CITY OF
LAKELAND
TENNESSEE

Industrial Development Board
Regular Meeting Agenda
Thursday, November 21, 2024, 5:30 PM
City Hall, Lakeland, Tennessee 38002

I. CALL TO ORDER:

II. ROLL CALL:

III. APPROVAL OF MINUTES OF PREVIOUS MEETING:

1. **Regular Meeting Minutes** - October 24, 2024

IV. PUBLIC DISCUSSION:

V. REPORTS OF OFFICERS AND COMMITTEES:

1. November 2024 IDB President's Report

    a. October 2024 IDB Financial Statements

VI. UNFINISHED BUSINESS:

VII. NEW BUSINESS:

1. **Resolution** - approving draw request 12 in connection with the tax increment financing for Ashmont Developer, LLC.

2. **Resolution** - approving payment request 2 in connection with the development agreement by and between the Industrial Development Board of the City of Lakeland, Tennessee, and the City of Lakeland, Tennessee, for the development of the Lakeland Gateway.

3. **Resolution** - approving the Loan Modification Agreement by and between the Industrial Development Board of the City of Lakeland, Tennessee and FirstBank, and joined in by Lakeland Commons, LLC.

4. **Resolution** - adopting a development agreement between the Industrial Development Board of the City of Lakeland, Tennessee, and the City of Lakeland, Tennessee, related to the Safety tax increment financing development area.

VIII. ANNOUNCEMENTS:

IX. ADJOURNMENT:

CITY OF LAKELAND TENNESSEE

Industrial Development Board
Regular Meeting Minutes
Thursday, October 24, 2024, 5:30 PM
City Hall, Lakeland, Tennessee 38002

I. CALL TO ORDER:

The meeting was called to order by Chair Alan Johnson 5:30 p.m. on Thursday, October 24, 2024.

II. ROLL CALL:

Richard Gonzales	Present
Shaun Brannen	Present
Derek Johnston	Present
Richard Justin	Present
Alan Johnson	Present
Steve Laster	Present
Brian Sullivan	Absent
Mayor Josh Roman	Absent

Staff personnel in attendance were City Manager Michael Walker and City Recorder Cheyenne Carter.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING:

1. **Regular Meeting Minutes** - September 26, 2024

Richard Gonzales moved to bring this item to the floor, seconded by Steve Laster.

Discussion ensued.

When the question was called the meeting minutes passed as presented, voice vote, 6 in favor 0 against 0 abstain (6-0-0).

IV. PUBLIC DISCUSSION:

None

V. REPORTS OF OFFICERS AND COMMITTEES:

1. President's Report

a. September 2024 IDB Financial Statements
This report was offered by IDB President Michael Walker.

b. Tennessee Comptroller of the Treasury - Report on Debt Obligation, TIF Gateway Note, Series 2024

This report was offered by IDB President Michael Walker.

VI. UNFINISHED BUSINESS:
None

VII. NEW BUSINESS:

1. **Resolution** - approving draw request 11 in connection with the tax increment financing for Ashmont Developer, LLC.

   Richard Gonzales moved to bring this item to the floor, seconded by Steve Laster.

   Discussion ensued.

   When the question was called the resolution passed as presented, voice vote, 6 in favor 0 against 0 abstain (6-0-0).

VIII. ANNOUNCEMENTS:

1. City Manager and IDB President announced the upcoming West TN Trail Run event and encourage the board members to participate and spread awareness.

IX. ADJOURNMENT:
There being no other business on which to act, the meeting was adjourned without objection at 5:41pm on Thursday, October 24, 2024.

These minutes were approved on November 21, 2024.

____
Steve Laster
Secretary

ATTEST:

____
Cheyenne Carter
City Recorder

Industrial Development Board

Meeting Cycle: Thursday, November 21, 2024

Subject: November 2024 IDB President's Report

Staff Contact:

STAFF RECOMMENDATION

BUDGET IMPACT

DISCUSSION

INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND TENNESSEE

GENERAL FUND - BALANCE SHEET
AS OF OCTOBER 31, 2024

Unaudited

ASSETS		
Current Assets		
Cash and cash equivalents	$	8,781
TOTAL ASSETS	$	8,781
LIABILITIES		
Current Liabilities		
Accounts payable	$	-
TOTAL LIABILITIES		-
FUND BALANCE		
Unassigned		8,781
TOTAL FUND BALANCE		8,781
TOTAL LIABILITIES AND FUND BALANCE	$	8,781

INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF
LAKELAND
TENNESSEE

GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
FISCAL YEAR TO DATE THROUGH OCTOBER 31, 2024

Unaudited

REVENUES		
Administrative fees - tax increment financing districts	$	-
Interest income		1
TOTAL REVENUES		1
EXPENDITURES		
Contract professional services		2,000
Bank charges		301
TOTAL EXPENDITURES		2,301
EXCESS OF REVENUES OVER EXPENDITURES		(2,300)
FUND BALANCE, Beginning of year		11,081
FUND BALANCE, End of year	$	8,781

Industrial Development Board

Meeting Cycle: Thursday, November 21, 2024

Subject: **Resolution** - approving draw request 12 in connection with the tax increment financing for Ashmont Developer, LLC.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION

The IDB President recommends approval of resolution R-170-2024.

BUDGET IMPACT

Eligible infrastructure costs of Ashmonth Developer, LLC submitted with this request total $879,150.83, and represent potential reimbursement to the developer from the TIF Loan through the IDB.

DISCUSSION

Included in this packet is the recommendation for approval from A2H, engaged to monitor compliance with TIF requirements.

Below is a summary of the spending on this TIF project so far:

Eligible Costs Reporting

	Developer Budget	Prior Draws	Current Draw	Draws PTD	Remaining TIF Loan
Infrastructure					
Site Prep	$ 3,390,000.00				
Streets	1,522,511.00				
Utilities	2,849,947.00				
Landscape and Other	425,000.00				
Total Infrastructure	8,187,458.00	3,221,221.62	$541,886.42	3,763,108.04	4,424,349.96
Soft Costs (professional fees, interest expense)	4,812,542.00	654,531.64	$337,264.41	991,796.05	3,820,745.95
Total Project Estimate	$ 13,000,000.00	$ 3,875,753.26	$ 879,150.83	$ 4,754,904.09	$ 8,245,095.91
Budget Use Percentage To Date	36.6%				

RESOLUTION R-170-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 12 IN CONNECTION WITH THE TAX INCREMENT FINANCING FOR ASHMONT DEVELOPER, LLC

WHEREAS, The Industrial Development Board of the City of Lakeland, Tennessee (the "Lakeland IDB") has approved an economic impact plan (the "Economic Impact Plan") regarding the development of an approximately 100-acre tract of land located in the northwest and northeast corners of Canada Road and Interstate 40 in the City of Lakeland, Tennessee and in Shelby County, Tennessee, as described in the Economic Impact Plan (the "Plan Area"); and

WHEREAS, the Lakeland IDB has approved a Tax Increment Financing Application (the "TIF Application") for the Plan Area, as submitted by Ashmont Developer, LLC, a Tennessee limited liability company ("Ashmont"); and

WHEREAS, Ashmont currently owns the portion of the Plan Area municipally known as 9640 Davies Plantation, Lakeland, Tennessee 38002 (the "Site"), and Ashmont intends to develop the Site pursuant to a planned development that is to be approved by the City of Lakeland, Tennessee, (the "City") for a new mixed-use development of retail, hotel, and senior living uses and other uses as permitted by such planed development, as such planned development may be amended from time to time by the City consistent with the Economic Impact Plan (the "Project"), and

WHEREAS, the Economic Impact Plan permits certain tax increment financing ("Tax Increment Financing") pursuant to Chapter 53, Title 7 of the Tennessee Code Annotated; and

WHEREAS, the Lakeland IDB reviewed the Economic Impact Plan and the TIF Application in an open public meeting; and

WHEREAS, the Lakeland IDB conducted a public hearing on the Economic Impact Plan held at least two (2) weeks after public notice of the hearing was published in accordance with the applicable laws of Tennessee; and

WHEREAS, in connection with Tax Increment Financing, the City has entered into a Development Agreement with the Lakeland IDB, wherein the Ashmont Interests are defined, with respect to the Plan Area and the development of the Project; and

WHEREAS, under the Development Agreement between the Lakeland IDB and the City, the proceeds of the Tax Increment Financing would be used to pay the costs of the eligible public improvements (the "TIF Eligible Costs") relating to the development of the Project and would pledge the TIF Revenues to apply to the debt service of the Tax Increment Financing; and

WHEREAS, in connection with the Tax Increment Financing, Ashmont has submitted Draw Request 12, a copy of which is attached hereto as **Exhibit A**, to use for certain TIF Eligible Costs.

