

**DRAFT**

**AGREEMENT FOR PROVISION  
OF WASTEWATER TREATMENT SERVICES**

**THIS AGREEMENT** (the “Agreement”) dated the \_\_\_ day of \_\_\_\_\_, 2021, is made by and between Boone County Regional Sewer District, a common sewer district organized and operated under the provisions of Chapter 204 RSMo., (herein “District”), and Smithview Development, LLC, a Missouri limited liability company, and Thomas W. Smith, an individual residing in Missouri (herein collectively called “Owner”).

**IN CONSIDERATION** of the performance by each party of the respective obligations described in this Agreement, the parties specifically agree to the following:

**1. Background of Agreement** – This Agreement is made in view of the following facts which the parties agree to be true:

**1.1** Owner’s real estate that is the subject of this agreement is located in Boone County, Missouri and described as follows:

[INSERT LEGAL DESCRIPTION], (hereinafter called the “Initial Property”).

The Initial Property is shown on the attached Exhibit A and made a part hereof by reference.

Owner intends to develop the Initial Property with a mobile home park to be known as Smithview Mobile Home Park consisting of approximately thirty-three (33) mobile home lots, one (1) existing single family dwelling located at 7181 Wagon Trail Road, Columbia, Missouri, and one (1) office, for a total of thirty-five (35).

Owner further intends to pursue platting an additional tract of land adjacent to the Initial Property (the “Additional Property”) and develop the Additional Property with twelve (12) lots for the use of manufactured homes. The Additional Property is located in Boone County, Missouri and described as follows:

[INSERT LEGAL DESCRIPTION OF ADDITIONAL PROPERTY.]

The Additional Property is shown on the attached Exhibit B and made a part hereof

by reference. The Initial Property and the Additional Property are collectively referred to herein as the Property.

1.2 Owner desires to design, construct and permit a wastewater collection system, pump station and force main at Owner's own expense to serve the Property. Phase 1 of said project shall include design and construction of collection lines A (to and including Manhole A-5), B, C, D and E, as shown on the plans prepared by Luebbert Engineering and dated September 13, 2021. Phase 2 of the project shall include construction of a pump station and force main to connect to District's sewer main located nearby. Phase 2 may be completed by Owner at any time after the completion and acceptance of Phase 1.

1.3 District is willing to provide wastewater collection and treatment services to the Property if Owner will design, construct and permit a wastewater collection system, pump station and force main in accordance with the requirements of applicable District rules, policies, procedures and regulations published from time to time (the "Regulations") and provide the District with certain access easements in substantially the form attached hereto as Exhibit C (Access Easement). The legal description of the access easement is attached hereto as Exhibit D. Owner shall also provide the District with an easement for the real property upon which the wastewater collection system, pump station and force main are located by warranty deed in substantially the form attached hereto as Exhibit E. The legal description of the real property is attached hereto as Exhibit F. Owner shall also provide title to the District to the personal property comprising the wastewater collection system, pump station and force main facilities by bill of sale in substantially the form attached hereto as Exhibit G. The plans and specifications prepared in accordance with Section 2.1, 2.2 and 2.3 hereof shall delineate which portion of the facilities are to be considered public, and contained in the deed and bill of sale, and which are to be owned and maintained by Owner.

1.4 In order to memorialize the terms and conditions of the Owner's and District's agreement with respect to the provision of public sanitary sewer services to the Property, the parties are entering into this Agreement.

