

## AGREEMENT TO INSTALL WATER IMPROVEMENTS

This Agreement to Install Water Improvements ("Agreement") is entered into on the last date signed below, by and between **Sherwood Development Company** ("Developer"), and **Ventura County Waterworks District No. 38** ("District"). Hereinafter, Developer and District may be referred to individually as a "Party" or collectively as the "Parties".

### RECITALS

WHEREAS, Developer wishes to process a certain land use entitlement known as **Tract 4409-6**.

WHEREAS, as a condition precedent to the issuance of an unconditional "will serve" letter, Developer must either complete the construction of certain improvements with respect to the land use entitlement or enter into a binding agreement with **District** to complete such improvements.

NOW, THEREFORE, in consideration of the promises contained herein and in order to satisfy such condition precedent to obtain the required "will serve letters", it is agreed as follows:

### AGREEMENT

1. The above recitals are incorporated herein by this reference.
2. Developer shall perform, construct and complete, at Developer's own expense, all that work and all those improvements described in the plans and specifications under Ventura County Drawing No(s). 66578-66585 on file at the office of the County Surveyor's Office, Ventura, California ("Improvements"). Said plans are incorporated into and made a part of this contract as though set forth at length herein. The estimated cost of said work is **Five Hundred Seventeen Thousand, Seven Hundred forty Dollars** (\$517,740).
3. Developer hereby offers to dedicate the Improvements to the District for public use following their completion and the District's acceptance thereof as provide for herein.
4. Developer shall perform and complete the work and improvements referred to in Paragraph 1 hereof within 24 months after the date on which the District executes this Agreement.

Notwithstanding the foregoing, upon written application of Developer stating the facts it relies upon to justify an extension of time for completion of the Improvements, District's Engineer/Manager ("Engineer/Manager") may, in his or her discretion, grant an extension of time for some definite period of time. The written application shall be accompanied by a check payable to District, if additional deposits are required. Developer may apply for additional extensions of time and the Engineer/Manager may, in his or her discretion, grant same pursuant to the foregoing procedure. The Engineer/Manager shall not act unreasonably or arbitrarily in denying a request of any extension of time. If the time for completion of said

work and Improvements is extended, said extension shall effect an automatic extension of this Agreement, the security for faithful performance filed with District pursuant to paragraph 5 hereof, and the security for labor and materials filed with District pursuant to paragraph 6 hereof.

5. Concurrently with the execution of this Agreement, Developer shall file with District good and sufficient security in the amount of \$517,740 for the faithful performance of the terms and conditions and guarantees of this Agreement and the permit required by District to perform the Improvements. The form and substance of said security shall conform with the provisions and requirements of the Ventura County, Public Works Agency, Bond Book.
6. Concurrently with the execution of this Agreement, Developer shall file with District good and sufficient security in the amount of \$517,740 to guarantee payment to Developer's contractor(s), its(their) subcontractors, or to persons renting equipment or furnishing labor or materials to them for the construction of the Improvements. The form and substance of said security shall conform with the provisions and requirements of the Ventura County, Public Works Agency, Bond Book.
7. Developer promises and guarantees to replace or repair all defective workmanship and materials for a period of one (1) year after date of acceptance of the Improvement by District as provided for herein. Developer shall replace or repair any such defective workmanship and materials in a manner satisfactory to the Engineer/Manager, after notice to do so from the Engineer/Manager, and within the time specified in the notice. If Developer fails to make such replacement or repair within the time specified in the notice, District may perform the replacement or repair, and Developer and its sureties shall be liable to District for all costs and reasonable expenses thereof. The security for faithful performance required by Paragraph 5 hereof shall not be exonerated or returned until one (1) year after the date of District's acceptance of the Improvements.
8. All or part of the work done pursuant to this Agreement may be considered "public works" subject to prevailing wage, apprenticeship and other labor requirements of California Labor Code, division 2, part 7, chapter 1, section 1720 et seq. (the "Public Works Chapter"). Such public works may include, but are not limited to, construction, alteration, demolition, installation, or repair work, including preconstruction and post-construction activities related to a public works project, regardless of whether done under contract and/or paid in whole or in part out of public funds. Developer is solely responsible for determining whether the work done pursuant to this Agreement is subject to the Public Works Chapter.

