

Recording Requested for the  
Benefit of the County of Fresno,  
Department of Public Works  
And Planning

When Recorded Return To:  
Department of Public Works  
And Planning  
Development Services  
Division Stop 214  
Attn: Development Engineering

## AGREEMENT

### AMENDMENT APPLICATION NO. 3808 TRAFFIC IMPACT FEES

THIS AGREEMENT is made and entered into this 14th day of April 2020, by and between the County of Fresno, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and G.S. Bath Inc., a California corporation, located at 5335 E. Kaviland Avenue, Fresno, California 93725 the developer for Amendment Application No. 3808, hereinafter referred to as "DEVELOPER".

#### WITNESSETH

WHEREAS, on September 12, 2017 the Fresno County Board of Supervisors approved Amendment Application No. 3808 and Initial Study Application No. 6987; and

WHEREAS, said Initial Study Application contained a Transportation Impact Study ("TIS") that identified mitigation measures related to traffic impacts; and

WHEREAS, mitigation measure No. 4 requires that DEVELOPER enter into an agreement with COUNTY to provide for funding of the traffic impact fees prior to the issuance of a building permit for development associated with Amendment Application No. 3808; and

WHEREAS, the Board of Supervisors, as required by Fresno County Ordinance Code section 17.88.120, has by resolution on April 14, 2020, after noticed public hearing and following all other procedures required by law, established the amount of the traffic impact fees for Amendment Application No. 3808 ("Traffic Impact Fee"); and

WHEREAS, DEVELOPER will be required to pay the Traffic Impact Fee prior to the issuance of a building permit for any development on the subject property.

NOW THEREFORE, the parties hereto agree as follows:

1. PAYMENT OF TRAFFIC IMPACT FEE.

DEVELOPER shall pay the Traffic Impact Fee for Amendment Application No. 3808 in the amounts shown in Exhibit A to this AGREEMENT.

2. PAYMENT OF ADMINISTRATIVE FEE.

In addition to the amount in Paragraph 1, within fifteen (15) days from the Execution Date, DEVELOPER shall pay three percent (3%) of the amount shown in Exhibit B to COUNTY for administration of the Traffic Mitigation Impact Fee Fund.

3. TIMING OF TRAFFIC IMPACT FEE PAYMENTS.

If payment of the Traffic Impact Fee is not made at the time of issuance of building permits, payment shall be made prior to occupancy of the project improvements. In that case, as a condition of issuance of building permits without payment of the pro rata mitigation fee, DEVELOPER shall execute a separate covenant with COUNTY acknowledging the requirement for payment of the mitigation fee as a condition of occupancy.

4. TRAFFIC IMPACT FEE ADJUSTMENTS.

The amount of the Traffic Impact Fee shall be adjusted on January 15 annually beginning in 2021 by a percentage equal to the change in the Engineering News Record Construction Cost Index for 20 Cities for the preceding year as published in the Fourth Quarterly Cost Issue in the preceding December.

5. ASSIGNMENT.

This AGREEMENT shall not be assignable by SUBDIVIDER without the prior written consent of the County Director or designee of the Director. Any assignee shall take this AGREEMENT subject to the covenants and conditions set forth herein.

6. NOTICES.

The persons and their addresses having authority to give and receive notices under this AGREEMENT include the following:

COUNTY OF FRESNO

DEVELOPER

Director of Public Works and Planning

G.S. Bath, Inc.,

County of Fresno	a California Corporation
2220 Tulare Street, 6th Floor	5535 E. Kaviland Avenue
Fresno, CA 93721	Fresno, CA 93725

All notices between COUNTY and DEVELOPER provided for or permitted under this AGREEMENT must be in writing and delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service is effective upon service to the recipient. A notice delivered by first-class United States mail is effective three (3) COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one (1) COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the next beginning of a COUNTY business day), provided that the sender maintains a machine record of the completed transmission. For all claims arising out of or related to this AGREEMENT, nothing in this section establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

7. VENUE AND GOVERNING LAW.

Venue for any action arising out of or related to this AGREEMENT shall only be in Fresno County, California. The rights and obligations of the parties and all interpretation and performance of this AGREEMENT shall be governed in all respects by the laws of the State of California.

8. SEVERABILITY.

In the event any provisions of this AGREEMENT are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine how to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this AGREEMENT will nevertheless continue in full force and effect without being impaired or invalidated in any way.

1 9. HEADINGS; CONSTRUCTION; STATUTORY REFERENCES.

2 The headings of the sections and paragraphs of this AGREEMENT are for convenience only and  
3 shall not be used to interpret this AGREEMENT. This AGREEMENT is the product of negotiation  
4 between the Parties. The language of this AGREEMENT shall be construed as a whole according to its  
5 fair meaning and not strictly for or against any Party. Any rule of construction to the effect that  
6 ambiguities are to be resolved against the drafting party shall not apply in interpreting this  
7 AGREEMENT. All references in this AGREEMENT to particular statutes, regulations, ordinances or  
8 resolutions of the United States, the State of California, or COUNTY shall be deemed to include the  
9 same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to  
10 such other provisions as may thereafter govern the same subject.

11 10. LEGAL AUTHORITY.

12 Each individual executing or attesting this AGREEMENT hereby covenants, warrants, and  
13 represents to the other Party: (1) that he or she is duly authorized to execute and deliver this  
14 AGREEMENT on behalf of his or her respective Party in accordance with the following: for  
15 DEVELOPER, its articles of organization and operating agreement; and for COUNTY, its governing legal  
16 authority; (2) that this AGREEMENT is binding upon his or her respective Party; and (3) that his or her  
17 respective Party is duly organized and legally existing in good standing in the State of California.

18 11. BINDING EFFECT.

19 This AGREEMENT shall be binding upon, and inure to the benefit of, the successors and  
20 assigns of the Parties.

21 12. NO THIRD-PARTY BENEFICIARIES.

22 Notwithstanding anything else to the contrary herein, the Parties acknowledge and agree that no  
23 other person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this  
24 AGREEMENT.

25 13. COUNTERPARTS.

26 This AGREEMENT may be executed in two or more counterparts, each of which shall be  
27 deemed to be an original, and all of which taken together shall constitute the same instrument.

28 14. ENTIRE AGREEMENT.

1 14. ENTIRE AGREEMENT.

2 This AGREEMENT constitutes the entire agreement between DEVELOPER and COUNTY with  
3 respect to the subject matter hereof and supersedes all previous Agreement negotiations, proposals,  
4 commitments, writings, advertisements, publications, and understanding of any nature whatsoever  
5 unless expressly included in this AGREEMENT.

6  
7 IN WITNESS THEREOF, the parties have executed this AGREEMENT on the Execution Date  
8 set forth above.

9 **DEVELOPER:**

10 G.S. Bath, Inc., a California  
11 Corporation

12 By: G Bath

13 Gurjeet Bath (Manger)

14 (Printed Name, Title)

15 2778 S. Willow Ave

16 (Address)

17 Fresno CA 93725

18 (City, Zip)

**COUNTY OF FRESNO:**

By: Ernest Buddy Mendes  
Ernest Buddy Mendes, Chairman of the Board  
of Supervisors of the County of Fresno

**ATTEST:**

Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By: Rosei Cuyf  
Deputy

25 FOR ACCOUNTING USE ONLY:

26 ORG:

27 FUND: 0088

28 SUBCLASS:

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