2. **Owner's Obligations** – Owner agrees to perform the following obligations:

2.1 **Construction of Sanitary Sewer and Service Connections for Initial Property**– Owner hereby agrees to retain, at Owner's expense, Luebbert Engineering or another licensed, qualified engineer reasonably acceptable to District to develop plans and specifications for the construction of a necessary public sanitary sewer and service connections for the Initial Property connecting to an existing wastewater lagoon subject to the Owner's State of Missouri Department of Natural Resources General Operating Permit MOG823097 (the "GO Permit") and, on or before December 31, 2025, connecting to an existing District gravity main in accordance with the Regulations. Upon District's approval of such plans and specifications, Owner further agrees to construct such sanitary sewer and service connections at Owner's own expense in accordance with the approved plans and specifications. As set forth in Paragraph 3.3 hereof, plans and specifications for the sanitary sewer shall

be reviewed and approved by District as a condition precedent to the performance by the District of its obligations under this Agreement. All sanitary sewer construction shall be in conformity with rules and regulations enacted by District and currently in effect. All public wastewater collection and treatment facilities constructed by Owner during Phase 1 and Phase 2 shall be inspected and approved by District and thereafter, upon Owner's receipt of written authorization from District, shall be conveyed to the District in accordance with the terms of this Agreement and its Regulations. Owner agrees to pay all fees for permits required by the State of Missouri Department of Natural Resources or any other governmental agencies having jurisdiction over said construction work.

**2.2 Construction of Sanitary Sewer and Service Connections for Additional Property** – Owner hereby agrees to retain, at Owner's expense, [ ] or another licensed, qualified engineer reasonably acceptable to District to develop plans and specifications for the construction of necessary public sanitary sewer and service connections for the Additional Property in accordance with the Regulations. Upon District's approval of such plans and specifications, Owner further agrees to construct such sanitary sewer and service connections at Owner's own expense in accordance with the approved plans and specifications. As set forth in Paragraph 3.3 hereof, plans and specifications for the sanitary sewer and service connections on the Additional Property shall be reviewed and approved by District as a condition precedent to the performance by the District of its obligations under this Agreement. All sanitary sewer construction shall be in conformity with rules and regulations enacted by District and currently in effect. All public wastewater collection and treatment facilities constructed by Owner shall be inspected and approved by District and thereafter conveyed to District in accordance with the Regulations. Owner agrees to pay all fees for permits required by the State of Missouri Department of Natural Resources or any other governmental agencies having jurisdiction over said construction work.

**2.3 Construction of Pump Station and Force Main** – Owner hereby agrees to retain, at Owner's expense, [ ] or another licensed, qualified engineer reasonably acceptable to District to develop plans and specifications for the construction of a pump station and force main connecting to an existing District gravity main for provision of sanitary sewer services to the Property in accordance with the Regulations. Upon District's approval of such plans and specifications, Owner further agrees to construct such pump station and force main at Owner's own expense in accordance with the approved plans and specifications. As set forth in Paragraph 3.3 hereof, plans and specifications for the pump station and force main shall be reviewed and approved by District as a condition precedent to the performance by the District of its obligations under this Agreement. All sanitary sewer construction shall be in conformity with rules and regulations enacted by District and currently in effect. All public wastewater collection facilities constructed by Owner shall be inspected and approved by District and thereafter be conveyed to District in accordance with the Regulations. Owner agrees to pay all fees for permits required by the State of Missouri Department of Natural Resources or any other governmental agencies having jurisdiction over said construction work.

**2.4 Conveyance of Easements and Transfer By Bill of Sale; Conveyance of Real Property** – Upon final completion of all construction work described herein, Owner agrees to transfer, assign and convey to District all easements, sewer lines, manholes, equipment and other personal property constructed or acquired by Owner designated as public or otherwise as to be conveyed to the District in the plans and specifications. In addition, Owner shall also transfer and assign to District, as applicable, all warranties, service manuals and other documentation pertaining to the equipment and facilities constructed by Owner and accepted by District. It is understood and agreed that the District shall have no obligation or responsibility for the operation, repair or maintenance of any facilities constructed until District accepts transfer of ownership of such facilities. It is further understood and agreed that the Owner shall warrant collection facilities for a period of two years after acceptance by District against defective materials and faulty workmanship and for maintenance of backfilled areas.

Prior to recording of the plat for the development of the Additional Property, the Owner shall provide to the District an electronic file of the as-built drawings and sealed as-built drawings. All electronic as-built file information must reference the Missouri State Plane Coordinate system currently in use by the District, and be properly projected into its correct spatial location prior to submitting to the District.

