

Monday, July 11, 2022

**BEER
BOARD
6:00
PM**

**Swearing-In, Alderman-Position 3
Immediately after Beer Board**

**BOARD OF MAYOR AND ALDERMEN – REGULAR MEETING
Immediately after Swearing-In**

1. Prayer
2. Pledge Of Allegiance
3. Roll Call
4. Approval Of Agenda
5. Approve Minutes Of June 13, 2022 And June 27, 2022

Documents:

[BMA MINUTES 6-13-22.PDF](#)
[BMA MINUTES 6-27-22.PDF](#)

6. Public Comments
7. Consideration Of Resolution 28-2022 Confirming Chris Stokes As Police Chief

Documents:

[RESOLUTION 28-2022 CHRIS STOKES POLICE CHIEF.PDF](#)

8. Presentation Of Millington Police Department Accreditation Certificate – David Moore, MTAS
9. Presentation Of Millington Fire Department Swiftwater/Floodwater Rescue Team Accreditation – Ryan Thompson And Jane Waldrop - TEMA
10. Consideration Of Ordinance 2022-12 Amending The FY23 Budget – First Reading

Documents:

[ORDINANCE 2022-12 AMENDING FY23 BUDGET.PDF](#)

11. Consideration Of Resolution 23-2022 Approving The FY23 Agreement For Emergency Call Processing And Dispatching Services

Documents:

[RESOLUTION 23-2022 EMERGENCY CALL AND DISPATCH AGREEMENT.PDF](#)

12. Consideration Of Resolution 24-2022 Dismissing Uncollectible Taxes And Authorizing Removal Of Parcels From Tax Rolls

Documents:

[RESOLUTION 24-2022 DISMISSING TAXES.PDF](#)
[RES 24-2022 EXHIBITS A B C.PDF](#)

13. Consideration Of Resolution 25-2022 Approving Appointment To The Millington Planning Commission

Documents:

[RESOLUTION 25-2022 PLANNING COMMISSION APPOINTEE.PDF](#)

14. Consideration Of Resolution 26-2022 Approving Residential Subdivision Agreement With Allegro Home Builders For The Reserve At Millington Phase 1

Documents:

[RESOLUTION 26-2022 SUBDIVISION AGREEMENT THE RESERVE PHASE 1.PDF](#)
[RESERVE PH 1 CONTRACT.PDF](#)

15. Consideration Of Resolution 27-2022 Approving Residential Subdivision Agreement With Allegro Home Builders For The Reserve At Millington Phase 2

Documents:

[RESOLUTION 27-2022 SUBDIVISION AGREEMENT THE RESERVE PHASE 2.PDF](#)
[RESERVE PH 2 CONTRACT.PDF](#)

16. Board Reports

17. Adjourn

ADA NOTICE

The City seeks to meet the needs of all individuals with disabilities. Should you need an accommodation to attend, speak or hear at this meeting, please call City Hall at 901.873.5701 at least eight (8) working hours in advance of the meeting

CITY OF MILLINGTON BOARD OF MAYOR AND ALDERMEN
MINUTES OF REGULAR MEETING
June 13, 2022

Call to Order, Prayer, and Pledge of Allegiance

The Board of Mayor and Aldermen of the City of Millington, TN met in regular session at Millington City Hall Chambers on Monday, Monday, June 13, 2022. The meeting was called to order at 6:04 pm by Mayor Terry Jones, and Mr. Thomas McGhee led everyone in prayer, followed by the Pledge of Allegiance.

Roll Call and Quorum Determination

The following Board members were present:

Mayor Terry Jones
Bethany Huffman
Al Bell
Larry Dagen
Thomas McGhee
Don Lowry
Mike Caruthers

A quorum being present, the following proceedings were held:

4. Approval of Agenda

Approve agenda

Motion: Huffman

Second: Bell

Vote: unanimous consent to approve

5. Approve Minutes of May 9, 2022

Approve Minutes

Motion: McGhee

Second: Lowry

Vote: unanimous consent to approve

6. Public Comments

Steve Basar, 5896 Garden Ridge Cv, Memphis, TN, is a candidate for Shelby County Trustee wanted to introduce himself, and asked for votes and support, and encouraged everyone to vote in the upcoming elections on August 4th; Brian Runner, Booneville, MS, works for the Memphis Redbirds. He is organizing a Millington Community night. There will be discount tickets for groups of 10 or more, and fireworks on Saturday, July 23rd, at 6:45 pm, and Mayor Jones is invited to come throw out the first pitch.

Close Public Comments

Motion: McGhee

Second: Dagen

Vote: unanimous consent to close

7. Proclamation - NSA Mid-South 80th Anniversary 1942-2022

Mayor Jones presented the proclamation to Captain Mosbrugger. The captain thanked Mayor Jones and the Board for honoring NSA Mid-South.

8. Public Hearing - Ordinance 2022-6 Amending Title 17, Refuse and Trash Disposal, of the Millington Municipal Code

Close Public Hearing

Motion: McGhee

Second: Caruthers

Vote: unanimous consent to close

9. Consideration of Ordinance 2022-6 Amending Title 17, Refuse and Trash Disposal, of the Millington Municipal Code - Final Reading

Approve Ordinance 2022-6

Motion: Bell

Second: Lowry

Vote: unanimous vote to approve

10. Public Hearing - Ordinance 2022-7 Adopting the Fiscal Year 2023 Operating and Capital Improvement Budgets for the City of Millington and to Establish Budget Related Procedures and Controls

Close Public Hearing

Motion: Huffman

Second: Dagen

Vote: unanimous consent to close

11. Consideration of Ordinance 2022-7 Adopting the Fiscal Year 2023 Operating and Capital Improvement Budgets for the City of Millington and to Establish Budget Related Procedures and Controls – Final Reading
 - Approve Ordinance 2022-7
 - Motion: Caruthers
 - Second: Lowry
 - Vote: unanimous vote to approve on final reading

12. Public Hearing - Ordinance 2022-8 to Levy and Assess a Tax Rate for Ad Valorem Taxes Upon Real Property and Personal Property in the City of Millington for the Tax Year 2022 (FY23) – First Reading
 - Close Public Hearing
 - Motion: Lowry
 - Second: Dagen
 - Vote: unanimous consent to close

13. Consideration of Ordinance 2022-8 to Levy and Assess a Tax Rate for Ad Valorem Taxes Upon Real Property and Personal Property in the City of Millington for the Tax Year 2022 (FY23) – Final Reading
 - Approve Ordinance 2022-8
 - Motion: Huffman
 - Second: Lowry
 - Vote: unanimous vote to approve

14. Public Hearing - Ordinance 2022-9 Amending the Official Zoning Map for the City of Millington, Tennessee, and Amending the Astoria Square Planned Unit (PUD) Development
 - Close Public Hearing
 - Motion: McGhee
 - Second: Caruthers
 - Vote: unanimous consent to close

15. Consideration of Ordinance 2022-9 Amending the Official Zoning Map for the City of Millington, Tennessee, and Amending the Astoria Square Planned Unit (PUD) Development – Final Reading
 - Approve Ordinance 2022-9
 - Motion: McGhee
 - Second: Lowry
 - Vote: unanimous vote to approve

16. Public Hearing - Ordinance 2022-10 Amending the FY22 Budget for the Millington Municipal Schools
 - Close Public Hearing
 - Motion: Caruthers
 - Second: Huffman
 - Vote: unanimous consent to close

17. Consideration of Ordinance 2022-10 Amending the FY22 Budget for the Millington Municipal Schools – First Reading
 - Approve Ordinance 2022-10
 - Motion: McGhee
 - Second: Lowry
 - Vote: unanimous vote to approve

18. Consideration of Ordinance 2022-11 Amending the FY22 Budget – First Reading
 - Approve Ordinance 2022-111
 - Motion: Lowry
 - Second: Dagen
 - Vote: unanimous vote to approve

19. Consideration of Resolution 20-2022 Approving the Transfer of Edmund Orgill Park Including all Existing Park Improvements, Equipment and Inventory Thereon, Together with a Total of 437.96 Acres of Land Upon Which the Park is Situated, Owned by Shelby County, to the City of Millington, Without Monetary Consideration, and Enter Into an Interlocal Agreement With Shelby County for the Use and Operation of Said Park

The Aldermen requested that City Attorney, Gerald Lawson, reach out and ask the County for revenue statements for the park and golf course over the past five years before a decision is made.

 - Table Resolution to Called Meeting
 - Motion: Huffman
 - Second: Caruthers
 - Vote: unanimous vote to table

20. Consideration of Resolution 21-2022 Approving Appointments to the Millington Public Library Board
 - Approve Resolution 21-2022
 - Motion: Lowry
 - Second: Caruthers
 - Vote: unanimous consent to approve

21. Consideration of Resolution 22-2022 Appointing a Replacement for Position # on the Board of Mayor and Aldermen

A special work session was held on June 8th to interview the 5 applicants who applied for Position 3. The Aldermen were giving a vote sheet with all 5 candidates listed in random order and were asked to rank the candidates from 1 to 5 with 1 being their first choice. The candidate with the lowest number of points would be nominated to fill the position. Chris Ford had the lowest total and motion was made to appoint him. He will serve until January 1.

Appoint Chris Ford to serve in Position 3 and approve Resolution 22-2022

Motion: McGhee

Second: Lowry

Vote: Huffman, Bell, Dagen, McGhee, and Lowry voted to approve
Caruthers abstained

22. Board Reports

Ms. Huffman reported on the last Industrial Board meeting. Mr. Dagen gave a Library Board report and thanked Ben Hill and Mary McGhee for their service on the board and welcomed the new appointee. Mr. McGhee encouraged everyone to come out to the airshow on June 18-19th. Mr. Lowry reminded all about the Police Appreciation Breakfast on Tuesday, June 14th, and Mr. Caruthers gave the Planning Commission update.

Adjourn

There being no further business, the meeting was adjourned at 6:44 pm.

These minutes are approved as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

CITY OF MILLINGTON BOARD OF MAYOR AND ALDERMEN
MINUTES OF CALLED MEETING
June 27, 2022

Call to Order, Prayer, and Pledge of Allegiance

The Board of Mayor and Aldermen of the City of Millington, TN met in called session at Millington City Hall Chambers on Monday, Monday, June 27, 2022. The meeting was called to order at 5:34 pm by Mayor Terry Jones, and Mr. Thomas McGhee led everyone in prayer, followed by the Pledge of Allegiance.

Roll Call and Quorum Determination

The following Board members were present:

Mayor Terry Jones
Bethany Huffman
Al Bell
Larry Dagen
Thomas McGhee
Don Lowry
Mike Caruthers

A quorum being present, the following proceedings were held:

4. Public Hearing - Ordinance 2022-11 Amending the FY22 Budget

Close Public Hearing

Motion: Caruthers

Second: Lowry

Vote: unanimous consent to close

5. Consideration of Ordinance 2022-11 Amending the FY22 Budget - Final Reading

Approve Ordinance 2022-111

Motion: McGhee

Second: Bell

Vote: unanimous vote to approve

6. Consideration of Resolution 20-2022 Approving the Transfer of Edmund Orgill Park Including all Existing Park Improvements, Equipment and Inventory Thereon, Together with a Total of 437.96 Acres of Land Upon Which the Park is Situated, Owned by Shelby County, to the City of Millington, Without Monetary Consideration, and Enter Into an Interlocal Agreement With Shelby County for the Use and Operation of Said Park

This item was tabled from the prior meeting until further financial information was received. Currently, the only restriction is that for 10 years, it must be used as a park and for public purpose or it reverts back to Shelby County. It is not necessary to run the golf course. There is some concern that a well needs to be replaced on the golf course, which is a major expense. There will be an interlocal agreement with the county stating the restrictions. The resolution just gives the Mayor the authority to sign and accept the deed to the property. A motion was made to amend the resolution to authorize the City Attorney to negotiate either a reduction to a 5-year reverter clause or a replacement of the pumps needed at the golf course,

Amend the resolution

Motion: Huffman

Second: McGhee

Vote: For - Huffman, Bell, Dagen, McGhee, Lowry
Against - Caruthers

Approve Resolution 20-2022 as amended

Motion: Lowry

Second: Bell

Vote: For - Huffman, Bell, Dagen, McGhee, Lowry
Against - Caruthers

Adjourn

There being no further business, the meeting was adjourned at 5:51 pm.

These minutes are approved as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

RESOLUTION 28-2022

RESOLUTION CONFIRMING CHRIS STOKES AS POLICE CHIEF

WHEREAS, Section 5.02. (a) of the Charter of the City of Millington provides that qualifications of all applicants for operating department heads shall be reviewed by the City Manager, and operating department heads shall be confirmed only by a simple majority vote of the Board, subject to the approval of the Board of Aldermen; and

WHEREAS, the Board of Mayor and Aldermen find it necessary to fill the position of Police Chief; and

WHEREAS, the City Manager is recommending the Board of Mayor and Aldermen to confirm Chris Stokes as Police Chief effective July 15, 2022; and

WHEREAS, the Board of Mayor and Aldermen desires to confirm and approve Chris Stokes as Police Chief effective July 15, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that Chris Stokes be, and hereby is, confirmed by the Mayor and Board of Aldermen to serve as the Police Chief of the City of Millington effective July 15, 2022, in accordance with Section 5.02 of the Charter of the City.

This Resolution is adopted as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

ORDINANCE 2022-12

ORDINANCE AMENDING THE FY23 BUDGET

WHEREAS, The Board of Mayor and Aldermen of the City of Millington, Tennessee adopted the FY23 Budget for all Funds by Ordinance 2022-7; and

WHEREAS, The Sanitation Department had budgeted for and ordered a new pickup with the FY22 Budget, but was not received prior to June 30, 2022; and

WHEREAS, it is necessary to amend the FY23 budget to provide the funding necessary for the purpose described above.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the FY23 Operating Budget for the Sanitation Fund is amended as follows:

Sanitation (131)	Original	Change	Amended
Planned Use of PY Funds	125,156	-28,816	96,340
38990			
Vehicle Purchases			
43201-942	185,000	28,816	213,816

BE IT FURTHER ORDAINED, That this Ordinance shall take effect upon its final passage, the public welfare requiring it.