RESOLUTION R-170-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 12 IN CONNECTION WITH THE TAX INCREMENT FINANCING FOR ASHMONT DEVELOPER, LLC

NOW, THEREFORE, BE IT RESOLVED by the Lakeland IDB that**:**

RESOLVED, the Draw Request is hereby approved by the Lakeland IDB and further,

RESOLVED, the directors, officers, agents, and employees of the Lakeland IDB are hereby authorized and directed to do all such things and to execute or accept any and all such certificates or documents as may be necessary to carry out and comply with the provisions of this Resolution and to carry out, give effect to and consummate the transactions contemplated hereby and thereby. All of the acts and doings of the directors, officers, agents and employees of the Lakeland IDB which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved.

Dated: November 21, 2024

____
Alan Johnson, *Chair*

Attest:

____
Steve Laster, *Secretary*

RESOLUTION R-170-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 12 IN CONNECTION WITH THE TAX INCREMENT FINANCING FOR ASHMONT DEVELOPER, LLC

Exhibit A

Draw

Request(s)

See

Attached

DESCRIPTION Lakeland - Ashmont Developers, LLC	PROJECT BUDGET	REALLOCATIONS				DRAW REQUESTS		12/15/23	2/20/24	3/22/24	4/23/24	5/21/24	6/15/24	7/17/24	8/9/24	9/12/24	10/14/24	11/15/24		DATE	%	BALANCE TO FUND (Incl. Retainage)
	ORIGINAL	PREV. ADJ.	CURRENT ADJ.	REVISED	REVISED BUDGET / USABLE SF	CLOSING	DRAW 1 - Reimbursement Post Closing	DRAW 2 - Bank & Legal Closing Costs	DRAW 3	DRAW 4	DRAW 5	DRAW 6	DRAW 7	DRAW 8	DRAW 9	DRAW 10	DRAW 11	DRAW 12	DRAW 13	TOTAL	%	
LAND: ***4,325,508.00***																						
Purchase Price	$0.00			$0.00	$0.00															$0.00		$0.00
SUB TOTAL LAND	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**		**$0.00**
HARD COSTS:																						
Infrastructure	$ 8,187,458.00			$8,187,458.00	$1.89		$507,133.75		$261,305.05	$130,381.50	$212,423.47	$382,862.46	$259,268.06	$431,135.60	$405,163.75	$523,060.94	$108,487.04	$541,886.42		$3,763,108.04	46%	$4,424,349.96
Retainage Escrow Account				$0.00	$0.00															$0.00		$0.00
Landscaping				$0.00	$0.00															$0.00		$0.00
Site Lighting				$0.00	$0.00															$0.00		$0.00
Walls / Fencing				$0.00	$0.00															$0.00		$0.00
MLGW / Utility Connections				$0.00	$0.00															$0.00		$0.00
																				$0.00		$0.00
SUB TOTAL HARD COSTS	**$8,187,458.00**	**$0.00**	**$0.00**	**$8,187,458.00**	**$1.89**	**$0.00**	**$507,133.75**	**$0.00**	**$261,305.05**	**$130,381.50**	**$212,423.47**	**$382,862.46**	**$259,268.06**	**$431,135.60**	**$405,163.75**	**$523,060.94**	**$108,487.04**	**$541,886.42**	**$0.00**	**$3,763,108.04**	46%	**$4,424,349.96**
SOFT COSTS:																						
Architect	0.00	$50,000.00		$50,000.00	$0.01								$45,133.26							$45,133.26	90%	$4,866.74
Engineering	425,000.00			$425,000.00	$0.10		$47,222.86		$26,657.19	$1,000.00		$27,302.41	$13,044.43	$6,698.76	$5,060.49					$126,986.14	30%	$298,013.86
Insurance & Bonding	200,000.00			$200,000.00	$0.05		$867.69		$293.99									$9,593.00		$10,754.68	5%	$189,245.32
Planning / Consulting	350,000.00			$350,000.00	$0.08		$92,528.70		$16,989.86			$2,550.00				$13,950.00				$126,018.56	36%	$223,981.44
Lakeland Development Fees	650,000.00			$650,000.00	$0.15				$19,920.00			$35,242.37						$213,964.08		$269,126.45	41%	$380,873.55
Legal / Title Work / Bank Closing Costs / Appraisal	150,000.00	$114,099.63		$264,099.63	$0.06	$85,958.46	$400.00	$176,936.25		$804.92										$264,099.63	100%	$0.00
Surveys / Phase I / Site Staking	100,000.00			$100,000.00	$0.02	$3,935.00	$27,260.00		$1,850.00											$33,045.00	33%	$66,955.00
MLGW / Utility Connections	0.00		$115,000.00	$115,000.00	$0.03													$113,332.33		$113,332.33	99%	$1,667.67
RE Taxes	0.00			$0.00	$0.00															$0.00		$0.00
Interest / Operating Reser 8.0% on $12.5MM Average Funded for 3-Yrs	2,208,000.00			$2,208,000.00	$0.51															$0.00	0%	$2,208,000.00
Inspection Fees (36)	45,000.00			$45,000.00	$0.01						$375.00	$300.00	$450.00	$487.50	$487.50	$375.00	$450.00	$375.00		$3,300.00	7%	$41,700.00
Contingency	$684,542.00	($164,099.63)	($115,000.00)	$405,442.37	$0.09															$0.00	0%	$405,442.37
SUB TOTAL SOFT COSTS	**$4,812,542.00**	**$0.00**	**$0.00**	**$4,812,542.00**	**$1.11**	**$89,893.46**	**$168,279.25**	**$176,936.25**	**$65,711.04**	**$1,804.92**	**$375.00**	**$65,394.78**	**$58,627.69**	**$7,186.26**	**$5,547.99**	**$14,325.00**	**$450.00**	**$337,264.41**	**$0.00**	**$991,796.05**	21%	**$3,820,745.95**
				$0.00																$0.00		$0.00
TOTAL PROJECT COSTS	**$13,000,000.00**	**$0.00**	**$0.00**	**$13,000,000.00**	**$3.01**	**$89,893.46**	**$675,413.00**	**$176,936.25**	**$327,016.09**	**$132,186.42**	**$212,798.47**	**$448,257.24**	**$317,895.75**	**$438,321.86**	**$410,711.74**	**$537,385.94**	**$108,937.04**	**$879,150.83**	**$0.00**	**$4,754,904.09**	37%	**$8,245,095.91**
SOURCES OF FUNDS:																						
Developer Equity / Debt Needed	$0.00			$0.00	$0.00															$0.00		$0.00
TIF - First Citizens Bank	$13,000,000.00			$13,000,000.00	$3.01	$89,893.46	$675,413.00	$176,936.25	$327,016.09	$132,186.42	$212,798.47	$448,257.24	$317,895.75	$438,321.86	$410,711.74	$537,385.94	$108,937.04	$879,150.83	$0.00	$4,754,904.09	37%	$8,245,095.91
				$0.00																$0.00		$0.00
TOTAL SOURCES OF FUNDS				**$13,000,000.00**	**$3.01**	**$89,893.46**	**$675,413.00**	**$176,936.25**	**$327,016.09**	**$132,186.42**	**$212,798.47**	**$448,257.24**	**$317,895.75**	**$438,321.86**	**$410,711.74**	**$537,385.94**	**$108,937.04**	**$879,150.83**	**$0.00**	**$4,754,904.09**	37%	**$8,245,095.91**
DIFFERENCES				**$0.00**		**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**		**$0.00**
- Contract 1 Retainage Tracking																				$0.00		

AIA® Document G702™ – 1992

Application and Certificate for Payment

TO OWNER: Ashmont Developer, LLC.
355 Tara Lane
Memphis, TN 38111

PROJECT: Ashmont Phase 1
Canada Rd & Davies Plantation
Lakeland, TN 38002

APPLICATION NO: 10
PERIOD TO: 11/5/24
CONTRACT FOR: Ashmont Planned Development
CONTRACT DATE:
PROJECT NOS: / /

Distribution to:
OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

FROM CONTRACTOR: Moss Carpenter Construction Company, Inc
9700 Village Circle
Suite 300 Lakeland, TN 38002

VIA ARCHITECT: McCarty Grandberry Engineering

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
AIA Document G703™, Continuation Sheet, is attached.