**2.5 Maintenance of Finished Grades and Manhole Adjustments** – Owner shall be responsible for the proper backfill of trenches necessary for installation of sanitary sewer mains and connecting laterals and agrees to regrade and make repairs to paved or hard surfaces as well as yard and landscape which result from settlement during the first three years following final completion of all construction work to be completed by Owner under this Agreement. Owner further agrees to be responsible for the adjustment of manhole heights to grades of finished elevation with final grades preventing surface water from entering manholes. In the event the Owner fails to correct deficiencies in manhole elevations within 10 calendar days of written request delivered to Owner by District, then District shall have the right and authority to correct any such deficiencies and Owner agrees to pay District all reasonable costs associated with such corrective work upon written invoice and demand made by District.

**2.6 Separate Water Meters for Each Residential and/or Commercial Unit Required** - Owner shall install a fully operational separate water meter to serve each and every residential and/or commercial unit located on the Property.

**2.7 Bonding Prohibited** – Owner understands and agrees that Owner may not post any kind of bond, including a Performance Bond and/or a Labor and Material Payment Bond, in order to guarantee full performance of Owner's responsibilities hereunder.

**3. District Obligations** – Full performance of Owner's obligations hereunder shall be a condition precedent to the performance of District's obligations set forth hereinafter:

**3.1 Acceptance of Easements and Collection Facilities** – Upon final



completion and approval of all construction pursuant to this Agreement, District agrees to accept conveyance and transfer of all public sewer easements, sewer lines, manholes and other appurtenances connected therewith and thereafter to service, maintain, repair and replace such facilities at its own expense in accordance with the standards and practices adopted by the District; provided, however, nothing in this Agreement shall be construed to authorize or permit conveyance of Owner's non-public service lines or other facilities connected to public sanitary sewer facilities. It is expressly understood and agreed that all Owner service lines and connections and easements applicable thereto, if any, shall be and remain the property of the Owner and that all service connections to public sanitary sewers as delineated on the plans and specifications shall be the responsibility of the Owner, its successors and assigns, and that the District assumes no liability or responsibility therefor.

**3.2 Provision of Wastewater Treatment Services** – District agrees to provide wastewater collection and treatment services to the Property. Subject, however, to the terms and conditions of this Agreement upon completion of construction described above and final certification that the sanitary sewer construction is in compliance with State of Missouri Department of Natural Resource rules and all Regulations. All service shall be provided in accordance with and subject to the District's Regulations applicable to providing customer services and at the rates and charges scheduled for those services.

**3.3 Conduct Plan Review and Evaluation** – The Owner acknowledges that District intends to retain a licensed, qualified engineer to conduct independent plan review and evaluation of the construction plans for the necessary public sanitary sewer within the Property. The Owner shall reimburse to the District the actual cost of the plan review and evaluation study within 60 days of invoice. Cost of independent plan review and evaluation of the construction plans shall not exceed \$5,990.00 without written approval of the Owner.

**3.4 Access Easements** – District agrees to accept a non-exclusive access easement as shown in Exhibit C and described in Exhibit D. District further agrees that in the event that the location of said access easement needs to be changed or modified due to future development and expansion, that the District will accept an access easement in a different location and that such acceptance will not be unreasonably withheld. Further, District agrees to vacate any unnecessary access easement as the result of accepting an access easement in a different location.

**4. Arm's Length** – The Parties hereto agree that this Agreement was negotiated at arm's length and that for the purposes of interpretation neither Party shall be deemed the drafter of this Agreement.

**5. Assignment** – The Owner shall not assign their rights or obligations under this Agreement in whole or in part without the written consent of District, provided, however, that nothing in this paragraph is intended or should be construed to prevent or restrict Owner from selling the property to which this Agreement is applicable.

