

**WEST SOUND UTILITY DISTRICT  
RESOLUTION 573-15**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF WEST SOUND UTILITY DISTRICT  
APPROVING THE DEVELOPERS EXTENSION CONTRACT FOR  
THE PROSPERITY PLACE PLAT WATER AND SEWER MAIN EXTENSION**

**WHEREAS**, Mr. Andrew Schell, President, Sound Developers Group, Inc. has submitted an application, plans and documents to connect the Prosperity Place Plat to West Sound Utility District's water and sewer utility systems; and

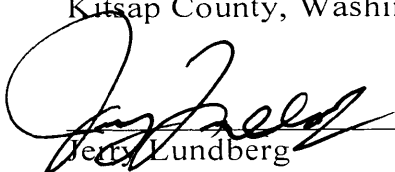
**WHEREAS**, the water and sewer systems will have to be constructed in accordance with the standards of West Sound Utility District and approved by the District; NOW, THEREFORE,

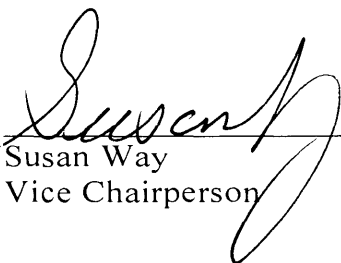
**THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT  
HEREBY RESOLVES:**

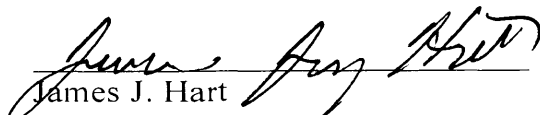
Section 1. West Sound Utility District Board of Commissioners hereby approves the execution of a Developer Extension Contract (Exhibit "A") with Mr. Andrew Schell, President, Sound Developers Group, Inc. for the extension of water and sewer system services to the Prosperity Place Plat, and the Board further authorizes the General Manager to sign the Developer Extension Contract.

**APPROVED and ADOPTED** by the Board of Commissioners of West Sound Utility District at a Board meeting scheduled on October 19, 2015.

**WEST SOUND UTILITY DISTRICT**  
Kitsap County, Washington

  
\_\_\_\_\_  
Jerry Lundberg  
Chairperson

  
\_\_\_\_\_  
Susan Way  
Vice Chairperson

  
\_\_\_\_\_  
James J. Hart  
Secretary



## **DEVELOPER EXTENSION CONTRACT**

### **Prosperity Place Plat**

October, 2015





## DEVELOPER EXTENSION CONTRACT

THIS CONTRACT is entered into between WEST SOUND UTILITY DISTRICT, a Washington state Municipal Corporation, hereinafter referred to as "District," and Sound Developers Group, Inc. hereinafter referred to as "Developer" (Insert full legal name of Developer on the preceding line).

The principal owner(s) of the Developer Company and their titles are as follows:

Andrew W. Schell — President  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Developer represents it is a legal entity in good standing with the State of Washington, with all license and other fees currently paid.

This contract shall be referred to as the "Developer Extension Contract" or "DEC".

IN CONSIDERATION of the foregoing recitals and mutual promises contained herein, the parties agree as follows:

### **I. GENERAL AGREEMENT:**

The Developer seeks to construct a water and/or wastewater system (hereinafter referred to as "Developer Improvement"), and thereafter connect the Developer Improvement into the utility system owned and operated by the District (hereinafter called "District System"). As a condition to the District permitting connection of the Developer Improvement into the District System, the Developer agrees to timely:

1. Be responsible for all costs and fees of planning and construction of the Developer Improvement;
2. Design the Developer Improvement to the standards and specifications of the District as set forth in this Contract and;
3. Comply with all other conditions and obligations imposed upon it by this Contract.

Upon compliance with all conditions and obligations imposed herein on the Developer, the District agrees to accept the Developer Improvement, and ownership and all future maintenance thereof.

The common name of the Developer's project is Prosperity Place  
and is generally located and described as follows: The 36 lot Plat located in Kitsap County  
Off of Horstman Road in Port Orchard.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **II. LOCATION OF DEVELOPER IMPROVEMENT:**

The Developer shall complete the attached "EXHIBIT A", by inserting thereon the full and complete legal description of the real property owned by the Developer where the Developer Improvement will be located (hereinafter called "Developer Property"). If all or any portion of the Developer Improvement will be located outside the Developer Property, the rights-of-way(s) and/or easement(s) required to connect the Developer Improvement to the District System shall also be fully and completely legally described and identified on EXHIBIT A. EXHIBIT A, by this reference is incorporated herein and made a part hereof. The Developer warrants and represents the information contained on EXHIBIT A is complete, true, and correct.

