

WICOMICO COUNTY URBAN SERVICES COMMISSION

2018 Legislative Session

Legislative Day No. 15

Resolution No. 5-2018

A RESOLUTION TO ESTABLISH A PROCEDURE FOR THE BILLING, DEPOSITS AND PAYMENT OF INVOICES ASSOCIATED WITH THE SEWERAGE SYSTEM REPLACEMENT FUND REQUIRED BY THE AMENDED AND RESTATED SHARED FACILITY AGREEMENT FOR THE VILLAGE DOWNRIVER CONDOMINIUM ASSOCIATION, INC.

WHEREAS, on July 31, 2008, a Shared Facility Agreement was signed by Wicomico County, Maryland, Wicomico County Urban Services Commission, and the Village Downriver Condominium Association, Inc. relating to the construction and maintenance of the sewerage system in the Village Down River; and

WHEREAS, on March 22, 2018, an Amended and Restated Shared Facility Agreement was signed by the above-referenced parties; and

WHEREAS, the Wicomico County Urban Services Commission desires to create a procedural framework for the billing, deposits, and payment of invoices for the sewerage system replacement fund by adopting a policy attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Wicomico County Urban Services Commission that the Village Downriver Condominium Association, Inc. Policy and Procedure attached hereto as Exhibit A is adopted.

DONE at Salisbury, Maryland, this 3rd day of July, 2018.

ATTEST:

WICOMICO COUNTY
URBAN SERVICES COMMISSION



Laura Hurley, Secretary



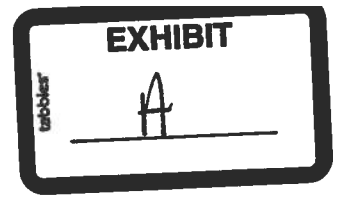
John T. Cannon, Chairman

CERTIFICATION

This Resolution was Adopted , Adopted with Amendments _____, Failed _____, Withdrawn _____ by the Urban Services Commission on July 3, 2018.

Certified by 

Laura Hurley, Secretary



WICOMICO COUNTY URBAN SERVICES COMMISSION

VILLAGE DOWNRIVER CONDOMINIUM – PROCEDURES AND POLICY

The following procedures and policy shall apply in the administration of the Amended and Restated Shared Facility Agreement, dated March 28, 2018 (hereinafter, the “SFA”), between the Wicomico County Urban Services Commission (hereinafter, the “Commission”), Wicomico County, and the Village Downriver Condominium Association, Inc. (hereinafter, the “Association”), which is recorded among the Land Records of Wicomico County in Liber 4314, Folio 117.

I. General.

- A. The Council Administrator shall be the Commission’s initial point of contact for all written, electronic, and oral communication with the Association.
- B. In addition to the annual report required by Paragraph 4.D. of the SFA and the insurance information required by Paragraph 4.F. of the SFA, the Association shall furnish its annual budget for each calendar year to the Commission by January 10 of such year. If that document does not describe the annual operation and maintenance cost items listed in Exhibit B of the SFA, those items shall be included in a separate document furnished as an attachment to the budget, which shall include both the total of those items and the annual amount that the Association is required to deposit by quarterly payment into the Sewerage System Replacement Fund (hereinafter, the “Fund”) in accordance with Paragraph 6.D.(ii) of the SFA.
- C. The Commission, by action of the Wicomico County Finance Department or otherwise, will furnish to the Association as promptly as possible:
 1. A written receipt for each quarterly or other payment made by the Association for deposit in the Fund.
 2. Unless it is also provided to the Association by the bank or other depository of any part of the Fund, any account statement issued by such depository.
 3. A yearly accounting of the Fund that indicates its initial and ending balance in the calendar year and the individual transactions during that period.
- D. The Fund shall be held on deposit in the name of the Commission or Wicomico County, as escrow for the Association pursuant to the SFA, by the bank in which the County maintains its primary deposit relationship or such other institution(s) upon which the County, the Commission and the Association may agree.
- E. Interest or other earnings on the deposited balance of the Fund shall be credited to the account and taxable to the Association in accordance with applicable law.
- F. The Association shall promptly provide to the Commission a copy of any special report, notice or correspondence regarding the sewerage system issued by any governmental agency, the response(s) by the Association or its representative, any modification or renewal of the Ground Water Discharge Permit for the system and the application and correspondence regarding such actions.

