

Service Contracts and Tap Agreements with Developers, Businesses, and Individuals; Intergovernmental Water and Sewer Service Contracts

Presented by:

John B. Albers

Albers and Albers

88 North Fifth St.

Columbus, Ohio 43215

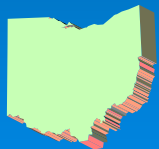
(614) 464-4414 (ph) • (614) 464-0604 (f)

john.albers@alberslaw.com

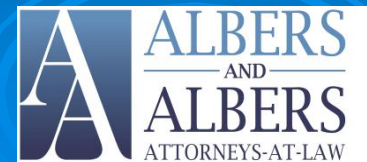
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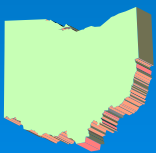


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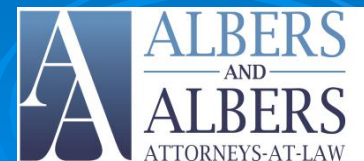


Water and Sewer Service Contracts with Developers, Businesses, and Individuals

1. Service Agreements are also known as Tap Agreements, or Development Agreements
2. Types of Agreements:
 - Residential Development or Tap Agreement (Multiple Residential Improvements)
 - Commercial Development or Tap Agreement (Multiple Commercial Improvements)
 - Business Tap Agreement (Single Commercial Improvement)
 - Individual Tap or Permit Agreement (Single Residential Improvement)



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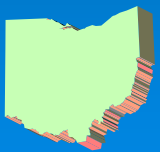
Water and Sewer Service Contracts with Developers, Businesses, and Individuals (Contd.)

3. When Needed Generally:

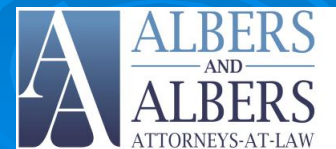
3.1. Service Contract vs. Rules and Regulations

- Pro Contract. Reasons:

- Terms Clear and Unambiguous
- Easier to Enforce
- Less Likely to be Litigated
- More Likely to Win if Litigated
- Approved Design or Construction Plan = Contract
- Catch All Provision- Customer Must Comply with all Rules and Regulations and Construction and Material Specification
- Covers Items Unaddressed in Rules and Regulations



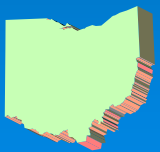
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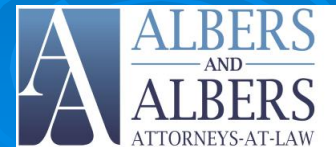
Water and Sewer Service Contracts with Developers, Businesses, and Individuals (Contd.)

4. Pre-Contract Commitment to Provide Services
 - Detrimental Reliance
 - USDA 1926(B) Protection Issues

5. Important Contract Provisions for Service Contracts with Developers and Businesses
 - 5.1. Off-Site Extensions:
 - Public Bidding / Prevailing Wage
 - Joint Economic Development Districts (JEDDs), Tax Increment Financing (TIFs)
 - Tap Fee Credits for Off-Site Extensions
 - Reimbursements of Third-Party Tap Fees



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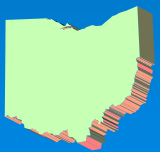
Important Contract Provisions for Service Contracts with Developers and Businesses (Contd.)

5.2. Pre-Construction Requirements:

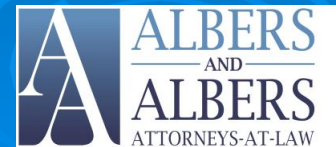
- Compliance with Zoning
- Subdivision Plat Requirements
- Other Governmental Entity Requirements
- Approved Design and Construction Plans

5.3. Payment of Costs for Easements, Property Rights, Rights of Way, Permits, Inspections

5.4. Hold Harmless / Indemnification



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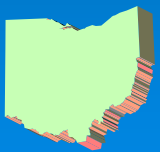
Important Contract Provisions for Service Contracts with Developers and Businesses (Contd.)

5.5. Breach / Remedies for Breach:

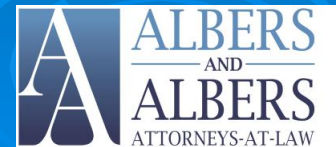
- Stop Work, Complete Construction, Terminate Contract, Deposit to Continue Project, Failure to Construct On-Site Systems

5.6. Prerequisites for Acceptance of Project Improvements:

- Conditional Acceptance, Affidavit Regarding Subs, As-Builts, 2-Year Maintenance Security, Video of Lines, Convey Facilities by Bill of Sale and Easement

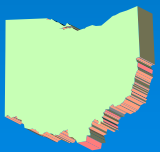


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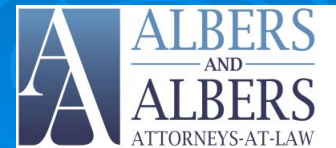


Important Contract Provisions for Service Contracts with Developers and Businesses (Contd.)

