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**When Recorded, Return To:**  
TS ANACORTES ENTERPRISES LLC  
PO BOX 350  
ANACORTES, WA 98221

## **AGREEMENT TO CONSTRUCTION IMPROVEMENTS**

**Grantor:** City of Anacortes, Planning, Community, and Economic Development Dept.

**Grantee/Applicant:** TS Anacortes Enterprises, LLC – See page 2

**Related Document:** City of Anacortes File, BLA-2021-0005

**Abbreviated Legal:**

LOTS 1 THROUGH 10, BLOCK 1205, NORTHERN PACIFIC ADDITION TO ANACORTES, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGES 9 TO 11, RECORDS OF SKAGIT COUNTY, WASHINGTON.

**Assessor's Parcel Number:** P58280

**AGREEMENT TO CONSTRUCT IMPROVEMENTS****CITY OF ANACORTES****Anacortes, Washington****Project Name:** W 3<sup>rd</sup> Street BLA**Project No:** BLA-2021-0005**Applicant's Name:** Stephen Demopoulos, Director of TS Anacortes Enterprises, LLC**Applicant's Address:** PO Box 350, Anacortes, WA 98221**Date of Acceptance of Application by City:** 3/9/2022 **City Planner Initials:** SM

The undersigned, this 9<sup>th</sup> day of March, 2022 hereinafter referred to as "Applicant," hereby agrees to construct improvements which are subject to the approval of the City, and make the following representations and agreements, to-wit:

**1. LOCATION OF IMPROVEMENT**

The proposed improvement will be installed in approved easements and/or on approved public rights-of-way and shall be for the use and benefit of the property hereinafter legally described as follows:

LOT 1 THROUGH 10, BLOCK 1205, NORTHERN PACIFIC ADDITION TO ANACORTES, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGES 9 TO 11, RECORDS OF SKAGIT COUNTY, WASHINGTON

**The above described property is hereafter referred to as the "Property".**

**2. DESCRIPTION OF IMPROVEMENT**

The proposed improvement will consist of the following:

- Alley Access: Connect to alley way to the East with pavement on frontage
- W 3<sup>rd</sup> Street: Install 18 in. curb with swale and landscaping; 6 ft. sidewalks with sidewalk ramps
- Water Quality: Install swales along Minnesota Ave and Louisiana Ave to W 2<sup>nd</sup> St.

AND shall be installed in accordance with plans and specifications approved by the City, and in accordance with the standards and conditions set forth in the "Public Works Department Standards" as adopted by the City of Anacortes, the terms and conditions of which are made a part hereof.

An illustration of the required improvements is attached as Exhibit A.

**The above description of the improvement is here after referred to as the "Project".**

Applicant represents, guarantees, and warrants that the Applicant is the owner of the Property and that Applicant shall be responsible for construction of the Project in conformance with the terms of this Agreement.

### 3. PERMITS REQUIRED

- A. Permits, approvals, or agreements are required by the City and sometimes other jurisdictions, prior to initiating any construction or demolition work. Work covered by this Agreement may require multiple permit authority review and approvals. Several types of permits and approvals require prior approval from authorities other than the City of Anacortes, before a building or other substantial permit can be issued. The Applicant is responsible for submitting timely application for and obtaining all required permits and approvals.
- B. The following general categories describe the major permits, approvals, and agreements.
- i. Environmental Review (SEPA). An Environmental Checklist may be required for this project.
  - ii. Permits required by City for Land Development Activities
  - iii. Master Permit.
  - iv. Fill and Grade Permit. A Fill and Grade Permit is required for all significant land alterations, including stockpiling, which is not covered by other permits and agreements. The City must be contacted prior to any contemplated clearing or grading activities.
  - v. Right-of-Way Permit. A Right-of-Way Permit is required for any work within the road R/W which is not covered by other permits and agreements. Such work may include utilities work, road or lane closures, frontage improvements, access, and temporary uses.
  - vi. Other Permits or Approvals from permitting agencies with jurisdiction.
- C. Permits or approvals from agencies other than the City may be required. The Applicant will coordinate with the other agencies, and obtain all such permits. Copies of all permits from outside agencies shall be given to the City. Permits may include but are not limited to the following: Hydraulic Project Approvals (HPA) from the Department of Fish and Wildlife; Short Term Water Quality Modification Approval and/or Dam Safety Permit from the Department of Ecology; Section 404 Permit and Section 10 Permit/letter of permission from the US Corps of Engineers; Baseline General Permit to Discharge Stormwater Associated With Construction Activities (NPDES) and/or Waste Discharge Permits from the Department of Ecology; Developer/Local agency Agreement from the Washington State Department of Transportation. The City or regulating governmental agency shall be contacted for further details.

### 4. FEES AND CHARGES

- A. An initial plan review fee shall be paid by the Applicant to the City. The initial fee, calculated by the City, Fees to be determined at the time of Civil Drawings submittal and Fill and Grade application.
- B. All costs incurred by the City on the Project shall be borne by the Applicant. The fee to cover all of the City's costs shall be based upon approved fee rates and of actual time and expenses and shall include without limitation inspection, engineering, legal, administrative, financial, or any other services performed by or for the City in connection with the Project. The fee shall be adjusted by the City

if actual costs incurred indicate that the deposits will not cover all costs.

The fee shall be paid to the City in consideration of administering this "Agreement to Construct Improvements" contract.

- C. This Agreement shall not provide any vested rights to a particular general facilities charge. Any general facilities charges due and owing shall be paid at the rate in effect at the time each individual building/lot actually connects to the City system.

#### **5. PAYMENT OF FEES**

The Applicant shall pay all fees required by state and local agencies and the City of Anacortes. City fees shall be paid at the time designated.

