

AGREEMENT FOR PURCHASE AND SALE
OF WASTEWATER INFRASTRUCTURE ASSETS

THIS AGREEMENT FOR PURCHASE AND SALE OF WASTEWATER INFRASTRUCTURE ASSETS (“**Agreement**”) is made this ___ day of _____, 2025 (“**Agreement Date**”) by and between the CITY OF HESPERIA, a general law city & municipal corporation (“**Buyer**” or “**City**”) and SILVERWOOD DEVELOPMENT PHASE 1, LLC, a Delaware limited liability company (“**Seller**” or “**Developer**”). Reference herein is made to each individually as “**Party**” or collectively as “**Parties**.”

RECITALS:

A. City and Hesperia Venture 1, LLC (“**Hesperia**”) entered into that certain Development Agreement dated January 30, 2018 and recorded in the Official Records of San Bernardino County on January 30, 2008 as Document No. 2018-0033139, as assigned to Developer with respect to a portion of the real property described thereunder pursuant to that certain Assignment and Assumption Agreement, dated August 17, 2021, approved by City and recorded in the Official Records of San Bernardino County on May 31, 2022, as Document No. 2022-0198589, as clarified by Operating Memorandum No. 1, dated May 17, 2022, between City, Hesperia, and Developer, Operating Memorandum No. 2, dated February 28, 2023, between City and Developer, Operating Memorandum No. 3, dated October 19, 2023, between City and Developer, and Operating Memorandum No. 4, dated April 9, 2024 between City and Developer (the “**Development Agreement**”).

B. Operating Memorandum No. 1 provided that the City would construct a regional wastewater treatment facility (“**Facility**”), including other appurtenances, in place of the Developer’s obligation to do so for its development.

C. Operating Memorandum No. 4 reversed the City’s responsibility and returned the obligation to construct a wastewater treatment facility and other appurtenances to the Developer as provided in the Development Agreement.

D. In reliance on the City’s agreement to construct the Facility, the Developer has completed improvements, including upgrades to a lift station, enabling wastewater flow for between 500 to 700 residential units, necessary to enable the Developer to connect its initial development phases to the City’s water and sewer systems. The wastewater improvements are described and depicted in further detail in Exhibit A to this Agreement (“**Infrastructure Assets**”).

E. It has been determined that, with the requirement that the Developer construct a wastewater treatment facility, the Infrastructure Assets will no longer be needed by Developer, but will instead be beneficial to the City and its residents.

F. The City desires to purchase Infrastructure Assets as public infrastructure assets.

G. The Developer has provided documentation of total costs for the Infrastructure Assets exceeding the agreed purchase price of \$6,332,931, as detailed in the technical and cost memos provided to the City, a copy of which are attached hereto as Exhibit B.

H. The City, as Buyer, and the Developer, as Seller, have negotiated in good faith and mutually agreed for the acquisition of the Infrastructure Assets by the Buyer pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. PURCHASE AND SALE OF INFRASTRUCTURE ASSETS

Buyer hereby agrees to purchase from Seller, and Seller agrees to sell to Buyer, the Infrastructure Assets, upon the terms and conditions set forth in this Agreement.

2. PURCHASE PRICE

2.1 *Purchase Price*

The purchase price for the Infrastructure Assets is Six Million Three Hundred Thirty-Two Thousand Nine Hundred Thirty-One Dollars (\$6,332,931.00) ("**Purchase Price**").

2.2 *Payment.*

Buyer hereby agrees to pay the Purchase Price to Seller as follows:

- (a) First Payment: \$3,166,465.50 due on or before **June 30, 2025**.
- (b) Second Payment: \$3,166,465.50 due on or before **September 30, 2025**.

2.3 *Good Funds.*

Buyer's payment of the Purchase Price to Seller shall be in "Good Funds" which means a wire transfer of funds to an account specified by Seller in writing or cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California and made out to Seller.

3. CONDITIONS PRECEDENT; DOCUMENTS REQUIRED FROM BUYER AND SELLER

3.1 Of Seller

Seller agrees to provide an executed bill of sale in the form of Exhibit C ("**Bill of Sale**"). Buyer agrees to provide an executed Certificate of Acceptance in the form attached to the Bill of Sale ("**Certificate of Acceptance**"). Seller shall deliver the Bill of Sale to Buyer concurrently with Buyer's delivery of the Second Payment to Seller. Seller's delivery of the Bill of Sale to Buyer is conditioned on Buyer's timely payment in full of the Purchase Price and Buyer's delivery of the executed Certificate of Acceptance to Seller.