- 5.7. Miscellaneous:
- Right to Record
 - Exclusive Provider
 - Prohibition on Annexation

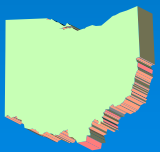


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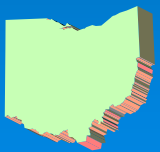
Service Agreements with a Large Volume Business Customer, Considerations:

- 6.1. Require Business to Provide Requirements in Writing from the Start
- 6.2. Confidentiality Agreements
- 6.3. Reserving Capacity:
 - 6.3.1. Reserving Capacity Currently Available, Cost
 - Lost Revenue
 - O & M Cost Related to Unused Capacity
 - 6.3.2. Cost to Replace Capacity
 - Future Design and Construction Costs to Replace Capacity

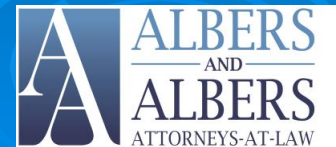


Service Contracts with Individuals, Permits

- 7.1. Service Agreements or Permit Recommended
- 7.2. Service Agreements with Landlords and Tenants
- 7.3. Limited License Agreement to Enter onto Customers Property to Read Meters, Repair, Replace, Review for Compliance with Rules, and Terminate Services



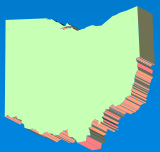
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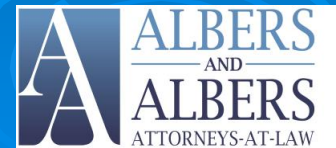
Intergovernmental Service Agreements for Water and Sewer Services

1. Types of Service Agreements for Water and Sewer Services Include Bulk Water Contracts, Contract for Sewer Treatment Services Only, Direct Service Contracts, and Contracts for Operations and Maintenance Only

2. Important Provisions:
 - 2.1. Termination of Services for Non-payment; Termination for Other Reasons



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Intergovernmental Service Agreements for Water and Sewer Services (Contd.)

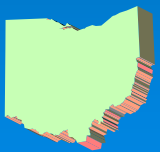
2.2. Rates

- USDA Contract: “Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller’s system.”

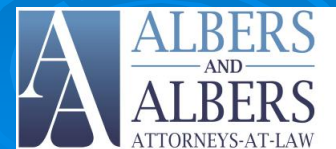
2.3. Compliance with Rules and Regulations of the Entity Providing the Service

2.4. Exclusivity

2.5. Volume / Availability of Additional Capacity / Cost

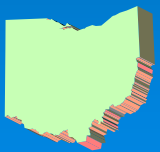


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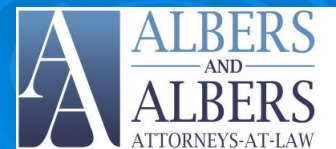


Intergovernmental Service Agreements for Water and Sewer Services (Contd.)

- 2.6. Service Area, Expansion of Service Area
- 2.7. Oversizing of Facilities to Service Other Areas
- 2.8. Term of Contract
- 2.9. Annexation, JEDDs, TIFs
- 2.10. Pressure / Water Quality

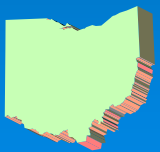


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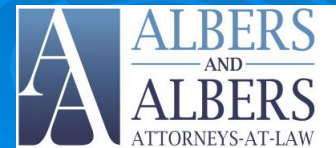


Intergovernmental Service Agreements for Water and Sewer Services (Contd.)

3. Implementing Modification or Replacement of Service Agreements:
 - 3.1. Negotiation. Provide a Benefit in Return for Implementing a Better Agreement.
 - 3.2. Implement Changes When the Agreement Expires



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Questions?

John B. Albers, Esq.

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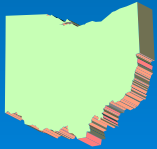
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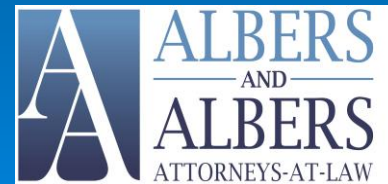
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