

## WORK SESSION – AUGUST 4, 2022

**Minutes of the Huntsville Town Council work session held at the Huntsville Town Maintenance Office, 165 South 7500 East on Thursday, August 4, 2022, at 6:00 p.m. This work session addressed the Sewer Agreement and the Development Agreement for Sage Development.**

**Attending:** Mayor Sorensen, TCM Kevin Anderson, TCM Bruce Ahlstrom, TCM Sandy Hunter, TCM Arite Powell, Beckki Endicott – Clerk, Nate Reeves from Reeves and Associates

**Zoom:** Jared Anderson – Engineer/Huntsville Town, Bill Morris – Attorney/Huntsville Town, Tony Hill – Attorney/CW Lands, Todd Meyers – Project Manager/CW Lands

Mayor Sorensen called the meeting to order. The Sewer Agreement was addressed (**See Attachment #1**)

The Town Council, Town staff, CW Lands staff and Nate Reeves, designer of the sewer system had lengthy and specific discussions on several points of the sewer agreement between CW Lands and the Town of Huntsville. Bill Morris explained that following Utah State Code, the HOA for Sage Development must have a “body politic” or sponsor for the maintenance of the sewer system of Sage Development. Bill Morris suggested that without an agreement, Huntsville Town could face expensive maintenance of a sewer system for the HOA. The state requires this oversight from a municipality. Nate Reeve from Reeves and Associates explained that the design of the system could not expand beyond twenty lots. This was reflected in paragraph nine (9) of the agreement. Other specific points were discussed as follows:

1) Huntsville Town requested a change in recital A to reflect “no more than 20 lots.” Mr. Hill agreed to make the change.

2) Bill Morris suggested that a level three certified inspector be added to the agreement to make sure there was someone qualified to do the inspecting of the system for the HOA.

3) TCM Kevin Anderson requested a penalty and fine be added to the agreement if the HOA does not provide for the qualified maintenance.

4) The Town Council requested the State Code on the “body politic.” Bill Morris emailed them Rule 317, part 4.

5) TCM Artie Powell suggested grammatical edits for paragraph 6 and 7. In addition he suggested a maximum rate for the inspection was not reasonable. Currently the maximum inspection fee allowed is \$500.

6) Engineer Jared Anderson wanted to make sure the sewer lines are constructed to APWA standards and is specified in the agreement. The request was made to add the state requirements for inspections to the agreement. Jared Anderson also requested that it be added to the agreement that the sewer system would operate “per the state division of water quality standards and specifications.”

7) Nate Reeve wanted the Town to be aware that the certified inspector should not be inspecting the system without the body politic being at the site. The body politic should always be aware of what is happening.

Bill Morris described the process for adopting both the sewer and the development agreement. The sewer agreement will be adopted by resolution which Bill Morris has authored. The development agreement will be adopted by ordinance with the final plat. A public hearing will be needed on the development agreement.

The development agreement is heavily edited and there was confusion about which version to review. Attorney, Tony Hill will compile the edits and release a clean version.

**TCM Bruce Ahlstrom motioned to adjourn the meeting.** TCM Sandy Hunter seconded the motion. All votes Aye. Motion passed.

**Meeting adjourned at 6:46 p.m.**



Beckki Endicott, Huntsville Town Clerk

## SEWER MAINTENANCE AGREEMENT

THIS SEWER MAINTENANCE AGREEMENT ("Agreement") is made by and between Huntsville Town, a municipal corporation of the State of Utah ("**Town**"), CW The Sage, LLC, a Utah limited liability company ("**Developer**"), and The Sage Owners Association, Inc., a Utah non-profit corporation ("**Association**"). The foregoing are referenced herein either individually as a Party or collectively as the Parties.

### R E C I T A L S:

- A. The Developer has acquired title to a 72.021 acre tract of land to be developed into a community of twenty (20) single family residential home sites in the Huntsville Town known as the Sage Development Project ("Project").
- B. The Town has granted preliminary and anticipate final approval to the development proposed by the Developer.
- C. The Association has been established as a Utah non-profit corporation with the Utah Department of Commerce and will conduct the affairs of the homeowners in the development as it relates to common areas and expenses.
- D.A. Utah Administrative Rule R317-1-2 under 2.2.A requires a "Body Politic" which in this Project is the Town to "sponsor" the sewer system for the Association as such applies under Utah law.
- D.E. Developer and Town seek this Agreement to outline the duties and obligations related to the management and operation of sanitary sewer to be performed by the Association.
- E.F. This pressurized sewer collection system has been approved by the Utah

Department of Water Quality and will consist of a pressurized sewer collection system with 3-inch diameter pipe flowing towards a central treatment plant. The treatment and disposal systems consist of large septic tanks, a treatment plant and a pressurized effluent disposal system. Lines from individual homes to the 3-inch collection system are private.

