

**TOWN OF HUNTSVILLE  
RESOLUTION 2022-8-4**

**A RESOLUTION OF HUNTSVILLE TOWN, UTAH, ADOPTING THE SEWER  
MAINTENANCE AGREEMENT FOR THE SAGE DEVELOPMENT PROJECT**

**WHEREAS**, Huntsville Town (hereafter “Town”) is a duly incorporated municipality under the laws of Utah;

**WHEREAS**, Utah Administrative Rule R317-1-2 under 2.2.A requires a “Body Politic” which, in relation to this Sage Development Project, is the Town to “sponsor” the Sanitary Sewer System (“Sewer”) for the Association as such applies under Utah law;

**WHEREAS**, Developer and Town seek to enter a Sewer Maintenance Agreement (“Agreement”) to outline the duties and obligations related to the management and operation of the Sewer and such is to be performed by the Association;

**WHEREAS**, the Town seeks to mitigate liability and exposure for operating the Sewer serving the Sage Development Project as such is the responsibility of the Home Owners’ Association of the Sage Development Project under the Agreement;

**WHEREAS**, the Town desires to enter the attached Agreement with the Developer so that it is binding upon the Home Owners’ Association of the Sage Development Project;

**WHEREAS**, the Town and Developer hereby finds mutual benefit under this Agreement benefitting public health and safety by outlining the responsibility for the operation and maintenance of the Sewer in the Sage Development Project;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of Huntsville Town, Utah, that the Agreement set forth in the attached “A” is incorporated herein by this reference and is approved and adopted. The Town Council hereby authorizes and directs the Mayor to execute the Agreement and any documents relating thereto for and on behalf of the Town.

PASSED AND ADOPTED by the Town Council this 18th day of August, 2022.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Town Clerk



**ATTACHMENT "A"**

**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 Town, Developer, and Association may be referred to herein individually as a "**Party**" or collectively as the "**Parties**".

RECITALS:

- A. The Developer has acquired title to a 72.021-acre tract of land to be developed into a community of no more than twenty (20) single-family residential home sites in Huntsville Town known as the Sage Development Project ("**Project**").
- B. The Town has granted preliminary approval and is working toward final approval of 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. 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.
- E. Developer and Town seek this Agreement to outline the duties and obligations related to the management and operation of the Sewer System to be

performed by the Association.

- F. The Sewer System, as approved by the Utah Department of Water Quality, will consist of a pressurized sewer collection system with a 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.
- G. The agreement aims 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 (collectively, the "***Sewer System***"). Further, the Sewer System shall be installed in substantial accordance with all applicable and approved construction drawings for the same and in accordance with Utah Rule 317-4.
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 proposed plat as Private Common Open Space Non-Residential Lot (For Sewer Infiltration System) (the "***Non-Residential Lot***"). 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 Sewer 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 Sewer System, the Town shall begin to provide oversight and supervision of the Sewer System through one (1) third-party professional, holding a level three wastewater certification, selected, and paid for by the Association, as determined in its sole and reasonable discretion (the “*Third-Party Inspector*”). 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 Body Politic as such are currently defined by Utah Law under Rule R317-1-1, 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 the mainline to the home are the responsibility of each lot owner.
6. **Easement.** The Town shall enjoy an easement on the Association property for purposes of ingress, egress, construction, repair, piping and drainage for

secondary water and any other related access needs to conduct its inspections.

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 the Sewer System; provided, however, the Association will not be bound by any requirements and recommendations of the Town that violate any Utah Department of Environmental Quality and/or Weber-Morgan Health Department rules, regulations, ordinances, or other standards governing infrastructure similar to the Sewer System. Subject to the immediately preceding sentence, 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. The Town shall have no financial responsibility relating to the sewer system and shall be reimbursed for any costs associated with the sections or repairs. Town Inspections shall not occur more frequently than semi-annually (i.e., two (2) times per year) and shall be conducted by the Third-Party Inspector in accordance with all Utah Department of Environmental Quality and/or Weber-Morgan Health Department rules, regulations, ordinances, or other standards for such infrastructure. Further, the Town shall have the right to have a representative present for the Town Inspections. The Association shall be responsible for the actual cost of the Town 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 the Association with documentation of the actual and reasonable costs of such implementation.

8. **Failure to Comply.** If, during a Town Inspection, the Third-Party Inspector discovers that the Association has failed to maintain the Sewer System in accordance with all Utah Department of Environmental Quality and/or Weber-Morgan Health Department rules, regulations, ordinances, or other standards for such infrastructure, then: (i) the Town shall provide written notice to the Association specifically identifying how the Association has failed to maintain the Sewer System and (ii) thereafter, the Association shall have sixty (60) days (or such other reasonable timeframe as may be required to correctly and completely remedy the identified maintenance failure). If, upon expiration of such 60-day period or extended period depending on the severity of the identified maintenance failure, the Association has failed to correctly and completely remedy the identified maintenance failure (as determined by the Third-Party Inspector in its reasonable discretion) the Town may levy a fine against the Association in the amount of Five Hundred and No/100 Dollars (\$500.00) per identified maintenance failure, which fine shall be payable to the Town within thirty (30) days of issuance.
9. **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 leech field, drain field, 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.

10. **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. For purposes of clarity, the Sewer System contemplated herein shall not be expanded beyond the twenty (20) single-family residential home sites.
11. **Ownership.** The sewer system was designed to accommodate the connections for each lot in the Association.
12. **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.
13. **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.

14. **Amendment.** No subsequent amendment or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by each Party.
15. **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.
16. **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.
17. **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.
18. **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.



19. **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 for a joint venture 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.
20. **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.
21. **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, 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.
22. **Warranty of Authority.** The individuals signing this Agreement for the Parties each Grants, by their signature, that they have full authority to enter into this Agreement on behalf of the Party for whom they sign.

IN WITNESS WHEREOF, the Parties have executed this Agreement by and through their respective, duly authorized representatives as of the 18<sup>th</sup> day of August, 2022 (the "Effective Date").

TOWN:

HUNTSVILLE TOWN

By: *Richard L. Sorensen*  
Name: Richard L. Sorensen  
Title: Mayor



ATTEST:

APPROVED AS TO FORM:

By: *Beakki Endicott*  
Name: Beakki Endicott  
Title: Clerk/Recorder

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

STATE OF UTAH                    )  
  §  
COUNTY OF WEBER            )

On this 25<sup>th</sup> day of August, 2022, personally appeared before me Richard Sorensen, 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 Sewer Agreement on behalf of Huntsville Town, and who duly acknowledged to me that she / he executed the same for the purposes therein stated.

*[Signature]*  
(Notary Public)



[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)*