All of the charges detailed herein shall be and become a lien on the property described in Section A hereof. Applicant has signed, contemporaneously herewith, a Deed of Trust applicable to the Property to secure performance of the obligations herein. Said Deed of Trust shall be substantially in conformance with Exhibit A hereto and shall be subject to approval by the City Attorney.

#### **6. PROFESSIONAL QUALIFICATIONS**

Professionals in the technical fields of engineering, architecture or surveying who prepare or are responsible for the preparation of plans, drawings, specifications, calculations, technical reports, etc., for the process of obtaining required permits or approvals shall currently be licensed or registered in the State of Washington.

#### **7. STANDARD SPECIFICATIONS**

All work and materials shall conform to the latest edition of the most current editions of: the STANDARD SPECIFICATIONS FOR ROAD, BRIDGE AND MUNICIPAL CONSTRUCTION and APWA SUPPLEMENT as prepared by Washington State Department of Transportation, City of Anacortes Ordinances, City of Anacortes "Public Works Department Standards," and according to the recommendations of the manufacturer of the material concerned. All work and materials shall be subject to the approval of the City.

#### **8. PLANS AND SPECIFICATIONS**

The Applicant shall submit three sets of the complete plans and specifications, prepared in accordance with the "Public Works Department Standards," for the project to the City for preliminary review. The plans shall be stamped "PRELIMINARY" and sealed by a Professional Engineer licensed in Washington. After the City's preliminary review, the Applicant shall submit the corrected plans and specifications for the Project to the appropriate State Agencies for final review and action, if required. After approvals have been received, the Applicant shall submit a final set of Construction Contract Documents including reproducible plans to the City. A set of these plans stamped "APPROVED" shall be made available to the Applicant.

#### **9. PERFORMANCE BOND IN LIEU OF CONSTRUCTION**

If the Director of Public Works / City Engineer or City Council grants to defer any portion of the

construction improvements required as part of this Agreement to Construct Improvements, the Applicant shall furnish to the City a performance bond or cash bond between Applicant and the City. The performance bond shall be in an amount equal to 150% of Contract Construction Costs of improvements deferred. Cash bond shall be approved by the City Clerk and City Attorney.

The Performance Bond In Lieu Of Construction shall cover the faithful performance of the Applicant and the payment of all obligations arising thereunder in accordance with Section 1-03.4 of the APWA Supplement of the WSDOT Standard Specifications. This bond is submitted to comply with all requirements of RCW 39.08, as a statutory bond, and all the requirements of said statute are deemed incorporated herein by reference and shall control in case of any inconsistencies.

The Performance Bond In Lieu Of Construction shall require the Applicant to pay all persons furnishing labor and materials and shall hold the City harmless from any claims thereof, whether any such claims would arise under the public works lien statutes, or the mechanic lien statutes of the State of Washington and compliance with the formal requirements of either or both of said statutes shall not be a condition to recovery upon said bond.

The improvement shall be complete and accepted within two (2) years of the date of the execution of this bond.

#### **10. RESPONSIBILITY FOR PROJECT MANAGEMENT**

The Applicant shall be responsible for Project management and coordination. Project management includes but is not limited to preparation of construction contract plans and specifications, bidding of construction contract, and overall coordination of utility and road locations, elevations and conflicts of said. The Applicant shall save the City harmless of any conflicts of dispute resulting from or in connection with the construction contract.

#### **11. INSPECTIONS AND TESTS**

Inspection and test of work and materials shall be strictly for the benefit of the City and nothing contained herein shall be construed to relieve the Applicant of his/her obligations under the Contract.

As a minimum, the following scheduled inspections and tests shall be conducted by the City:

1. Start of construction inspection.
2. Test inspections.
3. Final inspections.
4. End of Warranty Period inspection (to be conducted at least two weeks prior to expiration of Applicants maintenance bond).

Other scheduled inspections and tests may be required to comply with other sections of the Contract Documents, Engineers instructions, laws or ordinances. Some inspections and tests may be conducted by an authority other than the City.

The Applicant shall give the City 48 hours written notice prior to the time when the state of work is such that a scheduled inspection and test can be conducted.

**12. CONNECTION TO THE CITY'S UTILITY SYSTEM**

Not less than 48 hours prior to the time that said utility extension is partially or fully complete and connection to the City's system is desired, written application for permission to make the actual connection to the City's system at a specified time shall be made by Applicant or Contractor. All new connections to the existing system and all testing of the new line shall require authorization of the City and shall be conducted in the presence of the City's representatives.

**13. AS-BUILTS**

Before final acceptance, the Applicant shall provide the City of Anacortes with certified as-built mylars. In addition, all final as-built drawings shall be furnished in the current release of AutoCAD in a format, and submitted to the City on a computer disk. Refer to City As-Built Requirements.

**14. COMPLETE AGREEMENT**

This Agreement constitutes the complete agreement between the Applicant and the City. This Agreement may be modified in writing only, upon mutual agreement of the Applicant and the City.

**15. AGREEMENT TO CONSTRUCT IMPROVEMENTS**

T.S. Anacortes Ewt., L.L.C.  
I, Steve Demopoulos, the Applicant of the herein described Property have read and accept the terms and conditions set forth in this application.

T.S. Anacortes Enterprises, LLC  
Steve Demopoulos  
Applicant

CITY OF ANACORTES

Upon compliance with the terms and conditions of this application by the above named Applicant(s), City of Anacortes will accept said improvements, and if applicable, furnish City utility services thereto.

CITY OF ANACORTES

Anacortes, Washington

By: [Signature]

Date: 3/9/22