## **III. DEVELOPER PROPERTY OUTSIDE THE DISTRICT:**

In the event the Developer Property is located wholly or partially outside the District's legal boundaries, any obligations placed on the District in this Contract are conditioned on the following requirements having first been met by the Developer:

1. The Developer Property shall be annexed into the District, subject to approval by the Kitsap County Boundary Review Board, in the manner required by law. The annexation shall include a service area acceptable to the District. At the sole discretion of the District, the District may not require annexation; however, in that event, the Developer must agree to pay all surcharges for out-of-District service;
2. Water and/or wastewater service received from the District is conditioned on compliance with all pertinent Growth Management Act requirements by the Developer;
3. The Developer shall be responsible for meeting all requirements for annexation of the Developer Property as required by law and all costs and fees associated therewith;
4. The Developer shall pay all legal, engineering, and District staff costs and fees incurred in assisting the Developer with the annexation. The Developer shall also pay the filing fee required by the Kitsap County Boundary Review Board for such annexation and all other annexation fees and costs of every kind and nature.

## **IV. COMPREHENSIVE DEVELOPMENT:**

As a condition precedent to the District's obligations under this Contract, the Developer shall construct the proposed Developer Improvement in conformance with the District's specifications, together with any amendments made thereto by the District to conform with the District's long-range plan, including any over-sizing of mains and pump stations necessitated by the comprehensive plan or as determined by the District in its sole discretion.

It is the policy of the District that the Developer extend any water main improvements to the most distant end of abutting and interior rights-of-way or easements, unless it is determined by the District, according to its policies and/or rules, that extension of the water main will not be necessary. Developers owning corner property shall extend the water main to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary.

It is the policy of the District that the Developer extend any wastewater main improvements to the most distant end of abutting and interior rights-of-way or easements unless it is determined by the District, according to its rules and policies, that extension of the wastewater main will not be necessary. Developers owning corner property shall extend the wastewater system to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary. The wastewater system shall be extended to the far end of the development at depths, whenever possible, which enable the District to provide gravity service to upstream properties.

**V. REIMBURSEMENT AGREEMENT (LATECOMER FEES):**

The Developer may request a reimbursement agreement if: the Developer Improvement abuts real property of persons other than the Developer's and the Developer does not include the signatures of the other property owners in this application, or; (b) the District requires construction of oversize mains to serve other areas. However, if the amount that could be charged according to the scenarios set forth in the preceding (a) or (b) is less than \$150 per lot to be developed of the abutting properties, a latecomer's agreement may not be granted by the District. The terms of any latecomer agreements entered into is contained in "EXHIBIT G", entitled "REIMBURSEMENT AGREEMENT", which by this reference is incorporated herein and made a part hereof.

**VI. FEES:**

The Developer shall pay the following fees as part of this Contract, and as shown on the fee estimate:

- Administrative fee for the DEC;
- Plan review fees for water and wastewater;
- Construction observation fees for water and wastewater;
- Meter installation fee;
- Reimbursement fees, if applicable;
- General Facility Charge for water;
- General Facility Charge for fire flow and irrigation, if applicable
- Local Facility Charge for water, if applicable;
- General Facility Charge for wastewater;
- Facility Construction Fee for wastewater treatment; and
- Local Facility Charge for wastewater, if applicable.

**VII. DEVELOPER EXTENSION FEES:**

The administrative fee, plan review fees, and construction observation fees shall be paid prior to approval of this Developer Extension Contract by the District. These fees represent estimates of the anticipated work required by the District for review and inspection of the Developer's project. If the District's work exceeds the above estimates, the developer shall pay the additional plan review fee and/or construction observation fee when requested by the District.

**VIII. REIMBURSEMENT FEE:**

Any water reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a binding water availability letter.

Any wastewater reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a sewer permit.

**IX. GENERAL FACILITIES CHARGES (Wastewater, Water, Fire Flow and Irrigation):**

The General Facility Charges are established by District resolution as amended from time to time.

Wastewater: The General Facility Charge (Wastewater) for residential, commercial, multi-family and other connections to the District system shall be paid in full at the time application is made for a sewer connection permit.

Water: The General Facility Charges (Water) for residential, commercial, multi-family, and other connections to the District System shall be paid in full at the time application is made for a binding water availability letter.

Fire Flow: The General Facility Charges for fire flow demand for connections other than residential (i.e. multi-family, commercial, and institutional) to the District System shall be paid in full at the time application is made for a binding water availability letter. The General Facility Charges for fire flow demand is one ERU per 500 gpm of fire flow demand, unless modified by District resolution.

Irrigation: The General Facility Charges for irrigation for connections other than residential (i.e. multi-family, commercial, and institutional) to the District System shall be paid in full at the time application is made for a binding water availability letter. The General Facility Charges for irrigation is dependent upon on the size of the water meter and if the landscaping is drought-tolerant, in accordance with Kitsap County standards.

