

**THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE
RESOLUTION NO. 237**

**A RESOLUTION OF THE MUNICIPAL AUTHORITY OF
THE TOWNSHIP OF SOUTH FAYETTE, ALLEGHENY
COUNTY, PENNSYLVANIA, AUTHORIZING THE
SIGNING AND EXECUTION OF THE TAP FEE PAYMENT
AGREEMENT WITH MODWASH LLC AND HUTTON
SOUTH FAYETTE PA ST LLC.**

WHEREAS, Hutton South Fayette PA ST LLC (hereinafter the “Developer”) and ModWash LLC (hereinafter “ModWash”), in connection with the initial development of the land located at 3103 Washington Pike, Bridgeville, Pennsylvania 15017 (hereinafter the “Property”), submitted a Sewer Connection Application and a tap fee payment of Seventy-Six Thousand Four Hundred Sixty-Six Dollars (\$76,466.00) on June 9, 2021 with a self-reported calculation for 17.3 EDUs and an estimated daily water use of 4117 Gallons Per Day (gpd) average over a twelve month period; and

WHEREAS, as a condition to the Sewer Connection Application (hereinafter the “Application”) submitted for the Property, the Developer had notice of and understood that the Authority would continue to monitor and review the water consumption and usage after the facility is in use to ensure compliance with the EDU calculations provided for within the Application; and

WHEREAS, the Authority retains the right, pursuant to 53 P.S. §5607(d)(24)(i)(C)(I) of the Municipal Authorities Act, to assess additional EDUs as water and sewer usage increases; and

WHEREAS, after review of the water usage and consumption, the Authority determined that the Property greatly exceeded the initially reported water use and has assessed an additional fee to account for the excess water usage from the initial EDU allotment provided by the Developer and ModWash on their Sewer Connection Application; and

WHEREAS, the Authority has provided the Developer and ModWash with a Tap Fee Payment Agreement, attached hereto as Exhibit “A”, to memorialize the total tap fee assessed and schedule of payment; and

WHEREAS, the Authority has agreed to provide the Developer and ModWash twelve (12) months to make monthly installments towards the fulfillment of the additional assessment of Two Hundred Twenty-Six Thousand Five Hundred Ninety One Dollars and Eighty (\$226,591.80) Cents (hereinafter the “Additional Fees”); and

WHEREAS, the Parties have agreed that in the event any payment due under the terms of the Tap Fee Payment Agreement remain unpaid, in whole or in part, for more than five (5) days following the due date thereof, the Authority holds the right to exercise the Confession of Judgment clause outlined in Section 1.4 of the Tap Fee Payment Agreement; and

WHEREAS, the Developer and ModWash have signed and executed copies of the Tap Fee Payment Agreement on September 16, 2024.

NOW, THEREFORE, the Board of the Authority hereby resolves as follows, incorporating the above recitals by reference:

Section 1. The Board of the Authority, by way of this Resolution, approves the Tap Fee Payment Agreement between ModWash, the Developer, and the Authority as presented.

Section 2. The Chairman of the Board of the Authority and the Operations Manager of the Authority are hereby authorized and directed, in the name of and on behalf of the Authority, to execute the Tap Fee Payment Agreement and to take such action as shall be reasonably required to enforce the provisions of the Payment Agreement with ModWash and the Developer in accordance with the intent and purpose of this Resolution.

Section 3. This Resolution shall take effect immediately.

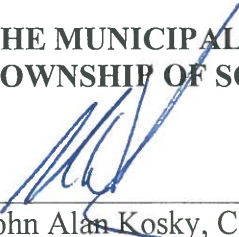
RESOLVED and ADOPTED this 3rd day of October 2024, by the Board of the Authority in lawful session duly assembled.

ATTEST:

**THE MUNICIPAL AUTHORITY OF THE
TOWNSHIP OF SOUTH FAYETTE**



Nick Goettman, Operations Manager



John Alan Kosky, Chairman

TAP FEE PAYMENT AGREEMENT

THIS AGREEMENT (hereinafter the "Agreement") is made as of the 12th day of SEPTEMBER 2024, by and between The Municipal Authority of the Township of South Fayette, Bridgeville, Allegheny County, Pennsylvania 15017, (hereinafter "MATSF" and/or the "Authority") and Hutton South Fayette PA ST LLC, Chattanooga, Tennessee 37402, (hereinafter the "Developer") and ModWash LLC, Bridgeville, Allegheny County, Pennsylvania 15017, (hereinafter "ModWash"). The Authority, Developer, and ModWash are sometimes referred to herein, individually as a "Party" and, collectively, as the "Parties".