Public Hearing:
First Reading: July 11, 2022
Second Reading:

Terry G. Jones, Mayor

Karen Findley, City Clerk

RESOLUTION 23-2022

RESOLUTION APPROVING THE FY23 AGREEMENT FOR EMERGENCY CALL
PROCESSING AND DISPATCHING SERVICES

WHEREAS, the Board of Mayor and Aldermen approved an agreement with Shelby County effective July 1, 2013 for Fire Department emergency call processing and dispatching services; and

WHEREAS, the agreement has been previously renewed through June 30, 2022; and

WHEREAS, the City and Shelby County jointly desire to amend this agreement for an additional year for the twelve-month period beginning July 1, 2022 through June 30, 2023; and

WHEREAS, the total cost of this renewal shall not exceed \$202,942.05.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the FY23 Amendment to the Agreement with Shelby County for Fire Department emergency call processing and dispatching services in the amount of \$202,942.05 is hereby approved.

This Resolution is adopted as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

RESOLUTION 24-2022

RESOLUTION DISMISSING UNCOLLECTIBLE TAXES AND AUTHORIZING
REMOVAL OF PARCELS FROM TAX ROLLS

WHEREAS, the Shelby County Trustee has determined that the 6 parcels listed on Exhibit A with tax totaling \$128.32 are “Out of Business” and should be dismissed as uncollectable. Additionally, all interest, penalties, and associated costs should be dismissed with the tax; and

WHEREAS, the Shelby County Trustee has determined that the 2 parcels listed on Exhibit B with tax totaling \$1,300.35 are “Out of Business” and should be dismissed as uncollectable. Additionally, all interest, penalties, and associated costs should be dismissed with the tax; and

WHEREAS, the Shelby County Trustee has determined that the 6 parcels listed on Exhibit C with tax totaling \$194.59 are “Statute of Limitations” and should be dismissed as uncollectable. Additionally, all interest, penalties, and associated costs should be dismissed with the tax.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the personal property taxes for the parcels shown on Exhibit A, Exhibit B, and Exhibit C and all interest, penalties and cost related thereto are dismissed as to each of the taxpayers listed on Exhibit A, Exhibit B, and Exhibit C.

BE IT FURTHER RESOLVED, that the Mayor be authorized to perform such acts and give such notice to the County Assessor, County Trustee or other tax collector necessary to dismiss the taxes set out on Exhibit A, Exhibit B, and Exhibit C together with all interest, penalties and costs related thereto, and to remove the tax parcels listed on Exhibit A, Exhibit B, and Exhibit C from the tax rolls.

This Resolution is adopted this 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

Exhibit A

UNCOLLECTABLE TAXES FOR MILLINGTON

TRD	Exh #	Parcel I	Year	Owner	Parcel Address	Res. #	Reason	Tax
		22344800000000	2012	CIRCLE CROSS RODEO	4351 BABE HOWARD	308	Out of Business	\$6.64
		22344800000000	2013	CIRCLE CROSS RODEO	4351 BABE HOWARD	308	Out of Business	\$10.10
		22042000000000	2011	DUN DUN'S FISH MKT & 8500 HOTWINGS	WILKINVILLE RD	308	Out of Business	\$46.13
		22042000000000	2012	DUN DUN'S FISH MKT & 8500 HOTWINGS	WILKINVILLE RD	308	Out of Business	\$55.35
		23145100000000	2013	MAKIN' EYES	4803 CUBA MILLINGTON	308	Out of Business	\$4.59
		20754800000000	2013	TENNESSEE COMMUNITY #800 & COURT SERVICES IN	NAVY	308	Out of Business	\$5.51
Total Parcels			6	Total Tax:				\$128.32

Exhibit B

UNCOLLECTABLE TAXES FOR MILLINGTON

TRD	Exh #	Parcel I	Year	Owner	Parcel Address	Res. #	Reason	Tax
		20037700000000	2017	BEAN & PRINCE CONTRACTORS, INC.	8010 MEMPHIS	310	Out of Business	\$634.34
		20037700000000	2018	BEAN & PRINCE CONTRACTORS, INC.	8010 MEMPHIS	310	Out of Business	\$666.01
Total Parcels			2	Total Tax:		\$1,300.35		

Exhibit C

UNCOLLECTABLE TAXES FOR MILLINGTON

TRD	Exh #	Parcel I	Year	Owner	Parcel Address	Res. #	Reason	Tax
5015-1	4209	21421900000000	2010	GIFTED HANDS HAIR STUDIO	4643 NAVY RD		309 Statute of Limitations	\$8.86
5015-1	2667	18634500000000	2010	LYNN'S A/C & HEAT	7894 HARROLD ST		309 Statute of Limitations	\$6.64
5015-1	817	11889000000000	2010	MILLINGTON LAUNDRY CLEANERS	5135 EASLEY		309 Statute of Limitations	\$159.41
5015-1	2447	18124200000000	2010	PLEASURE TREASURE	5128 NAVY RD STE 201		309 Statute of Limitations	\$4.80
		17463700000000	2010	PREMIER 1 PRICE DRY CLEANER	4804 NAVY RD		309 Statute of Limitations	\$13.65
5015-1	1545	15397500000000	2010	SEW NAME IT!	4105 SODERLUND CV		309 Statute of Limitations	\$1.23
Total Parcels			6	Total Tax:				\$194.59

RESOLUTION 25-2022

RESOLUTION APPOINTING MEMBER TO THE MILLINGTON PLANNING
COMMISSION

WHEREAS, the Board of Mayor and Aldermen of the City of Millington has established the Millington Planning Commission; and

WHEREAS, the Mayor would like to make a new appointment.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Mayor and Aldermen, that the Mayor's appointment to the Millington Planning Commission is approved, and that they shall serve until the later of the end of their term or their successor is appointed:

David Bodkin, term ending February 28, 2027 (replacing Curtis Park)

This Resolution is adopted this 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

RESOLUTION 26-2022

**RESOLUTION APPROVING RESIDENTIAL SUBDIVISION DEVELOPMENT
AGREEMENT WITH ALLEGRO HOME BUILDERS FOR THE RESERVE AT
MILLINGTON PHASE 1**

WHEREAS, Allegro Home Builders, is the owner and developer of a tract of land zoned R-0, Residential, which contains approximately 1.33 acres and desires to improve and develop the subdivision site into a 2-lot subdivision to be known as The Reserve at Millington Phase 1; and

WHEREAS, The Millington Planning Commission approved the subdivision plan on April 18, 2022 and the 100% bond of \$78, 358.85 on June 20, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the Residential Subdivision Development Agreement with Allegro Home Builders for the Reserve at Millington Phase 1, is approved.

BE IT FURTHER RESOLVED, That the Mayor may sign the aforementioned agreement.

This Resolution is adopted as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

CITY OF MILLINGTON
RESIDENTIAL SUBDIVISION DEVELOPMENT AGREEMENT

THIS RESIDENTIAL SUBDIVISION DEVELOPMENT AGREEMENT (hereinafter the "Agreement"), is made and entered into this ___ day of _____, _____, by and between the City of Millington, Shelby County, Tennessee, (hereinafter the "City"), and Allegro Home Builders (hereinafter the "Developer"):

WITNESSETH

WHEREAS, the Developer is the owner¹ of a tract of land zoned R-0, which contains approximately 1.33 acres (the "Subdivision Site") and desires to improve and develop the Subdivision Site into a 2-lot subdivision to be known as The Reserve at Millington Phase 1 (the "Subdivision"²); and;

WHEREAS, the Millington Planning Commission (hereinafter "Planning Commission") approved the subdivision plan of the Developer on April 18, 2022 with respect to the Subdivision (the "Subdivision Plan") on pursuant to Tennessee Code Annotated, Section 13-4-301 et seq., and;

WHEREAS, the Developer is required to install with respect to the Subdivision, in conformance with the Subdivision Regulations and as provided herein, certain Public Improvements, including, but not limited to, water lines, fire hydrants, sanitary sewer lines, grading, stormwater drainage system, streets, curbs, gutters, sidewalks, street name signs, traffic control devices, streetlights, electrical power and gas utilities in said project at its own cost, and;

WHEREAS, the Developer may be required, pursuant to its application and Planning Commission approval and, as applicable Design Review Committee approval, to install Private Improvements and amenities, including, but not limited to, private streets and alleys, fences, walls, lakes, swimming pools, tennis courts and other recreational facilities, common open space amenities, stormwater retention and/or detention basins, landscaping and related irrigation systems, relative to said Subdivision, none of which shall be accepted for maintenance by the City; and,

WHEREAS, the City is willing to enter into this Agreement with the Developer relative to the development of the Subdivision, and the City is willing to provide services to the Subdivision in accordance with the City's standard policies and applicable rates; and,

WHEREAS, the City is willing to approve the Subdivision (or Planned Development), subject to the applicant's compliance with applicable existing laws, ordinances, and regulations and the conditions set forth herein;

NOW, THEREFORE, in consideration for the mutual promises herein contained, and other consideration

¹ If the Developer is not the owner of the Subdivision Site but has permission from the owner to develop same, the owner will be required to join herein, and all obligations imposed upon the Developer hereunder shall be the joint and several obligations of the Developer and the owner.

² The project contemplated hereunder may be developed under the ordinances and regulations of the City relative to Planned Developments. In such event, terms used herein to refer to subdivision shall be read so as to apply to such Planned Development.

herein recited the parties do hereby agree as follows:

1.0 DEFINITIONS

1.1 *Administrative Guidelines:* Collectively include the following codes and standards:

- (a) The standards of the American Society for Testing Materials (ASTM);
 - (b) The requirements of the Occupational Safety and Health Administration (OSHA);
 - (c) The requirements of the Federal Americans with Disabilities Act (ADA);
 - (d) The Standard Specifications for Road and Bridge Construction of the Tennessee Department of Transportation; and
 - (e) The Standards of the American National Standards Institute (ANSI);
- References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction.

Codes: Collectively include the following ordinance, regulations and standards:

- (a) Millington Zoning and Subdivision Regulations;
 - (b) Standards and specifications contained in "Local Public Works Standard, and Specifications", as amended to include specific requirements for construction in Millington, TN;
 - (c) the International Building Code (as adopted by Shelby County Code Enforcement);
 - (d) the International Building Code Fire Code; and
 - (e) any and all other applicable Ordinances of the City of Millington and Shelby County.
- References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction.

1.2 *Conditions of Approval:* are those conditions imposed upon the Developer and/ or the Subdivision by the City of Millington by and through the Board of Mayor and Alderman, Planning Commission, Board of Zoning Appeals, Design Review Committee and or any other applicable Board, Committee or Commission of the City of Millington. These conditions are listed in Exhibit "A", attached hereto.

1.3 *Effective Date:* is the date that this agreement is entered into by and between the parties hereto as demonstrated by their execution of this Contract.

1.4 *Final Subdivision Acceptance:* shall occur after all required Public and Private improvements have been completed by the Developer, to the satisfaction of the City Engineer, City Planner, City Clerk, and the City Manager.

1.5 *Final Plat Approval:* is the approval of the Final Plat by the Millington Planning Commission for a subdivision before a plat is recorded.

1.6 *Initial Acceptance:* shall occur at the point in time when the Developer has completed all required Public Improvements and Private Improvements as required by the City and specified in Exhibit "A", to the Subdivision Site, and all required Public Improvements off site, relative to the Subdivision, including the final surface asphalt course of off site Public Improvements, but not the final required surface asphalt course on the internal Subdivision streets, and same have been inspected, tested and approved in writing by all of the following: City Engineer, City Planner, City Clerk, and the City Manager. No building permits shall be issued prior to Initial Acceptance. Initial Acceptance shall not occur until such time as as-built plans (as per Section 4.11) shall be submitted by the Developer and inspected by the City Engineer. Initial Acceptance shall not occur until such time as payment of street lighting pursuant to Section 4.4 has been made in full to the City.

- 1.7 *Lot*: A single fraction or part of the Subdivision as shown by the plat or survey of the Subdivision Site.
- 1.8 *Payment-in-Lieu of Construction*: is a payment with the approval of the Planning Commission for future construction of those Public Improvements required of the Developer by the City and/or the Planning Commission. This payment shall be non-refundable to the Developer, its agents, or assigns, and there shall be no requirement of the City that said improvements shall be made in a specific period of time. The improvements shall be specified by the City Engineer and attached to this Agreement, if applicable, as an Exhibit "B."
- 1.9 *Private Improvements*: includes all specific improvements to be constructed, such as, but not limited to brick walls, landscaping, fencing, lighting, etc., as required by the City relative to the Subdivision, and which are not Public Improvements.
- 1.10 *Public Improvements*: those improvements to be constructed relative to the Subdivision that are to be dedicated to the City and accepted for perpetual maintenance by the City.
- 1.11 *Security*: a Bond or Letter of Credit issued by a bank or bonding company qualified to do business in the State of Tennessee, to the Developer, naming the City of Millington as beneficiary, and securing the completion of all Public Improvements and Private Improvements. Said bond or letter of credit shall have an expiration date of one (1) year from issuance but shall automatically renew for successive one (1) year periods and is callable upon a local branch (as per Section 7.8) of the issuing bank or bonding company. In accordance with Section 7.0 cash or Certified Check are adequate security acceptable to the City. All provisions of Section 7.0 are made by reference herein as if incorporated and recited here in full.
- 1.12 *Subdivision Site*: those parcels or tracts of land upon which the Developer intends to develop the Subdivision. The Subdivision Site shall include all portions of the parcels or tracts of land shown on the plat, whether any construction activities will take place upon the same or not.
- 1.13 *Subdivision Plans*: are those documents and plans submitted to the City in conjunction with an application for subdivision approval, including, but not limited to the application for Design Plat approval, Construction Plat approval, and Final Plat Approval.
- 1.14 *Warranty Period*: for each subdivision shall run for one (1) year from the Final Subdivision Acceptance by the City. During this Warranty Period the Developer is responsible for the maintenance and repair of any and all defects and failures of those Public and Private Improvements constructed by the Developer or his agent. Prior to the expiration of the Warranty Period and before the Security will be released by the City, a punch list of items to be repaired or replaced will be given to the Developer by the City and those items shall be completed to the satisfaction of the City Engineer, City Planner, City Clerk, and the City Manager.

