

**COUNTESS ROUNDABOUT JOINT DEVELOPMENT AND REIMBURSEMENT
AGREEMENT BETWEEN THE CITY OF SPRING HILL, TN AND BARLOW
BUILDERS**

THIS AGREEMENT, entered into this the ____ day of _____, 2022, by and between BARLOW BUILDERS, the Developer of Alaina Park, hereinafter referred to as the “Developer” and the CITY OF SPRING HILL, TENNESSEE, a municipal corporation organized and existing under the laws of the State of Tennessee, hereinafter referred to as “City”.

WITNESSETH:

WHEREAS, the City of Spring Hill is committed to installing a roundabout at the intersection of Port Royal Road, Commonwealth Drive and Countess Lane (“Project”), as included in Resolution 18-75, to improve increased traffic flow resulting from development in this area; and

WHEREAS, the Developer has attained certain development entitlements from the City to develop a new subdivision named “Alaina Park” which is located on the southeast side of the Project; and

WHEREAS, the Developer has agreed to pay Impact Fees in advance prior to development to be applied to construction of the Project and in return would receive credit per developable lot when the Developer, and/or Developer’s successors and assigns, applies for and is granted building permits relative to said lots.

NOW, THEREFORE, in consideration of the mutual covenants and assurances set forth herein, the Developer and City do hereby agree as follows:

1. Recitals

The foregoing Recitals are incorporated into this Agreement and are made a part hereof.

2. Scope of Work/Cost Estimate

The City shall cause the construction and installation of the Countess Roundabout improvements. All improvements shall meet City road standards.

3. Developer Contribution

Within thirty (30) days upon full execution of this Agreement, the Developer shall deposit with the City \$575,926 (the “Developer Facility Fee Amount”) to be used by the City to make road improvements by installing a roundabout at the Project location. In the alternative, the Developer may deliver to the City an irrevocable letter of credit in the amount of the Developer Facility Fee Amount, issued by a bank or institution acceptable to the City (the “LOC”) within thirty (30) days of notice from the City of Project commencement. The financial institution must be chartered by the State of Tennessee with an office or branch authorized to accept a demand or “call” on the securing document within fifty (5) miles of Spring Hill, TN.

The amount of the Developer's contribution is based on the number of units x the Impact Fee amount per unit. The fee for Alaina Park is calculated as follows:

$$221 \text{ units} \times \$2,606/\text{unit} = \$575,926$$

4. Reimbursement Due to the Developer

In consideration of the Developer's up-front deposit of Impact Fees for 211 units to be developed in Alaina Park, the Developer shall be due and receive a credit of \$2,606 upon application for each unit building permit relative to said development. The credit due to the Developer upon building permit application is transferable by the Developer and shall benefit any subsequent owner of a unit who makes the initial application for a building permit.

5. Agents for City and Developer

The agent of the City for the purposes of this Agreement is the City Administrator of Spring Hill, Tennessee, or her designee. The agent for the Developer is Austin Pennington.

6. Overages of Impact Fees

The City agrees and acknowledges that the Developer Facility Fee amount paid by the Developer is to cover all expected Impact Fees for their development and Developer shall not be responsible for any Impact Fees which exceed the Developer Facility Fee Amount caused by change of the cost of materials, delay in the City completing all road infrastructure work, or any other reason. Furthermore, the City will not seek reimbursement of Impact Fees from owners of property adjacent to or near the Project in the event that Impact Fees exceed the Developer Facility Fee amount for any reason.

7. Further Assurances

The Parties each hereby agree to execute and deliver all of the agreements and documents required to be executed and delivered by them in this Agreement and the instruments attached hereto, and to execute and deliver such additional instruments and documents and to take such additional actions as may be reasonably required from time to time in order to effectuate the transactions contemplated by this Agreement and the instruments attached hereto.

8. Notices and Communication

All notices or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by hand delivery or mailed by first class, postage prepaid, registered or certified mail and addressed as follows:

Office of City Administrator of Spring Hill, Tn.
ATTN: Pamela S. Caskie
199 Town Center Parkway
Spring Hill, TN 37174

With a copy to:

Patrick Carter, City Attorney
809 South Main Street
Columbia, TN 38401

The mailing address of the Developer for the purposes of notification requirements of this Agreement shall be:

Barlow Builders
ATTN: Austin Pennington
3020 Stansberry Lane, Suite 101
Franklin, TN 37069

9. Non-Waiver

None of the terms, covenants or conditions of this Agreement shall be deemed waived by any act of either Party unless same is specified in writing executed by all Parties hereto.

10. Liability

The City shall have no liability except as specifically provided in this Agreement.

11. Governing Law

This Agreement shall be construed under and enforced pursuant to the laws of the State of Tennessee.

12. Venue and Jurisdiction

Exclusive venue and jurisdiction for any litigation brought pursuant to or with regard to this Agreement shall be in the Circuit Court for Maury County, Tennessee.

13. Severance

Should any provision of this Agreement be declared invalid, illegal or unenforceable by a court of competent jurisdiction, the invalidity, illegality or unenforceability shall not affect other provisions of this Agreement, which shall remain in full force and effect.

14. Captions

Captions of the sections of this Agreement are for convenience and reference only and shall in no way be held to explain, modify, amplify or aid in the interpretations, construction, or meaning of the provisions of this Agreement

15. Amendment

This Agreement shall be amended only in writing executed by all Parties hereto.

16. Assignment

This Agreement shall not be assigned by the Developer to a third party without prior written consent of the City, which shall not be unreasonably withheld, except that the Developer may assign this Agreement without the consent of the City to any person or entity that is controlled by or under common control with the Developer or to a third party which purchases the entire development.

17. Binding Effect

This Agreement shall be binding upon each of the parties hereto, their successors, heirs and assigns and that there are no understandings or agreements between them except as contained in this Agreement.

18. Entire Agreement

This writing constitutes the entire agreement between the Parties and supersedes all previous agreements, if any. No Party to this Agreement makes any representation to the other Party, except as expressly set forth in this Agreement.

19. Execution

This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original for all purposes, and all of which taken together shall constitute a single instrument.

Approved by the City of Spring Hill Board of Mayor and Alderman on _____, 2022.

SO AGREED by the undersigned parties as of the date first given.

DEVELOPER

ALAINA PARK

CITY OF SPRING HILL, TENNESSEE

By: _____
AUSTIN PENNINGTON, Owner

By: _____
JIM HAGAMAN, Mayor