RECITALS

WHEREAS, the Developer, in connection with the initial development of the land located at 3103 Washington Pike, Bridgeville, Pennsylvania 15017 (hereinafter the "Property"), submitted a Sewer Connection Application and a tap fee payment of Seventy-Six Thousand Four Hundred Sixty-Six Dollars (\$76,466.00) on June 9, 2021 with a self-reported calculation for 17.3 EDUs and an estimated daily water use of 4117 Gallons Per Day (gpd) average over a twelve month period;

WHEREAS, as a condition to the Sewer Connection Application (hereinafter the "Application") submitted for the Property, the Developer had notice of and understood that the Authority would continue to monitor and review the water consumption and usage after the facility is in use to ensure compliance with the EDU calculations provided for within the Application;

WHEREAS, the Authority retains the right, pursuant to 53 P.S. §5607(d)(24)(i)(C)(I) of the Municipal Authorities Act, to assess additional EDUs as water and sewer usage increases;

WHEREAS, after review of the water usage and consumption, the Authority determined that the Property greatly exceeded the initially reported water use and has assessed an additional fee to account for the excess water usage from the initial EDU allotment provided by the Developer and ModWash on their Sewer Connection Application. The Authority has provided the Developer and ModWash with a total tap fee assessed and schedule of payment reflected in the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, with the intent to be legally bound, the Parties agree to the following:

Article 1: Additional EDU Assessment; Payment Schedule of Additional Fees; Accelerated Payments.

Section 1.1: Additional Fees. Consistent with the Municipal Authorities Act and the continuing water usage at the Property, the Parties have agreed to an additional assessment of Two Hundred Twenty-Six Thousand Five Hundred Ninety One Dollars and Eighty (\$226,591.80) Cents (hereinafter the "Additional Fees"). This amount will be payable subject to the conditions set forth in Section 1.2, Section 1.3, and Section 1.4. The Developer and ModWash agree to pay the full amount of the Additional Fees owed subject to the terms and conditions set forth below in Section 1.2, Section 1.3, and Section 1.4.

Section 1.2: Incremental Payment Schedule. In accordance with the intent and desire of the Parties, the Developer shall pay the Authority twelve (12) equal installments of the Additional Fees owed. A Payment Schedule is attached to this agreement as Exhibit "A" reflecting the dates that each payment will be due under this Agreement.

Section 1.3: Accelerated Purchases and Payments. Notwithstanding the incremental payment schedule set forth in Section 1.2, above, the Parties agree and acknowledge to the following exceptions:

(a) The Developer and ModWash may elect on any of the scheduled payment dates to accelerate its payments of (and payment for) the Additional Fees by combining with its then-scheduled payment one or more later-scheduled payments, in the full portion(s) associated with such later-scheduled payment(s). However, in no event shall the Developer or ModWash defer a scheduled payment or pay less than the full portion associated with a specific scheduled payment date.

(b) If, at any time after the Effective Date, as defined by Section 2.1 below, the Developer and/or ModWash continues to have water usage in excess of the amount accounted for under this Agreement for a period of twelve (12) months, then the Authority reserves the right to provide for another assessment of additional tap fees. The Developer and ModWash would be required in this circumstance to pay for the additional fee immediately to address the continued excess usage.

Section 1.4: Late or Missed Payments; Confession of Judgment. In the event any payment due hereunder remains unpaid, in whole or in part, for more than five (5) days following the due

date thereof and subsequent written notice of non-payment being delivered to the Developer and ModWash, the Developer and ModWash hereby irrevocably authorize the Prothonotary or Counsel for the Authority to appear for and confess judgment against the Developer and ModWash for any and all amounts unpaid hereunder, together with any damages, charges, costs, and expenses for which the Developer and ModWash may be held liable for. Together with reasonable fees of counsel and costs of suit, releasing all errors and waiving all rights of appeal. If a copy of this Agreement, verified by affidavit, shall have been filed in such proceeding, it shall not be necessary to file the original as a warranty of attorney. The Developer hereby waives any stay of judgment and the benefit of all exemption laws now or hereafter in effect. No single exercise of this warrant and power to confess judgment shall be deemed to have exhausted this clause or power. The power shall continue undiminished and may be exercised from time to time as often as the Authority shall elect until all sums due hereunder have been paid in full.

Article 2: General Provisions.

Section 2.1: Effective Date. The respective obligations of the Parties under this Agreement shall be effective upon the full execution of this Agreement (the "Effective Date").

Section 2.2: Recitals and Exhibits. The Recitals set forth in this Agreement are incorporated into the substantive provisions of this Amendment and shall be binding upon the Parties as if expressly set forth in the body of this Amendment. The Exhibit attached to this Agreement is deemed to be a part hereof.