With respect to any public works done pursuant to this Agreement, Developer acknowledges that it will be the "awarding body" under the Public Works Chapter and responsible for discharging the duties of awarding bodies required by the Public Works Chapter, including, without limitation: obtaining from the California Department of Industrial Relation (DIR) general prevailing wage determinations for the locality, which are available at <https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html> and making them available to Developer's contractor by reference to the website or upon request; awarding contracts only to

registered contractors and giving DIR notice of award of the contract for public works pursuant to Labor Code section 1773.3 for contracts that exceed the thresholds set forth in subdivision (j) of that section (\$15,000/\$25,000); giving the contractor(s) notice in the contract(s) or bid documents that the project is subject to compliance monitoring by DIR and contractor(s) is required to comply with the Public Works Chapter, including, without limitation, Labor Code sections 1771 (payment of prevailing wage), 1771.1 (registration with DIR), and 1771.4 (submission of certified payrolls to Labor Commissioner); posting or requiring the contractor to post job site notices as prescribed by regulation pursuant to Labor Code section 1771.4(a)(2); and taking cognizance of and promptly reporting any suspected violations of the Public Works Chapter to the DIR.

9. Developer shall contract for construction of all Improvements only with contractors currently licensed by the State of California.
10. Developer shall timely pay plan check fees, construction inspection fees and all other fees regarding the Improvements as required by the District's Rules and Regulations.
11. Developer shall dedicate to District any and all easements and rights of way for the Improvements. Said easements or rights of way for the Improvements within the subdivision shall be specifically described in and offered to District for dedication on the requisite record map title sheet.
12. District shall inspect all construction and Improvements required by the terms of this Agreement. Said inspection shall include, but is not limited to, the inspection of backfill over installed pipes, extensions or connections. The provisions of this paragraph shall apply to pipes, extensions and connections installed in public streets or rights of way.
13. Developer shall pay all the costs for inspecting backfill over installed pipes, including appurtenances, as required by paragraph 12, and all costs for inspecting and testing soils above the "pipe zone," as herein above described. Said "pipe zone" is defined as follows:

Commencing from the bottom of the trench to a maximum of one (1) foot above the top of the pipe and extending thereby to the length of the pipe, extension or connection installed.
14. Developer shall perform the work and construct the Improvements in a good and workmanlike manner under the supervision of and to the satisfaction of the Engineer/Manager. Developer shall comply with all federal, state and local laws, ordinances, rules and regulations. Said work and Improvements shall not be deemed complete until accepted in writing by the Engineer/Manager. Said acceptance shall constitute acceptance of the offer of dedication of the Improvements to District for public use.
15. Nothing contained herein shall be construed to create the relationship of employer and employee, master and servant, or principal and agent between District and Developer in construction of the Improvements and/or in the performance of Developer's other obligations under this Agreement.

## 16. Insurance Provisions

- A) Developer, at its sole cost and expense, will obtain and maintain in full force during the term of this Agreement the following types of insurance:
- 1) Commercial General Liability "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence and \$2,000,000 aggregate, including personal injury, broad form property damage, products/completed operations, broad form blanket contractual and \$50,000 fire legal liability.
  - 2) Workers' Compensation coverage, in full compliance with California statutory requirements, for all employees of Developer and Employer's Liability in the minimum amount of \$1,000,000.
- B) All insurance required will be primary coverage as respects to the District and any insurance or self-insurance maintained by District will be excess of Developer's insurance coverage and will not contribute to it.
- C) District is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.
- D) The County of Ventura, Its Boards, Agencies, Departments, Offices, Employees, Agents, and Volunteers are to be named as Additional Insured as respects work done by Developer under the terms of this Agreement on all policies required (except Workers' Compensation).
- E) Developer agrees to waive all rights of subrogation against the County of Ventura, Its Boards, Agencies, Departments, Officers, Employees, Agents and Volunteers for losses arising from work performed by Developer under the terms of this Agreement as it pertains to Workers' Compensation.
- F) Policies will not be canceled, non-renewed or reduced in scope of coverage until after sixty (60) days written notice has been given to the County of Ventura, Risk Management Division.
- G) Developer agrees to provide District with the following insurance documents on or before the effective date of this Agreement:
1. Certificates of Insurance for all required coverage.
  2. Additional Insured endorsements.
  3. Waiver of Subrogation endorsements (a.k.a.: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others) as it pertains to Workers' Compensation.