F.G.

The purpose of this agreement is to set forth the rights, duties and responsibilities of the Parties relating to the sewer distribution and collection system for future maintenance and operation.

NOW, THEREFORE, the Parties hereto intending to be legally bound and in consideration of the respective undertakings made and described herein, do agree as follows:

1. **Installation of Sewer Systems.** The Developer shall be solely responsible for the entire cost, expense and supervision of the design, engineering, construction and installation of the sewer collection, treatment and disposal system [for the Project](#).
2. **Agricultural Preservation Easement.** The pressurized drain fields and collection lines will be located on a parcel of property in the development [of the Project](#) which has been designated on the plat as Open Space Non-Residential Lot (For Sewer Infiltration System) (the “*Non-Residential Lot*”) on the proposed plat. The Non-Residential Lot is a parcel is to be dedicated to and ultimately owned by the Association with a mutually agreed upon easement for the Town.
3. **Department of Water Quality.** Upon completion of the sewer system construction and installation, the Developer shall be responsible to obtain an inspection and approval of the system from the Utah State Department of Environmental Quality. Once the Developer has obtained approval of the system

from the State Department of Water Quality, the Developer shall provide notice thereof to the Town who shall also inspect the same for approval of any bond release by the Town to the Developer.

4. **Town Responsibilities.** Following approval of the system, the Town shall at that time begin to provide oversight and supervision of the sewer systems through a third-party professionals selected and paid for by the Association, as determined in its sole and reasonable discretion. The rights and duties of the Town relating to the sewer system and to the Association's operation and maintenance therefore shall be governed by the State's description of the rights and responsibilities of ~~a~~A Body Politic as such are currently defined by Utah Law [under Rule 317-1-1](#), and as such may be hereafter amended from time ~~to~~ time.
5. **Maintenance.** It is anticipated at this time that the ownership, control, and maintenance of the sewer system including the collection, treatment, and disposal systems shall be vested in the Association in perpetuity. Lateral lines from mainline to the home are the responsibility of each lot owner.
6. **Easement.** The Town shall enjoy an easement on the Association property in order to conduct its inspections for purposes of ingress, egress construction, repair and any other related access needs.
7. **Town Recommendations.** The Association agrees to be bound by the reasonable requirements and recommendations which the Town shall make to the Association in connection with the Town's agreement to act as the Body Politic for this sewer system. Any cost of maintenance, upgrade, repair, or operation which is reasonably required by the Town in its capacity as Body Politic over this



system shall be borne solely by the Association on an annual basis. The Town shall have no financial responsibility relating to the sewer system, except for routine inspections (collectively, the “*Town Inspections*”), which Town Inspections shall not occur more frequently than semi-annually (i.e., two (2) times per year). The Association shall be responsible for no more than Five Hundred and No/100 Dollars (\$500.00) per Town Inspection, as may be adjusted by the Town based upon the actual cost of the inspection. If the Town imposes reasonable conditions upon the Association which the Association fails to reasonably implement, the Town has the right, but not the duty, to incur the reasonable expense of implementation thereof and to recover the costs of said implementation from the Association and to take any other action permitted by law to recover said costs; provided, however, prior to the Association being responsible to reimburse the Town the Town shall provide document support evidence the actual and reasonable costs of such implementation.

8. **Future Sewer District.** Upon request from Town officials, the Association hereby consents to the sewer system annexing into or to otherwise become a part of any future sewer district, existing sewer district, or other body politic which may eventually be organized by the Town or local municipality. If and when at any time in the future the leechfield, drainfield, or such other similar and appropriate term is bypassed or no longer used, this agreement shall be automatically terminated without the need of any additional instrument evidencing such termination.
9. **Exclusivity.** The Parties expressly acknowledge that the system contemplated

herein has been designed and approved by the Department of Water Quality and the Weber Morgan Health Department exclusively for the use of the Association, its owners, guests, invitees, and other similar third-parties and shall remain as such in perpetuity.