2.0 OWNERSHIP

- 2.1 The Developer agrees it shall have no claim, direct or implied, in the title or ownership of the improvements specified in this Agreement that are to be dedicated to the City by virtue of the official recording of the plat for the Subdivision and accepted for perpetual maintenance by the City, those being the Public Improvements. The City, upon Initial

Acceptance and plat recording, will take full title to the Public Improvements. Maintenance responsibilities of the Developer prior to and after Final Subdivision Acceptance are provided for hereinafter.

- 2.2 Until Initial Acceptance, the Developer agrees that neither the Subdivision Site nor any portion thereof will be transferred without first providing the City with notice of when the proposed transfer is to occur and who the proposed transferee is, along with the appropriate address and telephone number of the proposed transferee.
- 2.3 If it is the proposed transferee's intention to develop the Subdivision Site or any portion thereof in accordance with this Agreement, the Developer agrees to furnish the City with an assumption agreement by which the transferee agrees to perform the obligations required under this Agreement that are applicable to the property to be acquired by the transferee. Unless otherwise agreed by the City, the Developer will not be released from any of its obligations hereunder by virtue of such transfer and the Developer and the transferee both shall be jointly and severally liable to the City following such transfer for all obligations hereunder that are applicable to the property transferred. Said assumption agreement will be subject to the approval of the City Attorney.
- 2.4 If the Developer and the transferee intend to enter into an assumption agreement whereby the Developer is released from its obligations under this Agreement, the Developer must present the assumption agreement to the City for consideration and possible approval by the Board of Mayor and Aldermen. In the event of such approval, the transferee will be required to furnish new Security acceptable to the City.

3.0 GENERAL CONDITIONS

- 3.1 Construction Standards: The Developer shall construct the Subdivision in accordance with the Subdivision Plan, as approved by the Planning Commission, and if applicable, the requirements of the Design Review Committee, and in accordance with the requirements of (a) the Millington Subdivision Regulations; (b) standards and specifications contained in "Local Public Works Standard, and Specifications", as amended to include specific requirements for construction in Millington, TN; (c) the Building Code (as adopted by Shelby County); (d) the Fire Code (as adopted by Shelby County); (e) the Millington Zoning Ordinance; and (f) the applicable Ordinances of the City. Items (a) through (f) are hereby made a part of this Agreement by reference and are hereinafter referred to collectively as the "Codes". References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction. The Conditions of Approval established by the Planning Commission, and, as applicable, the Design Review Committee (any or all of which as may have been modified by the Board of Mayor and Aldermen) are set forth in Exhibit "A" to this Agreement and are incorporated herein by reference and made a part hereof.

4.0 PUBLIC IMPROVEMENTS

4.1 General Requirements

- 4.1.1 Construction of required Public Improvements shall meet standards and specifications contained in the "Local Government Public Works Standards, and Specifications," as amended to include specific requirements for construction in Millington Tennessee.

- 4.1.2 The construction of all required Public Improvements by the Developer, including, but not limited to, curbs and gutters, street subgrade preparation, temporary surface course, wearing surface, storm drainage, sidewalks as required, water service, utility service, sanitary sewer service, street lighting and other related items shall be undertaken and completed by the Developer in accordance with Subdivision Regulations and other specifications of the City, all of which are incorporated by reference herein, said Public Improvements requiring approval and acceptance by the City.
- 4.1.3 All drainage, including but not limited to, detention ponds, ditch paving, bank protection, and fencing adjacent to open ditches made necessary by the development of this subdivision is to be constructed by the Developer and at the Developer's sole expense, on a schedule and according to plans and specifications approved by the engineer appointed by the City to advise the City regarding the construction of the Subdivision (the "City Engineer"). (See Section 4.8).
- 4.1.4 The Developer shall provide necessary erosion control, including but not limited to, seeding for gentle slopes and grass sod for steeper slopes with special grading and terracing as necessary, to the specifications of the City Engineer.
- 4.1.5 All sidewalks and driveway aprons shall be handicap accessible in accordance with ADA requirements and applicable Codes.
- 4.1.6 The Developer and/or Owner is responsible for all public improvements and ADA requirements.

4.2 Streets

- 4.2.1 The Developer agrees to dedicate and improve and/or construct, at no cost to the City, all public and/or private streets located within or required by this project to comply with the road standards of the City to the satisfaction and approval of the City Engineer, subject, however, if applicable, to the provisions of subparagraph 4.2.2 immediately below.
- 4.2.2 The Developer shall bear the cost of all engineering, inspection and laboratory costs procured by the Developer incidental to the construction of street(s) to be constructed or improved pursuant to this Agreement, including, but not limited to, material and density testing; and, if the City deems it necessary to have additional work of such nature performed, the Developer shall bear such costs also.
- 4.2.3 The Developer shall furnish and install asphalt base and a final asphalt surface course (wearing surface) on all streets, public and private, as required hereunder in accordance with the City specifications.
- 4.2.4 It is agreed and understood that if it is not necessary to change the existing grade, alignment or disturb the pavement of an existing street or road, the Developer shall only be required to construct drainage, sub-base, base and pavement to match the existing pavement and construct sidewalks, curb and gutter as required. If the existing grade and/or alignment is changed, the Developer shall be required to grade, prepare sub-base, base and pave the full

width of said street or road. Both options must be in accordance with ADA requirements and applicable Codes

- 4.2.5 Street Temporary Surface Course: The Developer shall be responsible for street subsurface preparation ("Temporary Surface Course") and, in addition to the detailed specifications, the following requirements, subject to approval by the City, shall apply:

TYPE OF TEMPORARY SURFACE COURSE (Residential Streets with 50' of Right of Way)

- (1) 8" Compacted Gravel Base..... 2" Black Base Asphalt
- (2) 8" Soil Cement Base as designed..... 2" Black Base Asphalt by an accepted soils laboratory testing firm and under direct approval by the City Engineer.

TYPE OF TEMPORARY SURFACE COURSE (All Other Streets with more than 50' of Right of Way)

- (1) 10" Compacted Gravel Base..... 3" Black Base Asphalt
- (2) 10" Soil Cement Base as designed..... 3" Black Base Asphalt by an accepted soils laboratory testing firm and under direct approval by the City Engineer.

Completion of the Temporary Surface Course in all phases shall be required prior to recording of the Final Plat.

- 4.2.6 Street Wearing Surface: Developer shall furnish and install a final asphalt surface course (hereinafter "Wearing Surface") as indicated below in accordance with the City's Subdivision Regulations.

THICKNESS OF WEARING SURFACE (Residential Streets with 50' of Right of Way)

- (1) 1-½" Wearing Surface

THICKNESS OF WEARING SURFACE (All Other Streets with more than 50' of Right of Way)

- (1) 2" Wearing Surface

- 4.2.7 Wearing Surfaces shall not be completed earlier than one (1) calendar year after Initial Acceptance of the subdivision, except as allowed under Paragraph 4.2.9 below. Wearing Surfaces shall not be installed until the later of: (a) two (2) calendar years after the recording of the Final Plat, or (b) 50% of the lots in the subdivision are complete and occupied. This provision can only be altered by formal written request to the Board of Mayor and Aldermen for the City.

- 4.2.8 The Developer may request administrative approval to install the Wearing Surface earlier than one (1) calendar year after Initial Acceptance, if 75% of the

lots in the subdivision are complete and occupied. Each such request must be specifically approved in writing by all of the following: City Engineer, City Planner, City Clerk and the City Inspector.

- 4.2.9 The Developer shall adjust manholes and water valve boxes to meet proposed finished surface elevations prior to application of the Wearing Surface at the sole expense of the Developer.
- 4.2.10 The City specifically reserves the right to require the Developer to repair the Temporary Surface Course as necessary and in such areas that are recommended by the City Engineer or Public Works Department, prior to application of final Wearing Surface.
- 4.2.11 All construction on state routes must be approved and constructed in accordance with TDOT standards and specifications.

4.3 Electricity

- 4.3.1 The Developer shall provide electrical service to each commercial Lot at his sole expense. All electrical lines from the service poles to the buildings are to be underground with transformer boxes located at the building line or rear property line.

The Developer shall provide a copy of the utility plans approved by Memphis Light Gas & Water to the City Engineer prior to the Final Plat Approval.

4.4 Street Lighting

- 4.4.1 The Developer shall provide streetlights for the entire Subdivision at his sole expense. The type of lighting standard, pole spacing, and installation shall be per Memphis Light, Gas and Water standards. Memphis Light Gas and Water shall bill the City for installation of street lighting per its standards.
- 4.4.2 The Developer of the subdivision is responsible for the cost of street lighting. Prior to release of bond, Memphis Light Gas and Water will submit a final installed cost of streetlights. The City will bill the Developer for the actual cost of the streetlight installation. The Developer shall make payment to City within 30 days of billing. City may withhold all other approvals and/or permits within the Subdivision until such payment is made by Developer. Once the Developer pays this cost, the bond may be reduced to reflect the estimated streetlight costs.
- 4.4.3 There is a Street Light estimated cost of \$650 Per Lot provided in the bond.

4.5 Telephone and Cablevision

- 4.5.1 Telephone and Cablevision pedestals shall be located in rear yards only.

4.6 Water Service

- 4.6.1 The Developer shall construct the water lines in and serving the Subdivision and pay the City for and to install all meters and make connection of Subdivision to City water system.

- 4.6.2 The Developer shall pay the cost of water main and accessories to serve the Subdivision from a point to be approved by the Planning Commission and the City Engineer. The Developer will also pay for the water mains and accessories within the Subdivision, including service lines, accessories from the main to the meter and all meters.
- 4.6.3 The Developer shall pay the cost of all engineering, inspection and laboratory cost relating to the water service system in or to the Subdivision, including but not limited to inspection and approval by the Tennessee Department of Public Health. The Developer shall provide the City with copies of comments and certificates from said Department.
- 4.6.4 If required by the City, the Developer shall install fire hydrants in accordance with the type service appropriate, the type and location as approved by the Planning Commission with recommendation from the City's Fire Chief and the City Engineer.
- 4.6.5 Water connection fee, per lot 1" meter is \$500.00 plus the cost of the meter (collected from the builder). All connections made to the water line or any lateral lines of the North Fork Creek water line shall be subject to a water development charge of the greater of \$3,000 per acre or \$1,200 per connection.
- 4.6.6 For all connections made to the main water line or any lateral lines other than those served by the North Fork Creek water line, the water development charge shall be \$1,500.00 per connection.

4.7 Sewer Service

- 4.7.1 The Developer (including any partnership of Developers), at its sole expense, shall develop and construct the sewer extensions, mains and laterals as necessary to service the new development(s) and the increased capacity resulting therefrom.
- 4.7.2 The Developer shall also be responsible and pay for the reasonable expense incurred by the City towards development of the developer's sewer extension and negotiations of this agreement including but not limited to attorney fees and condemnation cost and expenses.
- 4.7.3 The design, route and specifications of said extensions, mains and laterals shall be approved in writing by the City Engineer.
- 4.7.4 The Developer shall not attach said sewer extension and/or main to the City's interceptor sewer system, (including pump stations and/or sewage plant) without the written authority or permission of the Public Works Department to do so. This agreement shall not be construed or interpreted in any way whatsoever as the granting of the authority or permission to attach to, "tie in" and/or "hook on" to the City's interceptor sewer system without the express written authorization of the Public Works Department to do so.
- 4.7.5 The sewage system improvements required for the Subdivision, complete with necessary pump stations, force mains and manholes, shall be approved by the State of Tennessee Department of Environment and Conservation.
- 4.7.6 The Developer shall provide all sewer mains and manholes as provided for in the

Subdivision Plans and specifications.

- 4.7.7 The Developer shall provide all sewer laterals from the sewer main to the front property line of each Lot as approved by the City Engineer and provided for in the Subdivision Plans and specifications, including, but not limited to connection to the main and service pipe with plug. The utility trench created across any existing streets shall be backfilled full depth with flowable concrete fill along with asphalt service equal to the existing pavement section, or as directed by the Public Works Department.
- 4.7.8 The Developer shall pay the cost of all engineering, inspection and laboratory testing incidental to the sewer service in or to the subdivision.
- 4.7.9 The building permits for the Subdivision shall be withheld until the above stipulations are met in their entirety.
- 4.7.10 Sewer connection fee, per lot is \$500 (collected from the builder). Property located in the North Fork Creek Sewer Area is subject to a development fee of the greater of \$3,000 per acre, or \$1,200 per connection.
- 4.7.11 For all connections made to the main sewer line or any lateral lines other than those served by the North Fork Creek sewer outfall line, the sewer development charge shall be \$1,500.00 per connection.

4.8 Drainage Design

- 4.8.1 The Developer shall provide a drainage system which will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property, either upstream or downstream of the Subdivision. The Developer shall also provide to the City the formal written opinion of a certified and licensed professional engineer certifying, as a professional engineer, that he has reviewed the entire watershed within which the subdivision is located and that upon full development at the greatest allowable use density, under existing zoning of all land within the watershed, the Subdivision will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property, either upstream or downstream of the Subdivision. Further, the Developer agrees to hold harmless and to defend the City and the City Engineer from any claim, cause of action or liability, alleged and/or proven, to have arisen directly or indirectly from alteration affecting the surface water by reason of the Developer's design, construction, installation or the development itself, in whole or part. The aforesaid indemnity agreement includes, without limitation, the reasonable expenses of the City incurred in defending itself against any matter covered by such indemnity agreement, including attorney fees and expenses of litigation.
- 4.8.2 The Developer agrees that it will provide necessary erosion control, such as seeding for gentle slopes (4 to 1 or less), grass sod for steeper slopes, with special grading and terracing, to the specifications of the City Engineer. All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required by the City Engineer to prevent erosion. In the event the City Engineer determines that necessary erosion control is not being provided by the Developer, the proper governing authority shall officially notify the Developer of the problem. If the Developer has not corrected the problem within 7 days after the notice, then the

proper governing authority shall make the necessary improvement to eliminate the erosion problem, documenting all expenses incurred while performing the work. Prior to releasing any Security hereunder, all expenses incurred by the governing authority relative to the foregoing shall be paid in full by the Developer plus interest thereon at the rate of ten percent (10%) per annum.