**X. FACILITY CONSTRUCTION FEE FOR WASTEWATER TREATMENT:**

The Facility Construction Fee shall be paid in full at the time application is made for a sewer connection permit.

For properties outside the boundaries of the Wastewater Treatment Plant ULID #1 or properties inside ULID #1 that have not previously paid the assessment, or any other properties that have not paid the wastewater treatment connection charge, a Facility Construction Fee shall be determined in accordance with District resolution.

**XI. LOCAL FACILITY CHARGE:**

A Local Facility Charge is separate and payable in addition to the General Facility Charge. The Local Facility Charge would be utilized in an area where the District has invested District funds for the benefit of local properties. The collection of a Local Facility Charge reimburses the District for its investment by properties that derive the benefit.

The Local Facility Charge for hookup to the District System shall be paid in full prior to the Developer Improvement being accepted by the District.

The amount of a Local Facility Charge is established by District resolution as amended from time to time.

**XII. REFUNDABLE DEPOSIT FOR SEWER CLEANOUT COMPLETION, AND/OR VALVE BOX:**

A refundable deposit of \$250 per address shall be paid at the time application is made for a sewer connection permit.

The \$250 shall be fully refunded to the permit holder upon confirmation by the District that all cleanout lids and boxes are raised to grade within 180 calendar days after the underground inspection, as shown on the permit. Cleanouts and valve boxes shall not be brought to grade until landscaping/final grading is completed. If the cleanouts or valve boxes are not raised to the acceptable height within 180 days after completion of the underground inspection, the District shall retain the permit holder's \$250 per address deposit as payment to the District for completing the final placement of the cleanout lids and valve boxes.

The primary purpose of this deposit is to ensure timely completion of the project. The secondary purpose is to provide compensation to the District to complete raising of the cleanout lids or valve boxes if the permit holder does not complete the work.

**XIII. SYSTEM DESIGN AND OBSERVATION:**

1. Plan Review: Review of water and/or wastewater plans prepared by the Developer's engineer will be performed by the District. Plans prepared by the Developer's engineer shall conform to the District's graphic standards in effect at the time the plans are developed.

2. Observation of Construction / Drawings/Job Site Safety:

A. District & Developer Inspections. Observation of construction and testing of the Developer Improvement, review of materials, and verification of record drawing information will be made by District personnel. Observation of the Developer's construction shall be for the sole benefit of the District and shall not be a substitute for the Developer's own inspection process.

B. Developer's Obligation Regarding Drawings. The Developer shall be responsible for maintaining a red line set of drawings with all construction changes at the job site and available for review by the District at all reasonable times. The Developer shall provide the locations of the constructed facilities and all other information to be incorporated into the record drawings. After completion of the project, the Developer shall provide the District mylar record drawings and the AutoCAD file that incorporate all field changes and any other record drawing information required by the District.

C. Job Site Safety. The Developer and its Contractor shall be solely responsible at all times for job site safety. The District assumes no responsibility for job site safety resulting from its observation of construction. The Developer and its Contractor are responsible for providing a safe work site for the District to observe construction at all times.

D. Residential Side Sewers. In no event shall the house side sewer service connection (from the sewer to the property line) ever be less than 6 inches, and the house side sewer lateral (from the property line to the house) ever be less than 4 inches.

E. Commercial Side Sewers and Clean Outs. Commercial development side sewers, grease interceptors, oil/water interceptors, clean outs and other pre-treatment systems shall be designed by a registered professional engineer and submitted to the District for review and

acceptance prior to the time the Developer Improvements are made. Side sewers and clean outs may be designed for future structures, but shall not be installed until additional plans have been reviewed and accepted by the District and all applicable permits purchased and issued. The design calculations for commercial buildings shall be stamped by a professional engineer licensed in the State of Washington and submitted to the District for review and acceptance. In no case shall a commercial side sewer service connection or lateral be less than 6 inches.

F. Sewage Lift Stations. The design for any required sewage lift stations shall be completed by the Developer through a licensed engineer in the State of Washington in strict accordance with the requirements and details shown in the District's "Lift Station Supplemental Technical Specifications and Details", and provided to the District upon request.

#### **XIV. CONTRACTORS, SUBCONTRACTORS, LABOR MEN AND MATERIALMEN:**

1. List of Contractors, Sub-Contractors, Materialmen, & Suppliers. The District has a substantial interest in insuring the Developer Improvement is constructed and connected to the District System in a good, workmanlike, and professional manner. Therefore, the Developer and/or additional owners agree to submit the names of all contractors, subcontractors, materialmen, and suppliers or, in the event the Developer or additional owners are contractors, a statement that said Developer or additional owner(s) will perform said improvement. The District reserves the right to approve or disapprove of any contractor, subcontractor, materialmen, or supplier. The District will not unreasonably withhold approval.