1. **ORIGINAL CONTRACT SUM** .... $ 5,063,112.00
2. **NET CHANGE BY CHANGE ORDERS** .... $ 2,361,451.00
3. **CONTRACT SUM TO DATE** *(Line 1 ± 2)* .... $ 7,424,563.00
4. **TOTAL COMPLETED & STORED TO DATE** *(Column G on G703)* .... $ 3,583,140.06
5. **RETAINAGE:**
   a. 5.0 % of Completed Work *(Columns D + E on G703)* $ 179,157.00
   b. 5.0 % of Stored Material *(Column F on G703)* $ 0.00

   Total Retainage *(Lines 5a + 5b, or Total in Column I of G703)* ...... $ 179,157.02
6. **TOTAL EARNED LESS RETAINAGE** .... $ 3,403,983.04
   (Line 4 minus Line 5 Total)
7. **LESS PREVIOUS CERTIFICATES FOR PAYMENT** .... $ 2,862,096.62
   (Line 6 from prior Certificate)
8. **CURRENT PAYMENT DUE** .... $ 541,886.42
9. **BALANCE TO FINISH, INCLUDING RETAINAGE**
   (Line 3 minus Line 6) $ 4,020,579.96

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	$ 2,361,451.00	$ 0.00
Total approved this month	$ 0.00	$ 0.00
TOTAL	$ 2,361,451.00	$ 0.00
NET CHANGES by Change Order	$ 2,361,451.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Moss Carpenter Construction Company, Inc

By: [signature] Date: 11/5/24

State of: Tn

County of: Shelby

Subscribed and sworn to before me this 5th day of Nov 2024

Notary Public: [signature]

My commission expires:

DAWN WARREN STATE OF TENNESSEE NOTARY PUBLIC My Commission Expires on 09/26/2027 SHELBY COUNTY

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED .... $

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

AIA® Document G703™ – 1992

Continuation Sheet

AIA Document G702™–1992, Application and Certificate for Payment, or G732™–2009, Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached.
In tabulations below, amounts are in US dollars.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: 10
APPLICATION DATE: 11/5/24
PERIOD TO: 11/5/24
ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
			WORK COMPLETED						
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD	MATERIALS PRESENTLY STORED (Not in D or E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)	BALANCE TO FINISH (C – G)	RETAINAGE (If variable rate)
1	General Conditions	157,120.00	62,908.60	12,569.60	0.00	75,478.20	48	81,641.80	3,773.91
2	Sikte Survey & Layout	40,000.00	9,000.00	4,400.00	0.00	13,400.00	34	26,600.00	670.00
3	Traffic Control	15,000.00	300.00	0.00	0.00	300.00	2	14,700.00	15.00
4	Testing Allowance	45,000.00	31,299.00	0.00	0.00	31,299.00	70	13,701.00	1,564.95
5	Construction Entrances	10,500.00	7,035.00	0.00	0.00	7,035.00	67	3,465.00	351.75
6	Silt Fence	72,215.00	54,354.25	10,832.25	0.00	65,186.50	90	7,028.50	3,259.33
7	Check Dams	44,095.00	43,005.33	0.00	0.00	43,005.33	98	1,089.67	2,150.27
8	Erostion Control Maintenance Allowance	115,000.00	95,011.75	4,397.50	0.00	99,409.25	86	15,590.75	4,970.46
9	Flocculant Allowance	135,000.00	78,125.00	0.00	0.00	78,125.00	58	56,875.00	3,906.25
10	Temporary Seeding Allowance	265,000.00	115,580.00	0.00	0.00	115,580.00	44	149,420.00	5,779.00
11	Sodding Allowance	135,000.00	0.00	0.00	0.00	0.00	0	135,000.00	0.00
12	Site Clearing & Burning	282,500.00	276,850.00	5,650.00	0.00	282,500.00	100	0.00	14,125.00
13	Demo Paint Ball Park	30,000.00	30,000.00	0.00	0.00	30,000.00	100	0.00	1,500.00
14	Detention Basins	242,492.00	242,492.00	0.00	0.00	242,492.00	100	0.00	12,124.60
15	Earthwork	1,630,950.00	982,489.00	277,261.50	0.00	1,259,750.50	77	371,199.50	62,987.53
16	Lift Station Access Rd.	26,750.00	0.00	9,897.50	0.00	9,897.50	37	16,852.50	494.88
17	Fine Grade Roads, Building Pads, etc.	70,600.00	0.00	16,944.00	0.00	16,944.00	24	53,656.00	847.20
18	Retaining Walls	389,849.00	3,898.49	0.00	0.00	3,898.49	1	385,950.51	194.92
19	Retaining Wall Railings	132,462.00	0.00	0.00	0.00	0.00	0	132,462.00	0.00
20	Storm Drainage	737,860.00	318,408.75	0.00	0.00	318,408.75	43	419,451.25	15,920.44
21	Curb & Gutter	253,154.00	86,072.36	0.00	0.00	86,072.36	34	167,081.64	4,303.62
22	Asphalt Base & Asphalt Paving	429,509.00	0.00	0.00	0.00	0.00	0	429,509.00	0.00
23	Pavement Markings & Signage	22,550.00	0.00	0.00	0.00	0.00	0	22,550.00	0.00
24	Site Water	600,790.00	0.00	0.00	0.00	0.00	0	600,790.00	0.00
	GRAND TOTAL								

AIA® Document G703™ – 1992

Continuation Sheet

AIA Document G702™–1992, Application and Certificate for Payment, or G732™–2009, Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached.
In tabulations below, amounts are in US dollars.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: 10
APPLICATION DATE: 11/5/24
PERIOD TO: 11/5/24
ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
			WORK COMPLETED						
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD	MATERIALS PRESENTLY STORED (Not in D or E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)	BALANCE TO FINISH (C – G)	RETAINAGE (If variable rate)
25	Sanitary Sewer	750,575.00	241,915.25	157,620.75	0.00	399,536.00	53	351,039.00	19,976.80
26	Lift Station Allowance	200,000.00	0.00	41,112.79	0.00	41,112.79	21	158,887.21	2,055.64
27	Site Clean Up, Street Sweeping, Dust Control Allowance	70,000.00	5,883.51	4,006.48	0.00	9,889.99	14	60,110.01	494.50
28	GC Fee	321,430.00	128,943.00	25,714.40	0.00	154,657.40	48	166,772.60	7,732.87
29	CO #1 - Lime & Additional Clearing	95,409.00	95,409.00	0.00	0.00	95,409.00	100	0.00	4,770.45
30	CO #2 - Phase 2 Sediment Basin, Erosion Control	103,753.00	103,753.00	0.00	0.00	103,753.00	100	0.00	5,187.65
	GRAND TOTAL	7,424,563.00	3,012,733.29	570,406.77	0.00	3,583,140.06	48	3,841,422.94	179,157.02

RECEIPT AND PARTIAL WAIVER OF LIEN RIGHTS

FROM: Moss Carpenter Construction Company, Inc. (The Contractor)

TO: Ashmont Developer, LLC (The Owner)

PROJECT: Ashmont Phase 1
Canada Rd and Davies Plantation (Location)

1. The Undersigned does hereby waive, release and surrender any claim, lien or right of lien resulting from labor, skill, and/or materials, subcontract work, equipment or other work, rent, services or supplies heretofore furnished in and for the construction, improvement, alteration or additions to the above-described project prior to the date hereof.

