

FIRST AMENDMENT TO WASTEWATER SERVICE AGREEMENT

**Between
Village of Salado
and
Sanctuary Development, LLC**

STATE OF TEXAS §
 §
COUNTY OF BELL §

This First Amendment to the Wastewater Service Agreement (this "Amendment") is entered into between VILLAGE OF SALADO, a Texas general law municipality (the "Village"), and SANCTUARY DEVELOPMENT COMPANY, LLC, a Texas limited liability company ("Developer"). In this Amendment, Village and Developer are sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, on or about November 25, 2015 the Parties entered into a Wastewater Service Agreement (the "Agreement"); and

WHEREAS, with the passage of time and the evolution of the marketplace, the Parties to the Agreement desire to modify certain terms and provisions to better align with their respective goals and expectations and to clarify certain terms and provisions to ensure the development proceeds efficiently and without ambiguity.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained herein, the Parties agree as follows:

A. The Agreement is hereby amended by adding a new **Section 3.4 Refund of Impact Fees** as follows:

3.4 Refund of Impact Fees. As consideration for the construction of the Internal Facilities and conveyance of the Internal Facilities to Village, Developer shall receive a refund of wastewater impact fees in a total amount of six million dollars (\$6,000,000.00). The Village shall collect the wastewater impact fees from all persons within the Project connecting to the Village wastewater system. No later than December 31, 2022, the Village shall pay to Developer an amount equal to any and all wastewater impact fees paid by third-party users within the Project prior to such date. Thereafter, no later than February 15th, May 15th, August 15th, and November 15th of each year, the Village shall pay to Developer an amount equal to any and all wastewater impact fees paid by third-party users within the Project in the preceding calendar quarter, until such time as the refunded amount of such

impact fees totals six million dollars (6,000,000.00) or the date that the Master Development Agreement and any extension of that Agreement expires, whichever occurs first (the "Outside Date"). Notwithstanding the foregoing, the Outside Date may be extended for up to five (5) additional years provided the Developer is actively pursuing development of the Project by either having construction in progress, development plans submitted and under review by the Village, or any unexpired development or construction permits or approvals. Notwithstanding anything in Section 10.1 of this Agreement to the contrary, Developer may assign or pledge the rights to receive the refund of wastewater impact fees provided in this Section 3.4 to a third-party without the consent of the Village and upon notice of such assignment or pledge, the Village will direct all future such impact fee payments required in this section to such assignee or pledgee as directed by Developer. This Section 3.4 shall govern any other provisions of this Agreement to the extent of any conflict therewith.

- B. The Agreement is hereby amended by adding a new Section 5.1.1 Third-Party Participation as follows:

5.1.1 Third-Party Participation. Because of its key location near the Village's Wastewater Treatment Plant, other landowners may benefit from connecting to the Village's wastewater system through a portion of the Property south of Royal Street as more particularly depicted on Exhibit "C" attached hereto and incorporated herein (the "Wastewater System Extension Area"). Village and Developer agree to work cooperatively to support orderly development of neighboring property by developing a wastewater easement acquisition agreement on terms mutually acceptable to the Village and Developer providing for the Village's acquisition of a wastewater easement through the Wastewater System Extension Area to accommodate flows from adjacent properties. Developer shall not be responsible for any costs of designing or constructing wastewater facilities located within the Wastewater System Extension Area.

- C. The Agreement is hereby amended by adding by adding a new Section 5.2.1 Design of Oversized Facilities as follows:

5.2.1 Design of Oversized Facilities. The Village or participating third-party landowners shall be responsible for the cost of designing any facilities located within the Wastewater System Extension Area. Such design of wastewater facilities may be performed by the registered professional engineer selected by Developer for the design of the Internal Facilities, but the Village or the benefitting third-party shall be responsible for paying the costs associated with the design services for any facilities located within the Wastewater System Extension Area. Any facilities located within the Wastewater System Extension Area shall comply with the same design criteria set forth in Section 5.2.

- D. The Agreement is hereby amended by adding by adding a new Section 5.4.1 Cost of Wastewater Extension Facilities as follows:

5.4.1 Cost of Wastewater Extension Facilities. The Village or participating third-party landowners shall be responsible for paying all costs of construction associated with the any facilities located within the Wastewater System Extension Area on the same terms and conditions set forth in Section 5.4.

- E. The Agreement is hereby amended by deleting Section 11.5 is deleted and replacing it with the following:

11.5 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflicts of law provision, rule, or principle therein that would result in the application of the law of another jurisdiction. Venue for any action concerning this Agreement shall be exclusively in the State District Court of Bell County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court for any actions arising out of or concerning this Agreement.

- F. All capitalized terms used but not otherwise defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of any conflict between the terms of this Amendment and the Agreement, the terms of this Amendment shall prevail. The heading or captions of the paragraphs in this Amendment are for convenience only and do not limit or expand the construction and intent of the contents of the respective paragraph.
- G. This Amendment: (a) shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; (b) may be modified only in writing signed by each party hereto; and (c) embodies the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements relating to such subject matter.
- H. The Agreement as amended and modified by this Amendment is ratified and confirmed by the parties and remains in full force and effect.

[remainder of page intentionally left blank; signature pages follow]


EXECUTED on this 30th day of November, 2022.

VILLAGE:

ATTEST:

VILLAGE OF SALADO TEXAS,
a Texas general law municipality

Cora McPartland
Village Secretary

By: 
Name: Michael Coggin
Title: Mayor

EXECUTED on this 30th day of November, 2022.

DEVELOPER:

SANCTUARY DEVELOPMENT, LLC,
a Texas limited liability company

By: 

Billie Hanks, Jr., Member and Manager