

City of Maynardville

Utility Agreement

For

Proposed Developments

December 2020

## **DEVELOPMENT AGREEMENT**

THIS AGREEMENT is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF MAYNARDVILLE OF UNION COUNTY, TENNESSEE, a municipality incorporated under the laws of the State of Tennessee, with its office and principal place of business in Union County, Tennessee (hereinafter called "City") and \_\_\_\_\_ [Developer], a Tennessee \_\_\_\_\_ with its office and principal place of business in \_\_\_\_\_ County, \_\_\_\_\_ [State] (hereinafter called "Developer").

### **WITNESSETH**

Developer desires to establish a development, within the service area of the City of Maynardville, known or to be known as \_\_\_\_\_, located at \_\_\_\_\_ (the "Development") and desires to connect and integrate the water and/or wastewater system(s) Developer plans to install within the Development into the City of Maynardville's utility system. The City is willing to connect and integrate the Development's utility facilities into the City's utility system provided the new utility facilities in the Development are properly engineered and constructed to function satisfactorily and the Developer meets the other requirements of this Agreement. To accomplish these ends, the City and the Developer agree as follows:

#### **Article 1 – System Design**

Design of the water and/or wastewater systems within the Development shall be done by an engineer licensed to practice in the State of Tennessee. The design shall comply with all current State of Tennessee requirements and design criteria for construction of water and wastewater systems and shall comply fully with the City's current requirements and specifications for water and wastewater systems, which specifications have been approved by the Tennessee Department of Environment and Conservation ("TDEC"). The City's requirements and specifications are subject to change from time to time and Developer shall be responsible for complying with the requirements and specifications in effect at the time of the Development's construction. A copy of the City's current requirements and specifications shall be made available by the City of Maynardville to the Developer upon Developer's request. Upon request by Developer or Developer's engineer, the City will also provide information about the City's existing water and wastewater lines that interface with the Development. The Developer's engineer shall field verify all utilities for locations and elevations.

#### **Article 2 – Separation of Utilities**

A minimum of three feet (3') horizontal separation shall be maintained between water and wastewater lines and any other underground utility. Other underground utilities may cross water or wastewater lines only at a perpendicular angle or as close to

perpendicular as possible. Water and wastewater lines are to be vertically separated by a minimum of eighteen inches (18") (water shall be on top), or be separated ten feet (10') horizontally.

#### Article 3 – Telemeters Required

All water and/or wastewater pump stations shall be equipped with radio telemetry systems as specified by the City.

#### Article 4 – Review of Plans

When design of the Development's water and/or wastewater system is complete, the Developer shall submit to the City, for review, three (3) sets of plans and all electronic files in dgn format of the water and/or wastewater system prepared by the Developer's licensed engineer. The City shall review and return the plans as quickly as possible.

Developer, through Developer's licensed engineer, shall make any revisions required by the City of Maynardville and resubmit the plans for the City's review. Once the plans are deemed acceptable, a representative of the City will sign the plans and the Developer may then submit them to TDEC for approval.

Charges for the review are as follows:

<b>Water OR Wastewater</b>	
0-50 Lots	\$150.00 each subdivision
51-100 Lots	\$175.00 each subdivision
101-500 Lots	\$225.00 each subdivision
Over 500 Lots	\$300.00 each subdivision
<b>Water AND Wastewater</b>	
0-50 Lots	\$225.00 each subdivision
51-100 Lots	\$250.00 each subdivision
101-500 Lots	\$400.00 each subdivision
Over 500 Lots	\$500.00 each subdivision

#### Article 5 – Review of Materials

Before beginning construction, the Developer shall submit to the City for review and approval, five copies of specifications for all materials to be used in the construction of the water and wastewater system(s) at the Development. The City will return two copies of the reviewed specification submittals to the Developer. Material data approved for use in construction shall be stamped "Approved". Material data not approved for use in construction shall be stamped "Not Approved".

#### Article 6 – Extensions of Services

Any water and/or wastewater line extension(s) needed to service the Development shall be at the expense of the Developer, unless the City approves funding for the extension(s) and provides the Developer with the City's written certification that the City will provide funding for such extension(s).