- 4.8.3 Any and all unenclosed watercourses lying partially or wholly within the boundary of the Subdivision Site shall be constructed to an adequate cross section to provide design flow without threat of erosion or flooding of any property within the Subdivision Site or any adjoining property. Such watercourses shall be lined in a manner satisfactory to the City Engineer and any other agencies which may have jurisdiction.
- 4.8.4 All buildings in the Subdivision will be constructed so as to be safe from flooding in the event of a 100-year flood. As a minimum, the finished floor elevation of all buildings shall be 1' above the 100-year flood elevation as established by the Federal Emergency Management Agency for the City of Millington.
- 4.8.5 The Developer understands and agrees that neither the City in its proprietary function nor the City Engineer in the performance of his professional responsibilities are vested with the original design responsibility or the means to formally survey elevations or the locations of drainage improvements at every state of the construction process, and that, therefore, the ultimate responsibility for compliance with all Subdivision Regulations, approved plans and specifications and Agreement provisions rests with the Developer.
- 4.8.6 The Developer shall pay the cost of all engineering, inspection, and laboratory testing incident to the drainage system of the Subdivision.

4.9 Preconstruction Conference

- 4.9.1 The Developer is required to meet with the City Staff prior to commencing construction for a pre-construction conference. At that conference the execution of the work, specifications, terms and conditions of the Agreement will be discussed.
- 4.9.2 At the time of the Pre-Construction Conference, all development fees must be paid, construction plans must be signed by the City Engineer, the sewer approval has been granted by the State, the Stormwater Pollution Prevention Plan and Notice of Intent must be filed with the State of Tennessee, and the required bond must be posted.

4.10 Street Signage

- 4.10.1 The Developer agrees to install permanent street signposts and markers at all street intersections in the Subdivision and to install traffic control devices, signage and striping relative to the Subdivision. The standards and specifications for public street signposts and lettering can be obtained from the City Planner.
- 4.10.2 Location of street and traffic control signs to be installed shall be approved by the City Engineer. All traffic control devices, signage and striping shall be installed as per the Manual on Uniform Traffic Control Devices and approved by the City Engineer.

4.11 Release of Public Improvements

- 4.11.1 The Developer shall furnish to the City, as-built plans, on a reproducible, stable media, immediately following the completion of the construction. The as-built plans shall be endorsed by a Tennessee Registered Professional Engineer and or a Registered Land Surveyor. The certification in Exhibit "D" shall be added to all sheets of the plans. The as-built plans shall be submitted to the City before the Initial Acceptance by the City. All aspects of the project that have been affected by construction should be verified and appear on the as-built plans. This would include, but is not limited to, the following items:
- 4.11.1.1 All property lines and easements.
 - 4.11.1.2 Elevations (rim & invert) of storm drainage structures.
 - 4.11.1.3 Elevations (rim & invert) of sanitary sewer manholes.
 - 4.11.1.4 Horizontal location of all storm drains and sanitary sewer structures with station and offsets tied to street centerlines.
 - 4.11.1.5 For any streets with less than 1% longitudinal slope, provide as-built gutter elevations at 25' intervals.
 - 4.11.1.6 For areas of a subdivision which were filled to raise the property above the 100-year flood elevation, an as-built topographic survey shall be provided.
 - 4.11.1.7 For all detention basins, an as-built topographic survey shall be provided.
- 4.11.2 The Developer shall provide the City with a copy of the Final Subdivision Plan documents including sewer, water and drainage as - built drawings, using State Plane Coordinate System with NAD – 83 datum on DVD in DXF or DWG format (AutoCAD 2010 or earlier) prior to recording of the plat of the Subdivision.
- 4.11.3 The Developer shall have no claim, direct, indirect or implied, to title or ownership of the Public Improvements described in this Agreement from and after Initial Acceptance.
- 4.11.4 The City, upon Initial Acceptance, shall take full and complete title to the Public Improvements, provided however, the Developer shall be responsible for maintenance, construction failures and defects in all Public and Private Improvements of the Subdivision through the Warranty Period. The Developer shall, at his sole expense, correct and cure such defects and failures in the manner prescribed by and to the satisfaction of the City or the City Engineer.
- 4.11.5 There is an Inspection Fee Per Lot of \$300.00. A Recording Fee (first sheet) \$50.00 and Each additional sheet there is an additional fee of \$15.00. The maximum size of a sheet is 18" x 24".

5.0 PRIVATE IMPROVEMENTS

- 5.1 All Private Improvements to be completed by the Developer shall be included on either the Final Plat and/or the Conditions of Approval as set forth in Exhibit "A" attached hereto. All Private Improvements shall be completed prior to Final Subdivision Acceptance or as otherwise stated in Exhibit "A".
- 5.2 All Private Improvements and their maintenance thereafter shall be the responsibility of the Developer or his assigns. The Private Improvements shall only be made on property

that will **NOT** be dedicated to nor accepted by the City, but instead shall be owned by the Developer, a lot owner and/or a Property Owner's Association.

- 5.3 The Developer shall post Security for a value of the construction of the Private Improvements. The City Engineer shall establish that amount of the Security.
- 5.4 If the establishment of a Property Owner's Association is required as a Condition of Approval, then the Developer shall be responsible for the formation of the Property Owner's Association. The Developer shall file a charter with the Tennessee Secretary of State to establish the corporate entity of the Property Owner's Association, as well as draft by-laws and restrictive covenants of the Property Owner's Association. The Property Owner's Association must be formed, in good standing with the State of Tennessee and have its charter, by-laws and restrictive covenants recorded with the Shelby County Register prior to the recording of the Final Plat. The Property Owner's Association its charter, by-laws and restrictive covenants shall conform to the Millington Subdivision Regulations. The Developer shall provide documentation to the City prior to the recording of the Final Plat that these items have been completed.
- 5.5 If the Property Owner's Association is to own any real property, easements and/or common open space within the Subdivision then that property, easements and/or common open space must be deeded from the Developer to the Property Owner's Association at the time of the recording of the Final Plat. Furthermore, it is a requirement that any and all common open space be owned by a Property Owner's Association and that the deed transferring the property as well as the by-laws of the Property Owner's Association clearly state that any and all property, easements and/or common open space owned by the Property Owner's Association can not be transferred to another party, and if such a transfer does occur or the Property Owner's Association shall cease to exist either through dissolution or other means then the responsibility of the maintenance of said property, easements and common open space shall become the personal liability and responsibility of every lot owner in the subdivision. Furthermore, the Property Owner's Association and its by-laws and/or restrictive covenants shall conform the to the City of Millington Subdivision Regulations The Developer shall provide documentation to the City prior to the recording of the Final Plat that these items have been completed.

6.0 FEES TO BE PAID

6.1 In connection with the development of the Developer shall pay to the City fees, in such amounts and at such times, as set forth below:

I.	Water Development Fee, \$ 1,500 per lot	\$	3,000
II.	Sewer Development Fee, \$ 1,500 per lot	\$	3,000
III.	Water Tap Fee 1", \$500.00 plus the meter cost per lot	\$	By builder
IV.	Sewer Connection Fee, \$500 per lot	\$	By builder
V.	Subdivision Inspection Fee, \$300 per lot	\$	600
TOTAL DUE:		\$	6,600

*NOTE: SEPARATE CHECKS ARE REQUIRED FOR EACH FEE.

If Subdivision construction is not completed within one (1) year from the date of execution of this Agreement and the fee structure of the City has been amended, the Developer shall be responsible for the payment of fees pursuant to the amended fee structure of the City.

7.0 SECURITY REQUIREMENTS

7.1 Option One, 100% Bond - Prior to recording of the final plat, the Developer shall furnish to the City, Security in the form of a subdivision bond in the amount of the total value and cost of installation of the Public and Private Improvements to be made, plus one year's inflation, until the Subdivision construction has been completed and the Warranty Period has expired. The amount and terms of the bond shall be determined by the City Engineer and approved by the Planning Commission.

7.2 Option Two, Alternative Minimum Bond - An alternative security amount may be posted in the event the developer intends to install certain improvements prior to the recording of the plat. If the developer does not wish to record his plat until all work is complete and prior to issuing the building permit, he may choose to work on his property without the city fully bonding that work as required in the previous section. This will allow him to place a minimum bond to cover contract requirements and bond only what is required in the right of way or work that is necessary to protect the public interest or are estimated amounts for future payment by the developer. All fees will be paid prior to starting work on the project and a minimum bond will be set and that amount will be provided to the city in any of the previously allowed forms. The items that must be included in this bond are:

- a. Erosion control plan items,
- b. Work in existing public right of way items including traffic control,
- c. Work necessary to attach to public water, sewer or drain lines,
- d. Work in any streams or drainageways.
- e. Estimated sidewalk and handicap costs,
- f. Estimated final asphalt surface costs
- g. Estimated street light costs at \$650.00 per lot.

Prior to the start of any work on the subdivision, the developer shall post the alternative security amount in the form of good and sufficient security with the City in the amount of one hundred (100%) percent of the City Engineer's approved estimate of cost of items a-g above to assure completion of the work, plus one (1) year's inflation estimated at six (6%) percent. In this option, the final plat may not be recorded until all required improvements are completed, as-built drawings are provided to the City, and the improvements have been accepted by the City for building permits. At that time, the bond may be reduced in accordance with section 7.5 below.

7.3 The City, in its sole discretion, may, in lieu of a subdivision bond, accept a Certified Check made payable to the City for the total amount of the total value and cost of installation of the Public and Private Improvements. If the Developer submits a Certified Check in lieu of a bond, he must execute an "Escrow Agreement" with the City in form and substance acceptable to the City and its attorneys, which shall become a part of this Agreement. In the event that the required improvements are built and installed in accordance with the foregoing standards and requirements as approved by the City Engineer, the deposit made in lieu of bond and in accordance with the Escrow Agreement will be returned to the Developer at the end of the Warranty Period. In the event that the construction and installation are not completed or approved by the City, the deposit, or so much thereof as

may be necessary, shall be expended as provided in the Escrow Agreement.

- 7.4 The City, in its sole discretion, may, in lieu of a subdivision bond, accept an irrevocable standby letter of credit exclusively in favor of the City, from an institution approved by the City, for the total value and cost of installation of the Public and Private Improvements. Said letter of credit shall be upon terms acceptable to the City and the City shall have the right to demand payment of the letter of credit, or so much thereof as may be necessary, in the event that the construction and installation are not completed or approved by the City.
- 7.5 Upon completion of the major improvements, specifically including but not limited to, all Temporary Surface Courses, utility service, water service, sewer service, street lighting, and drainage systems, and upon final inspection and acceptance by the City Engineer, the Developer may request, and the City shall approve upon submission of appropriate documentation as to the cost of completion of the remaining Public and Private Improvements, a reduction in the amount of the subdivision bond, cashier's check, or letter of credit, to an amount equal to 150% of the cost of completion of the remaining Public and Private Improvements. Provided, however, in no event shall the amount of the subdivision bond, cashier's check, or letter of credit be reduced to an amount which would be less than the amount recommended by the City Engineer and approved by the Planning Commission to secure the Developer's obligations and with respect to Developer's Warranty Period. The subdivision bond, cashier's check, or letter of credit, and the amount required by the preceding sentence, shall remain in full force and effect until the expiration of said Warranty Period.
- 7.6 The City reserves the right in its sole discretion to refuse to accept any Subdivision Bond or Letter of Credit from any institution, surety or bank. The City reserves the right in its sole discretion to limit the amount any single institution, surety or bank may guarantee to the City whether under a single development agreement or as a total amount guaranteeing several development agreements from multiple developers.
- 7.7 Any bond or letter of credit shall have an expiration date of one (1) year from the issuance but shall automatically renew for successive one (1) year periods, until released by the City.
- 7.8 The City requires that regardless of any other requirement or language to the contrary, that a provision be added in every subdivision bond or letter of credit that prior to the final expiration date of the subdivision bond or letter of credit, the institution, surety or bank shall provide to the City of Millington a written statement no earlier than 150 days and no later than 120 days prior to the final expiration date, that the subdivision bond or letter of credit shall expire and will not be renewed as of that final expiration date.
- 7.9 The City requires that regardless of language to the contrary anywhere in the subdivision bond or letter of credit, that the subdivision bond or letter of credit shall specifically state in plain language that should any litigation arise in relation to the subdivision bond or letter of credit, the proper jurisdiction and venue of such litigation shall be in the appropriate court in Shelby County, Tennessee.
- 7.10 No subdivision bond or letter of credit will be accepted by the City unless the institution, surety or bank issuing same is authorized and registered to do business within the State of Tennessee and has a local branch (meaning within 100 miles of Millington, TN) for which presentment of a draw is required.
- 7.11 No subdivision bond or letter of credit will be accepted by the City until such time as it has been reviewed to the satisfaction of the City Engineer, City Planner, City Clerk, City Inspector and the City Attorney.
- 7.12 Calculation of Security. The amount of the Security described above shall be:

\$ 78358.85

Indicate which bonding method is being selected

 X **Option One, 100% Bond**

 Option Two, Alternative Minimum Bond

Based on an Engineer's Estimate of the cost of Public Improvements the following costs and reduction schedule is calculated for.

Cost of Public Improvements	=	\$	72722.50
Cost of Private Improvements	=	\$	0.00
1 Year inflation @ 6%	=	\$	4363.35
Street Light Improvements @ \$650 per unit		\$	1300.00
Total	=	\$	78,358.85

* THE SECURITY ABOVE INCLUDES THE PUBLIC IMPROVMENTS COST REQUIRED FOR THE DEVELOPMENT OF THE RESERVE AT MILLINGTON PHASE 1.

* Cost of street lighting, gas system, electric system and service is not included, it is managed by contract with MLG&W. Telephone services are managed by local telephone company and likewise cable services.

