

## **LATECOMERS AGREEMENT**

Latecomers Agreement

This agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between Silver Lake Water & Sewer District ("District"), a political subdivision of the State of Washington and \_\_\_\_\_.

Recitals

WHEREAS; Developer has completed construction of \_\_\_\_\_ in the Silver Lake Water & Sewer District (hereinafter "Development") and

WHEREAS; Developer has constructed \_\_\_\_\_

\_\_\_\_\_ all for the purpose of serving Developments, (the type and location of said facilities are described in Exhibit A, attached hereto), and

WHEREAS; the installation of the aforementioned facilities benefits the property located, as described in Exhibit B, and

WHEREAS; Developer is entitled to reimbursement from the property owners of the aforementioned properties seeking connection to such facilities, for the cost of such facilities, in excess of Developer's fair pro rata share thereof, and

WHEREAS; the District acknowledges that the installation of such facilities will be beneficial to the aforementioned properties and improve the District's water and or sewer services to that general area, and

WHEREAS; the District is willing to collect Latecomers charges from the owners of the aforementioned properties for the specific purpose of reimbursing Developer the cost of the construction of the utility corridor and the installation of the aforementioned facilities in excess of Developer's fair pro rata share.

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NOW THEREFORE, the parties agree as follows:

**I. AUTHORITY**

- 1.1 This agreement is executed pursuant to the provisions Chapter 57.22 RCW, Contracts for Water System Extension.
- 1.2 The improvements and betterments constructed by Developer are consistent with the comprehensive plan of the Silver Lake Water & Sewer District and were a prerequisite of further development in the area.

**II. PURPOSE OF THIS AGREEMENT**

- 2.1 The purpose of this agreement is to provide a means whereby Developer will be reimbursed for a portion of the costs it incurred for the construction of the aforementioned facilities ( \_\_\_\_\_ ).  
Such reimbursement shall be by means of a Latecomers reimbursement assessment against the property benefiting by the installation of said facilities, as set forth in Exhibit C.
- 2.2 The parties agree the construction of these facilities provide adequate \_\_\_\_\_ to properties within the benefited basin so as to meet requirements of state and local government.

**III. DESCRIPTION OF WORK**

- 3.1 The improvements and facilities as generally described in Exhibit A have been constructed by Developer pursuant to approved plans and consistent with the existing standards and existing comprehensive plan of the District.

**IV. DUTIES OF DEVELOPER**

- 4.1 Developer shall comply with each and every provision of District Resolution 538 or any amendment or replacement of said resolution.

**V. DUTIES OF THE DISTRICT**

- 5.1 The District shall process this application in accordance with Resolution 538 and upon completion of such process release Developer from any further obligations under this Agreement except as provided in Section 8.2 and 8.5.
- 5.2 The District will use its best effort to collect and distribute the funds pursuant to the process set forth in this agreement. However, the District, its officials, employees, or agents shall not be held liable or responsible for failure to implement any of the collection provisions of this agreement, unless such failure was willful or intentional. The District is acting in the capacity of a collection agent and is not obligated by this agreement to make any payment except those amounts actually collected pursuant to this agreement. This agreement does not constitute a guarantee on the part of the District that any reimbursement will be collected or paid during the term of this agreement. The District takes no responsibility to defend legal challenge to a reimbursement agreement with Developer. Any challenge to District's authority or process for a reimbursement agreement will not be defended by District. District may tender defense of the reimbursement agreement to Developer.

## VI. LATECOMERS/REIMBURSEMENT

- 6.1 In order to assure conformance with the terms and conditions of this Agreement, the District agrees that for a period of ten (10) years commencing from the date of adoption of a Reimbursement Resolution, the District will make effort to collect on behalf of Developer a Latecomer's fee in an amount as set forth in Exhibit C from any property benefited, at the time of the adoption of the reimbursement resolution, by the aforementioned facilities at such time the property connects to the District system. The District shall forward said Latecomer's fee to Developer at Developer's address provided herein, or to Developer's agent, as authorized by Developer. As a condition of receiving such reimbursement funds, Developer or Developer's agent shall execute a receipt to the District for such reimbursement amount so paid, upon a receipt form provided by District. Such form

shall include the legal description and name of the owner of the connecting property making payment of such amount.