Section 2.3: Severability. If any provision of this Agreement is declared null and void, the remaining provisions of this Agreement shall remain in full force and effect.

Section 2.4: Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its principles of conflicts of law.

Section 2.5: Amendment. This Agreement may only be amended in a writing signed by all the Parties.

Section 2.6: Counterparts. This Agreement may be executed 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. This Agreement shall be legally binding when it has been executed and delivered

by all Parties; to evidence such execution, a Party may send a copy of its executed counterpart to the other Parties by facsimile or electronic (PDF) transmission.

Section 2.7: Successors and Assigns. This Agreement shall bind the parties hereto, their respective successors and assigns. Any references made in this agreement to any of the Parties shall be deemed to include the successors and assigns of such party.

Section 2.8: Authority Approval. This Agreement is entered into by the Authority pursuant to Resolution No. ____ by the Board of the Authority in lawful session and approved at a Regular Meeting of the Board of the Authority held on the ____ day of _____, 2024.

Section 2.9: Notices. Any notice, consent, waiver, or amendment to this agreement that is required or desired to be given to a Party under this agreement shall be in writing either personally delivered, delivered by sending via certified mail, return receipt requested, postage prepaid, or a reliable and reputable overnight courier service, charges prepaid, to the address set forth below. If applicable, the desired writing shall also be delivered by electronic mail ("email") to the respective Parties. The foregoing communications shall be conclusively deemed to have been given to the Party entitled thereto upon the earlier of actual receipt or the second (2nd) business day after deposit in the U.S. mail or the next business day after timely deposit with an overnight courier service for delivery to the respective Party. For the purposes of email communication, the communications shall be deemed to have been received by the Party on the first (1st) business day after the transmittal of the email to the recipient. The foregoing communications are to be addressed to the Parties at their following mailing and email addresses:

To the Municipal Authority of South Fayette Township:

Municipal Authority of South Fayette Township
Attn: Nick Goettman, Operations Manager
700 Holland Street
Bridgeville, PA 15017

Email: ngoettman@sftwp.com

To ModWash LLC:

Mod Wash LLC
Attn: Mark Peaks, Chief Financial Officer
736 Cherry Street
Chattanooga, TN 37402

Email: mpeaks@modwash.com

To Hutton South Fayette PA ST LLC:

Hutton South Fayette PA ST LLC
Attn: Robert Duncan, Sr. Vice President of Development
736 Cherry Street
Chattanooga, TN 37402

Email: rduncan@hutton.build and legalnotices@hutton.build

[Signatures appear on the following page.]

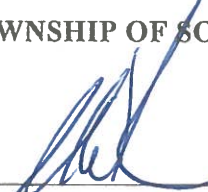
3rd IN WITNESS WHEREOF, the Parties have duly executed this Agreement on this
day of October, 2024.

THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE

ATTEST:




Secretary/Treasurer


John Allen Kosky, Chairman

HUTTON SOUTH FAYETTE PA ST LLC


ATTEST:


Name: BENJAMIN P. HARPER
Title: SECRETARY

X 
Name: KAREN J. HUTTON
Title: PRESIDENT & CEO

MODWASH LLC

ATTEST:


Name: BENJAMIN P. HARPER
Title: SECRETARY

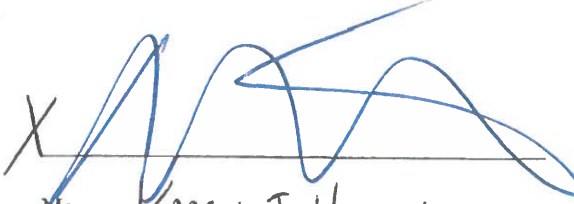
X 
Name: KAREN J. HUTTON
Title: PRESIDENT & CEO

EXHIBIT A

Payment Schedule

Additional Fee Payment Schedule	
Due Date	Amount Due
Monday, October 7, 2024	\$ 18,882.65
Friday, November 1, 2024	\$ 18,882.65
Monday, December 2, 2024	\$ 18,882.65
Thursday, January 2, 2025	\$ 18,882.65
Monday, February 3, 2025	\$ 18,882.65
Monday, March 3, 2025	\$ 18,882.65
Tuesday, April 1, 2025	\$ 18,882.65
Thursday, May 1, 2025	\$ 18,882.65
Tuesday, June 3, 2025	\$ 18,882.65
Tuesday, July 1, 2025	\$ 18,882.65
Friday, August 1, 2025	\$ 18,882.65
Tuesday, September 2, 2025	\$ 18,882.65