**6. Representations and Warranties** – All of the undersigned hereby represent and

warrant that they have the required legal authority to execute this Agreement and to bind themselves, or the entity on whose behalf they sign, to the terms and conditions set forth herein.

**7. Entire Agreement and Amendment of Agreement** – This Agreement constitutes the entire agreement of the parties and supersedes all prior negotiations and agreements between the parties, written or verbal, and may be amended only by a signed writing executed with the same formality as this Agreement. All parties to this Agreement acknowledge that by executing this Agreement they have read, considered, and understand the terms and conditions of this Agreement and consequences thereof.

**8. Agreement to Run With Land** – The benefits and burdens of this Agreement are intended to attach to and run with the land and shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, heirs and assigns. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

**9. Recording** – The District shall record this Agreement in the office of the Boone County Recorder of Deeds.

**10. Notices** – All notices, consents, approvals, deliveries and other communications (collectively, “Notices”) that may be or are required to be given by either Owner or District under this Agreement shall be properly made only if in writing and sent by hand delivery, U.S. Mail, facsimile, or nationally recognized overnight delivery service (such as Federal Express or UPS), with all delivery charges paid by the sender and addressed as follows:

If to Owner:      Smithview Development, LLC  
                             7491 Hwy. VV  
                             Columbia, MO 65202  
                             Attn: Thomas W. Smith

If to District:      Boone County Regional Sewer District  
                             1314 North Seventh Street  
                             Columbia, MO 65201  
                             Attn: Tom Ratermann

Either party may change its address for Notices by giving written notice to the other party in accordance with this provision. Notices shall be deemed received: (i) if delivered by hand, on the date of delivery, (ii) if sent by U.S. Mail or overnight delivery service, on the date the same is deposited with the applicable carrier, and (iii) if sent facsimile, on the date of transmission with computer confirmation of successful delivery without errors.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and year first set forth above.

OWNER:

DISTRICT:

SMITHVIEW DEVELOPMENT, LLC

BOONE COUNTY REGIONAL SEWER DISTRICT

By: **DRAFT**  
\_\_\_\_\_  
Thomas Smith, Member

By: \_\_\_\_\_  
Thomas T. Ratermann, General Manager

And

ATTEST:

THOMAS W. SMITH

\_\_\_\_\_  
Lara Florea, Assistant Secretary

\_\_\_\_\_  
Thomas W. Smith

FORM APPROVED:

By: \_\_\_\_\_  
Christopher R. Pieper, General Counsel

DRAFT

State of Missouri )  
 )SS.  
County of Boone )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public in and for the County of Boone, in the State of Missouri, personally appeared **Thomas W. Smith, Member of Smithview Development, LLC**, to me known to be the person who executed the foregoing Agreement for Provision of Wastewater Treatment Services, and being duly sworn, acknowledged that he is a Member of **Smithview Development, LLC**, a limited liability company, and that he is authorized by the operating agreement of said limited liability company to execute said Agreement for Provision of Wastewater Treatment Services on behalf of said Limited Liability company and acknowledged that he executed the same as a free act and deed of said limited liability company for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Boone County, Missouri, the day and year first above written.

\_\_\_\_\_  
, Notary Public

State of Missouri )  
 )SS.  
County of Boone )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public in and for the County of Boone, in the State of Missouri, personally appeared **Thomas W. Smith**, to me known to be the person who executed the foregoing Agreement for Provision of Wastewater Treatment Services, and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Boone County, Missouri, the day and year first above written.

\_\_\_\_\_  
, Notary Public



DRAFT

State of Missouri     )  
                                  )SS.  
County of Boone     )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public in and for the County of Boone, in the State of Missouri, personally appeared **Thomas T. Ratermann**, to me known to be the General Manager of Boone County Regional Sewer District, described in and who executed the foregoing Agreement for Provision of Wastewater Treatment Services, on behalf of said Boone County Regional Sewer District for the purpose therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Boone County, Missouri, the day and year first above written.

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
, Notary Public