8.0 MISCELLANEOUS

8.1 Developer's Responsibility

8.1.1 It is understood and agreed that the City is not and could not be expected to oversee, supervise and/or direct the construction of all improvements contemplated hereunder. Neither is the City Engineer vested with the original design responsibility nor the means to formally survey elevations, capacity, structural integrity, type, adequacy or the locations of improvements at every stage of the construction process. The City Engineer is vested with the right of periodic inspections, final approval and stop work order as a measure of secondary or subsequent enforcement. The Developer now has and shall retain the responsibility to properly anticipate, survey, design and construct the development improvements and give full assurance that same shall not adversely affect the flow of surface water from or upon any property. In providing technical assistance, plan and design review, the City does not and shall not relieve the Developer from or accept any liability from the Developer. The Developer will provide his own Project Engineer whose duty shall be to design improvements that comply with all applicable Federal, State and local codes and ordinances.

8.2 Subdivision Plans and Specifications

8.2.1 The Subdivision Plans and specifications presented to the Planning Commission for its approval shall be prepared by a licensed civil engineer, approved by the City, and shall be subject to the review and recommendations of the City Engineer.

8.3 Jeopardy of Building Permits

8.3.1 Should the Developer fail to complete any part of the Subdivision in a good and workmanlike manner as determined by the City Engineer, or shall the Developer fail to comply with the contractual obligations of this Agreement then the City shall have the right to withhold and withdraw all building permits, water and sewer service within or to the Subdivision until the Developer has fulfilled all terms of this Agreement, the Subdivision Regulations, and the plans and specifications approved by the City.

8.4 Easements

8.4.1 The Developer shall obtain and shall furnish to the City all necessary easements to serve the Subdivision, said easements to be in form, type, size and character as required by the Subdivision Regulations and/or as approved by the City Engineer and acceptable to the City.

8.5 Compliance with Laws

8.5.1 The Developer shall comply with all applicable federal, state and local laws and regulations and shall upon the City's request, furnish proof of compliance.

8.6 Engineering Costs Over and Above Fee Schedule

8.6.1 The Developer shall pay one hundred percent (100%) of any and all engineering costs incurred by the City, in addition to those fees specifically set forth in Section 4, 5 and 6 of this Agreement, for review and oversight of the Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.7 Attorney's Fees/Subdivision Review

8.7.1 The Developer shall pay any and all attorney's fees incurred by the City in addition to those fees specifically set forth in Sections 4, 5 and 6 of this Agreement for review of documents, agreements, contracts, proposals and related materials involved in Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.8 Attorney's Fees/Code Amendments

8.8.1 In addition to those fees specifically set forth in Sections 4, 5, 6, 8.7 and 8.9 of this Agreement, the Developer shall pay one hundred percent (100%) of the legal costs, including, but not limited to attorney's fees, associated with any and all amendments to the Millington Municipal Code related to the development of the Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.9 Attorney's Fees/Enforcement

8.9.1 Should the Developer default in any part of this Agreement and it becomes necessary to engage an attorney to obtain compliance with this Agreement and/or file necessary legal action to enforce provisions of the Agreement or sue for any sums of money due and owing or liability arising incident to this Agreement, the Developer agrees to pay to the City its reasonable Attorney's fees associated with such action.

8.10 Effect of Agreement

8.10.1 This Agreement is supplemental and in addition to all federal, state, county and local laws, regulations and requirements regarding the development of a subdivision and is intended to augment, explain, expand and clarify said laws, regulations and requirements. This Agreement may be changed, amended, or terminated only by similar written instrument executed by all parties to be bound thereby.

8.11 Parties Bound

8.11.1 All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of, and be enforceable by and against, the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8.12 Assignment Limited

8.12.1 The Developer may not assign or delegate its rights or duties under this Agreement without the prior written consent of the City in each instance.

8.13 Severability

8.13.1 If any provision of this Agreement is held to be unlawful, invalid or unenforceable under any present or future laws, such provisions shall be fully severable; and this Agreement shall then be construed and enforced as if such unlawful, invalid, or unenforceable provisions had not been a part hereof. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such unlawful, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such unlawful, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

8.14 Headings Not Part of Agreement

8.14.1 The heading preceding each paragraph (if any) are inserted merely as a matter of convenience and shall not be deemed to be a part of the Agreement terms.

8.15 Notices

8.15.1 All notices, demands and requests required or permitted by this Contract shall be in writing (including telecopy communications) and shall be sent by facsimile transmission, air or other courier, or hand delivery, as follows:

To: CITY
City of Millington
Attn: Karen Findley, City Clerk
7930 Nelson Street
Millington, Tennessee 38053

Telephone: 901/873-5701
Facsimile: 901/872-4113
E-Mail: k.findley@millingtontn.gov

Any notice, demand or request sent by facsimile transmission shall be deemed given for all purposes under this Agreement when properly transmitted by telecommunication device. Any notice, demand or request which is hand delivered or sent by air or other courier shall be deemed given for all purposes under this Agreement when delivered to the intended address.

8.16 Joinder of Owner

8.16.1 In the event that the Developer is not the owner of the Subdivision Site, the owner joins in this Agreement and by the Owner's execution of this Agreement, the owner is jointly and severally liable for the representations, warranties, covenants, agreements and indemnities as expressly set forth in this Agreement.

8.17 Disclosure of Ownership Interest

8.17.1 The Developer, at the filing of its initial application, completed a Disclosure of Ownership Interest form with the City. The Developer hereby states, certifies and confirms to the City that the information on that form is still true and correct as of the Effective Date, if not then the form shall be revised if necessary. The Disclosure of Ownership Interest form shall be attached as Exhibit "C" to this Agreement and is incorporated herein by reference and made a part hereof.

8.18 Recording

8.18.1 At the option of either party to this Agreement, this document and all Exhibits hereto may be recorded with the Shelby County Register's Office.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals at Millington, Tennessee, this the ** day of *****, ****

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

DEVELOPER

By: _____
Title: _____
Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared _____, with whom I am personally acquainted, and who, upon oath, acknowledged _____ to be the _____ for _____, the within named bargainor, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such _____.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

³ The Effective Date hereof shall be the date upon which the last to sign of the Mayor and Developer executes this Agreement, which date shall be entered on the first page hereof.

OWNER (if applicable):

By: _____

Title: _____

Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared _____, with whom I am personally acquainted, and who, upon oath, acknowledged _____ to be the _____ for _____, the within named bargainer, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such _____.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

CITY OF MILLINGTON

By: _____
Terry G. Jones, Mayor

Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Terry Jones, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Mayor for the City of Millington, the within named bargainor, and that he, as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Mayor.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

APPROVED BY CITY ATTORNEY:

Exhibit "A"

Conditions of Approval

1. This phase does not have any detention for storm water. The area is to be added to the overall development post development discharge as bypass to detention basin.
2. Provide grading to provide positive drain for the ditch shown on the Bateman road section. Provide a 15-foot drainage easement for Passive path from Barrett Oaks S and Barrett Oaks Drive
3. The post construction discharge for the lower basin shown in the overall drainage plan is greater than the pre-developed storm water discharge. The overall post-development discharge for the project does not clearly indicate the post development discharge that bypasses the detention basin.
4. The master grading plan where the storm water flows across multiple sites is without a clear path. Master grading plan must provide a clear path for stormwater flow.

Exhibit "B"

Payment-in-lieu of construction – N/A

Exhibit "C"

DISCLOSURE OF OWNERSHIP INTERESTS

In order to assist staff and appointed and elected officials of the City of Millington in complying with Ordinances of the City relating to conflicts of interest, the following information is required to be furnished:

- 1. For Profit Entities. If the applicant submitting this Application ("Applicant") is a for-profit, i.e., general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Applicant must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Applicant. (If another business entity owns 10% or more of the ownership interests in the Applicant, all persons owning a 10% or more interest in such last-mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Applicant, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Applicant: _____

Persons or Entities Owning 10% or More of the Ownership Interests of the Applicant:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

- 2. For Profit Entities. If the owner and any lessee of the land which is the subject of this Application ("Owner and Lessee") is a for-profit entity, i.e., general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Owner and Lessee must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner and Lessee. (If another business entity owns 10% or more of the ownership interests in the Owners and Lessee, all persons owning a 10% or more interest in such last-mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner and Lessee, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner and Lessee: _____

Persons or Entities Owning 10% or More of the Ownership Interests of the Owner and Lessee:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

3. Not for Profit Entities. If the applicant submitting the Application ("Applicant") is a not-for-profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Applicant: _____

President or Equivalent
Chief Executive Officer: _____

Members of the Board of Directors of the Applicant:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

4. Not for Profit Entities. If the owner and lessee of the land which is the subject of this Application ("Owner and Lessee") is a not-for-profit entity, the authorized representative of the Owner and Lessee must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Owner and Lessee: _____

President or Equivalent
Chief Executive Officer: _____

Members of the Board of Directors of the Owner and Lessee:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

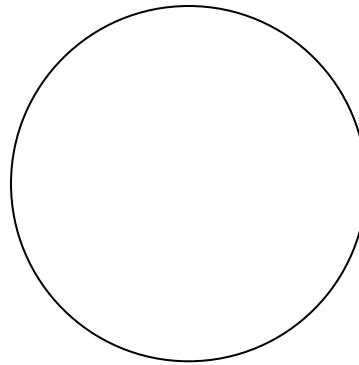
As-built plans are required to be endorsed by a Tennessee Registered Professional Engineer and or a Registered Land Surveyor. The following certification shall be added to all sheets of the plans.

AS-BUILT CERTIFICATION

I, _____, hereby certify that the As-Built information shown on this drawing is an accurate and complete representation of data established by a field survey performed under my direction on _____ (date), and that the improvements were constructed according to the approved plans, except as otherwise noted hereon.

Name

Date



SEAL

RESOLUTION 27-2022

RESOLUTION APPROVING RESIDENTIAL SUBDIVISION DEVELOPMENT
AGREEMENT WITH ALLEGRO HOME BUILDERS FOR THE RESERVE AT
MILLINGTON PHASE 2

WHEREAS, Allegro Home Builders, is the owner and developer of a tract of land zoned R-0, Residential, which contains approximately 11.49 acres and desires to improve and develop the subdivision site into an 8-lot subdivision to be known as The Reserve at Millington Phase 2; and

WHEREAS, The Millington Planning Commission approved the subdivision plan on April 18, 2022 and the Alternative Minimum Bond of \$276,371.39 on June 20, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the Residential Subdivision Development Agreement with Allegro Home Builders for the Reserve at Millington Phase 2, is approved.

BE IT FURTHER RESOLVED, That the Mayor may sign the aforementioned agreement.

This Resolution is adopted as of the 11th day of July, 2022.

Terry G. Jones, Mayor

Karen Findley, City Clerk

CITY OF MILLINGTON
RESIDENTIAL SUBDIVISION DEVELOPMENT AGREEMENT

THIS RESIDENTIAL SUBDIVISION DEVELOPMENT AGREEMENT (hereinafter the "Agreement"), is made and entered into this ___ day of _____, _____, by and between the City of Millington, Shelby County, Tennessee, (hereinafter the "City"), and Allegro Home Builders (hereinafter the "Developer"):

WITNESSETH

WHEREAS, the Developer is the owner¹ of a tract of land zoned R-0, which contains approximately 11.49 acres (the "Subdivision Site") and desires to improve and develop the Subdivision Site into an 8-lot subdivision to be known as The Reserve at Millington Phase 2 (the "Subdivision"²); and;

WHEREAS, the Millington Planning Commission (hereinafter "Planning Commission") has approved the subdivision plan of the Developer with respect to the Subdivision (the "Subdivision Plan") on pursuant to Tennessee Code Annotated, Section 13-4-301 et seq., and;

WHEREAS, the Developer is required to install with respect to the Subdivision, in conformance with the Subdivision Regulations and as provided herein, certain Public Improvements, including, but not limited to, water lines, fire hydrants, sanitary sewer lines, grading, stormwater drainage system, streets, curbs, gutters, sidewalks, street name signs, traffic control devices, streetlights, electrical power and gas utilities in said project at its own cost, and;

WHEREAS, the Developer may be required, pursuant to its application and Planning Commission approval and, as applicable Design Review Committee approval, to install Private Improvements and amenities, including, but not limited to, private streets and alleys, fences, walls, lakes, swimming pools, tennis courts and other recreational facilities, common open space amenities, stormwater retention and/or detention basins, landscaping and related irrigation systems, relative to said Subdivision, none of which shall be accepted for maintenance by the City; and,

WHEREAS, the City is willing to enter into this Agreement with the Developer relative to the development of the Subdivision, and the City is willing to provide services to the Subdivision in accordance with the City's standard policies and applicable rates; and,

WHEREAS, the City is willing to approve the Subdivision (or Planned Development), subject to the applicant's compliance with applicable existing laws, ordinances, and regulations and the conditions set forth herein;

NOW, THEREFORE, in consideration for the mutual promises herein contained, and other consideration herein recited the parties do hereby agree as follows:

¹ If the Developer is not the owner of the Subdivision Site but has permission from the owner to develop same, the owner will be required to join herein, and all obligations imposed upon the Developer hereunder shall be the joint and several obligations of the Developer and the owner.

² The project contemplated hereunder may be developed under the ordinances and regulations of the City relative to Planned Developments. In such event, terms used herein to refer to subdivision shall be read so as to apply to such Planned Development.

1.0 DEFINITIONS

1.1 *Administrative Guidelines:* Collectively include the following codes and standards:

- (a) The standards of the American Society for Testing Materials (ASTM);
 - (b) The requirements of the Occupational Safety and Health Administration (OSHA);
 - (c) The requirements of the Federal Americans with Disabilities Act (ADA);
 - (d) The Standard Specifications for Road and Bridge Construction of the Tennessee Department of Transportation; and
 - (e) The Standards of the American National Standards Institute (ANSI);
- References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction.

Codes: Collectively include the following ordinance, regulations and standards:

- (a) Millington Zoning and Subdivision Regulations;
 - (b) Standards and specifications contained in "Local Public Works Standard, and Specifications", as amended to include specific requirements for construction in Millington, TN;
 - (c) the International Building Code (as adopted by Shelby County Code Enforcement);
 - (d) the International Building Code Fire Code; and
 - (e) any and all other applicable Ordinances of the City of Millington and Shelby County.
- References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction.