Failure to provide these documents will be grounds for immediate termination or suspension of this Agreement.

17. District and the County of Ventura and its elected officials, officers, directors, agents, employees, subcontractors and volunteers shall not be liable for any liability resulting from the death or injury to persons or damage to property due to or arising from or related to the construction of the Improvements by Developer and its contractors. Developer shall indemnify, defend (with counsel acceptable to the County of Ventura) and hold harmless District and the County of Ventura and its elected officials, officers, directors, agents, employees, subcontractors and volunteers from and against all third-party claims, demands, actions, lawsuits, fines, damages and liabilities of whatever nature, including all costs, expenses, fees (including attorney's fees), and interest arising from or relating to the construction of the Improvements, including any action alleging or determination that any work performed pursuant to this Agreement is a "public work," as defined in California Labor Code division 2, part 7, chapter 1 section 1720 et seq., including without limitation any claim or action brought pursuant to Labor Code section 1784, except to the extent caused by the gross negligence or willful misconduct of District, its elected officials, officers, directors, agents, employees, subcontractors and volunteers.
18. Developer shall take such precautions as may be necessary to protect the public from any dangerous condition caused by the construction of the Improvements. Developer shall have such control of the ground reserved for the installation of such improvements and the streets in which they are to be placed as is necessary to allow Developer and its contractors to carry out this Agreement, and Developer shall obtain at its sole expense an Encroachment Permit for any construction to be performed within or over any public right of way.
19. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof. This Agreement shall not be amended except in a writing duly executed by the Parties hereto. The Board authorizes the Director of Public Works, Water and Sanitation to execute amendments on its behalf.
20. Each Party represents and warrants that each person executing this Agreement on its behalf has the authority to do so on behalf of, and to fully bind, such Party, and that no further ratification of this Agreement is needed for it to be effective.
21. This Agreement may be executed in counterparts, each of which shall be deemed an original.
22. This Agreement shall in all respects be interpreted, governed, and enforced in accordance with the laws of the state of California applicable to contracts entered into and fully to be performed therein. The Parties agree that this Agreement was made and entered into in Ventura County, California and that this Agreement and the Parties' obligations under this Agreement are to be performed in Ventura County. Accordingly, the Parties agree that any action, suit or other legal proceeding concerning this Agreement shall be in a forum with jurisdiction over Ventura County, California, with venue in Ventura County.

23. The Parties agree that this Agreement may be transmitted and signed by electronic or digital means by either/any Party or both/all Parties and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code Section 16.5 and California Civil Code Section 1633.7.

IN WITNESS WHEREOF, the parties hereto have executed this contract.

By: Sherwood Development Company  
2300 Norfield Court  
Thousand Oaks, CA 91361

Dated: 11-27-23

By Nate Smith  
Title PRESIDENT

VENTURA COUNTY WATERWORKS  
DISTRICT NO. 38

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Director, Public Works Agency  
Water and Sanitation Department

ATTEST: SEVET JOHNSON,  
Clerk of the Board of Supervisors  
County of Ventura, State of California  
Ex officio of the Clerk of the Board of Supervisors  
of Ventura County Waterworks District No. 1

By \_\_\_\_\_  
Deputy Clerk of the Board



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

State of California

County of Ventura

On NOVEMBER 27, 2023 before me LORIE B. ALAIMO, Notary Public personally appeared NATHAN STOCKMEIR, who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.  
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lorie B. Alaimo (Seal)

