

RESOLUTION R3-2025

A REVISED AND RESTATED RESOLUTION SETTING FORTH REQUIREMENTS FOR THE RESERVATION OF CAPACITY IN THE SANITARY SEWER SYSTEM FOR BETHLEHEM TOWNSHIP

WHEREAS, the Bethlehem Township Municipal Authority (the "Authority") is the owner of a sanitary sewage collection, treatment and disposal system (the "System") that provides for the proper disposal of sanitary sewage within Bethlehem Township (the "Township") and certain areas adjacent to the Township; and

WHEREAS, the present users of the System do not require the entire capacity of the System to treat and dispose of sanitary sewage; and

WHEREAS, the Authority has been and will be requested in the future to allocate and reserve capacity for parties who wish to connect to the System and become users of the System;

WHEREAS, the Authority desires to establish a policy for the allocation and reservation of capacity in the System in accordance with and as authorized by the Municipality Authorities Act of 1945, as amended; and

WHEREAS, the Authority previously adopted Resolution R2-20 and now desires to revise and restate to that Resolution.

NOW, THEREFORE, BE IT RESOLVED BY the Board of the Authority as follows:

Section 1. Method of Allocation of Capacity. The Authority may allocate capacity of the System in terms of Equivalent Dwelling Units ("EDUs"), with one EDU (currently equal to two hundred and fifty (250) gallons of sewage per day and subject to change). An applicant for allocation of capacity for a particular tract of land (the "Landowner") shall determine the estimated number of EDUs required for a tract in accordance with the applicable provisions of the Township's resolutions concerning tapping and connection fees and rates.

Section 2. Method of Reservation of Capacity. The Authority may reserve the allocated capacity for a particular tract of land within the Township's service area, and such capacity may not be transferred to any other tract. The reservation of capacity shall run with the land and subsequent owners of the tract shall also be entitled to the capacity which a predecessor owner has reserved.

Section 3. Requests for Allocation and Reservation of Capacity. All requests for allocation and reservation of capacity in the System shall be made in writing to the Authority and shall supply such information as may be requested by the Authority, including, without limitation, the location of the property to be served, the area of the tract, the proposed use, the status of subdivision and/or land development application, if any, the estimated flows and the number of EDUs requested. Such requests shall be accompanied by a check or money order in an amount equal to the Reservation of Capacity Fee (as hereinafter defined), a \$150.00 non-refundable administrative application fee for an allocation request of 250 gallons per day or less and an additional \$10.00 for every 250 gallons per day, or part thereof, in excess of 250 gallons per day requested.

Section 4. Allocation of Capacity. Capacity available in the System shall be allocated to Landowners in the order in which requests are received by the Authority. The entire request for capacity of a Landowner shall be allocated before any remaining capacity is allocated to a subsequent applicant. Upon the approval by the Authority to allocate capacity pursuant to this Resolution, the Landowner, the Authority and, if the Landowner is not the record owner of the Property, the record owner of the Property shall enter into a written agreement which sets forth the respective rights and responsibilities of the parties, which agreement shall be consistent with the terms of this Resolution.

Section 5. Reservation of Capacity. After an allocation of capacity has been requested by a Landowner, capacity shall be reserved for the tract of land identified in the application upon: (a) the issuance of an approval letter by Pennsylvania Department of Environmental Protection ("PADEP") for the Act 537 Sewage Facilities Plan Revision related to the allocation of capacity (the PADEP Approval Letter"); and (b) the payment of all fees due hereunder. All reservations of capacity shall be made in accordance with the provisions of this Resolution and, in particular, with this Section 5.

A. All reservations of capacity shall remain valid for one (1) year from the date of the issuance of the PADEP Approval Letter. The allocation and reservation of capacity shall automatically renew each year on the anniversary date of the issuance of the PADEP Approval Letter until such time as the Landowner pays the tapping fee for the Property or withdraws the subdivision and/or land development plan for the Property. Upon each annual renewal, the Landowner shall pay an additional renewal of reservation of capacity fee on or before the expiration of the prior reservation year. The amount of the renewal reservation of capacity fee shall be determined by the Authority in accordance with this Resolution. If the Landowner shall fail to pay a renewal fee within ten (10) days of its due date, the Authority may, in its sole discretion, either revoke the reservation of capacity or file a municipal claim against the Property for the amount of the unpaid reservation fee.

B. If, after allocation and reservation of capacity, the Landowner receives subdivision and/or land development approval for a proposed use which allows less intensive development than that for which capacity was requested, any EDUs which are not required by the development as approved through the subdivision and land development process shall revert to the Authority and shall be available to the Authority

for reallocation. For example, if a Landowner requests allocation and reservation of capacity for a 100 dwelling unit development, but the land development as approved permits the erection of only 75 dwelling units, then 25 EDUs shall revert to the Authority and shall become available to the Authority for reallocation.