2. This release is given for and in consideration of the sum of $ 541,886.42 From Ashmont Developer, LLC.

3. In further consideration of the payment made as above set forth, and to induce the Owner to make said payment, the undersigned agrees to defend and hold harmless the Owner or Lender, and/or the principle and surety from any claims hereinafter made by the undersigned and/or its material suppliers, subcontractors or employees, servants, agents or assigns of such persons against the project.

4. It is acknowledged that the designation of the above project constitutes an adequate description of the property and improvements for which the undersigned has received consideration of this release.

5. This instrument shall constitute full, final and complete release of all rights and claims of the undersigned, for the work completed to date of 11/5/24.

DATED THIS 5th Of November, 2024.

Moss Carpenter Construction Company, Inc.

By [signature]
James V. Carpenter
President

Subscribed and sworn to me this
5th Of November, 2024

Notary Public: [signature]

My Commission Expires: 9-26-2027

DAWN WARREN
STATE OF TENNESSEE
NOTARY PUBLIC
My Commission Expires on 09/26/2027
SHELBY COUNTY

Ashmont Allowance Log

		Pay App #1 & #2	Pay App #3	Pay App #4	Pay App #5	Pay App #6	Pay App #7	Pay App #8	Pay App #9	Pay App #10
Erosion Control Maintenance Allowance										
Add Valves		$6,250.00								
Flock Logs		$700.00								
Silt Fence Repair		$1,600.00								
Wattles N and S Side		$2,100.00								
Add Check Dams		$7,055.00								
Flock Logs			$700.00							
Silt Fence Repair 3/21			$500.00							
Add Silt Fence 3/21			$2,000.00							
Add Silt Fence 3/26			$1,600.00							
Add Check Dams			$3,825.00							
Clean Silt Buildup at Check Dams			$400.00							
Add Check Dams 4/18, 4/24				$3,740.00						
Silt Fence Repairs 4/8, 4/16				$2,175.00						
Add Silt Fence 4/8, 4/18, 4/25				$5,080.00						
Add check dams 5/20, 5/21, 5/24 (66 tons)					$5,610.00					
Wattles 5/16 (70 lf)					$350.00					
Silt Fence Repairs 5/16					$600.00					
Add Silt Fence 5/11, 5/16, 5/21					$9,160.00					
Silt Fence Repairs 5/24,5/30,6/12,6/24						$2,600.00				
Add Silt Fence 5/24, 5/30, 6/04,6/12,6/24						$8,108.00				
Add check dams 5/31 (43 tons)						$3,655.00				
Silt Fence Repairs 7/11, 7/15, 7/18, 7/19							$3,600.00			
Add silt Fence 7/11, 7/17, 7/18, 7/19							$2,791.25			
Add wire backed silt Fence 7/19							$1,200.00			
Add Type A Silt Fence at Top of Basin Slope								$756.25		
Add Type A Silt Fence (8/19, 8/28, 8/29, 9/10)									$3,011.25	
Silt Fence Repairs (8/19, 9/10)									$1,300.00	
Add Wattles (9/10)									$440.00	
Add Rock Check Dams (9/11)									$3,230.00	
Lime Sediment Basin (9/5)									$10,875.00	
Add Silt Fence w/Wire Backing (9/25)										$1,820.00
Add Type A Silt Fence (9/11, 9/23, 9/27)										$577.50
Silt Fence Repairs (9/11, 9/23, 9/25, 9/27)										$2,000.00
TOTAL Billed Per Pay App to Date		**$17,705.00**	**$9,025.00**	**$10,995.00**	**$15,720.00**	**$14,363.00**	**$7,591.25**	**$756.25**	**$18,856.25**	**$4,397.50**
Eros. Control Maint. Allowance Contract Amount	**$115,000.00**									
Total Eros. Control Maint. Allowance Currently Billed	**$99,409.25**									
Eros. Control Maint. Allowance Current Balance	**$15,590.75**									

		Pay App #1 & #2	Pay App #3	Pay App #4	Pay App #5	Pay App #6	Pay App #7	Pay App #8	Pay App #9	Pay App #10
Flocculant Allowance										
Flock 2/13		$7,500.00								
Flock South Pond		$2,500.00								
Flock 3/17, 3/28			$15,000.00							
Flock 4/12, 4/19				$15,000.00						
Flock 5/10 (4 basins)					$6,125.00					

Flock 5/20 (4 basins)					$6,125.00					
Flock 5/28 (3 basins)					$4,750.00					
Flock 6/11,6/19 (1 basin)						$2,750.00				
Flock 6/19 (1 basin)							$1,375.00			
Flock 7/16 (2 basins)							$2,750.00			
Flock 7/24 (3 basins)							$4,750.00			
Flock 3 Basins (8/27, 9/11)									$9,500.00	
Total Billed Per Pay App to Date		**$10,000.00**	**$15,000.00**	**$15,000.00**	**$17,000.00**	**$2,750.00**	**$8,875.00**		**$9,500.00**	**$0.00**
Flocculant Allowance Contract Amount	**$135,000.00**									
Total Flocculant Allowance Currently Billed	**$78,125.00**									
Flocculant Allowance Current Balance	**$56,875.00**									

Temporary Seeding Allowance										
Seed & Straw South Side		$22,500.00								
Matt Slopes on South Pond			$16,250.00							
Seed & Straw Commercial Side 4/18				$3,750.00						
Seed and Straw house pads Phase 1						$21,000.00				
Seed and Straw Back Basin							$2,250.00			
Matt Slopes on North Sediment Basin								$21,060.00		
Matt Slopes (8/29)									$1,755.00	
Seed & Straw 18.01 Acres									$27,015.00	
Total Billed Per Pay App To Date		**$22,500.00**	**$16,250.00**	**$3,750.00**		**$21,000.00**	**$2,250.00**	**$21,060.00**	**$28,770.00**	**$0.00**
Temp. Seeding Allowance Contract Amount	**$265,000.00**									
Total Temp. Seeding Allowance Currently Billed	**$115,580.00**									
Temp. Seeding Allowance Balance	**$149,420.00**									

Testing Allowance										
PSI Invoice 3/31			$4,444.00							
PSI Invoice 4/30					$3,993.00					
PSI Invoice 5/31						$7,083.00				
PSI Invoice							$5,144.00			
PSI Invoice 7/31								$10,365.00		
PSI Invoice 8/31									$270.00	
Total Billed Per Pay App to Date			**$4,444.00**		**$3,993.00**	**$7,083.00**	**$5,144.00**	**$10,365.00**	**$270.00**	**$0.00**
Testing Allowance Contract Amount	**$45,000.00**									
Total Testing Allowance Currently Billed	**$31,299.00**									
Testing Allowance Balance	**$13,701.00**									

Sodding Allowance										

Total Billed Per Pay App to Date										
Sodding Allowance Contract Amount	**$135,000.00**									
Total Sodding Allowance Currently Billed	**$0.00**									
Sodding Allowance Balance	**$135,000.00**									

Site Cleanup Allowance										
Site Cleanup 5/19, 5/26					$3,754.06					
Site Cleanup 7/29 - 8/3						$2,129.45				
Site Cleanup 10/1-10/5										$1,877.03
Site Cleanup 10/7-10/11										$2,129.45
Total Billed Per Pay App to Date					**$3,754.06**	**2,129.45**				**$4,006.48**
Site Cleanup Allowance Contract Amount	**$70,000.00**									
Total Cleanup Allowance Currently Billed	**$9,889.99**									
Site Cleanup Allowance Balance	**$60,110.01**									

Lift Station Allowance										
Wet Well Installation										$41,112.79
Total Billed Per Pay App to Date										**$41,112.79**
Lift Station Allowance Contract Amount	**$200,000.00**									
Total Lift Station Allowance Currently Billed	**$41,112.79**									
Lift Station Allowance Balance	**$158,887.21**									