2. Review Process Utilized by District. In determining whether the Developer, additional owner, contractor, subcontractor, materialman, or laborer is or is not satisfactory, the District may take into consideration said parties' prior experience in similar type improvement work, available manpower and equipment, financial ability, and prior work performed by said parties for or on behalf of the District or others. Said names and other information requested by the District shall be submitted to the District by the Developer prior to any construction being performed with respect to said real property described in this Contract.

3. Rejection by District of a Contractor, Sub-Contractor, or Supplier. If a party designated to perform services or supply materials regarding the Developer Improvement is not acceptable to the District, the District will so notify the Developer, along with the reasons why, within 15 days after notification is provided the District of the name of said party. Upon such event, the Developer shall submit alternates, and said alternates shall likewise be subject to the same approval upon the same criteria as the original party submitted and notification will be given by the District within the same time period specified. All contractors and subcontractors performing work pursuant to this Contract shall be registered as a contractor pursuant to the provisions of RCW 18.27.

4. Skill Level of Contractor. The Contractor shall be skilled in the type of work required for the project and shall have performed similar type work in a professional manner in the past. The Contractor shall supervise and direct the Work using its best skill and attention. The Contractor shall employ a competent superintendent to represent the Contractor at the site at all times work is being performed.

5. Construction Methods. The Contractor and Developer shall be solely and completely responsible for and have control over construction means, methods, techniques, sequences, procedures, safety, and for coordinating all portions of the Work in a timely and professional



manner.

6. Work Place Discipline. The Contractor shall enforce strict discipline and good order among persons performing the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall be responsible for the acts and omissions of the Contractor's employees, subcontractors, and their agents, representatives, and employees.

7. Notices Required by Public Authorities & Compliance with Laws. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on furnishing and performing the Work.

**XV. PERFORMANCE BOND:**

1. Performance Bond Requirement. The District reserves the right to require the Developer to furnish the District a performance bond between the Developer, or the Developer's Contractor, and the District upon the form included in this Contract and in an amount equal to the Engineer's estimated cost of the project, or actual cost if known, prior to the contractor's pre-construction conference with the District. Typically, the performance bond will be required if other properties or District obligations are or may be affected by the Developer's timely performance.

2. Alternative to Performance Bond. The District may accept, in lieu of a performance bond, an assignment of savings on the form enclosed in the documents.

3. Performance Bond Requirements. The performance bond shall require completion of all work within a period of two (2) years from date of the application's acceptance by the District in accordance with the plans and specifications prepared or approved by the District. Said bond shall also require the Developer to pay all persons furnishing labor and material and hold the District harmless from any claims thereon, whether any such claim may arise under the public works lien statutes or the mechanic lien statutes of the State of Washington; and compliance with the formal requirements of either or both said statutes. The District shall release the performance bond in accordance with the provisions of its final acceptance of the Developer Improvement.

**XVI. EASEMENTS AND PERMITS:**

1. Easement Width & Location of Main therein. Easements for water or wastewater mains shall be a minimum of 15 feet wide. The center of the pipeline shall be not less than 5 feet from the edge of the easement. The developer shall provide a wider easement if the District Engineer determines it is required.

2. Developer to Bear Easement Costs. Any required easement shall be obtained by the Developer at its sole cost and expense, and a true copy of such easement (a copy of the conveyance document to be later provided to the district and a description the easement's on ground location) shall be delivered to the District prior to the time Developer commences construction. Upon completion of construction and prior to acceptance of the Developer Improvement by the District in accordance with the provisions hereof, the original easement shall be recorded and granted by warranty deed from the Developer to the District.

3. Easement Title Policy / Survey Record / Easement Restrictions. The Developer shall

provide all necessary easements at his sole cost, regardless of changes in the Contract Plans, together with evidence of title and a title insurance policy in the sum not less than \$1,000 per 500 feet of easement, establishing clear title in the grantor. The Developer shall also provide a Record of Survey or final plat showing basis for control and sufficient information to verify the easement legal descriptions. All easements shall prohibit the construction of any structures, other improvements, or trees over the easement or in any location that would make it difficult for the District to easily access the easement for inspection and maintenance purposes.

4. Easement Conveyance. The Developer shall submit all required easements to the District using the District's standard conveyance form as set forth on the attached "EXHIBIT C", which by this reference is incorporated herein. In the event legal services may be required incident to any easements beyond review of the form thereof, the costs of such services shall be paid by the Developer in the sum of any amounts billed to the District before acceptance of the Developer Improvement by the District.