C. If a Landowner transfers the tract of land to which an allocation and reservation of capacity has been made, the allocation and reservation may be transferred with the tract. In the event that the transferee's proposed use requires more capacity than reserved, the transferee may apply to reserve additional capacity in the manner set forth in this Resolution. The transferee shall not be allocated any additional EDUs solely as a result of the transfer or any proposed change in the use of the tract. The Authority must be notified of any such transfer and provided with documentation indicating the new owner of the tract.

D. Capacity which has been reserved cannot be transferred to another tract of land.

Section 6. Reservation of Capacity Fees.

A. The Reservation of Capacity Fee shall be equal to sixty (60%) per cent of the average sanitary sewer bill for a residential customer in the same sewer service area in which the Landowner's property is located for the same billing period multiplied by the number of EDUs reserved.

B. Renewal Reservation of Capacity Fees shall be equal to the then current Reservation of Capacity Fee.

C. Reservation of Capacity Fees and Renewal Reservation of Capacity Fees payable hereunder shall not be credited against the sewer tapping fees imposed by the Authority from time to time.

D. Once the PADEP Approval Letter has been issued, all Reservation of Capacity Fees and Renewal Reservation of Capacity Fees are non-refundable. In the event that the Act 537 Sewage Facilities Plan Revision is not approved by PADEP or if the Landowner's request is withdrawn prior to receiving approval, the Reservation of Capacity Fee shall be refunded to the Landowner.

E. A Landowner may prepay renewal reservation fees based on the then current Reservation of Capacity Fee times the number of EDUs reserved times the number of years prepaid.

F. All payments required by this Resolution shall be made to the Authority at 3535 Orth Street, Bethlehem PA 18020 or at such other location as the Authority may direct.

Section 7. Existing Allocations and Reservation of Capacity. Landowners to whom

capacity has been allocated and reserved prior to the adoption of this Resolution shall not be required to pay Reservation of Capacity Fees until such time, if any, that the existing reservation of capacity expires.

Section 8. Applicability. This Resolution shall be applicable to all Landowners who wish to reserve capacity for any project. If a Landowner requires a capacity letter from the Authority or Township in order to obtain any governmental permits and approvals, the Landowner shall comply with this Resolution in order to reserve the necessary capacity.

Section 9. Severability. The provisions of this Resolution are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this Resolution. It is hereby declared to be the intent of this Board that this Resolution would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

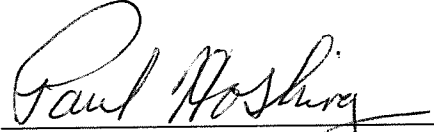
Section 10. Construction. Nothing in this Resolution shall be construed to affect any suit or proceeding pending in any court, or any rights or liability incurred, or any permit issued or approval granted, or any cause or causes of action existing prior to the adoption of this Resolution.

Section 11. Prior Resolution. This Resolution replaces and supercedes Resolution R2-20.

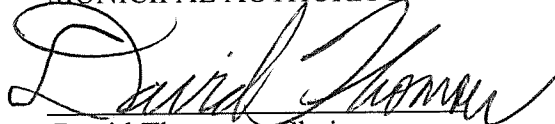
Section 12. Effective Date. This Resolution shall become effective immediately.

Adopted and approved this 12th day of February, 2025, at a regular public meeting.

ATTEST:


Paul Hosking, Secretary

BETHLEHEM TOWNSHIP
MUNICIPAL AUTHORITY


David Thomsen, Chairman

AGREEMENT

[Applicant is a Developer/Equitable Owner of the Property]

Agreement entered into by and among Bethlehem Township Municipal Authority, a Pennsylvania municipal authority with an office located at 3535 Orth Street, Bethlehem, PA 18020 (the "Authority") and _____ [a Pennsylvania corporation/limited liability company/limited partnership] with a mailing address of _____ (the "Developer") and _____ with a mailing address of _____ (the "Owner").

Recitals

- A. The Authority is the owner of the sanitary sewer system serving Bethlehem Township, Northampton County, Pennsylvania (the "Sewer System").
- B. The Developer is the equitable owner of certain real property located in Bethlehem Township at [property address], Northampton County Parcel Identification Number _____ (the "Property").
- C. The Owner is the record owner of the Property.
- D. On February 12, 2025, the Authority adopted Resolution R__-25, entitled "A Resolution Setting Forth Requirements for the Reservation of Capacity in the Sanitary Sewer System for Bethlehem Township" (the "ROC Resolution").
- E. The Developer has made a request for allocation and reservation of capacity in the Sewer System pursuant to the ROC Resolution.
- F. The ROC Resolution requires that the Authority and the Developer and/or Owner enter into a written agreement setting forth their respective rights and

responsibilities regarding the allocation and reservation of capacity in the Sewer System.

