

## SANITARY SEWER SERVICE AGREEMENT

This Agreement is made this 11<sup>th</sup> day of October, 2021, by and between Palazzolo Bros of Oakland L.L.C. ("Palazzolo Bros"), a Michigan limited liability company, whose address is 3737 Cherry Creek Lane, Sterling Heights, Michigan 48314, the City of Rochester ("Rochester"), a municipal corporation, whose address is 400 Sixth Street, Rochester, Michigan 48307, and the City of Rochester Hills ("Rochester Hills"), a municipal corporation, whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309.

WHEREAS, Palazzolo Bros is the owner of a parcel of land described on **Exhibit A** attached hereto (hereinafter referred to as the "Property") and desires to develop that Property into four separate home sites and to secure utilities to service those sites including but not limited to sanitary sewer, water, storm sewer, natural gas and electric, one of which is described more fully on **Exhibit B** attached hereto and made a part hereof for which this Agreement is specifically entered into;

WHEREAS, the parcel of land described on Exhibit B which is one of the separate home sites that Palazzolo Bros desires to develop is located within the city of Rochester in Oakland County;

WHEREAS, some of the utilities that will be needed to service the parcel of land described on **Exhibit B** are not available from Rochester but are available within the adjacent Rochester Hills;

WHEREAS, Palazzolo Bros has secured an easement from the fee title holders of a parcel of land located within Rochester Hills that will allow Palazzolo Bros to access those utilities available in Rochester Hills; and

WHEREAS, Rochester and Rochester Hills are willing to enter into this Agreement to provide utility facility services to Palazzolo Bros for the parcel of land described on **Exhibit B**;

NOW THEREFORE, the parties hereto agree as follows:

1. Palazzolo Bros shall be a customer of both Rochester Hills and Rochester for sanitary sewer service. Palazzolo Bros shall pay all fees and charges, including debt service charges, required by Rochester Ordinances and state law to connect the parcel of land described on **Exhibit B** to the sanitary sewer of Rochester Hills. After Palazzolo Bros also provides and pays to Rochester Hills all documentation, charges and fees required under Rochester Hills' Ordinance, Palazzolo Bros shall be authorized by Rochester to apply to Rochester Hills for all

approvals and permits necessary under state law and Rochester Hills' Ordinance to connect to Rochester Hills' sanitary sewer system.

2. Rochester Hills shall, upon receiving all documentation, charges and fees required for issuance of permits under its Ordinances, issue a permit to Palazzolo Bros allowing connection to the Rochester Hills sanitary sewer system to provide sanitary sewer service to the parcel of land described on **Exhibit B**. The charges to be paid by Palazzolo Bros to Rochester Hills shall include Rochester Hills' applicable capital charge, which Palazzolo Bros shall pay in full before connection.

3. Both Rochester Hills and Rochester may supervise, inspect, test and approve the construction of any sanitary sewer lead connecting to Rochester Hills' sanitary sewer system. Rochester Hills shall bill Rochester for Rochester Hills' cost of supervising, inspecting, testing and approval and Rochester shall pay such bill within thirty (30) days. Rochester shall, in turn, bill Palazzolo Bros for Rochester Hills' costs plus Rochester's cost of supervising, inspecting, testing and approval, and Palazzolo Bros shall pay such bill within thirty (30) days.

4. Palazzolo Bros shall respect and comply with all Rochester Hills Ordinances, rules, regulations and standards regarding prevention of storm water and foreign matter infiltration, other than ordinary sanitary sewage, into the sanitary sewer. Rochester Hills may inspect the sanitary sewer connection at any reasonable time to verify compliance. Rochester Hills shall notify Palazzolo Bros regarding any non-compliance or need for corrective action or maintenance. If Palazzolo Bros does not undertake the necessary corrective action or maintenance within a reasonable time after notice to do so, Rochester Hills may perform the corrective action or maintenance and charge the cost thereof to Palazzolo Bros. With respect to necessary emergency repairs or maintenance, Rochester Hills may, without advance notice to Palazzolo Bros, perform the same and charge the cost thereof to Palazzolo Bros.

5. Rochester Hills shall bill Rochester for sanitary sewer service furnished to the parcel of land described on **Exhibit B** at the normal service and usage rate charged by Rochester Hills for sanitary sewer service outside the city sanitary sewer service. The rate being subject to change by Rochester Hills at any time, consistent with the rate charges applicable to customers of Rochester Hills who are residents of Rochester Hills. Rochester shall pay such bill within thirty (30) days. Rochester shall bill Palazzolo Bros for any and all charges it receives from Rochester Hills for sanitary service provided to the parcel of land described on **Exhibit B**, as well as any additional charges which the Ordinances of Rochester may require. Palazzolo Bros shall pay such bill within thirty (30) days.

6. Any charges billed, pursuant to this Agreement, by Rochester to Palazzolo Bros but not paid by Palazzolo Bros by the due date stated on the bill, shall be considered delinquent. Rochester shall place any delinquent charges on the property tax roll as provided by Rochester's Ordinance as a lien on the parcel of land described on **Exhibit B**, to be collected and enforced in the same manner as general property taxes against the property are collected and the lien thereon enforced.

7. In the event sanitary sewer service from Rochester becomes available to service the Property, Palazzolo Bros shall, within sixty (60) days of written notice thereof, weather

permitting, disconnect from Rochester Hills' sanitary sewer system, connect to Rochester's system and pay Rochester any additional charges that may be due pursuant to Rochester's Ordinances in effect at that time including any and all outstanding charges, fees and bills, and this Agreement shall terminate. Furthermore, Rochester Hills reserves the right to discontinue sanitary sewer service to the parcel of land described on **Exhibit B** upon Palazzolo Bros neglect or failure to disconnect as required under this paragraph.