1.2 *Conditions of Approval:* are those conditions imposed upon the Developer and/ or the Subdivision by the City of Millington by and through the Board of Mayor and Alderman, Planning Commission, Board of Zoning Appeals, Design Review Committee and or any other applicable Board, Committee or Commission of the City of Millington. These conditions are listed in Exhibit "A", attached hereto.

1.3 *Effective Date:* is the date that this agreement is entered into by and between the parties hereto as demonstrated by their execution of this Contract.

1.4 *Final Subdivision Acceptance:* shall occur after all required Public and Private improvements have been completed by the Developer, to the satisfaction of the City Engineer, City Planner, City Clerk, and the City Manager.

1.5 *Final Plat Approval:* is the approval of the Final Plat by the Millington Planning Commission for a subdivision before a plat is recorded.

1.6 *Initial Acceptance:* shall occur at the point in time when the Developer has completed all required Public Improvements and Private Improvements as required by the City and specified in Exhibit "A", to the Subdivision Site, and all required Public Improvements off site, relative to the Subdivision, including the final surface asphalt course of off site Public Improvements, but not the final required surface asphalt course on the internal Subdivision streets, and same have been inspected, tested and approved in writing by all of the following: City Engineer, City Planner, City Clerk, and the City Manager. No building permits shall be issued prior to Initial Acceptance. Initial Acceptance shall not occur until such time as as-built plans (as per Section 4.11) shall be submitted by the Developer and inspected by the City Engineer. Initial Acceptance shall not occur until such time as payment of street lighting pursuant to Section 4.4 has been made in full to the City.

- 1.7 *Lot*: A single fraction or part of the Subdivision as shown by the plat or survey of the Subdivision Site.
- 1.8 *Payment-in-Lieu of Construction*: is a payment with the approval of the Planning Commission for future construction of those Public Improvements required of the Developer by the City and/or the Planning Commission. This payment shall be non-refundable to the Developer, its agents, or assigns, and there shall be no requirement of the City that said improvements shall be made in a specific period of time. The improvements shall be specified by the City Engineer and attached to this Agreement, if applicable, as an Exhibit "B."
- 1.9 *Private Improvements*: includes all specific improvements to be constructed, such as, but not limited to brick walls, landscaping, fencing, lighting, etc., as required by the City relative to the Subdivision, and which are not Public Improvements.
- 1.10 *Public Improvements*: those improvements to be constructed relative to the Subdivision that are to be dedicated to the City and accepted for perpetual maintenance by the City.
- 1.11 *Security*: a Bond or Letter of Credit issued by a bank or bonding company qualified to do business in the State of Tennessee, to the Developer, naming the City of Millington as beneficiary, and securing the completion of all Public Improvements and Private Improvements. Said bond or letter of credit shall have an expiration date of one (1) year from issuance but shall automatically renew for successive one (1) year periods and is callable upon a local branch (as per Section 7.8) of the issuing bank or bonding company. In accordance with Section 7.0 cash or Certified Check are adequate security acceptable to the City. All provisions of Section 7.0 are made by reference herein as if incorporated and recited here in full.
- 1.12 *Subdivision Site*: those parcels or tracts of land upon which the Developer intends to develop the Subdivision. The Subdivision Site shall include all portions of the parcels or tracts of land shown on the plat, whether any construction activities will take place upon the same or not.
- 1.13 *Subdivision Plans*: are those documents and plans submitted to the City in conjunction with an application for subdivision approval, including, but not limited to the application for Design Plat approval, Construction Plat approval, and Final Plat Approval.
- 1.14 *Warranty Period*: for each subdivision shall run for one (1) year from the Final Subdivision Acceptance by the City. During this Warranty Period the Developer is responsible for the maintenance and repair of any and all defects and failures of those Public and Private Improvements constructed by the Developer or his agent. Prior to the expiration of the Warranty Period and before the Security will be released by the City, a punch list of items to be repaired or replaced will be given to the Developer by the City and those items shall be completed to the satisfaction of the City Engineer, City Planner, City Clerk, and the City Manager.

2.0 OWNERSHIP

- 2.1 The Developer agrees it shall have no claim, direct or implied, in the title or ownership of the improvements specified in this Agreement that are to be dedicated to the City by virtue of the official recording of the plat for the Subdivision and accepted for perpetual maintenance by the City, those being the Public Improvements. The City, upon Initial Acceptance and plat recording, will take full title to the Public Improvements. Maintenance

responsibilities of the Developer prior to and after Final Subdivision Acceptance are provided for hereinafter.

- 2.2 Until Initial Acceptance, the Developer agrees that neither the Subdivision Site nor any portion thereof will be transferred without first providing the City with notice of when the proposed transfer is to occur and who the proposed transferee is, along with the appropriate address and telephone number of the proposed transferee.
- 2.3 If it is the proposed transferee's intention to develop the Subdivision Site or any portion thereof in accordance with this Agreement, the Developer agrees to furnish the City with an assumption agreement by which the transferee agrees to perform the obligations required under this Agreement that are applicable to the property to be acquired by the transferee. Unless otherwise agreed by the City, the Developer will not be released from any of its obligations hereunder by virtue of such transfer and the Developer and the transferee both shall be jointly and severally liable to the City following such transfer for all obligations hereunder that are applicable to the property transferred. Said assumption agreement will be subject to the approval of the City Attorney.
- 2.4 If the Developer and the transferee intend to enter into an assumption agreement whereby the Developer is released from its obligations under this Agreement, the Developer must present the assumption agreement to the City for consideration and possible approval by the Board of Mayor and Aldermen. In the event of such approval, the transferee will be required to furnish new Security acceptable to the City.

3.0 GENERAL CONDITIONS

- 3.1 Construction Standards: The Developer shall construct the Subdivision in accordance with the Subdivision Plan, as approved by the Planning Commission, and if applicable, the requirements of the Design Review Committee, and in accordance with the requirements of (a) the Millington Subdivision Regulations; (b) standards and specifications contained in "Local Public Works Standard, and Specifications", as amended to include specific requirements for construction in Millington, TN; (c) the Building Code (as adopted by Shelby County); (d) the Fire Code (as adopted by Shelby County); (e) the Millington Zoning Ordinance; and (f) the applicable Ordinances of the City. Items (a) through (f) are hereby made a part of this Agreement by reference and are hereinafter referred to collectively as the "Codes". References herein to the Codes are to those in effect on the Effective Date unless amendments are hereafter made which apply to all improvements or subdivisions regardless of their date of commencement and/or completion of construction. The Conditions of Approval established by the Planning Commission, and, as applicable, the Design Review Committee (any or all of which as may have been modified by the Board of Mayor and Aldermen) are set forth in Exhibit "A" to this Agreement and are incorporated herein by reference and made a part hereof.

4.0 PUBLIC IMPROVEMENTS

4.1 General Requirements

- 4.1.1 Construction of required Public Improvements shall meet standards and specifications contained in the "Local Government Public Works Standards, and Specifications," as amended to include specific requirements for construction in Millington Tennessee.

- 4.1.2 The construction of all required Public Improvements by the Developer, including, but not limited to, curbs and gutters, street subgrade preparation, temporary surface course, wearing surface, storm drainage, sidewalks as required, water service, utility service, sanitary sewer service, street lighting and other related items shall be undertaken and completed by the Developer in accordance with Subdivision Regulations and other specifications of the City, all of which are incorporated by reference herein, said Public Improvements requiring approval and acceptance by the City.
- 4.1.3 All drainage, including but not limited to, detention ponds, ditch paving, bank protection, and fencing adjacent to open ditches made necessary by the development of this subdivision is to be constructed by the Developer and at the Developer's sole expense, on a schedule and according to plans and specifications approved by the engineer appointed by the City to advise the City regarding the construction of the Subdivision (the "City Engineer"). (See Section 4.8).
- 4.1.4 The Developer shall provide necessary erosion control, including but not limited to, seeding for gentle slopes and grass sod for steeper slopes with special grading and terracing as necessary, to the specifications of the City Engineer.
- 4.1.5 All sidewalks and driveway aprons shall be handicap accessible in accordance with ADA requirements and applicable Codes.
- 4.1.6 The Developer and/or Owner is responsible for all public improvements and ADA requirements.

4.2 Streets

- 4.2.1 The Developer agrees to dedicate and improve and/or construct, at no cost to the City, all public and/or private streets located within or required by this project to comply with the road standards of the City to the satisfaction and approval of the City Engineer, subject, however, if applicable, to the provisions of subparagraph 4.2.2 immediately below.
- 4.2.2 The Developer shall bear the cost of all engineering, inspection and laboratory costs procured by the Developer incidental to the construction of street(s) to be constructed or improved pursuant to this Agreement, including, but not limited to, material and density testing; and, if the City deems it necessary to have additional work of such nature performed, the Developer shall bear such costs also.
- 4.2.3 The Developer shall furnish and install asphalt base and a final asphalt surface course (wearing surface) on all streets, public and private, as required hereunder in accordance with the City specifications.
- 4.2.4 It is agreed and understood that if it is not necessary to change the existing grade, alignment or disturb the pavement of an existing street or road, the Developer shall only be required to construct drainage, sub-base, base and pavement to match the existing pavement and construct sidewalks, curb and gutter as required. If the existing grade and/or alignment is changed, the Developer shall be required to grade, prepare sub-base, base and pave the full width of said street or road. Both options must be in accordance with ADA

requirements and applicable Codes

- 4.2.5 Street Temporary Surface Course: The Developer shall be responsible for street subsurface preparation ("Temporary Surface Course") and, in addition to the detailed specifications, the following requirements, subject to approval by the City, shall apply:

TYPE OF TEMPORARY SURFACE COURSE (Residential Streets with 50' of Right of Way)

- (1) 8" Compacted Gravel Base..... 2" Black Base Asphalt
- (2) 8" Soil Cement Base as designed..... 2" Black Base Asphalt by an accepted soils laboratory testing firm and under direct approval by the City Engineer.

TYPE OF TEMPORARY SURFACE COURSE (All Other Streets with more than 50' of Right of Way)

- (1) 10" Compacted Gravel Base..... 3" Black Base Asphalt
- (2) 10" Soil Cement Base as designed..... 3" Black Base Asphalt by an accepted soils laboratory testing firm and under direct approval by the City Engineer.

Completion of the Temporary Surface Course in all phases shall be required prior to recording of the Final Plat.

- 4.2.6 Street Wearing Surface: Developer shall furnish and install a final asphalt surface course (hereinafter "Wearing Surface") as indicated below in accordance with the City's Subdivision Regulations.

THICKNESS OF WEARING SURFACE (Residential Streets with 50' of Right of Way)

- (1) 1-½" Wearing Surface

THICKNESS OF WEARING SURFACE (All Other Streets with more than 50' of Right of Way)

- (1) 2" Wearing Surface

- 4.2.7 Wearing Surfaces shall not be completed earlier than one (1) calendar year after Initial Acceptance of the subdivision, except as allowed under Paragraph 4.2.9 below. Wearing Surfaces shall not be installed until the later of: (a) two (2) calendar years after the recording of the Final Plat, or (b) 50% of the lots in the subdivision are complete and occupied. This provision can only be altered by formal written request to the Board of Mayor and Aldermen for the City.

- 4.2.8 The Developer may request administrative approval to install the Wearing Surface earlier than one (1) calendar year after Initial Acceptance, if 75% of the lots in the subdivision are complete and occupied. Each such request must be

specifically approved in writing by all of the following: City Engineer, City Planner, City Clerk and the City Inspector.

- 4.2.9 The Developer shall adjust manholes and water valve boxes to meet proposed finished surface elevations prior to application of the Wearing Surface at the sole expense of the Developer.
- 4.2.10 The City specifically reserves the right to require the Developer to repair the Temporary Surface Course as necessary and in such areas that are recommended by the City Engineer or Public Works Department, prior to application of final Wearing Surface.
- 4.2.11 All construction on state routes must be approved and constructed in accordance with TDOT standards and specifications.

4.3 Electricity

- 4.3.1 The Developer shall provide electrical service to each commercial Lot at his sole expense. All electrical lines from the service poles to the buildings are to be underground with transformer boxes located at the building line or rear property line.

The Developer shall provide a copy of the utility plans approved by Memphis Light Gas & Water to the City Engineer prior to the Final Plat Approval.

4.4 Street Lighting

- 4.4.1 The Developer shall provide streetlights for the entire Subdivision at his sole expense. The type of lighting standard, pole spacing, and installation shall be per Memphis Light, Gas and Water standards. Memphis Light Gas and Water shall bill the City for installation of street lighting per its standards.
- 4.4.2 The Developer of the subdivision is responsible for the cost of street lighting. Prior to release of bond, Memphis Light Gas and Water will submit a final installed cost of streetlights. The City will bill the Developer for the actual cost of the streetlight installation. The Developer shall make payment to City within 30 days of billing. City may withhold all other approvals and/or permits within the Subdivision until such payment is made by Developer. Once the Developer pays this cost, the bond may be reduced to reflect the estimated streetlight costs.
- 4.4.3 There is a Street Light estimated cost of \$650 Per Lot provided in the bond.

4.5 Telephone and Cablevision

- 4.5.1 Telephone and Cablevision pedestals shall be located in rear yards only.

4.6 Water Service

- 4.6.1 The Developer shall construct the water lines in and serving the Subdivision and pay the City for and to install all meters and make connection of Subdivision to City water system.
- 4.6.2 The Developer shall pay the cost of water main and accessories to serve the

Subdivision from a point to be approved by the Planning Commission and the City Engineer. The Developer will also pay for the water mains and accessories within the Subdivision, including service lines, accessories from the main to the meter and all meters.