3.2 Of Buyer

Within thirty (30) days after the Agreement Date (such period, the "**Inspection Period**"), Buyer shall inspect and confirm that the Infrastructure Assets are constructed in accordance with agreed standards and serve the capacity range (500–700 units) as claimed. Buyer shall notify Seller prior

to the expiration of the Inspection Period if Buyer disapproves of the Infrastructure Assets. If Buyer delivers such notice to Seller, this Agreement shall automatically terminate and the parties shall have no further obligations under this Agreement other than those that expressly survive termination. If Buyer fails to timely deliver such notice to Seller, Buyer shall be deemed to have confirmed that the Infrastructure Assets are acceptable and this Agreement shall remain in full force and effect.

If necessary, Buyer shall record any other required documents, including any easements for the Infrastructure Assets on any private or public property, to depict the location and ownership of the Infrastructure Assets. Any such easements on Developer's property shall be subject to Developer's reasonable approval.

Buyer by its execution of this Agreement hereby agrees that the City Manager of the Buyer or designee shall, in City Manager's sole and exclusive discretion, have authority to do the following:

- (a) Execute documents on behalf of Buyer including, but not limited to, issuing approvals, disapprovals, and extensions. Any such approval, disapproval or extension executed by the City Manager, or their designee, shall be binding on Buyer.
- (b) Make minor modifications to this Agreement to fulfill the direction of the City Council, provided that such minor modifications must be approved by the City Attorney.

4. REPRESENTATIONS AND WARRANTIES; WAIVERS; AS-IS SALE

4.1 General Representations and Warranties.

Seller hereby makes the following representations and warranties to Buyer, each of which is true in all respects as of the Agreement Date of this Agreement on the Infrastructure Assets:

- (a) To Seller's knowledge, all Infrastructure Assets were constructed to applicable City, State, and Federal standards.
- (b) To Seller's knowledge, there are no contracts, leases, claims or rights affecting the Infrastructure Assets and no agreements entered into by or under Seller that would adversely affect Buyer's rights with respect to the Infrastructure Assets except as heretofore disclosed in writing by Seller to Buyer.
- (c) To Seller's knowledge, there are no easements or encroachments onto the Infrastructure Assets by buildings or improvements on any adjoining property.
- (d) Seller has incurred costs in the construction of the Infrastructure Assets that exceed the Purchase Price, as shown in the cost spreadsheet of Seller dated March 28, 2025.
- (e) Seller has the unimpeded power to execute, deliver and perform Seller's obligations under this Agreement and the documents executed and delivered by Seller pursuant hereto.

4.2 Survival of Representations and Warranties of Seller.

The representations and warranties provided in Section 4.1 shall survive the Agreement Date for two (2) years following delivery of the Bill of Sale. If Buyer has or obtains actual knowledge prior to Seller's delivery of the Bill of Sale to Buyer that any of Seller's representations or warranties are inaccurate or untrue in any respect and Buyer nonetheless accepts the Bill of Sale from Seller, then Buyer shall be deemed to have waived such inaccuracy and such representations and warranties shall be deemed modified as of date of the Bill of Sale to reflect Buyer's actual knowledge of such information and Seller shall have no liability therefor.

4.3 Breach; Indemnification.

If, prior to the delivery of the Bill of Sale to Buyer, a breach of a representation or warranty occurs, the breach shall be grounds to terminate this Agreement. Seller agrees to indemnify, defend, protect and hold harmless Buyer, its officers, employees and agents from and against all claims, damages, costs, liabilities and expenses of any kind whatsoever paid, incurred or suffered by or asserted against the Infrastructure Assets or any indemnified party directly or indirectly arising from or attributable to: (i) any breach by Seller of any of its warranties or representations set forth in this Agreement, or (ii) any amounts expended by Buyer to secure exclusive possession of the Infrastructure Assets. Buyer's recourse against Seller for Seller's liability under this Agreement shall not extend, and no judgment or decree may be enforced against any of Seller's assets beyond Seller's interest in the Infrastructure Assets. Buyer and its successors and assigns and, without limitation, all other persons and entities, shall look solely to the interest of Seller in the Infrastructure Assets, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all recourse against any other assets of Seller. Seller's indemnification obligations shall survive the termination of this Agreement or the delivery of the Bill of Sale to Buyer for a period of one (1) year.

