

WATER PIPELINE EASEMENT AGREEMENT

THIS WATER PIPELINE EASEMENT AGREEMENT ("Agreement"), made effective as of the ____ day of _____, 2002 ("Effective Date"), is made by and between KEENWICK SOUND HOMEOWNERS ASSOCIATION, INC, a Delaware corporation ("Grantor") and ARTESIAN WATER COMPANY, INC., a Delaware public utility corporation ("Grantee"). Grantor and Grantee are sometimes collectively referred to as the "Parties" and sometimes individually as a "Party".

I. RECITALS.

R1. Grantor is the owner of certain real property, consisting of the private certain road rights-of-way in the community commonly known as Keenwick Sound ("Community"), situated in Baltimore Hundred, Sussex County, Delaware ("Property");

R2. Grantee is the operator of a public water system;

R3. Whereby Grantee has agreed to install and operate a water distribution system for those owners of lots within the Community desiring water service consistent with and in the manner provided for in the Residential Water Service Connection Agreement ("Service Agreement") , which will consist of lines, pipes, valves, hydrants, shutoff boxes, tees, connectors and such related and accessory features as are necessary and appropriate for the proper installation and operation of the water distribution system (collectively, the "Improvements"); and

R4. Grantor is willing to grant an easement to Grantee that will enable Grantee to install and operate the Improvements, subject to the terms and conditions of this Agreement and the Service Agreement.

II. AGREEMENTS.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties hereby covenant and agree as follows:

Section 1. Easement.

1.1. Grant of Easement.

1.1.1. Grantor hereby creates, grants and conveys to and for the benefit of Grantee, its employees, agents, contractors, subcontractors, nominees successors and assigns, a perpetual, non-exclusive easement ("Easement") for the uses allowed in Section 1.2 occurring upon, over, under, through, in, upon, and across the private right of ways of the property ("Easement Area") as depicted and described on attached Exhibit "A".

1.1.2. Limitations on Grant of Easement. – This Easement does not authorize and Grantee agrees to make NO connections through any portion of the Property or the Improvements installed on or upon the Property to serve the adjacent commercial property – located at the southwest corner of Bluewater Run West and Delaware State 54. Grantee also agrees that it will not use any portion of the Property for maintenance of service provided to this adjacent commercial property.

1.1.3. Grantee may request and Grantor shall reasonably consent to the grant of such additional licenses or easements as may be reasonable and necessary for the undertaking of the Allowed Uses by Grantee.

1.1.4. Subject to the limitations contained in Section 1.1.2, any Improvements installed, maintained, removed or replaced by Grantee in the Easement Area shall at all times be and remain the sole personal property of Grantee for use in its business and subject to removal by it at any time, and shall be deemed to be personal property and not permanently affixed to the realty so as to become fixtures.

1.2. Use of the Easement. Subject to the restrictions contained in this Agreement, the Easement may be used by Grantee when and as often as need be or as occasion may require for the following purposes ("Allowed Uses"):

1.2.1. to construct, install, improve, operate and inspect the Improvements and/or;

1.2.2. to perform periodic meter readings, provide customer service and to maintain, repair, replace, renew and remove the Improvements.

1.3. Compliance Standards for the Allowed Uses. Grantee shall undertake the Allowed Uses and undertake all associated work in conformance with the following requirements ("Required Work Standards").

1.3.1. Grantee shall install the Improvements within the Easement Area in accordance with plans and specifications provided to Grantor not less than ten days prior to commencement of any work. The work shall also conform to the applicable provisions of the Service Agreement.

1.3.2. Grantee shall undertake the Allowed Uses in accordance with any and all applicable federal, state, county and local laws, rules, codes, regulations and all applicable covenants and restrictions established for the Community and recorded in the office of the Recorder of Deeds in and for Sussex County, Delaware in Deed book 1221, page 179, et seq..

1.3.3. Prior to the commencement of any work or activities pursuant to this Easement, Grantee shall obtain any and all permits, if any, required to undertake the work and activities associated with the Allowed Uses.

1.3.4. Grantee may undertake the Allowed Uses at all reasonable times and shall provide Grantor 48 hours of advance telephone notice prior to performing any scheduled work requiring excavation. Grantor shall be responsible for providing Grantee with a current list of contacts including names, telephone numbers and addresses.

1.3.5. All work shall be undertaken in a manner that reasonably minimizes and causes the least amount of disturbance to the Grantor Property and operations of Improvements. Hours of construction shall be limited to 6:30 am-8:00 pm. Monday –Saturday, except for emergency repairs.