5. Developer to Obtain all Necessary Permits. All necessary permits and approvals from any governmental agency shall be obtained by the Developer directly at the Developer's expense. The District shall be provided with a copy of all such permits and approvals prior to the pre-construction conference between the contractor and the District.

#### **XVII. EVIDENCE OF INSURANCE AND HOLD HARMLESS:**

1. Developer's Liability Insurance Obligation. The Developer's Contractor shall purchase liability insurance from and maintain such in a company or companies with a Best's rating of no less than A:VII and lawfully authorized to do business in Kitsap County, Washington. Developer's Contractor shall provide the District with written evidence of insurance covering public liability and property damage prior to the time construction of the Developer Improvement occurs. Insurance shall provide protection to the District from claims set forth below which may arise out of or result from the Contractor's operations and including operations by any tier of subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable for:

A. Claims under workers' or workmen's compensation disability benefit and other similar employee benefit acts which are applicable to the Work to be performed, including voluntary coverage for entities exempt from mandatory coverage; all such coverage to be equivalent to mandatory coverage required by law;

B. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

D. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by any other person for any reason;

E. Claims for damages including explosion, collapse and underground (XCU) damages as applicable, other than to the Work itself, because of injury to or destruction of tangible property including loss of use resulting therefrom;

F. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle; and

G. Claims involving contractual liability insurance applicable to the Developer's and the Contractor's obligations under the indemnification and hold harmless clauses of this Contract.

2. Comprehensive Insurance. The Contractor's liability insurance shall be comprehensive type insurance and shall include all major divisions of coverage including Completed Operations Coverage.

3. Minimum Insurance Coverage Amounts. The Contractor's liability insurance shall be written for not less than the following limits of coverage or the limits required by law, whichever coverage is greater: \$2,000,000.00 for each occurrence with an aggregate limit of not less than \$2,000,000.00 combined single limit. The deductible, if any, shall not exceed \$5,000 and the Contractor shall be solely responsible for payment of the deductible amount.

4. Covered Parties on Insurance. The Developer's Contractor's liability insurance shall name the District and each of its commissioners, officers, employees, agents and consultants as named additional insureds. The Developer's liability insurance shall provide primary coverage. Other insurance carried by the additional insureds shall be deemed excess insurance.

5. Insurance Coverage Time Period. Insurance coverage shall be maintained without interruption from the date of commencement of the work until completion of the work, and at all times thereafter when the Contractor is correcting defective work. The Insurance certificate shall contain a provision that the District shall be notified in writing 30 days before the policies may be canceled or allowed to expire.

6. Indemnification / Hold harmless Provisions. To the fullest extent permitted by law, the Developer and the Developer's Contractor agree to indemnify and hold harmless the District and each of its agents, consultants, officers, employees, and shareholders from and against all claims, damages, losses, and expenses including but not limited to attorney's fees, arising out of or resulting from performance of the work; provided that such insurance shall also provide coverage regarding any claim, damage, loss or expense attributable to bodily injury, sickness, disease, or death (including that sustained by the work Contractor's or any others working on the project), or to injury to or destruction of tangible property including the loss of use therefrom, regardless of whether or not such liability, claim, damage, loss, or expense was caused in part by any negligent act or omissions, whether active or passive, by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist.

7. Indemnification/ Hold harmless Provisions to be Broadly Construed. The Developer's and Contractor's liability to the District under this Indemnification Clause shall not be limited by any legal limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. The indemnification and hold harmless rights of the District vis-à-vis the Developer shall be liberally construed in favor of the District.

#### **XVIII. GRADING OF ROADS:**

1. Pre-Construction Road Work by Developer. Unless otherwise specifically determined

in writing by the District, the Developer shall grade all roads to the design subgrade elevations prior to the start of construction and shall advise the District in writing of any changes that may be contemplated during construction prior to such work being performed.

2. Post-Work Changes to Road Elevation or Subgrade. If the Developer changes, or causes to be changed, the subgrade or elevation of the road after completion of the Developer Improvement, or any part thereof, the Developer shall be responsible for all costs incurred for any additional work required as a result of said change in subgrade elevation. This obligation shall remain in full force and effect until the District, Kitsap County, and/or any other pertinent municipality possessing jurisdiction where the work is performed, releases the right-of-way or road construction bond or any other required bond in connection of the roads within the area.