If Buyer breaches any of its obligations under this Agreement, Seller shall have the right to terminate this Agreement and to keep, as liquidated damages, any amounts received by Seller from Buyer prior to the date of such termination.

4.4 Waiver and Release.

The Purchase Price (defined in Section 2.1 above) to be paid by Buyer to Seller is all-inclusive of Seller's interest in the Infrastructure Assets and all damages of every kind and nature suffered, or to be suffered as a result of Buyer's acquisition of the Infrastructure Assets for public purposes. By execution of this Agreement, Seller and its successors and assigns shall be deemed to have knowingly and voluntarily waived, released and discharged Buyer from liability and responsibility for or related to any right Seller has, has had or in the future may have to any claim for compensation or damages or liability of any kind, whether known, unknown, foreseen or unforeseen, relating in any way to or arising out of Buyer's acquisition of the Infrastructure Assets. In that regard, Seller and its successors and assigns knowingly and voluntarily waive and release Buyer, its employees, agents and officers from liability as to the following: any rights or obligations which exist or may arise out of the acquisition of the Infrastructure Assets for public purposes including, without limitation, Seller's interest in the Infrastructure Assets, severance damages, relocation expenses or damages, loss of business goodwill and/or lost profits, loss or impairment of any "bonus value" attributable to any lease; damage to or loss of improvements pertaining to realty, costs, interest, attorneys' fees, and any claim whatsoever of Seller which might arise out of or relate to any respect to the acquisition of the Infrastructure Assets by Buyer.

Seller irrevocably releases and discharges the Buyer, and their employees, agents, officers and representatives, from any and all manner of actions, causes of action, in law or in equity, of any nature whatsoever, known or unknown, fixed or contingent Seller now or may hereafter have by reason of any matter, cause, or thing whatsoever occurring prior to the date of execution of this release with respect to the eminent domain process. Seller expressly agrees to waive and relinquish all rights and benefits each may have under California Civil Code Section 1542. That section reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Seller's Initials: _____

Buyer acknowledges and agrees that, except as specifically provided in this Agreement, Seller is selling the Infrastructure Assets to Buyer "As-Is, Where-Is" and Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Infrastructure Assets. As part of Buyer's agreement to purchase and accept the Infrastructure Assets "As-Is, Where-Is", and not as a limitation on such agreement, but subject to Buyer's right to rely on Seller's express representations and warranties set forth in this Agreement, Buyer hereby unconditionally and irrevocably waives any and all actual or potential rights Buyer might have regarding any form of warranty, express or implied, of any kind or type relating to the Infrastructure Assets. Such waiver is absolute, complete, total and unlimited in any way.

By execution of this Agreement, Buyer and its successors and assigns shall be deemed to have knowingly and voluntarily waived, released and discharged Seller from liability and responsibility for or related to any right Buyer has, has had or in the future may have to any claim for compensation or damages or liability of any kind, whether known, unknown, foreseen or unforeseen, relating in any way to or arising out of Buyer's acquisition of the Infrastructure Assets. In that regard, Buyer and its successors and assigns knowingly and voluntarily waive and release Seller, its members, employees, agents and officers from liability as to any claim whatsoever of Buyer which might arise out of or relate to any respect to the acquisition of the Infrastructure Assets by Buyer.

