

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SIGN AN AMENDMENT OF THE TRI- PARTY WATER AND SEWER AGREEMENT TO PROVIDE SEWER AND WATER TO GPIN'S 6995-23-0001-000 AND 6995-23-3305-000 SUBJECT TO CONDITIONS

WHEREAS, Warrenton, VA (Hereinafter "the Town") is a municipal corporation located within the County of Fauquier, and

WHEREAS, the Town in its proprietary capacity owns and operates water & sewer utility systems within the municipality and in certain cases outside of the corporate limits when applications for the privilege of same have been granted pursuant to Article 17 of the Town Code, and

WHEREAS, Fauquier County (Hereinafter "the County") is a political subdivision of the Commonwealth of Virginia which does not operate any sewer or water facilities in its own capacity, and

WHEREAS, the Fauquier County Water & Sanitation Authority ("WSA") is an authority created and organized to provide sewer and water service with Fauquier County and, which operates under the Virginia Water & Waste Authorities Act, Chapter 51, of Title 15.2 of the Code of Virginia, 1950, as amended, hereinafter referred to as "the Virginia Code," and

WHEREAS, the Morgan Companies (the "Applicant") seek to develop certain properties identified as GPIN's 6995-23-0001-000 and 6995-23-3305-000 (the "Property"), located within Fauquier County but outside the Town limits, which can only happen if the Town, the County, and WSA amend the Tri-Party Agreement to allow the Town to provide public water and public wastewater services to the Property; and

WHEREAS, a memorandum prepared by Timmons Group, dated September 23, 2022, indicates the Applicant's proposed development on the Property will need approximately 12,000 gallons per day (gpd) of water for the grocery store, retail shops, coffee shop, convenience store with gas pumps, and fast-food eating establishment; and

WHEREAS, the Town is in the process of having the Water and Sewer System Growth and Capacity Evaluation study updated which will estimate the current and buildout water demands and sewer flows for areas where the Town has prior service commitments; and

WHEREAS, the Town's commitment to provide water and sewer service to this project is contingent on whether the Water and Sewer System Growth and Capacity Evaluation indicates that sufficient capacities exist in both the water and sewer systems;

NOW, THEREFORE, BE IT RESOLVED that the Town of Warrenton Town Council hereby conditionally agrees, if the above mentioned evaluation shows that the Town has the sufficient capacity to provide public water and public sewer to the subject parcels, to provide public water and public sewer service to the subject parcels under the conditions that a.) the proposed uses, and square footages of each as indicated on the memorandum prepared by the Timmons Group, are approved by the County; b.) public water service and sewage discharge shall be limited to 12,000 gpd on average within any thirty (30) day period on an as-needed and as-available basis, and c.) the applicant shall diligently pursue all necessary approvals and begin construction within five (5) years from the date of October 11, 2022;

BE IT FURTHER RESOLVED that the Town of Warrenton Town Council conditionally agrees to provide the requested public water and sewer service to the subject parcels if the Tri-Party Agreement shall require reconsideration, if the average usage exceeds 12,000 gpd within any 30-day period or if the owner of the

parcel(s) decides to change the use of any building that would increase the need for public water and treatment of sewage discharge;

BE IT FURTHER RESOLVED that the Town of Warrenton Town Council will consider the subject Property as part of the Boundary Line Adjustment discussion;

BE IT FURTHER RESOLVED that the Town of Warrenton Town Council reserves the right to restrict certain uses from operation on the subject parcels which will be identified during the Town's review of the Comprehensive Plan Amendment, Rezoning and Special Exception applications;

BE IT FURTHER RESOLVED that the applicant shall be responsible for obtaining approval to amend the Tri-Party Agreement from the County and WSA to allow the Property to be serviced with water and sewer by the Town of Warrenton.

BE IT FURTHER RESOLVED that the Town Manager and Town Attorney may take all appropriate, reasonable and necessary steps to effect and execute said agreement to amend the Tri-Party Agreement within the limitations set out in the recitals above.

BE IT FURTHER RESOLVED that the Town reserves the right to charge a premium for any water usage over the maximum gallon per day limit in an amount intended to match the greater of (a) additional capital expenses anticipated to accrue as a result of the excess water usage or (b) such amount as will effectively deter excess usage.