**XIX. DEVELOPER REQUIREMENTS PRIOR TO START OF CONSTRUCTION:**

The Developer shall not commence construction of the water and/or wastewater system until the following conditions have been fulfilled:

1. The District has completed review of the construction plans and specifications for the Developer Improvement and approved them for construction;
2. Developer's engineer has submitted a construction cost estimate to the District;
3. All costs incurred by the District on behalf of the Developer have been paid in full;
4. Copies of all necessary permits have been received by the District;
5. The performance bond or other approved method of assuring construction compliance is on file with the District;
6. Evidence of insurance as required in this Contract is on file with the District;
7. Road grading as required by the District or other pertinent parties concerning the Developer Improvement is complete.
8. All easements have been obtained;
9. Utility construction staking is complete;
10. Material submittals have been approved by the District;
11. A pre-construction conference has been held as required in this Contract; and
12. Contractor provides the District with an advance 48-hour notification in writing of intent to start work on the Developer Improvement.

**XX. CONSTRUCTION:**

1. Construction Standards. The Developer shall construct the Developer Improvement in accordance with the District's specifications and standard details. Construction of the Developer Improvement shall be observed by the District in such manner and at such times as the

District deems reasonably necessary to assure construction of the Developer Improvement will conform to the plans and specifications approved by the District. The Developer shall permit such observation and cooperate at all times with District personnel in providing reasonable advance notice during the various construction phases as required by the District. The advance notices required by the District personnel will be identified at the pre-construction conference, but in no case shall the advance notice be less than two full working days.

2. District to have Safe Access to Project. The Developer shall provide the District and its representatives safe access to every part of the work project at all times work is in progress for observation, inspection, and testing, all as determined necessary by the District.

3. Observation of Water Lines by District Prior to Backfilling. The District requires that all water lines and mains constructed be observed by the District prior to backfilling. If backfilling occurs prior to such observation, the Developer shall excavate and expose all such construction for observation by the District, at no cost to the District. All "as built" information shall be taken by the Developer and verified by District personnel prior to the Contractor being permitted to backfill.

4. Developer Solely Responsible for Performing Work in Accordance with District Standards & Specifications. Any observations by the District, or tests, inspections or approvals by others shall not relieve the Developer and the Contractor from their obligation to perform the work in accordance with the District's Specifications and the approved Contract Drawings.

5. Damage to County Facilities. The Developer agrees that, in the event any authorized official of the Kitsap County Public Works Department complains to the District that the Developer damaged any of the County facilities, the District shall have the option, twenty-four (24) hours after notification to the Developer, of specifying such complaints or damage, to make such emergency repairs or restoration work as the District deems necessary; and in such event, the District shall have the right to be reimbursed for the reasonable cost thereof from the proceeds in the security deposit. Such notices shall be hand delivered or mailed to the Developer by certified mail, return receipt requested.

#### **XXI. DISTRICT ACCEPTANCE OF THE DEVELOPER IMPROVEMENT:**

The Developer Improvement shall not be accepted by the District until the following requirements are met to the District's satisfaction:

1. District inspection of the Developer Improvement and Developer completion of the punch list items have been completed. Inspection, testing, and lamping reports for the wastewater main have been completed and are on file at the District, and CCTV video tapes or DVD's are submitted and approved;
2. Final construction costs have been submitted to the District;
3. All costs incurred by the District on behalf of the Developer have been paid in full, including construction observation fees and other miscellaneous services provided by the District;
4. Record drawings are complete and certified correct by the Contractor. One complete record set is received by the District on mylar and one set on bond paper. District also

shall receive a CD-ROM with the record drawings in ACAD R14. The electronic copy will be used to update system mapping.

5. All duly Executed Bills of Sales and Conveyances have been received by the District in the form set forth in the attached EXHIBIT B.
6. Easements on the District's standard form (EXHIBIT C) for all completed water and/or wastewater improvements have been furnished to the District, accepted by the District, and recorded with the Kitsap County Auditor; and the easement title insurance policy, record of survey or final plat have been submitted and accepted by the District.
7. The Developer has furnished the District with an affidavit warranting that all bills pertaining to the Developer Improvement have been paid and there are no liens against the Developer Improvement (EXHIBIT D).
8. The Developer has furnished the District with a two (2) year guarantee, in the form of a maintenance bond (EXHIBIT F), performance bond extension, or an assignment of funds, that the Developer Improvement will be free of defects in labor and materials during this time period. The two year guarantee period shall commence on the date of formal acceptance of the completed Developer Improvement. The maintenance bond shall be for ten percent (10%) of the final construction costs with a minimum bond amount of \$2,000.
9. The District shall not be obliged to provide utility service to the property described in this Contract until all above requirements have been met by the Developer to the District's satisfaction.
10. The District shall not be obligated to provide utility service to the property described in this Contract if construction by third parties of facilities to be deeded to the District has not been completed and accepted by the District, if such third party facilities are necessary to provide utility service to the property described in this Contract.