II. Procedure for Disbursement from the Fund.

- A. Disbursement from the Fund for major repair and/or replacement of equipment or components of the sewerage system pursuant to paragraph 6.D.(i) of the SFA shall be made in accordance with an authorization resolution adopted by the Commission and by means of check or order issued by the Commission or Wicomico County upon voucher, duly certified by three members of the Commission.
- B. In order to obtain disbursement, the Association shall furnish to the Commission a written request stating the amount requested and the service(s) and equipment or material for which it will be used, together with a copy of each contract, proposal or invoice for such service(s) and equipment, and such other information as the Commission or the Director of Public Works may require. Except in the case of emergency repair or replacement, the request shall be submitted to the Commission for its consideration and approval prior to execution by the Association of contractual obligations for the repair or replacement work. If the report, annual budget, and other information described in section I.A. have not been furnished as required thereby, it shall be furnished before any disbursement occurs.
- C. If the requested disbursement is for service(s) and/or equipment having a fixed or estimated cost exceeding \$5,000, the Director of Public Works shall review the scope, nature and cost of the service(s) and the equipment or materials and submit to the Commission a report and recommendation regarding the need for the proposed repair and/or replacement and cost thereof.
- D. If a disbursement request is approved by the Commission in the requested or lesser amount, no more than 75% of such amount may be disbursed prior to substantial completion of the work and delivery of the equipment or materials to the Association and receipt by the Commission of the Association's written request for full disbursement of such amount.
- E. Typical contractual practices, such as bills of sale, lien releases, warranty documentation and appropriate inspection and completion and/or other certifications may be required by the Commission as a condition of disbursement.
- F. The Director of Public Works and the Commission may procure outside engineering expertise to assist in the review and recommendation regarding a requested disbursement; cost of the outside engineering expertise shall be the obligation of the Association and may be paid from the Fund.
- G. If the Commission so chooses, it may disburse directly to vendors and contractors, and upon its request the Association shall provide the Commission appropriate information regarding the balance due to specific payees.

III. Fund Balance and Disbursement Policy.

- A. The purpose of the Fund is to have immediately available on deposit a sufficient sum to fund replacement, as required, and immediately necessary repair of the major components of the system, which are specified, together with current estimated replacement cost, in Exhibit A to the SFA under two separate categories: "20 Year Replacement Items" (\$63,000 total) and "50

Year Replacement Items" (\$201,000 total). Thus, the balance on deposit should increase over time – the SFA currently requires the Condominium Association to add \$7,170 per year – and it should not be reduced below a reasonable level under the then existing circumstances, including the condition and remaining estimated life and replacement cost of the components listed in Exhibit A and funds to cover unanticipated matters and events that might require major repair or replacement earlier than expected.

- B. Except in emergency circumstances, the Fund's minimum balance should not be reduced below \$42,000 in 2018, and that the minimum balance should be increased by \$5,000 in each subsequent year until the desired balance and the annual amount to be deposited in the Fund are reestablished pursuant to the SFA.
- C. The operation and maintenance of the sewerage system should be thoroughly inspected by a licensed professional engineer having experience with the system type at periodic intervals at the expense of the Association as contemplated in paragraph 4.D. of the SFA. The first such inspection should be made in 2020 and additional inspections every five years thereafter. The result of such inspections should be considered in reestablishment of the minimum balance of the Fund and annual deposit therein by the Association. The Commission should discuss with the Association the engineer to be selected and fee for each inspection in the year prior to the inspection. The fee shall be paid from the fund.

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