1.3.6. All work will be done in a professional, workmanlike manner.

1.3.7. Grantee, at its sole cost and expense, shall be responsible for promptly repairing and restoring all portions of the Property, whether improved or unimproved, disturbed by Grantee in connection with the undertaking of the Allowed Uses, to the condition existing prior to such disturbance. Specifically, Grantee shall repave and restore the paved road surfaces with a one and one half inch Bituminous concrete overlay to a flat, smooth surface without bumps, dips, sags, sharp edges or other imperfections caused by the construction of the water distribution system and shall otherwise comply with such plans and specifications agreed to by Grantor and Grantee. Grantee shall take all reasonable steps necessary to complete the installation and paving prior to June 30, 2004.

1.3.8. Grantee shall not remove any major shrubs, trees or significant vegetation without the prior written consent of Grantor. Grantee shall use best faith efforts to preserve and protect existing mature trees and shall reduce impacts to existing vegetation and ground cover. Grantee shall notify Grantor of its determination that certain trees or bushes located in the Easement Area which may be or become a hazard to said water facilities and must be trimmed and cut and cleared away; in such event, the Parties shall meet and confer and reasonably and in good faith determine whether such trees or bushes must be removed. Any such trimming, cutting or removal shall be at the expense of Grantee.

1.3.9. Grantee shall pay all costs incurred to construct, install, operate, maintain and repair the Improvements within the Easement Area.

1.3.10. Grantee hereby confirms that it shall in accordance with its normal business practices maintain significant retainage to assure final satisfactory completion of the project. Grantee shall confirm final satisfactory completion with the Grantor and such confirmation shall not be unreasonably withheld.

1.3.11. Grantee shall keep the Easement Area free of any liens or encumbrances caused by any act or omission of Grantee.

1.3.12. Grantee shall obtain and maintain adequate insurance to cover the Allowable Uses and shall name Grantor as an additional insured thereon.

1.4. Restrictions on Other Grants By Grantor. Provided that Grantee has properly installed the Improvements in accordance with all plans and specifications and the Required Work Standards, Grantor shall not permit the installation of any electric, cable TV, sewer, gas, water or other utility lines, pipes, poles, appurtenances or structures on, over, under, across or adjacent to Grantee's facilities unless prior written notice of such installations by Grantor shall be given to Grantee. After Grantor gives prior notification to Grantee, such installation shall not be withheld or prevented unless the granting of the installation actually and materially interferes with the operation and maintenance of Grantee facilities. Furthermore, Grantor shall not change the surface elevation of the ground over Grantee's facilities, unless prior written notice of such change in ground elevation by Grantor has been given to Grantee, provided that this shall not limit or prevent necessary paving or repaving of the surface road. After Grantor gives prior notification to Grantee, such change in the surface elevation shall not be withheld or prevented unless the change of the surface elevation actually, materially and unreasonably interferes with the operation, maintenance or integrity of Grantee facilities. Any electric, cable TV, sewer, gas water or other utility lines, pipes, poles, appurtenances or structures will be installed in accordance with Sussex County engineering requirements and all applicable codes. Grantor expressly reserves unto itself and its heirs, executors, administrators, successors and assigns, the right to use and enjoy the land covered by the Easement Area for all lawful purposes that will not unreasonably interfere with the rights hereby granted to Grantee.

1.5. Prior Encumbrances. This Easement is granted subject to all prior encumbrances and other matters of record, burdening and affecting the Property.

1.6. No Agency. Grantee is not and shall not be construed as the agent of Grantor in contracting for any improvements to the Easement Area, and shall have no authority to pledge, mortgage, hypothecate or otherwise encumber any interest in the Easement Area or any other property of Grantor, except for Grantee's easement rights hereunder.

Section 2. Miscellaneous.

2.1. Heirs, Successors and Assigns. The easements, duties, benefits and rights granted and agreed to herein, and the burdens and obligations imposed and agreed to herein, shall be binding upon and shall inure to the benefit of and shall be a burden upon the heirs, designees, guests, contractors, successors and assigns of the Parties to this Agreement.

2.2. Run With The Land. The easements granted herein shall run with and be for the benefit of Grantor Property and shall run with and be a burden upon that portion of the Property defined as the Easement Area.

2.3. Recordation. This Agreement is intended to be recorded by the Parties in the official records of the applicable state and county.

2.4. Effective Upon Execution. This Agreement shall not be binding or effective on any party until executed on its behalf.

2.5. Counterparts. This Agreement may be executed in multiple counterparts or by legible facsimile copy, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument. The

facsimile transmission of a signed copy of this Agreement shall be considered valid and constitute a signed original. A signed "hard copy" of the document shall be executed by the Parties and delivered to Grantee for recordation.