Now, therefore, in consideration of the above recitals, which are incorporated herein by reference, and in further consideration of the mutual promises set forth below and intending to be legally bound hereby, the parties agree as follows:

1. The ROC Resolution is incorporated by reference as though set forth in full herein.
2. The parties agree to be bound by the terms of this Agreement and the ROC Resolution.
3. The Authority allocates and reserves for the benefit of the Property _____ equivalent dwelling units of capacity in the Sewer System.
4. Upon or prior to the execution of this Agreement, the Developer shall pay to the Authority an administrative application fee in the amount of \$_____ and a reservation of capacity fee in the amount of \$_____.
5. The initial reservation of capacity shall be valid for one (1) year from the date of the PADEP Approval letter (as defined in the ROC Resolution).
6. The allocation and reservation of capacity shall automatically renew each year on the anniversary date of the issuance of the PADEP Approval Letter until such time as the Developer pays the tapping fee for the Property or withdraws the subdivision and/or land development plan for the Property. Upon each annual renewal, the Developer shall pay an additional renewal of reservation of capacity fee on or before the expiration of the prior reservation year. The amount of the renewal reservation of capacity fee shall be determined

by the Authority in accordance with the ROC Resolution. If the Developer shall fail to pay a renewal fee within ten (10) days of its due date, the Authority may, in its sole discretion, either revoke the reservation of capacity or file a municipal claim against the Property for the amount of the unpaid reservation fee. The Developer and Owner acknowledge that a revocation of the reservation of capacity will have a negative impact on the Developer's ability to develop the Property. The Owner acknowledges and agrees that a municipal claim or claims may be filed against the Property in the event of nonpayment of a renewal fee by the Developer.

7. In the event that either party files legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable and actually incurred attorneys' fees and litigation expenses from the other party.

8. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, executors, administrators, successors and assigns and may not be modified except by a writing signed by all parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement the day and year written below.

BETHLEHEM TOWNSHIP MUNICIPAL
AUTHORITY

Dated: _____

By: _____

Dated: _____

[Developer]

Dated: _____

[Owner]

AGREEMENT

[Applicant is the record Owner of the Property]

Agreement entered into by and between Bethlehem Township Municipal Authority, a Pennsylvania municipal authority with an office located at 3535 Orth Street, Bethlehem, PA 18020 (the "Authority") and _____ [a Pennsylvania corporation/limited liability company/limited partnership] with a mailing address of _____ (the "Owner").

Recitals

- A. The Authority is the owner of the sanitary sewer system serving Bethlehem Township, Northampton County, Pennsylvania (the "Sewer System").
- B. The Owner is the record owner of certain real property located in Bethlehem Township at [property address] , Northampton County Parcel Identification Number _____ (the "Property").
- C. On February 12, 2025, the Authority adopted Resolution R__2-25, entitled "A Resolution Setting Forth Requirements for the Reservation of Capacity in the Sanitary Sewer System for Bethlehem Township" (the "ROC Resolution").
- D. The Owner has made a request for allocation and reservation of capacity in the Sewer System pursuant to the ROC Resolution.
- E. The ROC Resolution requires that the Authority and the Owner enter into a written agreement setting forth their respective rights and responsibilities regarding the allocation and reservation of capacity in the Sewer System.

Now, therefore, in consideration of the above recitals, which are incorporated herein by reference, and in further consideration of the mutual promises set forth below and intending to be legally bound hereby, the parties agree as follows:

1. The ROC Resolution is incorporated by reference as though set forth in full herein.

2. The parties agree to be bound by the terms of this Agreement and the ROC Resolution.

3. The Authority allocates and reserves for the benefit of the Property _____ equivalent dwelling units of capacity in the Sewer System.

4. Upon or prior to the execution of this Agreement, the Owner shall pay to the Authority an administrative application fee in the amount of \$_____ and a reservation of capacity fee in the amount of \$_____.

5. The initial reservation of capacity shall be valid for one (1) year from the date of the PADEP Approval letter (as defined in the ROC Resolution).

6. The allocation and reservation of capacity shall automatically renew each year on the anniversary date of the issuance of the PADEP Approval Letter until such time as the Owner pays the tapping fee for the Property or withdraws the subdivision and/or land development plan for the Property. Upon each annual renewal, the Owner shall pay an additional renewal of reservation of capacity fee on or before the expiration of the prior reservation year. The amount of the renewal reservation of capacity fee shall be determined by the Authority in accordance with the ROC Resolution. If the Owner shall fail to pay a renewal fee within ten (10) days of its due date, the Authority may, in its sole discretion, either

revoke the reservation of capacity or file a municipal claim against the Property for the amount of the unpaid reservation fee. The Owner acknowledges that a revocation of the reservation of capacity will have a negative impact on the Owner's ability to develop the Property.

7. In the event that either party files legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable and actually incurred attorneys' fees and litigation expenses from the other party.

8. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, executors, administrators, successors and assigns and may not be modified except by a writing signed by both parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement the day and year written below.

BETHLEHEM TOWNSHIP MUNICIPAL
AUTHORITY

Dated: _____

By: _____

Dated: _____

[Owner]