Grand Total Of All Allowance Items Billed To Date	**$375,416.03**

BROWNING CONTRACTORS, INC

P O BOX 382003
GERMANTOWN, TN 38183-2003
901.850.4035

FOR: MOSS CARPENTER CONSTRUCTION COMPANY
9700 VILLAGE CIR SUITE 300
LAKELAND, TN 38002
ATTN: MR. JAMIE CARPENTER

CHANGE ORDER #10

Job: Ashmont | Location: Lakeland, TN | Date: 10.25.2024

ADDITIONAL ITEAMS	Quantity	Unit	Price	Total
Additional Silt Fence Wire Backing (9.25)	455	LF	$4.00	$1,820.00
Additional Silt Fence Type A (9.11, 9.23, 9.27)	210	LF	$2.75	$577.50
Silt Fence Repair (9.11, 9.23, 9.25, 9.27)	10	EA	$200.00	$2,000.00
Wet Well	1	LS	$41,112.79	$41,112.79
~~Report September~~	1	EA	$850.00	~~$850.00~~
SUBTOTAL				$46,360.29

TOTAL PRICE **$46,360.29**

AUTHORIZED
SIGNATURE:____________________ DATE:__________
ACCEPTANCE OF PROPOSAL:
SIGNATURE:____________________ DATE:__________

Moss Carpenter Construction Company, Inc
Payroll by JobId

Payroll month: October, 2024   Pay periods: All

	Pay Period	Pay Type	Hours	Rate	Gross Pay	Non Taxable Reimb.	Burden
Job: 24100	**Ashmont Phase 1**						
	Cost category totals		200.00		6,950.80	0.00	2,047.03
10721 CLEANUP							
	10/6/24	Regular	40.00	36.250	1,450.00		427.03
	10/13/24	Regular	40.00	23.500	940.00		276.83
	10/13/24	Overtime	20.00	35.250	705.00		207.62
	Cost category totals		100.00		3,095.00	0.00	911.48
	Job totals		300.00		10,045.80	0.00	2,958.51
	Report totals		300.00		10,045.80	0.00	2,958.51

For selected JobId: 24100

HUB

Hub International Mid-South

Phone: 901-312-5300
Fax: 901-853-9943

Invoice # 3875094	Page 1 of 1
ACCOUNT NUMBER	DATE
ASHMDEV-01	11/06/2024
BALANCE DUE ON	AMOUNT DUE
11/06/2024	$9,593.00

Pay My Bill Online

Visit our online portal to easily and securely pay your HUB invoice using your banking information (ACH)

www.hubinternational.com/paymybill

Ashmont Developer, LLC
355 Tara Lance
Memphis, TN 38111

Bond (Non Renewal) PolicyNumber: 2356334 Effective: 10/11/2024 to 10/11/2025

Item #	Trans Eff Date	Due Date	Trans	Description	Amount
46686593	10/11/2024	11/06/2024	NEWB	Development Bond-City of Lakeland-Ashmont Planned De	$9,593.00
				Policy Invoice Balance:	**$9,593.00**
				Total Invoice Balance:	**$9,593.00**

Development Bond-City of Lakeland-Ashmont Planned Development Area 2
Bond Amount $639,554.10

ADDITIONAL PAYMENT OPTIONS

PAY BY CHECK

Please remit your payment to:
HUB International
1661 International Drive, Suite 300
Memphis, TN 38120

***** PREMIUM FINANCING OPTIONS MAY BE AVAILABLE UPON REQUEST; PLEASE CONTACT YOUR HUB REPRESENTATIVE *****

***** PLEASE RETURN A COPY OF THIS INVOICE WITH YOUR CHECK, AND REFERENCE ON THE PAYMENT YOUR INVOICE # 3875094 *****

More detailed information about how Hub International is compensated can be found at hubinternational.com behind the "How We Get Paid" tab.

NLOVETT

RESIDENTIAL SUBDIVISION
DEVELOPMENT CONTRACT

INTRODUCTION

THIS RESIDENTIAL SUBDIVISION DEVELOPMENT CONTRACT ("Contract") is made and entered into this the _____ day of ______________, **2024,** by and between **ASHMONT DEVELOPER, LLC,** a limited liability company organized and existing under the laws of the State of Tennessee ("Developer"), and **THE CITY OF LAKELAND TENNESSEE**, a municipality organized and existing under the laws of the State of Tennessee ("City").

W I T N E S S E T H:

WHEREAS, Developer is the owner of record of a tract[1] of land zoned AG-Agriculture which contains approximately 99.2 acres, also identified by Parcel ID # L0159 00395 in the official records of the Shelby County Recorder's Office ("Subdivision Site") and desires to improve and develop the Subdivision Site into a 41-lot subdivision to be known as **Ashmont Planned Development Area 2** ("Subdivision"); and

WHEREAS, the City's Municipal Planning Commission ("MPC"), has approved the subdivision plan submitted by Developer with respect to the Subdivision ("Preliminary Development Plan"); and

WHEREAS, Developer is required to install, at its expense, public improvements, including, but not limited to, water lines, fire hydrants, sanitary sewer, underground electrical power and gas utilities, grading, storm water drainage system, streets, curbs, gutters, sidewalks, street name signs, traffic control devices and street lights in connection with development of the Subdivision at its own cost; and

WHEREAS, Developer may be required, pursuant to its application and MPC and/or the City's Design Review Commission ("DRC") approval, to install, at its expense, private improvements and amenities, including, but not limited to, private streets and alleys, fences, entrance treatments and signage, walls, lakes, playgrounds, swimming pools, tennis courts and other recreational facilities, common open space, walking trails, storm water 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 provide services to the Subdivision in accordance with the City's standard policies and applicable rates; and

WHEREAS, the City and Developer, by the terms of this Contract, desire to specify those detailed costs, division of responsibilities and maintenance and other conditions in addition to the Land Development Regulations and the Construction Plat/Plan, heretofore approved, according to

[1] If Developer is not the owner of record of the Subdivision Site but has permission from the actual owner of record to develop same, the owner will be required to join Developer herein and all obligations imposed upon Developer hereunder shall be jointly and severally imposed on Developer and Owner.

State Statute by the MPC and/or the Board of Commissioners ("BOC"), said additional terms not to be considered as a variance from or modification to Regulations, plans or plat, as approved on the date of execution; and

WHEREAS, this Contract is entered into by the City at the insistence of Developer upon the understanding that Developer shall remain fully responsible for specific compliance with the requirement of the Land Development Regulations, the Technical Specifications of the City and the Construction Plat/Plan, duly prepared by Developer subject to review and recommendation of the City Engineer and the City Planner or person(s) designated by the City Manager; and

WHEREAS, the City is willing to approve the Subdivision, and all property and/or all street dedications, subject to Developer's compliance with any and all applicable Federal and State of Tennessee laws and local statutes, ordinances, codes, rules and/or regulations in addition to the specific conditions hereinafter set forth.

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

GENERAL PROVISIONS

1. Construction Standards. Developer shall construct the Subdivision in accordance with the Outline Plan approved by the BOC on June 9th 2022**,** Outline Plan Amendment approved by the MPC on December 14th 2023 and BOC on February 1st 2024, Preliminary Development Plan approved by the MPC on December 14th 2023 and Construction plans subject to approval by the City Engineer, and if applicable, the requirements of the DRC, and in accordance with the requirements of (a) City Land Development Regulations; (b) City Zoning Ordinance and any other applicable Ordinances of the City; (c) City Design Guidelines; (d) the applicable building and fire safety regulations of Shelby County Tennessee. Items (a) through (d) are hereby made a part of this Contract by reference as if fully set forth herein and are hereinafter referred to collectively as "Codes". References herein to said Codes are to those in effect on the date this Contract is approved.

Developer shall also construct the Project in accordance with the following standards and specifications, all of which are incorporated herein by reference as if fully set forth:

(a) The standards of the American Society of Testing Materials (ASTM);
(b) The requirements of the Office of 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).
(f) The requirements of the Tennessee Department of Environment and Conservation.

All standards and specifications set forth above are those that are in effect on the date this Contract is approved.

2. Inspection and Testing – Costs. That Developer shall pay, on a monthly basis, the reasonable expenses of engineering inspection by the City Engineer or his designee, along with any laboratory testing expenses reasonably deemed necessary by the City Engineer and incurred for material testing and soil density and moisture content test, provided, however, that Developer shall remain fully responsible for construction to the approved design and quality control, and that 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.

3. Approval of Subdivision Plans. In addition to the approval of MPC, Developer shall, within three (3) years of receiving approval of the Preliminary Development Plan, also obtain the approval of the City Engineer for the initial phase Subdivision Construction Plans. All construction relating to the Subdivision shall be subject to inspection and approval by the City until the end of the warranty period and release of Security.