Unauthorized Connection of Developer Improvement to District System. When an unauthorized connection of the Developer Improvement to the District System is made, the District may implement the following:

1. It may impose fines for any unauthorized connection of double the normal General Facility Charge fee and facility Construction Fee.
2. It may impose a fine for any unauthorized sewer main connection to any District sewer or pump station of up to \$5000 plus all District costs to disconnect the unauthorized connection and repair the area to its original condition, plus double connection fees upon request for connection by the Developer.

**XXII: LIMITATION OF PERIOD FOR ACCEPTANCE:**

1. Time Period for Acceptance of Developer Improvement. The Developer Improvement shall be completed and accepted by the District according to its standards within two years of the date of acceptance of this application by the District. If the extension is not

completed and accepted within two years from the date the District accepts the application, the Developer's rights under this Contract shall cease, and no additional service shall be connected to such Developer Improvement unless and until the Developer makes a new application which is accepted by the District, or the District consents to the renewal of the existing application. The Developer shall pay all additional administrative, legal, engineering and construction observation costs involved, as determined by the District. Any required new application or renewed contract shall be subject to any new or amended standard specifications, standard details, resolutions or policies of the District, including those related to any increased fees or connection charges, which have taken effect since the execution of the original contract before the District accepts the extension.

2. Notice to Commence Work by District. If the District determines, in its absolute discretion, that it is necessary for the Developer Improvement be completed in order for the District to provide water and/or wastewater service to other property, the District may give the Developer and/or additional owners notice that construction of the Developer Improvement must be commenced within 60 calendar days of the notice by the District to said Developer and/or additional owners, provided that plans have been prepared and approved. If construction is not commenced within the time specified, the District may in its sole discretion terminate this Contract with no resulting liability of any kind as a result of such termination. After any such termination, the District shall retain all payments made by the Developer to the District as the District's sole property and the District shall be free to proceed with construction of the water and/or wastewater improvements within the area described in the developer extension in the manner and method provided by law. If delay in plans is occasioned by failure of the Developer to provide the necessary data to the District, this contract likewise may be terminated by the District with no resulting liability incurred by the District to the Developer, and the District may proceed with construction of the improvements in the manner and method provided by law if the data required to be furnished by the Developer to complete the engineering have not been supplied to the District within 30 calendar days of date of demand thereof by the District upon said Developer.

3. Construction in Phases. The Developer Improvement may be constructed in phases with prior Board approval as conditioned and as specifically designated in the plans and specifications. Acceptance may also be on a phased basis when all requirements have been met. There will be no conditional acceptance by the District of any work performed by the Developer.

### **XXIII. FINAL ACCEPTANCE:**

1. Conveyance of Developer Improvement to District. Upon completion of the work and approval of the Developer Improvement and all work associated therewith by the District, the Developer shall, as a condition of acceptance by the District, convey the Developer Improvement and all necessary easements to the District by Bill of Sale in the form as set forth on the attached EXHIBIT B, and by Statutory Warranty Deed as to any easements in the form identified herein.

2. Acceptance by District. Upon full compliance with this Contract including connection of the Developer Improvement to the District System and completion and conveyance of the Bill of Sale and any required easements, the District shall accept the Developer Improvement by written notification to the Developer in letter form. Upon acceptance, the Developer shall have the right to use the District System subject to all District regulations, conditions, and charges as it determines to reasonable and proper from time to time.

**XXIV. CORRECTION OF DEFECTS OCCURRING OR DISCOVERED WITHIN WARRANTY PERIOD:**

1. Post Acceptance Defects in Developer Improvement. If defects in the Developer Improvement are discovered after acceptance thereof by the District within the two year warranty period, the Developer shall start work to remedy any such defects within seven days receipt of written notice from the District. In the event the Developer does not commence and/or accomplish corrections within the time specified by the District, the work may be accomplished by the District at its option, and the cost thereof shall be paid by the Developer immediately upon demand being made by the District. In emergencies, where public health concerns are involved or where damage may result from delay and/or where loss of service may result, corrections may be made by the District upon discovery, in which case the cost thereof shall be borne by the Developer immediately upon demand being made by the District.

2. Developer Responsible for Work Defects within Warranty Period. The Developer shall be responsible for all expenses incurred by the District of every kind and nature resulting from defects in the Developer's work, including: all actual damages; costs of materials and labor expended by the District in making repairs; and costs of engineering, construction observation, and supervision by the District.

**XXV. PROJECT DOCUMENTS:**

The documents for the project involving the Developer Improvement as identified herein shall include the following.

1. Executed Developer Extension Contract;
2. Standard Specifications and Details as identified in this Contract;
3. Change orders after Contract is signed;
4. District approved plans for the Developer Improvement;
5. Detailed drawings, Special Specifications, and written instructions by the District Engineer or District Manager concerning the Developer Improvement;
6. Addenda relating to the work project when written;
7. Reference Specifications concerning the project;
8. Performance bond or equivalent instrument as identified in this Contract; and
9. Evidence of insurance as required in this Contract.