- 4.6.3 The Developer shall pay the cost of all engineering, inspection and laboratory cost relating to the water service system in or to the Subdivision, including but not limited to inspection and approval by the Tennessee Department of Public Health. The Developer shall provide the City with copies of comments and certificates from said Department.
- 4.6.4 If required by the City, the Developer shall install fire hydrants in accordance with the type service appropriate, the type and location as approved by the Planning Commission with recommendation from the City's Fire Chief and the City Engineer.
- 4.6.5 Water connection fee, per lot 1" meter is \$500.00 plus the cost of the meter (collected from the builder). All connections made to the water line or any lateral lines of the North Fork Creek water line shall be subject to a water development charge of the greater of \$3,000 per acre or \$1,200 per connection.
- 4.6.6 For all connections made to the main water line or any lateral lines other than those served by the North Fork Creek water line, the water development charge shall be \$1,500.00 per connection.

4.7 Sewer Service

- 4.7.1 The Developer (including any partnership of Developers), at its sole expense, shall develop and construct the sewer extensions, mains and laterals as necessary to service the new development(s) and the increased capacity resulting therefrom.
- 4.7.2 The Developer shall also be responsible and pay for the reasonable expense incurred by the City towards development of the developer's sewer extension and negotiations of this agreement including but not limited to attorney fees and condemnation cost and expenses.
- 4.7.3 The design, route and specifications of said extensions, mains and laterals shall be approved in writing by the City Engineer.
- 4.7.4 The Developer shall not attach said sewer extension and/or main to the City's interceptor sewer system, (including pump stations and/or sewage plant) without the written authority or permission of the Public Works Department to do so. This agreement shall not be construed or interpreted in any way whatsoever as the granting of the authority or permission to attach to, "tie in" and/or "hook on" to the City's interceptor sewer system without the express written authorization of the Public Works Department to do so.
- 4.7.5 The sewage system improvements required for the Subdivision, complete with necessary pump stations, force mains and manholes, shall be approved by the State of Tennessee Department of Environment and Conservation.
- 4.7.6 The Developer shall provide all sewer mains and manholes as provided for in the Subdivision Plans and specifications.

- 4.7.7 The Developer shall provide all sewer laterals from the sewer main to the front property line of each Lot as approved by the City Engineer and provided for in the Subdivision Plans and specifications, including, but not limited to connection to the main and service pipe with plug. The utility trench created across any existing streets shall be backfilled full depth with flowable concrete fill along with asphalt service equal to the existing pavement section, or as directed by the Public Works Department.
- 4.7.8 The Developer shall pay the cost of all engineering, inspection and laboratory testing incidental to the sewer service in or to the subdivision.
- 4.7.9 The building permits for the Subdivision shall be withheld until the above stipulations are met in their entirety.
- 4.7.10 Sewer connection fee, per lot is \$500 (collected from the builder). Property located in the North Fork Creek Sewer Area is subject to a development fee of the greater of \$3,000 per acre, or \$1,200 per connection.
- 4.7.11 For all connections made to the main sewer line or any lateral lines other than those served by the North Fork Creek sewer outfall line, the sewer development charge shall be \$1,500.00 per connection.

4.8 Drainage Design

- 4.8.1 The Developer shall provide a drainage system which will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property, either upstream or downstream of the Subdivision. The Developer shall also provide to the City the formal written opinion of a certified and licensed professional engineer certifying, as a professional engineer, that he has reviewed the entire watershed within which the subdivision is located and that upon full development at the greatest allowable use density, under existing zoning of all land within the watershed, the Subdivision will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property, either upstream or downstream of the Subdivision. Further, the Developer agrees to hold harmless and to defend the City and the City Engineer from any claim, cause of action or liability, alleged and/or proven, to have arisen directly or indirectly from alteration affecting the surface water by reason of the Developer's design, construction, installation or the development itself, in whole or part. The aforesaid indemnity agreement includes, without limitation, the reasonable expenses of the City incurred in defending itself against any matter covered by such indemnity agreement, including attorney fees and expenses of litigation.
- 4.8.2 The Developer agrees that it will provide necessary erosion control, such as seeding for gentle slopes (4 to 1 or less), grass sod for steeper slopes, with special grading and terracing, to the specifications of the City Engineer. All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required by the City Engineer to prevent erosion. In the event the City Engineer determines that necessary erosion control is not being provided by the Developer, the proper governing authority shall officially notify the Developer of the problem. If the Developer has not corrected the problem within 7 days after the notice, then the proper governing authority shall make the necessary improvement to eliminate

the erosion problem, documenting all expenses incurred while performing the work. Prior to releasing any Security hereunder, all expenses incurred by the governing authority relative to the foregoing shall be paid in full by the Developer plus interest thereon at the rate of ten percent (10%) per annum.

- 4.8.3 Any and all unenclosed watercourses lying partially or wholly within the boundary of the Subdivision Site shall be constructed to an adequate cross section to provide design flow without threat of erosion or flooding of any property within the Subdivision Site or any adjoining property. Such watercourses shall be lined in a manner satisfactory to the City Engineer and any other agencies which may have jurisdiction.
- 4.8.4 All buildings in the Subdivision will be constructed so as to be safe from flooding in the event of a 100-year flood. As a minimum, the finished floor elevation of all buildings shall be 1' above the 100-year flood elevation as established by the Federal Emergency Management Agency for the City of Millington.
- 4.8.5 The Developer understands and agrees that neither the City in its proprietary function nor the City Engineer in the performance of his professional responsibilities are vested with the original design responsibility or the means to formally survey elevations or the locations of drainage improvements at every state of the construction process, and that, therefore, the ultimate responsibility for compliance with all Subdivision Regulations, approved plans and specifications and Agreement provisions rests with the Developer.
- 4.8.6 The Developer shall pay the cost of all engineering, inspection, and laboratory testing incident to the drainage system of the Subdivision.

4.9 Preconstruction Conference

- 4.9.1 The Developer is required to meet with the City Staff prior to commencing construction for a pre-construction conference. At that conference the execution of the work, specifications, terms and conditions of the Agreement will be discussed.
- 4.9.2 At the time of the Pre-Construction Conference, all development fees must be paid, construction plans must be signed by the City Engineer, the sewer approval has been granted by the State, the Stormwater Pollution Prevention Plan and Notice of Intent must be filed with the State of Tennessee, and the required bond must be posted.

4.10 Street Signage

- 4.10.1 The Developer agrees to install permanent street signposts and markers at all street intersections in the Subdivision and to install traffic control devices, signage and striping relative to the Subdivision. The standards and specifications for public street signposts and lettering can be obtained from the City Planner.
- 4.10.2 Location of street and traffic control signs to be installed shall be approved by the City Engineer. All traffic control devices, signage and striping shall be installed as per the Manual on Uniform Traffic Control Devices and approved by the City Engineer.

4.11 Release of Public Improvements

- 4.11.1 The Developer shall furnish to the City, as-built plans, on a reproducible, stable media, immediately following the completion of the construction. The as-built plans shall be endorsed by a Tennessee Registered Professional Engineer and or a Registered Land Surveyor. The certification in Exhibit "D" shall be added to all sheets of the plans. The as-built plans shall be submitted to the City before the Initial Acceptance by the City. All aspects of the project that have been affected by construction should be verified and appear on the as-built plans. This would include, but is not limited to, the following items:
- 4.11.1.1 All property lines and easements.
 - 4.11.1.2 Elevations (rim & invert) of storm drainage structures.
 - 4.11.1.3 Elevations (rim & invert) of sanitary sewer manholes.
 - 4.11.1.4 Horizontal location of all storm drains and sanitary sewer structures with station and offsets tied to street centerlines.
 - 4.11.1.5 For any streets with less than 1% longitudinal slope, provide as-built gutter elevations at 25' intervals.
 - 4.11.1.6 For areas of a subdivision which were filled to raise the property above the 100-year flood elevation, an as-built topographic survey shall be provided.
 - 4.11.1.7 For all detention basins, an as-built topographic survey shall be provided.
- 4.11.2 The Developer shall provide the City with a copy of the Final Subdivision Plan documents including sewer, water and drainage as - built drawings, using State Plane Coordinate System with NAD – 83 datum on DVD in DXF or DWG format (AutoCAD 2010 or earlier) prior to recording of the plat of the Subdivision.
- 4.11.3 The Developer shall have no claim, direct, indirect or implied, to title or ownership of the Public Improvements described in this Agreement from and after Initial Acceptance.
- 4.11.4 The City, upon Initial Acceptance, shall take full and complete title to the Public Improvements, provided however, the Developer shall be responsible for maintenance, construction failures and defects in all Public and Private Improvements of the Subdivision through the Warranty Period. The Developer shall, at his sole expense, correct and cure such defects and failures in the manner prescribed by and to the satisfaction of the City or the City Engineer.
- 4.11.5 There is an Inspection Fee Per Lot of \$300.00. A Recording Fee (first sheet) \$50.00 and Each additional sheet there is an additional fee of \$15.00. The maximum size of a sheet is 18" x 24".

5.0 PRIVATE IMPROVEMENTS

- 5.1 All Private Improvements to be completed by the Developer shall be included on either the Final Plat and/or the Conditions of Approval as set forth in Exhibit "A" attached hereto. All Private Improvements shall be completed prior to Final Subdivision Acceptance or as otherwise stated in Exhibit "A".
- 5.2 All Private Improvements and their maintenance thereafter shall be the responsibility of the Developer or his assigns. The Private Improvements shall only be made on property that will **NOT** be dedicated to nor accepted by the City, but instead shall be owned by the

Developer, a lot owner and/or a Property Owner's Association.

- 5.3 The Developer shall post Security for a value of the construction of the Private Improvements. The City Engineer shall establish that amount of the Security.
- 5.4 If the establishment of a Property Owner's Association is required as a Condition of Approval, then the Developer shall be responsible for the formation of the Property Owner's Association. The Developer shall file a charter with the Tennessee Secretary of State to establish the corporate entity of the Property Owner's Association, as well as draft by-laws and restrictive covenants of the Property Owner's Association. The Property Owner's Association must be formed, in good standing with the State of Tennessee and have its charter, by-laws and restrictive covenants recorded with the Shelby County Register prior to the recording of the Final Plat. The Property Owner's Association its charter, by-laws and restrictive covenants shall conform to the Millington Subdivision Regulations. The Developer shall provide documentation to the City prior to the recording of the Final Plat that these items have been completed.
- 5.5 If the Property Owner's Association is to own any real property, easements and/or common open space within the Subdivision then that property, easements and/or common open space must be deeded from the Developer to the Property Owner's Association at the time of the recording of the Final Plat. Furthermore, it is a requirement that any and all common open space be owned by a Property Owner's Association and that the deed transferring the property as well as the by-laws of the Property Owner's Association clearly state that any and all property, easements and/or common open space owned by the Property Owner's Association can not be transferred to another party, and if such a transfer does occur or the Property Owner's Association shall cease to exist either through dissolution or other means then the responsibility of the maintenance of said property, easements and common open space shall become the personal liability and responsibility of every lot owner in the subdivision. Furthermore, the Property Owner's Association and its by-laws and/or restrictive covenants shall conform the to the City of Millington Subdivision Regulations The Developer shall provide documentation to the City prior to the recording of the Final Plat that these items have been completed.

6.0 FEES TO BE PAID

- 6.1 In connection with the development of the Developer shall pay to the City fees, in such amounts and at such times, as set forth below:

I.	Water Development Fee, \$ 1,500 per lot	\$	12,000
II.	Sewer Development Fee, \$ 1,500 per lot	\$	12,000
III.	Water Tap Fee 1", \$500.00 plus the meter cost per lot	\$	By builder
IV.	Sewer Connection Fee, \$500 per lot	\$	By builder
V.	Subdivision Inspection Fee, \$300 per lot	\$	2,400
	TOTAL DUE:	\$	26,400.00

*NOTE: SEPARATE CHECKS ARE REQUIRED FOR EACH FEE.

If Subdivision construction is not completed within one (1) year from the date of execution of this Agreement and the fee structure of the City has been amended, the Developer shall be responsible for the payment of fees pursuant to the amended fee structure of the City.

7.0 SECURITY REQUIREMENTS

7.1 Option One, 100% Bond - Prior to recording of the final plat, the Developer shall furnish to the City, Security in the form of a subdivision bond in the amount of the total value and cost of installation of the Public and Private Improvements to be made, plus one year's inflation, until the Subdivision construction has been completed and the Warranty Period has expired. The amount and terms of the bond shall be determined by the City Engineer and approved by the Planning Commission.

7.2 Option Two, Alternative Minimum Bond - An alternative security amount may be posted in the event the developer intends to install certain improvements prior to the recording of the plat. If the developer does not wish to record his plat until all work is complete and prior to issuing the building permit, he may choose to work on his property without the city fully bonding that work as required in the previous section. This will allow him to place a minimum bond to cover contract requirements and bond only what is required in the right of way or work that is necessary to protect the public interest or are estimated amounts for future payment by the developer. All fees will be paid prior to starting work on the project and a minimum bond will be set and that amount will be provided to the city in any of the previously allowed forms. The items that must be included in this bond are:

- a. Erosion control plan items,
- b. Work in existing public right of way items including traffic control,
- c. Work necessary to attach to public water, sewer or drain lines,
- d. Work in any streams or drainageways.
- e. Estimated sidewalk and handicap costs,
- f. Estimated final asphalt surface costs
- g. Estimated street light costs at \$650.00 per lot.

Prior to the start of any work on the subdivision, the developer shall post the alternative security amount in the form of good and sufficient security with the City in the amount of one hundred (100%) percent of the City Engineer's approved estimate of cost of items a-g above to assure completion of the work, plus one (1) year's inflation estimated at six (6%) percent. In this option, the final plat may not be recorded until all required improvements are completed, as-built drawings are provided to the City, and the improvements have been accepted by the City for building permits. At that time, the bond may be reduced in accordance with section 7.5 below.

7.3 The City, in its sole discretion, may, in lieu of a subdivision bond, accept a Certified Check made payable to the City for the total amount of the total value and cost of installation of the Public and Private Improvements. If the Developer submits a Certified Check in lieu of a bond, he must execute an "Escrow Agreement" with the City in form and substance acceptable to the City and its attorneys, which shall become a part of this Agreement. In the event that the required improvements are built and installed in accordance with the foregoing standards and requirements as approved by the City Engineer, the deposit made in lieu of bond and in accordance with the Escrow Agreement will be returned to the Developer at the end of the Warranty Period. In the event that the construction and installation are not completed or approved by the City, the deposit, or so much thereof as may be necessary, shall be expended as provided in the Escrow Agreement.