OWNERSHIP

4. Developer agrees it shall have no claim, direct or implied, in the title or ownership of the public improvements, except sidewalks, specified in this contract that are to be dedicated to the City by virtue of the official recording of the Final Plat for the Subdivision and accepted (except for sidewalks) for perpetual maintenance by the City (the "Public Improvements"). The City, upon Initial Acceptance [hereinafter defined] and Final Plat recording, will take full title to the Public Improvements. Maintenance and or warranty responsibilities of the Developer prior to the end of the warranty period and release of Security are provided for hereinafter.

5. Developer agrees that it will not transfer ownership of the Subdivision Site without first providing the City with notice of when the transfer is to occur and the identity, current address and telephone number of the proposed Transferee. If it is Transferee's intention to develop the Subdivision in accordance with this Contract, Developer agrees to provide the City an Assumption Agreement by which Transferee agrees to perform the obligations required under this Contract and to provide the security needed to assure such performance. Said Assumption Agreement will be subject to the approval of the BOC and City Attorney. Unless the Assumption Agreement specifically so provides, Developer shall not be released from its obligations hereunder. The City will not unreasonably withhold its consent with respect to the foregoing.

6. Developer understands that if it transfers the Subdivision site without first providing the notice of transfer and Assumption Agreement as required herein and receiving the approval of the BOC and City Attorney, it will be in breach of this Contract and the City may require that all work be stopped relative to the Subdivision and subject Developer to a declaration of fault.

7. Developer agrees to furnish, on demand, satisfactory evidence that it has the lawful right to enter into this Contract for the purposes herein contained. Any security for Developer's obligations hereunder is subject to the approval of the City Attorney.

8. Duration of Obligations. The obligations of Developer hereunder shall run with the Subdivision Site until Developer's obligations have been fully met. Any party taking title to the Subdivision Site, or any part thereof, shall take said real property subject to such obligations.

SECURITY

9. (a) Developer will furnish to the City, not later than the execution of this Contract by Developer, an estimate as to quantity and cost of all public and private improvements, on or off site (i.e., specific Design Review Commission requirements: brick walls and entrance treatments, landscaping, fencing, lighting, etc.) required by the City pursuant to MPC and/or DPC approval, with the exception of electrical power, water and gas utilities.

(b) Developer shall provide an Irrevocable Letter of Credit capable of presentation to the issuer in Shelby County, Tennessee, issued from a bank doing business, subject to service of process, and subject to both subject matter and personal jurisdiction in Shelby County, Tennessee, with no fixed expiration date, or other adequate security acceptable to the City ("Security") in the amount of **Six Hundred Thirty-Nine Thousand Five Hundred Fifty-Four Dollars and Ten Cents ($639,554.10)** for all public and/or private internal improvements, plus a sum equal to the cost, as estimated by Developer and approved by the City Engineer, of improvements public or private required by the City pursuant to MPC and/or DRC approval but to be constructed or installed off of the Project Site. The City will accept as Security an Irrevocable Letter of Credit, Performance Bond, cash or its equivalent. The form and substance of any Irrevocable Letter of Credit or Performance Bond is subject to the approval of the City Attorney.

(c) The Final Plat of the Subdivision site shall not be recorded with the Shelby County Register's Office until the Subdivision has reached the level of Substantial Completion, as hereinafter defined. At that time, upon application of Developer and approval of the BOC, the amount of Security may be reduced to the cost, as estimated by the City, of uncompleted requirements relative to the Subdivision plus a reasonable sum to cover Developer's warranty obligations hereunder.

(d) Although the amount of the Security may be less than the total cost of completion by Developer of all of Developer's obligations hereunder, it is understood and agreed that the Security, subject to its limit, is to furnish security for the performance of all of Developer's obligations hereunder but that such obligations are not limited by the amount of such Security. The Security shall remain in force through the end of the warranty period, although Security may be reduced from time to time as provided herein. All collection expenses, court costs and reasonable attorney's fees incurred by the City in connection with collection under the Security shall be paid by Developer and such obligation shall be secured by the Security. The City shall be entitled to recover the cost thereof, reasonable administrative fees, reasonable attorney's fees and interest calculated on any unpaid balance at the rate of ten percent (10%) per annum until the unpaid balance is fully paid.

(e) Developer agrees that if the Security furnished to secure the obligations of Developer under this Contract, due to inflation and/or rising costs, previous errors in estimation, or otherwise, is inadequate to secure such obligations at the time an extension of time is sought, it will provide additional security to bring the Security amount in line with current cost projections made by the City Engineer.

INSURANCE

10. (a) Developer, upon affixing its signature to this agreement, shall provide at no cost to the City, a policy or policies of insurance to the City from insurance companies acceptable to the City and licensed by the Tennessee State Insurance Commissioner to conduct business in the State of Tennessee with coverage limits as set forth below. Said insurance policy or policies shall be evidenced by current original certificates and/or policies attached to this Contract and kept in full force and effect throughout the life of this Contract as required by the City. Each certificate or policy shall require and state in writing that "thirty (30) days prior to cancellation or material changes in the policies, notice thereof shall be given to the City of Lakeland Tennessee by registered mail, return receipt requested."

(b) Developer shall purchase and maintain commercial general liability insurance and umbrella liability insurance with minimum limits of $1,500,000.00 per occurrence and other insurance that shall insure against claims arising out of Developer's performance under this Contract, whether such claims arise out of the actions of Developer, any subcontractor of the Developer, their employees, agents or independent contractors or anyone for whose acts any of them may be liable, including, without limitation:

(1) Claims brought under worker's compensation in accordance with the Statutory Requirements and limits of the State of Tennessee. "All States Endorsement" is required or a Certificate of the State Worker's Compensation Board showing proof of ability to pay compensation directly; provided, however, if Developer has no employees who are eligible to be covered under worker's compensation insurance, Developer shall not be required to furnish insurance against worker's compensation but shall require the party(s) contracting with Developer to perform work on the Project Site to furnish evidence of such insurance for the employees of same as required above;

(2) Claims for the personal injury, occupational illness or death of Developer's employees, if any;

(3) Claims for the personal injury, illness or death of any person other than Developer's employees or agents;

(4) Claims for injury to or destruction of tangible property, including loss of use resulting there from;

(5) Claims for property damage or personal injury or death of any person arising out of the ownership, maintenance or use of any motor vehicle;

(6) Claims by third parties for personal injury and property damage arising out of Developer's failure to comply with Developer's obligations under this contract;

(7) Premises and Operations;

(8) Independent Contractors;

(9) Products and Completed Operations;

(10) Blanket Contractual or its current equivalent policy language;

(11) XCU (Explosion, Collapse and Underground) Coverage or its current equivalent policy language;

(12) Broad Form Property Damage or its current equivalent policy language;

(13) Commercial automobile liability insurance covering owned, hired and non-owned vehicles.

(c) The insurance coverage required by this paragraph shall include the coverage specified above with policy limits of not less than $1,500,000.00 Combined Single Limit general liability and $1,500,000.00 Combined Single Limit automobile liability (including, but not limited to, bodily injury (including death) and property damage) per occurrence. These minimum limits may be met through a combination of primary and umbrella insurance policies. The commercial general liability insurance coverage shall include completed "incident" as opposed to "claims made" insurance coverage and liability insurance applicable to Developer's obligations under this Contract. All such insurance shall remain in effect until the City issues its written notice of the release of Security of the completed Project. In addition, Developer shall maintain "incident" as opposed to "claims made" insurance for at least one (1) year after the City issues its written notice of release of Security. Developer shall furnish the City with evidence of the continuation of all such insurance at the time of issuance of the notice of release of Security.

(d) Prior to commencing any work on the Project, Developer will furnish to the City a certificate of insurance evidencing the required coverage.

(e) The furnishing of the aforesaid insurance shall not relieve Developer of its obligation to indemnify the City in accordance with the provisions of this Contract.

TIME SCHEDULE

11. (a) It is agreed by Developer and the City that this Contract shall become void and Developer will be in material breach of this Contract unless the following items are accomplished within one (1) year from the date of approval of this Contract by the BOC. Items (1), (2), (3), and (4) below must be completed prior to starting Construction below.

