



SUBDIVISION DEVELOPMENT AGREEMENT

This Development Agreement is entered into on this _____ day of _____, 20____, between the City of Hendersonville, Tennessee (the "City"), and _____ (the "Developer").

WITNESSETH

WHEREAS the Developer desires to develop a subdivision to be known as _____; and

WHEREAS the plat of said subdivision received final approval (Case# _____) from the Hendersonville Planning Commission (the "Planning Commission") on the _____ day of _____, 20____, pursuant to the laws of the State of Tennessee and the Subdivision Regulations of the City:

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties herein contained, it is agreed and understood as follows:

SECTION 1. CONSTRUCTION OF SUBDIVISION

The Developer shall construct all required improvements and complete its subdivision in accordance with the City's Subdivision Regulations, the approved construction plans, and the Final Subdivision Plat approved by the Planning Commission on the ___ day of _____, 20__. Required improvements include all labor and materials necessary to install and complete all public infrastructure including grading, streets, storm drainage systems, storm water detention and retention structures, water systems, fire hydrants, sanitary sewer, streetlights, all other utilities, curb and gutter, sidewalks, lot and subdivision corner monuments, street name signs, traffic control signs and devices, fences, amenities, street trees, and any required off-site improvements.

In consideration of the promise by the City to accept for maintenance the roads shown on the Final Subdivision Plat the Developer agrees to be contractually bound to complete, within five years, all improvements shown on the plat, construction plans, and all items required by this Development Agreement. The Developer agrees to abide by all health, safety, worker's compensation and other applicable federal, state, and local statutes or governmental regulations in performing its obligation under this Development Agreement. The City shall have a

continuous right to inspect the work on the facilities to assure that the facilities are constructed in accordance with the Subdivision Regulations and the Final Subdivision Plat. If the Developer fails to install the facilities in accordance with the terms of this Development Agreement, the amounts paid to the City shall not be refundable to the Developer. All currently existing City ordinances, rules and regulations and the Subdivision Regulations adopted by the Planning Commission are made a part of this Development Agreement. In the event of a conflict between the terms of this Development Agreement and a City ordinance, the ordinance shall prevail. In the event of a conflict between the terms of this Development Agreement and the Subdivision Regulations, the Subdivision Regulations shall prevail.

At the time of execution of this Development Agreement, the Developer shall pay or shall have paid to the City an inspection fee as determined by the Municipal fee schedule.

SECTION 2. BONDING

Prior to the recording of the Final Subdivision Plat, the Developer shall post a Letter of Credit in the amount specified by the City Engineer, being ten percent (10%) greater than the estimated amount necessary to complete required improvements, including roads, sidewalks, drainage, and other improvements specified by the plans and plats of the development approved by the City and the Planning Commission. The Letter of Credit may be called for failure to comply with the provisions of this Development Agreement in whole or in part according to the terms of the Letter of Credit. The Letter of Credit will not be released until there has been full compliance with this Development Agreement and certification by a Tennessee Licensed Engineer that the development has been completed in full compliance with the approved plat and construction plans.

SECTION 3. INTERPRETATION, VENUE, ATTORNEY'S FEES

This Development Agreement shall bind the Developer upon execution by the Developer and may not be revoked without permission of the City even if the Development Agreement has not been executed by the City or does not bind the City for other reasons. This Development Agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Circuit Court for Sumner County, Tennessee, and Tennessee appellate courts. In the event this Development Agreement is breached by the Developer and litigation is commenced, the Developer shall be responsible for the reasonable attorney's fees and expenses incurred by the City as a result of the Developer's breach.

This Development Agreement may not be orally amended and supersedes all prior negotiations, commitments, or understandings. Any written modification must be approved by the

Hendersonville Planning Commission. If any portion of this agreement is held to be unenforceable, the City shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the Developer pursuant to this agreement terminated.

SECTION 4. TRANSFERABILITY

Except for the sale of individual lots after recording the final plat, the Developer shall not transfer the subdivision property without first giving notice to the City as to the name, address, and telephone number of the transferee. The transferees shall develop this subdivision in accordance with the Development Agreement. In addition, the Developer agrees to provide the City an Assumption Development Agreement in which the transferee agrees to perform the improvements required under this Development Agreement and to provide the security needed to assure such performance. Said Development Agreement will be subject to the approval of the City Attorney. The Developer shall remain liable under the terms of this Development Agreement unless an Assumption Agreement is entered into between the new owners and the City. No third party shall obtain any benefits or rights under this Development Agreement, nor shall the rights or duties be assigned by either party.

SECTION 5. ACCEPTANCE OF IMPROVEMENTS

Formal acceptance of improvements shall follow the procedure established in the Subdivision Regulations. Subsequent to acceptance by the City, the Developer shall have no claim, direct or implied, in the title or ownership of the improvements. The City, upon final approval and acceptance, will take full title to the improvements and will provide maintenance thereafter, except that the Developer is responsible for construction failures and defects in the subdivision improvements for a period of one year after the date of final acceptance of the subdivision improvements. During this period, it shall remain the responsibility of the Developer to correct and cure these defects and failures.

Upon the City's acceptance of all or part of the facilities then those facilities specified in the acceptance, except for those amenities maintained by the Homeowners Association shall become the property of the City free from all claims from any person or entity without the necessity of any further writing, contract, or deed. The parties intend that this Agreement shall operate as a conveyance of the facilities when the facilities are accepted. The Developer further agrees that any facilities placed within a public or platted right-of-way or dedicated public easements are irrevocably dedicated to the public use without any right to reimbursement or compensation of any kind. In the event the Developer fails to install the facilities in accordance

Project Name: _____

Case# _____
Date: _____

with the terms of this Development Agreement, the City may, in its sole discretion, elect not to accept all or a portion of the facilities installed.

SECTION 6. WARRANTY

The Developer warrants that all improvements to be accepted by the City will be free from defects in design, materials, or workmanship for a period of one year from the date of acceptance by the City. The Developer shall immediately repair, at its own costs, all defects of any type whatsoever which occur within said one year period. If repairs required herein are not completed in a timely manner, the City shall have the right, at its option, to make said repairs at the expense of the Developer. In such event, the City may call the Developer's Letter of Credit to pay for said repairs. Additionally, the Developer shall execute a maintenance Letter of Credit as required by the Subdivision Regulations.

SECTION 7. INSURANCE

The Developer shall purchase an owners and contractor's liability policy and public liability insurance policy in the amount of 1,000,000.00 and name the City as an additional insured party. Developer further agrees to hold and name the City harmless from the claim of any person and further agrees to defend any action brought in any court against the City and to pay any judgments rendered against the City or against the facilities.

SECTION 8. SPECIAL PROVISIONS

The City shall notify the Developer of any construction failures or defects requiring repair under Section 6 of this Agreement before calling the Developer's surety to pay for said repairs in the event the City determines the Developer has failed to make repairs. The Developer and the City further agree to the following:

Project Name: _____

Case# _____
Date: _____

SECTION 9. NOTICES

All notices permitted or required under this Agreement shall be deemed given if hand-delivered, or mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

CITY: Office of the Mayor
City of Hendersonville
101 Maple Drive North
Hendersonville, Tennessee 37075

DEVELOPER: _____

IN WITNESS WHEREOF, the parties have executed this Development Agreement for the purpose herein expressed.

DEVELOPER

CITY OF HENDERSONVILLE, TENNESSEE _____

BY: _____
MAYOR JAMIE CLARY

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY LANCE WRAY