

## AGREEMENT

This Agreement ("Agreement") is made and entered into this 1<sup>st</sup> day of April, 2025, by and between the City of Broken Arrow, Oklahoma ("City"), and Oakmont Hills, LLC, an Oklahoma limited liability company ("Developer").

## RECITALS

**WHEREAS**, the City of Broken Arrow has awarded a project to construct a 24-inch (24") waterline along the arterial frontage of the Oakmont Hills subdivision, as part of BAMA project number WL23080; and

**WHEREAS**, the Developer is the legal record landowner of a tract of land situated at the northwest corner of Florence Street and 9<sup>th</sup> Street in Broken Arrow, Oklahoma; and

**WHEREAS**, the Developer is normally required to construct a 12-inch (12") waterline along the arterial frontage but would require a payback agreement to cover the additional cost of upgrading to a 24" line; and

**WHEREAS**, concerns regarding the right-of-way along South 9th Street have led to a request from the City for the Developer to cede additional land to the City; and

**WHEREAS**, an equitable resolution has been reached between the City and the Developer as outlined below.

## TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the covenants and mutual obligations herein set forth and other consideration, the sufficiency of which the parties hereby acknowledge, the parties hereto hereby covenant and agree as follows:

### 1. Developer Responsibilities:

(a) Developer shall cede all right-of-way as requested by and agreed upon by the City, along South 9th Street via separate instrument approved by the City: one hundred thirty (130) feet wide for the first three hundred and fifty (350) feet as measured from the southeast section corner along the east line of the section, then reduced to a one-hundred (100) foot width with a thirty (30) degree taper.

(b) Developer shall locate the detention pond at its own expense so that the berm is west of the new right-of-way boundary, as established by such separate instrument and update the plans and hydrology report accordingly.

(c) If the subdivision is completed before the twenty-four inch (24") waterline, Developer shall install a temporary connection to the existing two-inch (2") waterline along South 9th Street at its own expense to create a looped system within the neighborhood and eliminate an existing dead-end.

(d) Developer shall install conduit under newly constructed roads at its own expense to facilitate future waterline construction without the need for boring on the property.

## **2. City Responsibilities:**

(a) City shall construct the twenty-four-inch (24") waterline along West Florence Street and South 9th Street as proposed in BAMA project WL23080 at its own expense. The Developer shall not be responsible for the installation of any waterline along the arterial frontage, except for the temporary connection outlined above.

(b) If the twenty-four inch (24") waterline is completed after the subdivision's construction, the City shall demolish the temporary connection to the two-inch (2") line on South 9th Street and reconnect the neighborhood to the new 24" line at its own expense.

## **3. Compensation:**

Upon completion of the Developer's responsibilities outlined above, the Developer shall be compensated by the City for the property, engineering fees, and interest as follows:

- Lots (2): \$144,000.00
- Commercial Land Loss: \$362,700.00
- Additional Engineering: \$15,000.00
- Per Diem Interest: \$119,750.00
- Less 12" waterline applied towards 24" waterline: (\$278,622.00)
- **Total: \$362,828.00**

## **4. General Provisions:**

(a) Entire Agreement: This Agreement constitutes the full and complete understanding between the parties regarding the subject matter herein.

(b) Modification: Any modifications must be in writing and signed by both parties.

(c) Governing Law: This Agreement shall be governed by the laws of the State of Oklahoma.

(d) Each party represents and warrants that it has the authority to enter into this Agreement.

(e) Severability: If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

(f) Further Assurances: Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to the consummation of the matters or completion of the undertakings set forth herein, as may be reasonably requested by any other party to consummate more effectively the purposes or subject matter of this Agreement.

(g) No Joint Venture: Nothing in this Agreement shall be construed by the parties hereto or by any third party to create the relationship of principal and agent, or of partnership, or of joint venture, or of any other association of a similar nature,

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

**City of Broken Arrow**

By: Michael J Spurgeon  
Michael Spurgeon, City Manager

Date: 3/26/25

Attest: Kelly D Hawver  
Secretary [Seal]

Date: 3/27/2025

Approved as to form:  
Allen Dennis  
Assistant City Attorney



**Oakmont Hills, LLC**

By: Larry Battaglia  
Larry Battaglia, Manager

Date: 3/27/25

Attest: Kelly D Hawver

Date: 3/27/2025