(1) Signatures of Developer, and, if applicable, of Owner of the Subdivision Site, on two original copies of this Contract.

(2) Signatures of Developer, and, if applicable, of Owner of the Subdivision Site, on two original copies of the Inspection and Maintenance Agreement for Private Stormwater Facilities.

(3) All fees paid to the City as specified herein.

(4) Security is received by the City as specified herein.

(5) Insurance certificate is received by the City as specified herein.

If items (1-5) above are completed within one year from the date of this Contract, Developer shall have one additional year to commence Construction.

"Construction" as used in this subsection is defined as the placing of construction materials in a permanent position and fastened permanently or extensive grading, including demolishing or removal of existing structures necessary for the development of the Subdivision.

(b) The failure of Developer to comply with the provisions of this paragraph shall, at the discretion of the City Manager, result in the approval of the City of Lakeland being withdrawn and the approvals of the MPC and, as applicable, the DRC similarly being withdrawn and of no further force and effect.

12. Developer shall substantially complete the Subdivision on a timely schedule and in an expeditious manner, with the date of Substantial Completion to be not later than four (4) years from the date the BOC approves this Contract. The term "Substantial Completion" as used herein shall be when Developer has completed all required Public and Private Improvements to the Subdivision Site, specifically including but not limited to sanitary sewer (unless served by septic system), water, natural gas and electricity service to each lot, and all required off-site Public Improvements relative to the Subdivision as verified by the City Engineer and approved by the MPC.

(a) Developer agrees that if due to unforeseen circumstances it is unable to complete all work included in this Contract within the time specified herein, it will submit a written request for extension of the Contract period to the City at least sixty (60) days prior to the expiration of the existing Contract period, specifying the reason for its failure to complete the work as agreed, and a prospective date for such completion.

(b) The City will not unreasonably withhold approval of extensions of time where Developer has complied with the requirements of notice to the City and provided the required additional Security, if any is needed.

13. Developer agrees that its failure to follow the extension of time procedure provided herein shall constitute a breach of this Contract. Developer agrees that should it fail to complete any part of the work outlined in this Contract in a good and workmanlike manner, as approved by

the City Engineer, the City shall reserve the right to withhold and/or withdraw all building permits and/or sewer service within the Subdivision until all items of this Contract have been fulfilled by Developer.

14. (a) It is agreed that after the date of Substantial Completion, as recommended by the City Engineer and approved by the BOC, the City will record the Final Plat (Mylar) of the Subdivision in the Register's Office of Shelby County, Tennessee after Developer has submitted a Final Plat suitable for recording, provided the Security being held by the City to guarantee Developer's obligations under this Contract is sufficient to cover the cost of the remaining required Public Improvements and the private improvements as estimated by Developer's Engineer and approved by the City Engineer. If the Security being held by the City is not sufficient, Developer shall increase same accordingly prior to the City recording the Final Plat. The original Final Plat shall be retained by the City as a permanent record. Developer shall be responsible for paying all recording costs. Final Plat recording shall signify Initial Acceptance of the project.

(b) Developer shall provide the City with a copy of the Final Plat using State Plane Coordinate System with NAD – 83 datum on disk or CD in DXF format (AutoCAD Release 14 or more current) prior to recording of the Final Plat of the Project. All MTEXT must be exploded.

(c) Developer shall furnish as-built plans to the City on reproducible, stable mylar media. Said plans shall show the sanitary sewer, storm drainage system, grading, water main and service lines and streets within the Subdivision before the City shall record the Final Plat of the Subdivision. Departure from the original plans and specifications shall not be permitted without the approval of the City Engineer, the MPC, DRC, and BOC as necessary. In addition to the plans furnished on reproducible mylar media, Developer shall provide a scanned copy of the as-built plans as a TIF image on CD and a DXF copy (AutoCAD Release 14 or more current) of the as-built plans on CD.

(d) Developer shall also furnish, in writing, the itemized as-built construction cost of all public improvements.

15. (a) Sidewalks. Notwithstanding any provision to the contrary herein, Developer shall ultimately be responsible for the installation of all required sidewalks, at its expense, and will include in the Security an amount sufficient to insure installation of all required sidewalks. All required sidewalks shall be completed, without defect and on a lot-by-lot basis, prior to the issuance of a Certificate of Occupancy ("C. O.") to the owner of each lot. Developer shall be responsible for repairing any latent defects in the sidewalks prior to the issuance of a Certificate of Occupancy ("C. O.") to the owner of each lot. (All references to sidewalks herein include required handicap ramps.)

(b) Curb and Gutter. All required curb and gutter must be completed and without defect prior to the issuance of a Certificate of Occupancy ("C. O.") for the Subdivision. Developer shall also be responsible for repairing any latent defects and/or failures in the curb and gutter that occur, or first appear, after the issuance of the relevant C.O. and prior to the end of the warranty period and release of Security for the Subdivision.

(c) Final Surface Asphalt. 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 City specifications.

(1) The final surface (1.5") shall not be installed until Seventy-Five Percent (75%) of the lots in the Subdivision are built upon or within four years after the issuance of the first building permit, whichever comes first, or as otherwise specified by the City.

(2) Developer shall maintain all streets in accordance with the warranty provisions provided for herein.

(2) Developer shall make all necessary adjustments to manholes and valve boxes to meet finished surface grade and to repair subsurface or base repair, as required, in areas designated by the City prior to the application of the final asphalt surface.

WARRANTY

16. Developer and City agree that neither the final certificate of payment nor any provision of this Contract or its incorporated documents nor partial or entire occupancy of the Subdivision shall constitute an approval or acceptance of any work not performed in accordance with the Contract and its incorporated documents, nor relieve Developer of liability with respect to any express warranty or responsibility for faulty materials or workmanship.

17. (a) Developer is required to complete the Public Improvements, which are ultimately to be accepted by the City for perpetual maintenance, and all other improvements required by the City relative to the Subdivision, in accordance with the terms of this Contract. Further, Developer is to correct any defects or failures in all of such improvements that occur within one (1) year of the Final Plat recording. Any defect first appearing within the applicable one (1) year period shall be required to be corrected by Developer; and thereafter Developer shall be required to correct any defect again occurring in or relating to what was previously corrected within a one (1) year period commencing from the date of approval by the City Engineer of such correction. If the defect recurs within any one (1) year of its repair, Developer shall remain obligated to correct it until the condition is satisfactory to the City after one (1) year from the date of its last repair. This Warranty does not diminish, but is in addition to, all other rights and liabilities assessed herein.

(b) No sooner than ten (10) months nor later than eleven (11) months after the Final Plat recording, Developer shall so notify the City Engineer and the City Engineer, or his/her designee, shall inspect the streets, curbs and gutters, sidewalks, storm drain system, detention basin, landscaping, irrigation, fencing and all other required improvements to determine any defects or failures of the same. If no defects or failures are found, the City Engineer shall report the same to the BOC at a regular or special meeting within thirty (30) days of the date of said inspection. The BOC, provided it agrees with the City Engineer, shall approve the final release of the Security, which shall constitute the end of the warranty period for the Subdivision. If defects or failures are found upon the aforesaid inspection, written notification outlining deficiencies to be corrected shall be provided to Developer along with the time period for corrections, not to exceed sixty (60) days. Within seven (7) days of notification by Developer that such corrections have been made or the expiration of the time period, whichever occurs first, the City Engineer shall re-inspect for correction of defects and failures. If all deficiencies have not been corrected, the City Engineer shall provide an updated written notification of deficiencies and Developer shall have thirty (30) days to make the remaining corrections. If all corrections are not made at this time, the City may demand payment on the Security, and, upon collection, shall proceed to make the corrections. If and when Developer or the City, as the case may be, has corrected all failures and defects, and a period of one (1) year has expired from the date of such corrections without defects again appearing in the corrected work, the City Engineer shall report the same to the BOC at a regular or special meeting within thirty (30) days of the date of said re-inspection. The BOC, provided it agrees with the City Engineer, shall approve the final release of the Security, which shall constitute the end of the warranty period for the Subdivision.