#### Article 7 – Easements

Any water and/or wastewater lines needed to service the Development shall be installed in one or more permanent easements in favor of the City of Maynardville. These easements shall be obtained by the Developer. All costs to obtain the easement(s), as well as any special permits, licenses or other rights-of-way from all required owners of affected property such as homeowner associations, railroads, governmental entities and other third-party property owners, shall be at the Developer's expense. All easements shall be recorded on the final plat for the Development.

#### Article 8 – Construction

No construction shall occur until the State of Tennessee has approved the plans for the Development's utility facilities and the parties have executed and delivered this Agreement. During construction, the City shall provide on-site inspections as the City deems necessary, but the City assumes no responsibility or liability for the proper construction of the Development's water or wastewater systems. Developer and Developer's contractor shall provide the City with access to all construction sites during the construction and allow City to make such examinations, tests, and checks that the City deems advisable. In no event, however, shall the City be deemed an owner in possession of the premises or facilities under construction, or any part thereof, until such premises and facilities are conveyed to the City. The City's failure to notice defects in the contractor's work, or to require their correction when known, shall not constitute a waiver of the Developer's or contractor's obligations under this Agreement or under the construction contract for the facilities.

The City shall present to the Developer's engineer any observed deviations from the approved plans and specifications or from approved practice. If disagreements concerning methods or materials used in the construction occur, the City may issue a stop-work order until the disagreements are resolved. During construction, the Developer's engineer shall perform on-site inspections to insure that all work is being performed in accordance with the Development's approved plans and the City's specifications.

Construction shall be performed by a licensed municipal utility contractor with water and wastewater endorsement in the State of Tennessee. The Developer and Developer's contractor shall assure that the construction of the water and/or wastewater systems in the Development to be conveyed to the City shall be performed in a manner that when completed, said work: (i) will conform to the approved plans and specifications without changes other than those approved in

writing by the City; (ii) will conform with the conditions of all licenses and permits issued for its construction; and (iii) will not violate any applicable law, regulation, directive or order of any governmental authority or agency having jurisdiction thereof. Upon completion of the work, the Developer will deliver to the City a certificate or certificates of the engineer, in usual form, that all work has been substantially completed in accordance with the applicable plans and specifications.

All water services shall be extended from the water main to the meter box with all components provided within the box except the actual meter.

All wastewater services shall be extended to the property line with a cleanout for gravity sewer service, or to a ball valve at each lot or tract for low pressure force main service.

#### Article 9 – Tests

When construction of the water and/or wastewater system is complete, tests and observations shall be performed as follows:

Water - The contractor shall pressurize lines to a minimum of 200 psi for a minimum of two consecutive hours. This test shall be witnessed by City personnel. Contractor shall flush lines for a length of time sufficient to remove sediment, mud, trash, and other foreign substances, and to establish a level of chlorine residual satisfactory to City personnel. After proper chlorine residual has been established, the City shall obtain water sample(s) from the new system for the purpose of testing for the presence of bacteria. The City shall also test for the continuity of tracer wire. The City will also inspect the Development to determine the overall conformity of the system installation with the City's requirements and specifications.

Wastewater - The contractor shall perform pressure and/or vacuum testing on all wastewater pipelines, manholes, and appurtenances in accordance with the City's requirements and specifications. These tests shall be witnessed by City personnel. Contractor shall pull a sizing mandrel through all piping as determined by City personnel. The Contractor shall furnish the mandrel and the City shall witness the pull(s).

#### Article 10 – System Warranty

When tests are successfully completed, the City shall furnish, at contractor's request, a letter of verification for the tests. Upon completion of the work and the tests, Developer's contractor shall also warrant that its work has been performed in a good and workmanlike manner in accordance with generally accepted engineering practices, and that said work is adequate to perform the tasks for which it was undertaken. The Developer and installation contractor shall assume responsibility for all defects in material and workmanship of the water and/or wastewater system for a period of one year beginning on the date the tests are successfully performed. If the contractor is unable or unwilling to correct defects occurring within that warranty period, the Developer shall, and hereby agrees to, assume responsibility for

correction. Developer also agrees to assign to the City any warranties on equipment installed as part of the work for the Development, which assignment shall be effected upon the completion of the work and the transfer of its ownership to the City of Maynardville as required in Article 16 of this Agreement.