10. **Ownership.** The sewer system was designed to accommodate the connections for each lot in the Association.
11. **Waivers** No waiver of any requirements, breach or default shall constitute a waiver of any other requirement, breach or default, whether of the same or any other covenant or conditions. No waiver, benefit, privilege or service voluntarily given or performed by either Party shall give the other any contractual right by custom, estoppel, or otherwise.
12. **Entire Agreement.** This Agreement contains the entire agreement between the Parties. No promise, representation, warranty or covenant not included in this Agreement shall be binding upon the Parties unless reduced to writing and signed by each Party.
13. **Amendment.** No subsequent amendment or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by each Party.
14. **Notices.** Any notice, demand, request, consent, approval, or other communication to be given by one Party to the other shall be given by; hand delivery, confirmed overnight mail or by mailing in the United States mail, certified or registered, addressed to the applicable Party at their respective addresses. Any such notice shall be deemed to have been given (i) upon delivery, if personally delivered or delivered by any form of Federal Express\overnight delivery service, or (ii) if

mailed, upon receipt. Either Party may change the address at which it desires to receive notice upon giving written notice of such request to the other Party.

15. **Successors and Assigns; Survival.** This Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors, assigns and nominees. All covenants, representations and warranties contained herein shall survive Closing.
16. **Governing Law.** This Agreement shall be governed by, interpreted under, and enforced in accordance with, the laws of the State of Utah applicable to agreements made and to be performed wholly within the State of Utah.
17. **Execution of Other Documents; Compliance with Regulations.** The Parties hereto will do all other things and will execute all documents which are necessary for the transaction contemplated hereby to close. Furthermore, the Parties will comply at their own expense with all applicable laws and governmental regulation required for this transaction to close, including without limitation any required filings with governmental authorities.
18. **No Joint Venture.** The Parties understand, acknowledge, and agree that this Agreement shall not constitute nor be regarded as joint venture agreement and that the Parties shall not be regarded in any manner whatsoever as partners or joint venturers in connection with the Property or the transactions contemplated hereunder. The Parties are merely entering into this agreement to allow for this process to be completed in an expeditious fashion. However, the Parties are responsible for their respective tax, liability and business consequences resulting from said cooperation.



19. **Captions.** The captions of the various paragraphs of this Agreement are for convenience and ease of reference only and do not define, limit, augment or describe the scope, content, or intent of this Agreement or of any part of this Agreement.
20. **Partial Invalidity.** If any term of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
21. **Warranty of Authority.** The individuals signing this Agreement for the Parties each Grants, by his signature, that he has full authority to enter into this Agreement on behalf of the Party for whom signs.

[Remainder of page left intentionally blank. Additional pages follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement by and through their respective, duly authorized representatives as of the \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date").

**TOWN:**

HUNTSVILLE TOWN

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF UTAH                    )  
   §  
COUNTY OF WEBER            )

On this \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_, the Mayor and authorized signer of Huntsville Town, whose identity is personally known to me, or proven on the basis of satisfactory evidence, to be the person who executed this Development Agreement on behalf of Huntsville Town, and who duly acknowledged to me that she / he executed the same for the purposes therein stated.

\_\_\_\_\_  
(Notary Public)

(Seal)

[Developer and Association signature and acknowledgement pages follow.]

**DEVELOPER:**

CW The Sage, LLC,  
a Utah limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Representative

STATE OF UTAH )  
 )  
COUNTY OF DAVIS )

On the \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_, who being by me duly sworn, did say that she / he is the Authorized Representative of CW The Sage, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said CW The Sage, LLC with proper authority and duly acknowledged to me that he executed the same.

(Notary Signature)

(Seal)

[Association signature and acknowledgement pages follow.]

**ASSOCIATION:**

The Sage Owners Association, Inc.,  
a Utah non-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Representative

STATE OF UTAH )  
COUNTY OF DAVIS )

On the \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_, who being by me duly sworn, did say that she / he is the Authorized Representative of The Sage Owners Association, Inc., a Utah non-profit corporation, and that the within and foregoing instrument was signed on behalf of said non-profit corporation with proper authority and duly acknowledged to me that he executed the same.

(Notary Signature)

(Seal)