity was assigned.

EXHIBIT A

Legal Description of Property

Example:

All that tract or parcel of land lying and being in Land Lots _____ and _____, _____ District, _____ Section, Forsyth County, Georgia, and being more particularly described as follows:

As further described on that plat recorded in Plat Book _____ Page _____ Forsyth County Georgia records which plat is hereby referred to and made a part of this description.

EXHIBIT B

Perimeter Survey of Property

NOTE: BOTH EXHIBIT "A" AND EXHIBIT "B" MUST BE LEGIBLE. EXHIBIT "B" PERIMETER SURVEY DRAWING MAY CONSIST OF MULTIPLE PAGES TO ENSURE THAT IT IS LEGIBLE.