#### Article 11 – Maps

All plat maps that are issued for sales purposes or that are recorded with the corresponding governing county or municipality, shall carry the following statement:

“A fifteen foot (15') utility easement exists seven and one-half feet (7½') on either side of all water and wastewater lines as installed. Water and wastewater lines that are not located on public rights-of-way shall be depicted on the plat maps.”

The City reserves the right to require a larger easement when the facilities being constructed so require as determined by the City.

#### Article 12 – Minimum Bill Agreement

If required by the City, Minimum Bill Agreements for any applicable service areas subject to such requirements must be executed prior to City's review of the water or wastewater plans to be submitted for State of Tennessee approval.

#### Article 13 – As-Built Drawings

When the water and/or wastewater system is complete, the Developer shall provide through the Developer's engineer as-built drawings of the water and/or wastewater system, which shall be promptly prepared and submitted to the City. As-built drawings shall consist of two (2) paper copies and all electronic files in a dgn format. If the Developer's engineer does not get the as-built drawings to the City in a timely manner, then the City will charge the Developer \$500.00 to complete the as-built drawings after the engineer supplies the electronic files. If the Developer wants the City to complete the as-built drawing, then the Developer shall provide the electronic files for the development and pay \$500.00 to the City of Maynardville.

All as-built drawings shall be connected to at least two (2) GPS coordinates provided by the City of Maynardville.

As-built drawing requirements are as follows:

##### Water:

- 1) As-built drawings shall show location of mains, blow-offs, reducers, tees, etc.
- 2) All valves and blow-offs shall be located by measurements taken from two separate, easily identifiable, stationary points. These points shall not include P.I., P.C., or other similar points of reference not easily found. Property pins

may be used if no other reference point is available. All measurements should be taken from manholes, power poles, electric vaults, telephone pedestals, buildings, etc. Reference points should not include trees, shrubs, or other living organisms or other objects which are subject to change in size or shape. Any deviation from this concept will result in rejection of as-built drawings unless a variance has been obtained, in writing, from the City.

- 3) If a main is dead ended, there should be a blow-off with its location shown by measurement from easily identifiable points.
- 4) The City of Maynardville will not accept as-built maps showing complete and incomplete portions of a Development on the same sheet unless the incomplete portions are labeled as such and a separate as-built is submitted at the time that portion is completed.
- 5) Lot numbers, block letters, unit numbers, and road names must be shown.

#### Wastewater:

- 1) Plan and profile of wastewater lines must be shown. Plans shall show ground contours, locations of manholes, station numbers, manhole inverts, top elevation of manholes, and grade of wastewater mains.
- 2) Wyes or service connections shall be drawn on the plan and shall be assigned a station number or be shown as a distance from the nearest downstream manhole. Any service line laid out of a wye shall be shown, and the length and depth of the service line shall be shown.
- 3) Lot numbers, block letters, unit numbers, and road names must be shown.

The City shall review the as-built drawings for content and perform a final inspection of the Development to determine the correctness of the as-built drawings. The City will notify the Developer's engineer and/or contractor, in writing, of any discrepancies or required changes, which the Developer hereby agrees to obtain at its cost.

#### Article 14 – Locating Water and/or Wastewater Lines

The City cannot locate water and/or wastewater lines until correct and completed as-built drawings have been received from the Developer's engineer. The Developer and Developer's contractor shall help locate lines for the TN-One-Call system until the City receives the as-built drawings. If any damages occur before the City receives correct and complete as-built drawings, the Developer shall pay for the repairs if the marks were off by more than two feet (2') on either side, or if the line was not marked.

#### Article 15 – Affidavit of Cost and Transfer of Ownership Certificate

Upon the completion of Developer's water and wastewater systems in the Development and the satisfactory completion of the tests required by Article 9 of this Agreement, the Developer shall provide to the City, in a form satisfactory to the City, a sworn statement disclosing the total cost of design and construction of the system(s) and certifying that these costs have been paid in full. Such affidavit shall be substantially in the form of that affidavit attached hereto as Exhibit A and when accepted by the City shall also serve to document the transfer of title and ownership to the City of the constructed facilities in accordance with the provisions of Article 16 of this Agreement.