- 6.2 District and Developer understand and acknowledge that the properties within the Latecomers - Reimbursement area set forth on Exhibits "B" and "C" are provided notice by the District of such reimbursement charge and the amount thereof. Such property owners are provided an opportunity to request a hearing on such reimbursement charge before the Commissioners of the Silver Lake Water & Sewer District. If requested the Commissioners shall conduct such hearing. The parties understand and acknowledge that such hearing may result in denial of latecomers' reimbursement charges, changes to the reimbursement area and the reimbursement charges placed on benefiting properties that have not contributed to the original cost of the additional facilities. Should such hearing occur, Exhibits "B" and "C" may be adjusted to reflect the determination of the Commissioners after deliberation of evidence provided at such hearing. Such adjustment shall be set forth on Exhibits "B" and "C" and the parties agree the adjusted Exhibits "B" and "C" shall control operation of this agreement. Should Developer not be present at such hearing, the latecomer's reimbursement request will be denied.
- 6.3 District shall receive an administrative fee in an amount equal to Ten percent (10%) of the reimbursement connection charge. Said fee shall be deducted from the Latecomers fee prior to forwarding said fee to Developer.

## VII. RECORDATION

- 7.1 This contract and the Reimbursement Resolution shall be recorded in the office of the Snohomish County Auditor, Snohomish County, Washington, immediately upon execution by the District and Developer. Such contract shall constitute a lien and servitude upon the properties described in Exhibits "B" and "C", having not contributed to the original cost of the aforementioned facilities installed by Developer under the provisions hereof, and shall be binding upon the parties and all successors in interest to those respective parties in accordance with RCW 57.22.

Developer shall be responsible for recording this contract and the Reimbursement Resolution. The District's obligation to collect pursuant to the contract shall not arise until the District has been served with proof of recording.

#### ENFORCEMENT

- 7.2 This agreement shall be enforceable only by the parties. The agreement is for the benefit of the parties, or their assigns, and not for the benefit of any third party.
- 7.3 Should any legal action be brought by either party for breach of this agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorney's fees, court costs and such other costs as may be fixed by court.

#### VIII. MISCELANEOUS PROVISIONS

- 8.1 Developer shall not assign this contract without written consent of the District. Such consent shall not be unreasonably withheld.
- 8.2 It is understood that the contractual relationship between the District and Developer is such that Developer is an independent contractor and not an agent of the District.
- 8.3 This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and assigns.
- 8.4 If any part or provision of this agreement is held to be invalid, unenforceable, or unconstitutional, the remainder of the agreement is not affected.
- 8.5 Nothing herein releases Developer, or its successors, from the payment of water meter installation charges and any and all other connection charges, rates, fees and assessments against the property in existence at the time of connection of such property to the system.
- 8.6 All notices required or provided under this agreement shall be in writing and delivered in person or sent by

certified mail, postage prepaid. Notices required to the District shall be addressed as follows:

Silver Lake Water & Sewer District  
Attention: General Manager  
P.O. Box 13888  
Mill Creek, WA 98082-1888

Notices to be given to Developer shall be addressed as follows:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City & State & Zip Code

\_\_\_\_\_  
Phone No.

8.7 This writing constitutes the full and only agreement between the parties, as to these matters, there being no promises, agreements or understandings, written or oral, except as herein set forth.

8.8 The effective date of this agreement shall be \_\_\_\_\_, 20\_\_\_\_.

Developer

\_\_\_\_\_  
by:

Silver Lake Water & Sewer District

\_\_\_\_\_  
by: President

STATE OF WASHINGTON)

:ss

County of \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ signed this instrument, on oath stated that \_\_\_\_\_ was authorized to execute the instrument and acknowledged to as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such corporation for the uses and purposes mentioned in this instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

NOTARY PUBLIC for the State of Washington  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON)

:ss  
County of \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ signed this instrument, and acknowledged it to be free and voluntary act and deed for the uses and purposes therein mentioned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

NOTARY PUBLIC for the State of Washington  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_