- 7.4 The City, in its sole discretion, may, in lieu of a subdivision bond, accept an irrevocable standby letter of credit exclusively in favor of the City, from an institution approved by the City, for the total value and cost of installation of the Public and Private Improvements. Said letter of credit shall be upon terms acceptable to the City and the City shall have the right to demand payment of the letter of credit, or so much thereof as may be necessary, in the event that the construction and installation are not completed or approved by the City.
- 7.5 Upon completion of the major improvements, specifically including but not limited to, all Temporary Surface Courses, utility service, water service, sewer service, street lighting, and drainage systems, and upon final inspection and acceptance by the City Engineer, the Developer may request, and the City shall approve upon submission of appropriate documentation as to the cost of completion of the remaining Public and Private Improvements, a reduction in the amount of the subdivision bond, cashier's check, or letter of credit, to an amount equal to 150% of the cost of completion of the remaining Public and Private Improvements. Provided, however, in no event shall the amount of the subdivision bond, cashier's check, or letter of credit be reduced to an amount which would be less than the amount recommended by the City Engineer and approved by the Planning Commission to secure the Developer's obligations and with respect to Developer's Warranty Period. The subdivision bond, cashier's check, or letter of credit, and the amount required by the preceding sentence, shall remain in full force and effect until the expiration of said Warranty Period.
- 7.6 The City reserves the right in its sole discretion to refuse to accept any Subdivision Bond or Letter of Credit from any institution, surety or bank. The City reserves the right in its sole discretion to limit the amount any single institution, surety or bank may guarantee to the City whether under a single development agreement or as a total amount guaranteeing several development agreements from multiple developers.
- 7.7 Any bond or letter of credit shall have an expiration date of one (1) year from the issuance but shall automatically renew for successive one (1) year periods, until released by the City.
- 7.8 The City requires that regardless of any other requirement or language to the contrary, that a provision be added in every subdivision bond or letter of credit that prior to the final expiration date of the subdivision bond or letter of credit, the institution, surety or bank shall provide to the City of Millington a written statement no earlier than 150 days and no later than 120 days prior to the final expiration date, that the subdivision bond or letter of credit shall expire and will not be renewed as of that final expiration date.
- 7.9 The City requires that regardless of language to the contrary anywhere in the subdivision bond or letter of credit, that the subdivision bond or letter of credit shall specifically state in plain language that should any litigation arise in relation to the subdivision bond or letter of credit, the proper jurisdiction and venue of such litigation shall be in the appropriate court in Shelby County, Tennessee.
- 7.10 No subdivision bond or letter of credit will be accepted by the City unless the institution, surety or bank issuing same is authorized and registered to do business within the State of Tennessee and has a local branch (meaning within 100 miles of Millington, TN) for which presentment of a draw is required.
- 7.11 No subdivision bond or letter of credit will be accepted by the City until such time as it has been reviewed to the satisfaction of the City Engineer, City Planner, City Clerk, City Inspector and the City Attorney.
- 7.12 Calculation of Security. The amount of the Security described above shall be:

\$ 276,371.39

Indicate which bonding method is being selected

 Option One, 100% Bond

 X **Option Two, Alternative Minimum Bond**

Based on an Engineer's Estimate of the cost of Public Improvements the following costs and reduction schedule is calculated for.

Cost of Public Improvements	=	\$	255822.07
Cost of Private Improvements	=	\$	0.00
1 Year inflation @ 6%	=	\$	38257.20
Street Light Improvements @ \$650 per unit		\$	5200.00
Total	=	\$	276,371.39

* THE SECURITY ABOVE INCLUDES THE PUBLIC IMPROVMENTS COST REQUIRED FOR THE DEVELOPMENT OF THE RESERVE AT MILLINGTON PHASE 1.

* Cost of street lighting, gas system, electric system and service is not included, it is managed by contract with MLG&W. Telephone services are managed by local telephone company and likewise cable services.

8.0 MISCELLANEOUS

8.1 Developer's Responsibility

8.1.1 It is understood and agreed that the City is not and could not be expected to oversee, supervise and/or direct the construction of all improvements contemplated hereunder. Neither is the City Engineer vested with the original design responsibility nor the means to formally survey elevations, capacity, structural integrity, type, adequacy or the locations of improvements at every stage of the construction process. The City Engineer is vested with the right of periodic inspections, final approval and stop work order as a measure of secondary or subsequent enforcement. The Developer now has and shall retain the responsibility to properly anticipate, survey, design and construct the development improvements and give full assurance that same shall not adversely affect the flow of surface water from or upon any property. In providing technical assistance, plan and design review, the City does not and shall not relieve the Developer from or accept any liability from the Developer. The Developer will provide his own Project Engineer whose duty shall be to design improvements that comply with all applicable Federal, State and local codes and ordinances.

8.2 Subdivision Plans and Specifications

8.2.1 The Subdivision Plans and specifications presented to the Planning Commission for its approval shall be prepared by a licensed civil engineer, approved by the City, and shall be subject to the review and recommendations of the City Engineer.

8.3 Jeopardy of Building Permits

8.3.1 Should the Developer fail to complete any part of the Subdivision in a good and workmanlike manner as determined by the City Engineer, or shall the Developer fail to comply with the contractual obligations of this Agreement then the City shall have the right to withhold and withdraw all building permits, water and sewer service within or to the Subdivision until the Developer has fulfilled all terms of this Agreement, the Subdivision Regulations, and the plans and specifications approved by the City.

8.4 Easements

8.4.1 The Developer shall obtain and shall furnish to the City all necessary easements to serve the Subdivision, said easements to be in form, type, size and character as required by the Subdivision Regulations and/or as approved by the City Engineer and acceptable to the City.

8.5 Compliance with Laws

8.5.1 The Developer shall comply with all applicable federal, state and local laws and regulations and shall upon the City's request, furnish proof of compliance.

8.6 Engineering Costs Over and Above Fee Schedule

8.6.1 The Developer shall pay one hundred percent (100%) of any and all engineering costs incurred by the City, in addition to those fees specifically set forth in Section 4, 5 and 6 of this Agreement, for review and oversight of the Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.7 Attorney's Fees/Subdivision Review

8.7.1 The Developer shall pay any and all attorney's fees incurred by the City in addition to those fees specifically set forth in Sections 4, 5 and 6 of this Agreement for review of documents, agreements, contracts, proposals and related materials involved in Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.8 Attorney's Fees/Code Amendments

8.8.1 In addition to those fees specifically set forth in Sections 4, 5, 6, 8.7 and 8.9 of this Agreement, the Developer shall pay one hundred percent (100%) of the legal costs, including, but not limited to attorney's fees, associated with any and all amendments to the Millington Municipal Code related to the development of the Subdivision. Payment is due within 30 days from the date that the City issues a bill.

8.9 Attorney's Fees/Enforcement

8.9.1 Should the Developer default in any part of this Agreement and it becomes necessary to engage an attorney to obtain compliance with this Agreement and/or file necessary legal action to enforce provisions of the Agreement or sue for any sums of money due and owing or liability arising incident to this Agreement, the Developer agrees to pay to the City its reasonable Attorney's fees associated with such action.

8.10 Effect of Agreement

8.10.1 This Agreement is supplemental and in addition to all federal, state, county and local laws, regulations and requirements regarding the development of a subdivision and is intended to augment, explain, expand and clarify said laws, regulations and requirements. This Agreement may be changed, amended, or terminated only by similar written instrument executed by all parties to be bound thereby.

8.11 Parties Bound

8.11.1 All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of, and be enforceable by and against, the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8.12 Assignment Limited

8.12.1 The Developer may not assign or delegate its rights or duties under this Agreement without the prior written consent of the City in each instance.

8.13 Severability

8.13.1 If any provision of this Agreement is held to be unlawful, invalid or unenforceable under any present or future laws, such provisions shall be fully severable; and this Agreement shall then be construed and enforced as if such unlawful, invalid, or unenforceable provisions had not been a part hereof. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such unlawful, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such unlawful, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

8.14 Headings Not Part of Agreement

8.14.1 The heading preceding each paragraph (if any) are inserted merely as a matter of convenience and shall not be deemed to be a part of the Agreement terms.

8.15 Notices

8.15.1 All notices, demands and requests required or permitted by this Contract shall be in writing (including telecopy communications) and shall be sent by facsimile transmission, air or other courier, or hand delivery, as follows:

To: CITY
City of Millington
Attn: Karen Findley, City Clerk
7930 Nelson Street
Millington, Tennessee 38053

Telephone: 901/873-5701
Facsimile: 901/872-4113
E-Mail: k.findley@millingtontn.gov

Any notice, demand or request sent by facsimile transmission shall be deemed given for all purposes under this Agreement when properly transmitted by telecommunication device. Any notice, demand or request which is hand delivered or sent by air or other courier shall be deemed given for all purposes under this Agreement when delivered to the intended address.

8.16 Joinder of Owner

8.16.1 In the event that the Developer is not the owner of the Subdivision Site, the owner joins in this Agreement and by the Owner's execution of this Agreement, the owner is jointly and severally liable for the representations, warranties, covenants, agreements and indemnities as expressly set forth in this Agreement.

8.17 Disclosure of Ownership Interest

8.17.1 The Developer, at the filing of its initial application, completed a Disclosure of Ownership Interest form with the City. The Developer hereby states, certifies and confirms to the City that the information on that form is still true and correct as of the Effective Date, if not then the form shall be revised if necessary. The Disclosure of Ownership Interest form shall be attached as Exhibit "C" to this Agreement and is incorporated herein by reference and made a part hereof.

8.18 Recording

8.18.1 At the option of either party to this Agreement, this document and all Exhibits hereto may be recorded with the Shelby County Register's Office.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals at Millington, Tennessee, this the ** day of *****, ****

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

DEVELOPER

By: _____
Title: _____
Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared _____, with whom I am personally acquainted, and who, upon oath, acknowledged _____ to be the _____ for _____, the within named bargainor, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such _____.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

³ The Effective Date hereof shall be the date upon which the last to sign of the Mayor and Developer executes this Agreement, which date shall be entered on the first page hereof.

OWNER (if applicable):

By: _____

Title: _____

Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared _____, with whom I am personally acquainted, and who, upon oath, acknowledged _____ to be the _____ for _____, the within named bargainer, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such _____.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

CITY OF MILLINGTON

By: _____
Terry Jones, Mayor

Date³: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Terry Jones, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Mayor for the City of Millington, the within named bargainor, and that he, as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Mayor.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 20__.

Notary Public

My Commission Expires:

APPROVED BY CITY ATTORNEY:

Exhibit "A"

Conditions of Approval

1. The detention pond tables are not clear. The discharge from the detention basin for this phase exceeds the post developed storm water flows.
2. The post development discharge from detention pond plus the storm water not detained is to be equal to or less than the predevelopment storm water discharge.
3. Access road includes a drainage ditch, provide grading plan to provide positive drainage from the ditch.
4. Provide detail for wheelchair ramps that meet PROWAG requirements.
5. Provide ADA access at the intersections
6. Drainage plan shows storm water flowing across multiple lots without drainage path.
7. The plan on Alderwood uses the curb and gutter for full drainage. Add inlet in the vicinity of lot 16 to intercept a portion of that storm water and route to Inlet 3
8. Provide verification that the existing storm water infrastructure to the north will handle a 100 yr. storm water event.
9. Provide velocity dissipators at the outlet of headwall structures.
10. Verify that the construction access road will support a fire truck and concrete trucks.

Exhibit "B"

Payment-in-lieu of construction – N/A

Exhibit "C"

DISCLOSURE OF OWNERSHIP INTERESTS

In order to assist staff and appointed and elected officials of the City of Millington in complying with Ordinances of the City relating to conflicts of interest, the following information is required to be furnished:

- 1. For Profit Entities. If the applicant submitting this Application (“Applicant”) is a for-profit, i.e., general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Applicant must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Applicant. (If another business entity owns 10% or more of the ownership interests in the Applicant, all persons owning a 10% or more interest in such last-mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Applicant, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Applicant: _____

Persons or Entities Owning 10% or More of the Ownership Interests of the Applicant:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

- 2. For Profit Entities. If the owner and any lessee of the land which is the subject of this Application (“Owner and Lessee”) is a for-profit entity, i.e., general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Owner and Lessee must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner and Lessee. (If another business entity owns 10% or more of the ownership interests in the Owners and Lessee, all persons owning a 10% or more interest in such last-mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner and Lessee, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner and Lessee: _____

Persons or Entities Owning 10% or More of the Ownership Interests of the Owner and Lessee:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

3. Not for Profit Entities. If the applicant submitting the Application (“Applicant”) is a not-for-profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Applicant: _____

President or Equivalent
Chief Executive Officer: _____

Members of the Board of Directors of the Applicant:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

4. Not for Profit Entities. If the owner and lessee of the land which is the subject of this Application (“Owner and Lessee”) is a not-for-profit entity, the authorized representative of the Owner and Lessee must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Owner and Lessee: _____

President or Equivalent
Chief Executive Officer: _____

Members of the Board of Directors of the Owner and Lessee:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____
_____	_____
_____	_____

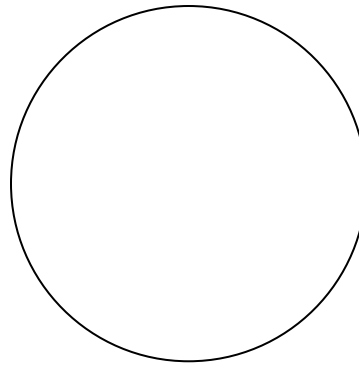
As-built plans are required to be endorsed by a Tennessee Registered Professional Engineer and or a Registered Land Surveyor. The following certification shall be added to all sheets of the plans.

AS-BUILT CERTIFICATION

I, _____, hereby certify that the As-Built information shown on this drawing is an accurate and complete representation of data established by a field survey performed under my direction on _____ (date), and that the improvements were constructed according to the approved plans, except as otherwise noted hereon.

Name

Date



SEAL