**XXVI. SAFETY OF PERSONS AND PROTECTION OF PROPERTY:**

The Developer shall be solely and exclusively responsible for construction safety means and methods, and for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of all its work relating to the Developer Improvement. The Developer shall insure the Contractor takes all necessary precautions for safety of, and shall



provide the necessary protection to prevent damage, injury or loss to:

1. Employees on the project and other persons who may be affected thereby;
2. The work, materials, and equipment incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors or other sub-subcontractors; and
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation, or replacement in the course of construction.

Safety Notices. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

Construction of Safety Related Facilities. The Developer shall erect and maintain, as required by existing law, conditions, and performance of the contract, necessary fences and other safeguards for safety and protection of persons and property on and off the work site and shall:

- (1) post danger signs and other warnings against hazards, (2) promulgate safety regulations, and (3) notify owners and users of adjacent sites and utilities when the Contractor's operations may affect them.

Hazardous Materials. When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Developer and its agents shall exercise utmost care and carry out such activities under supervision of properly qualified personnel.

Remedying Loss to Property. The Developer shall promptly remedy damage and loss to property that the Developer is required to protect caused in whole or in part by the Developer, Contractor, a subcontractor, or anyone directly or indirectly employed at the worksite.

Safety Officer. The Developer shall designate a responsible and competent member of the Developer's organization at the work site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Developer in writing to the District.

Safety Program Maintenance. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required in connection with the project work and shall send copies of all accident, injury, or work-related illness reports and of all notices of unsafe conditions to the District and appropriate governmental authorities.

## **XXVII. NO ASSIGNMENT WITHOUT DISTRICT APPROVAL:**

The Developer shall not assign this Contract or any responsibilities imposed upon it hereunder without first obtaining the prior written consent of the District, which the District may grant or withhold in its sole discretion. Written documents as required by the District of any proposed assignment shall be filed with the District by the Developer at the time of any assignment, together with the written consent of the District.

**XXVIII. ATTORNEYS FEES AND COSTS:**

In the event either the District or the Developer commences any legal action relating to the provisions of this Contract, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Contract, to its reasonable attorney's fees and costs involved in such action, including those incurred on appeal.

**XXIX. GOVERNING LAW/FORUM:**

This Contract shall be construed and enforced in accordance with the laws of the State of Washington. Any suit relating to, or to enforce the provisions of this Contract, shall be brought in Kitsap County, Washington Superior Court.

**XXX. SEVERABILITY OF PROVISIONS:**

The finding under law that any one or more provisions or any portion of a provision in this Contract is invalid, unenforceable, or illegal, shall not impair the validity or enforceability of any other provision hereof or the Contract Documents as a whole.


**XXXI. EXECUTION:**

The undersigned Developer and any additional owners warrant and represent they constitute the owners of all real property that is the subject matter of this Contract and, upon request by the District, agree to provide title insurance, establishing to the satisfaction of the District that the parties executing this application constitute the owners of all real property described and have the authority to execute this Contract with respect to said real property and on behalf of any party legal entities.

Dated this 29 day of September, 2015.

**DEVELOPER:**

Sound Developers Group, Inc. State full legal name of Developer)

By: 

Print Name: Andrew W. Schell

State Office: Washington

Its duly authorized representative for entry into this Contract

Address: 13614 Whispering Pines Drive  
-Gig Harbor, WA 98332

Contact Phone Numbers: 253.606.0135

STATE OF WASHINGTON )  
 ) ss Corporation or LLC Acknowledgment  
COUNTY OF KITSAP )

I certify that I know or have satisfactory evidence that Andrew Schell is the person who appeared before me, and said person acknowledged he/she signed this instrument, and on oath stated he/she were authorized to execute it on behalf of Sound Development Group, Inc., a Washington Corporation (insert "corporation" or "limited liability company" as appropriate); and he/she acknowledged it as President (state the offices of each), respectively, of said business entity, to be the free and voluntary act of such business entity for the uses and purposes mentioned in the instrument.

Dated: 10-6-15



Print Name: Karen J. Vargo  
NOTARY PUBLIC in and for the State of  
Washington, residing in Kitsap Co.  
My Commission Expires: 4/3/2019

ACCEPTANCE OF CONTRACTY BY DISTRICT: Upon compliance with all terms and conditions of this Contract by the Developer in a timely manner, the District will accept the Developer Improvement and furnish the applicable utility service thereto.

**WEST SOUND UTILITY DISTRICT**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commissioner  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
General Manager  
Print Name: \_\_\_\_\_