Buyer irrevocably releases and discharges the Seller, and its members, employees, agents, officers and representatives, from any and all manner of actions, causes of action, in law or in equity, of any nature whatsoever, known or unknown, fixed or contingent Buyer now or may hereafter have by reason of any matter, cause, or thing whatsoever occurring prior to the date of execution of this release with respect to the eminent domain process. Buyer expressly agrees to waive and relinquish all rights and benefits each may have under California Civil Code Section 1542. That section reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Buyer's Initials: _____

5. NOTICES.

Any notice which either Party may desire to give to the other Party must be in writing and may be given by personal delivery which will be deemed received the following day or by mailing the same by registered or certified mail, return receipt requested which will be deemed delivered three (3) days after depositing same in the mail, addressed to the Party to whom the notice is directed as set forth below, or such other address and to such other persons as the Parties may hereafter designate:

To Seller: Silverwood Development Phase 1, LLC
ADDRESS
ATTN:

With a Copy to: NAME
ADDRESS
ATTN

To Buyer: City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345
Attn: Development Services Director

With a Copy to: Aleshire & Wynder, LLP
1 Park Plaza, Suite 1000
Irvine, CA 92614
Attn: Pam Lee

6. GENERAL PROVISIONS

6.1 Assignment

Neither Party shall have the right to assign this Agreement or any interest or right hereunder without the prior written consent of the other Party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns.

6.2 Attorney's Fees

In any action between the Parties hereto, seeking enforcement of any of the terms and provisions of this Agreement, or in connection with the Infrastructure Assets, the prevailing Party in such action shall be entitled, to have and to recover from the other Party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

6.3 Interpretation; Governing Law

This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience

only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

6.4 No Waiver

No delay or omission by either Party in exercising any right or power accruing upon the compliance or failure of performance by the other Party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

6.5 Modifications

Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each Party hereto.

6.6 Severability

If any term, provision, condition or covenant of this Agreement or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.7 Full Integration

This Agreement and other documents incorporated herein by reference contain the entire understanding between the Parties relating to the transaction contemplated hereby and all prior to contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

6.8 Execution in Counterparts

This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all Parties hereto, notwithstanding that all Parties are not signatories to the original or the same counterpart.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement for Purchase and Sale of Wastewater Infrastructure Assets as of the date set forth above.

Note: Section 4.4 needs to be separately initialed as applicable by the Parties.

SELLER:

SILVERWOOD DEVELOPMENT PHASE 1,
LLC,
A Delaware Limited Liability company

John Ohanian, General Manager

BUYER:

CITY OF HESPERIA,
A municipal corporation

Rachel Molina, City Manager

ATTEST:

Melinda Sayre, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Pam Lee, City Attorney

EXHIBIT A

Legal Description Of The Infrastructure Assets

EXHIBIT B

Technical Cost Memorandum

EXHIBIT C

Bill of Sale

This Bill of Sale is provided by SILVERWOOD DEVELOPMENT PHASE 1, LLC, a Delaware Limited Liability company (“**Seller**”) in favor of the CITY OF HESPERIA, a municipal corporation (“**Buyer**”), with respect to the sale and transfer of all right, title and interest in and to the Infrastructure Assets as defined in that certain Purchase and Sale Agreement For Wastewater Infrastructure Assets dated _____ (“**PSA**”), between Seller and Buyer, all of which Infrastructure Assets are set forth on Exhibit 1 attached hereto (collectively, the “**Infrastructure Assets**”).

NOW, THEREFORE, this Bill of Sale is issued by Seller in favor of Buyer in accordance with the following:

1. Seller represents, warrants and covenants to Buyer that it is the lawful owner of the Infrastructure Assets and that it has the right to sell, transfer, and convey the same to Buyer.
2. Seller hereby sells, assigns, transfers and conveys to Buyer all of Seller’s right, title and interest in and to the Infrastructure Assets as part of the consideration under that certain PSA.
3. The provisions of this Bill of Sale shall bind and benefit the successors and assigns of Buyer and Seller.
4. This Bill of Sale shall be governed by and construed in accordance with the laws of the State of California. This Bill of Sale may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of _____, 2025.

SELLER:

SILVERWOOD DEVELOPMENT PHASE 1,
LLC,
A Delaware Limited Liability company

John Ohanian, General Manager

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in personal property conveyed by SILVERWOOD DEVELOPMENT PHASE 1, LLC to the CITY OF HESPERIA ("**City**"), is hereby accepted by the undersigned officer and agent of City.

Signed and dated on _____, 2025 at City of Hesperia, California.

GRANTEE

CITY OF HESPERIA, a municipal corporation

By: _____
Rachel Molina, City Manager

EXHIBIT 1 TO BILL OF SALE

Legal Description Of The Infrastructure Assets