#### Article 16 – Transfer of Ownership

The affidavit of cost and transfer of ownership certificate required by Article 15, shall be in a form satisfactory to the City, and shall upon acceptance by the City document the transfer of title and ownership by the Developer to the City of all water and/or wastewater lines and appurtenances in the Development to which this Agreement applies, together with any necessary rights-of-way and easements as shall be necessary and appropriate to operate, maintain and repair the facilities or which are dedicated to such lines and appurtenances, free and clear of any lien, encumbrance or mortgage until it is unappealable. Said certificate, when accepted by the City, shall also serve to assign to the City any warranties or other ownership rights with respect to any equipment installed as part of the work to be transferred. Developer also agrees that any existing lien, encumbrance or mortgage on any right-of-way or easement transferred to the City shall be subordinated to the easement interest of the City of Maynardville.

#### Article 17 – Service to the Development

Developer agrees that until all conditions and tests set forth in this Agreement have been successfully completed, and that until all documents referred to in this Agreement (e.g. signed Development Agreement, final plat, as-built drawings, affidavit of costs and transfer certificate, engineer's certificate of completion, assigned warranty agreements, and Minimum Bill Agreement, if any) have been delivered to the City, in a form satisfactory to the City, the City of Maynardville shall not accept ownership or operational responsibility for the facilities and shall not set water meters, locate wastewater services, inspect service lines, perform maintenance, or otherwise provide any services to the Development.

#### Article 18 – Indemnity

Developer expressly agrees to defend, indemnify, and hold harmless the City of Maynardville and its Council Members, officers, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorney's fees, accruing or resulting to any and all contractors, subcontractors, material suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any



person, firm, or corporation who may be injured or damaged by the Developer in the performance of this Agreement until it is unappealable including successors or assigns. The Developer shall provide necessary worker's compensation insurance at the Developer's own cost and expense.

#### Article 19 – Miscellaneous

(a) Further Assurances. Each of the parties hereto further agrees to do any act or thing and execute any and all instruments that are necessary and proper to make effective the provisions of this Agreement, including without limitation, Developer's taking such action as may be necessary to properly obligate Developer's engineer(s) and contractor(s) for the Development to bind themselves to their applicable obligations under this Agreement.

(b) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties named herein and their respective successors and assigns. Nothing in this Agreement, expressed or implied, is intended to confer upon any person other than the City and Developer any right or remedy under or by reason of this Agreement.

(c) Notices. All notices hereunder from Developer or any of Developer's agents if personally delivered to the Maynardville City Manager, or if sent to said officer by registered or certified mail with return receipt requested, addressed to the City Manager, City of Maynardville, 125 Johnson Road, Maynardville, TN 37807. All notices hereunder from the City to Developer shall be sufficient if personally delivered to any officer of the Developer, or if sent to said officer by registered or certified mail, return receipt requested, addressed to the Developer at the address listed below Developer's signature on this Agreement. If either party hereto shall notify the other party in writing of a change of the mailing address stated herein, such changed mailing address shall thereafter be used in lieu of that address stated herein.

(d) Entire Agreement. This Agreement, together with any exhibits attached hereto, embodies the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior written or oral agreements, commitments, arrangements or understandings between the parties with respect thereto. There are no restrictions, agreements, promises, warranties, covenants or undertakings with respect to the subject matter of this Agreement other than those expressly set forth or provided for herein.

(e) Amendments and Waivers. No amendment, modification or waiver of any provision of this Agreement shall be effective or binding upon the parties unless the same shall be in writing and signed by the parties hereto. The waiver of any party hereto of a breach of any provision in this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

(f) Captions and Terms. Section headings in this Agreement are set forth for convenience of reference only and shall not define or limit the provisions of this Agreement. The gender and number terms used herein are used as reference terms

only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural where the context so requires.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in multiple originals, by persons authorized to do so, as of the day and year first above given.

CITY:

CITY OF MAYNARDVILLE

DEVELOPER:

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Mailing Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_