

STATE OF GEORGIA

COUNTY OF RICHMOND

**FACILITY CONSTRUCTION AND PERMANENT
MAINTENANCE AGREEMENT**

THIS AGREEMENT, entered into this ____ day of _____ 2024, by and between **DRAYTON-PARKER COMPANIES, LLC**, a limited liability company established under the laws of the State of Georgia, hereinafter referred to as "DRAYTON-PARKER", and **AUGUSTA, GEORGIA**, a political subdivision established under the laws of the State of Georgia, acting by and through the Augusta Commission, hereinafter referred to as the "AUGUSTA":

WITNESSETH

WHEREAS, DRAYTON-PARKER and the Georgia Department of Transportation (GDOT) have requested that AUGUSTA, through its Utilities Department, apply to GDOT for a Utility Facility Encroachment Permit (GUPS) for a sanitary sewer force main, which will be crossing from Drayton-Parker's new location at the northwest corner of Tobacco Road, crossing Mike Padgett Highway (State Highway 56) and moving in a southerly direction down Mike Padgett Highway's eastern right-of-way to a gravity sanitary sewer manhole located in Mike Padgett Highway (the FACILITY), as shown on Exhibit A, attached hereto and made a part of this document; and

WHEREAS, DRAYTON-PARKER has agreed that although the GUPS permit will be in the name of AUGUSTA, AUGUSTA will have absolutely no responsibility for the FACILITY's maintenance, upkeep, repair, operation, or replacement, and said facility will not become a part of AUGUSTA's sanitary sewer system;

NOW, THEREFORE, IT IS AGREED between DRAYTON-PARKER and AUGUSTA that:

AUGUSTA

- (1) AUGUSTA shall apply for said GUPS permit.
- (2) AUGUSTA shall have no ownership, responsibility or liability in and to the construction and installation of the PROJECT.
- (3) AUGUSTA shall have no ownership, responsibility or liability in and to the FACILITY, including, but not limited to, its maintenance, repair, operation and replacement.

DRAYTON-PARKER

- (1) At or before the release of the GUPS permit to DRAYTON-PARKER, DRAYTON-PARKER shall deed to AUGUSTA a thirty-foot (30') easement along the entire northern and western boundaries of the tract of land known as PIN 157-0-006-01-0, 3661 Mike Padgett Highway, as shown on Exhibit B, attached hereto and made a part of this document.
- (2) DRAYTON-PARKER shall install the sanitary sewer force main in accordance with the plans submitted by DRAYTON-PARKER and approved by AUGUSTA on July 18, 2023 (the PROJECT).
- (3) DRAYTON-PARKER shall have full and sole ownership, responsibility and liability of the PROJECT during construction/installation and full and sole ownership, responsibility and liability of the FACILITY, in perpetuity, after the PROJECT is completed.
- (4) DRAYTON-PARKER shall comply with and be bound by GDOT'S UTILITY ACCOMODATION AND POLICY AND STANDARDS, current edition, in its entirety, on file in the General Office of GDOT, which is made a part hereof, by reference, and all general provisions and special provisions shown on, or attached to the GUPS application, during the installation, operation and maintenance of the said facility, within or from the right-of-way.
- (5) DRAYTON-PARKER shall comply and be bound by the current minimum design standards of AUGUSTA's Utilities Department and Engineering Department, which can be found online at augustaga.gov.
- (6) DRAYTON-PARKER shall comply with all other Federal, State and Local laws, rules and regulations ("Laws and Regulations") that pertain to the installation of said facility, but are not specifically mentioned in this document.

INDEMNIFICATION

DRAYTON-PARKER shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless AUGUSTA, and its consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of GDOT, architects, attorneys and court and arbitration costs) arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of DRAYTON-PARKER, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the PROJECT or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and

Regulations regardless of the negligence of any such party.

In any and all claims against AUGUSTA or any of its consultants, agents or employees by any employee of DRAYTON-PARKER, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the PROJECT or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for DRAYTON-PARKER or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of DRAYTON-PARKER under this paragraph shall not extend to the liability of AUGUSTA's consultants, agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

INSURANCE AND BOND

DRAYTON-PARKER shall comply with Section 3.5, and all of its subsections, of GDOT'S UTILITY ACCOMODATION AND POLICY AND STANDARDS, current edition. All information pertaining to insurance (or bond) provided and submitted to GDOT shall be copied to the Augusta Utilities Department, Attn: Sandra Tyler, Land Acquisition Manager, 452 Walker Street, Suite 200, Augusta, Georgia, 30901.

FACILITY FAILURE

- (1) In the event that there is a failure of the FACILITY, AUGUSTA shall notify DRAYTON-PARKER and DRAYTON-PARKER shall adhere to section 3.9 of GDOT's UTILITY ACCOMODATION AND POLICY AND STANDARDS, current edition. DRAYTON-PARKER shall mobilize resources and work diligently to resolve any issues, with the coordination of AUGUSTA.
- (2) In the event the situation is an emergency, including but not limited to public safety, as determined by AUGUSTA, and it is necessary that AUGUSTA remedy the situation by having the necessary corrective work done, DRAYTON-PARKER agrees to be responsible to AUGUSTA for payment, in full, and upon demand, of the actual and verifiable cost for the corrective work done, as well as the actual and verifiable costs incurred by AUGUSTA for its efforts to have such work done.

DRAYTON-PARKER and AUGUSTA further agree that:

This Agreement shall be deemed a covenant running with the land and shall be binding upon DRAYTON-PARKER and its successors, heirs, assigns, legal and personal representatives.

This agreement shall be controlled by and construed in accordance with the laws of the State of Georgia, and the venue shall be Richmond County, Georgia.

In this Agreement, wherever herein DRAYTON-PARKER or AUGUSTA is used, the same shall be construed to include as well the heirs, executors, administrators, successors, legal representatives, and assigns of the same.

IN WITNESS WHEREOF, DRAYTON-PARKER and AUGUSTA have hereunto set their hands and seals, the day and year first above written.

DRAYTON-PARKER COMPANIES, LLC

Joe Bates
Witness

By: *[Signature]*

Notary Public,
State of Georgia, County of Chatham

Keith Siltzman, VP of Finance
Printed Name and Title

My Commission Expires: 3/7/26

(NOTARY SEAL)

Joe Bates
Witness

By: *[Signature]*

Notary Public,
State of Georgia, County of Chatham

Blake L. Greco, General Counsel
Printed Name and Title

My Commission Expires: 3/7/26

(NOTARY SEAL)

AUGUSTA, GEORGIA

Witness

By: _____
Garnett L. Johnson
As Its Mayor

Notary Public
State of Georgia, County of _____

Attest: _____
Lena Bonner
As Its Clerk of Commission

My Commission Expires: _____

(SEAL)

Notary Seal