8. Rochester Hills may discontinue sanitary sewer service to the parcel of land described on **Exhibit B** and terminate this Agreement after giving both Rochester and Palazzolo Bros five (5) days' notice, in writing, of its intention to do so and affording Palazzolo Bros an opportunity to be heard, due to the failure of Palazzolo Bros to fulfill any obligations or conditions provided in this Agreement, including but not limited to, the obligation to timely pay all charges, fees and bills. The discontinuance of sanitary sewer service for such cause shall not release Palazzolo Bros from any obligation to pay any and all bills due in accordance with this Agreement. In the event Rochester Hills discontinues sanitary sewer service pursuant to this paragraph or Paragraph 7 above, Rochester Hills shall have no obligation to reimburse or pay Palazzolo Bros for costs or damages incurred by Palazzolo Bros as the result of the discontinuance.

9. In addition, either Rochester Hills or Rochester may temporarily discontinue sanitary sewer service when necessary for repair, replacement or maintenance, and Palazzolo Bros waives any claim it may acquire for damages for such discontinuance against Rochester Hills or Rochester, or their respective officials, employees or agents, provided that whenever Rochester Hills or Rochester anticipates a temporary discontinuance, as distinguished from an unforeseen or emergency discontinuance, Rochester Hills or Rochester shall attempt to provide reasonable advance notice to Palazzolo Bros. Rochester Hills' temporary discontinuance of sanitary sewer services pursuant to this paragraph shall not release Palazzolo Bros from its obligation to pay all amounts due under this Agreement.

10. Palazzolo Bros shall indemnify, hold harmless and defend Rochester Hills and Rochester, their respective officers, employees and agents from any claims, liability, damages or expenses, including attorney fees, which may arise out of making, fulfilling or enforcing this Agreement and furnishing sanitary sewer service to the parcel of land described on **Exhibit B**, except that Palazzolo Bros shall not be obligated to indemnify, hold harmless or defend a party for any claim, liability, damages or expenses resulting from the party's gross or sole negligence.

11. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law.

12. This Agreement shall be recorded at the Oakland County Register of Deeds, and the obligations stated herein shall bind the parties, their successors, grantees and assignees and shall run with the land.

13. This Agreement remains subject to cancellation in the event a court of competent jurisdiction restricts or limits Rochester Hills' right to obtain, sell, contract for or distribute sanitary sewer service.

14. This Agreement shall be construed under Michigan law, and if a court of competent jurisdiction determines any part, term or provision of this Agreement is illegal or in conflict with any law, the validity of the remaining parts, terms and provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as though the Agreement did not contain the particular part, term or provision held to be invalid.

15. This Agreement shall remain in effect until terminated as herein provided or terminated by mutual agreement of the parties.

16. This Agreement constitutes the full agreement of the parties and supersedes any prior agreements or understandings. Any amendments shall be made in writing and executed by all of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date recited above.

SIGNED:  
Palazzolo Bros of Oakland L.L.C.

[Signature]  
By: Salvatore Palazzolo  
Its: Member

STATE OF MICHIGAN  
COUNTY OF Oakland ss.

The foregoing instrument was acknowledged before me this 11th day of October, 2021 by Salvatore Palazzolo, Member of and on behalf of Palazzolo Bros of Oakland, L.L.C.

[Signature]  
\_\_\_\_\_, Notary Public  
Oakland County, Michigan  
Acting in Oakland County  
My commission expires: \_\_\_\_\_



John Staran  
Approved 10/25/21

SIGNED:  
City of Rochester Hills

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: Clerk

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, Mayor of and on behalf of the City of Rochester Hills and \_\_\_\_\_, Clerk of and on behalf of the City of Rochester Hills.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County  
My commission expires: \_\_\_\_\_

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SIGNED:  
City of Rochester

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: Mayor

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: Clerk

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, Mayor of and on behalf of the City of Rochester and \_\_\_\_\_, Clerk of and on behalf of the City of Rochester.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County  
My commission expires: \_\_\_\_\_

Drafted by & Return to:  
James P. Babcock (P27248)  
Attorney at Law  
21610 Eleven Mile Road, Suite 1  
St. Clair Shores, Michigan 48081  
(586) 445-1660

**EXHIBIT A**  
**PALAZZOLO BROS OF OAKLAND L.L.C.'S PROPERTY LEGAL DESCRIPTION**

Part of the Southeast 1/4 of the Northwest 1/4 of Section 15, Town 3 North, Range 11 East, City of Rochester, Oakland County, Michigan, described as: Commencing at the Center of Section 15; thence West 270.65 feet (recorded as 271.80 feet) to the Point of Beginning; thence West 250.00 feet; thence North 03°30'20" East 167.20 feet along the East line of Brentwood Heights Subdivision as recorded in Liber 71 of Plats, Page 17 Oakland County Records; thence East 250.00 feet along the South line of Cumberland Pines OCCP # 1839; thence South 03°30'20" West 167.20 feet to the Point of Beginning. Parcel ID 15-15-182-029.

**EXHIBIT B**

**HOME SITE PROPERTY LEGAL DESCRIPTION**

**PARCEL A:**

Part of the Southeast 1/4 of the Northwest 1/4 of Section 15, Town 3 North, Range 11 East, City of Rochester, Oakland County, Michigan, described as:

Commencing at the Center of Section 15;

thence West 270.65 feet to the Point of Beginning;

thence West 65.00 feet;

thence N03°30'20"E 167.20 feet;

thence East 65.00 feet;

thence S03°30'20"W 167.20 feet to the Point of Beginning.

Parcel # 15-15-182-049