2.6. No Further Rights; No Third Party Rights. Except as expressly set forth herein, nothing contained herein shall be construed as creating any rights in any third persons or parties. Nothing contained herein shall be interpreted or construed to create a public dedication of the Easements. It is understood and agreed that this Agreement is an easement only and in no way grants or conveys any part of the underlying fee simple estate of any lands owned by Grantor.

2.7. Good Title. Grantor covenants and agrees that it has good title to the Property.

2.8. Indemnification. Grantee agrees to indemnify Grantor and hold Grantor harmless from and against all liens or claims for payment for construction, repair or maintenance of the Improvements, and for any liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by law), incurred by any person or entity in connection with, arising out of or related in any way to the failure to pay for work associated with the Improvements, or any injury to or death of any person, or damage to or loss of any property, or damages which may be imposed upon, incurred by, or asserted against the Grantor arising, directly or indirectly, out of or in connection with Grantee's or Grantee's, guests, invitee's, employees, representatives, agents, contractors, subcontractors, suppliers and materialmen use and occupancy of the Easement Area or by, through or under Grantee or Grantee's employees, representatives, agents, contractors, subcontractors, suppliers and materialmen.

2.9. Further Assurances. Recognizing that the Parties hereto may find it necessary from time to time to establish to lenders, mortgagees, accountants or other persons or parties of the then current status of performance hereunder, each party bound or benefited by this Agreement agrees, upon written request, that it will from time to time, with reasonable promptness, furnish a written statement in recordable form on the status of any matter relating to this Agreement.

2.10. Enforcement and Remedies. This Agreement and the rights and obligations of the Parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Delaware. In the event of any interference or threatened interference with the Easements herein granted or with the other rights and obligations of the Parties hereunder, such Easements, rights and obligations may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance with the provisions hereof, which restraining orders and injunctions shall be obtainable upon proof of the existence of interference or threatened interference, and without the necessity of proof of inadequacy of legal remedies or irreparable harm, and shall be obtainable only by one or more "persons" (as defined below) or Parties signing this Agreement or that are benefited hereby; provided, however, nothing herein shall be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity. A party has a right to specific performance to ensure performance of another Parties obligations hereunder. In any action for enforcement of rights hereunder, the prevailing party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees. Except as may be expressly otherwise stated or provided, with respect to all required acts of the Parties, time is of the essence.

2.11. Assignment of Rights. Grantee shall have the right to assign its rights granted and created by this Agreement, provided that the assignee: (a) is a utility provider, capable of performing all duties and obligations of Grantee under this Agreement and the Service Agreement; and (b) has agreed in written, recorded document to assume and to become bound by all terms and conditions of this Agreement and the Service Agreement, including any outstanding liability of Grantee, and in such event, no further approval or permission from Grantor shall be required.

SEALED AND DELIVERED
in the Presence Of:

KEENWICK SOUND HOMEOWNERS ASSOCIATION INC.

By_____

President

Attest_____

ARTESIAN WATER COMPANY, INC.

By_____

Vice President

Attest_____

V.P., Treasurer, C.F.O.

STATE OF DELAWARE)

)ss.

SUSSEX COUNTY)

BE IT REMEMBERED that on this ____ day of _____, A.D. 2002, personally came before me, the Subscriber, a Notary Public for the State of Delaware, _____, President of KEENWICK SOUND HOMEOWNERS ASSOCIATION, INC., a corporation existing under the laws of the State of Delaware, party to this agreement, known to me as such, and acknowledged this agreement to be his act and deed and the act and deed of said corporation; that the signature of the President thereto is in his own proper handwriting and that his act of sealing, executing, acknowledging and delivering said agreement was duly authorized by a resolution of the Board of Directors of said corporation.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

Notary Public

STATE OF DELAWARE)

) ss.

NEW CASTLE COUNTY)

BE IT REMEMBERED that on this ____ day of _____, A.D. 2002, personally came before me, the Subscriber, a Notary Public for the State of Delaware, BRUCE KRAEUTER, Vice President of ARTESIAN WATER COMPANY, INC., a corporation existing under the laws of the State of Delaware, party to this agreement, known to me as such, and acknowledged this agreement to be his act and deed and the act and deed of said corporation; that the signature of the Vice President thereto is in his own proper handwriting and that his act of sealing, executing, acknowledging and delivering said agreement was duly authorized by a resolution of the Board of Directors of said corporation.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

Notary Public