(c) It is the intention of the parties hereto that any Public Improvement required of Developer relative to the Subdivision which was found to be satisfactory by the City Engineer upon inspection as provided in Section 17 (b) shall thereafter be the obligation of the City to maintain. However, any such improvement found to be unsatisfactory by the City Engineer upon the initial inspection as provided in Section 17 (b) or any later inspection made pursuant to Section 17 (b) shall not be the obligation of the City to maintain until same remains satisfactory to the City for a period of one (1) year from the date it was inspected and found to be satisfactory by the City Engineer.

(d) At any time during the one (1) year warranty period beginning from the date of the Subdivision Final Plat recording, the City Engineer may recommend to the BOC that a portion of the Security be released based upon the City Engineer's estimation of the needed Security to ensure that funds will be available to correct any then outstanding defects in the improvements or to correct any defects which have been corrected but may reoccur.

REQUIRED IMPROVEMENT AND RELATED FEES

WATER

18. Developer shall install, at its expense, all water mains, hydrants, valves and appurtenances to serve all lots within the Subdivision from the existing Memphis Light Gas & Water (MLGW) water system and to install, at its expense, water service lines and appurtenances from the water main to the meter center at the front property line of each lot. Further, Developer shall pay all engineering, testing and laboratory costs incident to the water service in and to the Subdivision. Additionally, Developer shall extend all water mains to within two feet of the property line of any roadways connecting to adjacent properties that may be served by said main(s).

19. Developer shall install at its expense fire hydrants throughout said Subdivision in accordance with the Shelby County Fire Code, and if not specified in said Code, the type and location of said hydrants is to be approved by the City Engineer.

SANITARY SEWER

20. Developer shall pay to the City, the sum of **One Hundred Twenty-Seven Thousand One Hundred Dollars ($127,100.00)**, which reflects the sewer development fee as required by Ordinance 07-105 and as amended in Ordinance 08-119.

21. Developer shall install at its expense a State Board of Health and City approved sewerage system complete with pumping stations (as necessary), force main, sewer mains, manholes and appurtenances, within and without the limits of the Project and sewer laterals to the front of each lot within said Project. Developer shall pay the cost of engineering, inspection, testing and laboratory costs incident to the sewer service in or to the Project. Developer shall provide and install, at its expense, a State and City approved outfall sewage system complete with necessary sewer mains, manholes, and service laterals in the Project and pump stations and force mains as approved by the City Engineer upon approval of the plans and specifications for the Project. Pump stations will not be allowed without specific approval from the City Engineer and the City Board of Sewerage Commissioners. Said service lateral connections shall be extended to the surface inside of the property line and capped six (6) inches below the surface of the ground with a protective cap pipe placed over it and extending thirty (30) inches into the air. Additionally, Developer shall extend all sewer mains to within two feet of the property line of all adjacent properties that may be served by said main(s).

22. Developer shall install at its expense a cellular based telemetry system as approved by the City of Lakeland, in accordance with specifications provided by City, on any and all sewer lift stations servicing said Project. Additionally, Developer shall install and maintain, at its expense, a sight proof fence in conformance with a design plan approved by the DRC around the perimeter of any and all sewer lift stations on said Project.

STREETS

23. 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 Subdivision and to comply with the road standards of the City to the satisfaction and approval of the City Engineer.

24. Developer shall bear the cost of all engineering, inspection and laboratory costs incurred by Developer and/or the City, incidental to the construction of street(s) to be constructed or improved pursuant to this Contract, 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.

25. 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, Developer shall only be required to construct drainage, grade, gravel and pavement to match the existing pavement and construct sidewalks, curb and gutter as required. If the existing grade and/or alignment are changed, Developer shall be required to grade, gravel and pave the full width of said street or road.

26. Developer shall complete all grading within the street right-of-way before the public utilities are installed.

27. Developer shall design and construct all private streets and roadways authorized within the Subdivision to standards equal to or greater than required by the Land Development Regulations and Technical Specifications of the City.

28. Developer and the City agree that easements for sanitary sewers, drainage and other required services may be located and utilized within private streets and shall be so noted on the Final Plat of said Subdivision.

29. Developer agrees that the City is not responsible for street repairs within private streets. The responsibility for repairing private streets will be that of the property owners and/or property owner's association and such responsibility shall be so noted on the Final Plat of said Subdivision.

SIDEWALKS

30. Developer shall furnish all labor and materials to construct and install all sidewalks and handicap ramps, at its expense, in accordance with the Land Development Regulations, Technical Specifications and the approved Development Plan.

STREET SIGNS, TRAFFIC CONTROL DEVICES, ETC.

31. Developer agrees to install, at its expense, permanent street signposts and markers at all street intersections in the Subdivision and to install, at its expense, traffic control devices, signage and striping relative to the Subdivision. The location of street signs to be installed shall be approved by the City Engineer. Variance from standard street sign type must be approved by the City. All traffic control devices, signage and striping shall be installed as per City Subdivision Regulations, the Manual on Uniform Traffic Control Devices and approved by the City Engineer.

EROSION, SEDIMENT AND DEBRIS

32. Developer agrees that all drainage and related facilities, including, without limitation, ditch paving, bank protection and fencing adjacent to open ditches, made necessary by the development of the Subdivision are to be constructed by Developer according to plans and specifications approved by the City Engineer.

33. Developer agrees that it will provide necessary erosion control, including, but not limited to, seeding for gentle slopes (4 to 1 or less) and 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 Developer is not providing necessary erosion control, the City Engineer shall officially notify Developer of the problem. If Developer has not corrected the problem within 7 days after notice, the City Engineer may make arrangements for the necessary materials, labor and

associated costs to eliminate the erosion problem, documenting all expenses, specifically including reasonable administrative expenses, incurred in performing the work. Alternatively, the City reserves the right to issue a Stop Work Order on all work in progress within the bounds of the Subdivision until such time as Developer has corrected any erosion control deficiencies. Prior to releasing any Security hereunder, all expenses incurred by the City relative to the foregoing shall be paid in full by Developer plus interest on any unpaid balance accruing at the rate of ten percent (10%) per annum.

34. 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 off-site property. Such watercourses shall be lined in a manner satisfactory to the City Engineer and any other agencies that may have jurisdiction.

35. All drainage structures necessary for the road plans affecting any watercourse lying partially or wholly within the Subdivision Site are to be provided by Developer.

DRAINAGE DESIGN AND RESPONSIBILITY

36. Developer shall pay to the City, the sum of **Twenty Thousand Five Hundred Dollars ($20,500.00)**, which reflects the drainage control fee with detention as required by Ordinance 07-105.

37. Developer shall construct and install, at its expense, all storm water drainage channels, ditches and structures. All drainage control fees shall be paid to the City, and a retention/detention storage basin, as required, with sufficient hydrologic capacity to control all surface and ground water originating within and upstream of the Subdivision shall be constructed as required by the City. Said drainage system shall be designed such that the amount and rate of water from all sources leaving the Subdivision after full development shall not be significantly different after than before initiation of development unless approved by the City Engineer upon certification of a Professional Engineer registered in the State of Tennessee that the drainage system design and improvements upon full development of upstream and downstream properties, in accordance with the City's Land Use Plan, are sufficient to accept surface and ground water reasonably expected to flow on the Subdivision and discharge all waters reasonably expected to flow from the Subdivision so as not to damage or flood properties nor to increase the established base flood elevation of the upstream or downstream portion of Flood Plain within or without the Subdivision. Further, the adequacy of the drainage plan and construction thereof shall in all cases be certified by Developer's engineer as indicated by his signature and seal affixed upon the Final Plat of said Subdivision prior to the Initial Acceptance by the City and recording of said Final Plat.

38. Developer shall provide to the City, and to each lot purchaser or builder, a coordinated grading and drainage plan designed to ensure proper drainage of all lots and building sites within the Subdivision. Said plan shall be compatible with the overall drainage plan for the Subdivision and shall comply with the Subdivision Regulations. Further, the Final Plat shall contain a notation stating that compliance with the Drainage Plan by individual lot owners and builders shall be a condition of the Building Permit issued by the City.

39. That in any development that alters or revises the Flood Plain shown on the Flood Hazard Boundary Map issued by the Federal Emergency Management Region Office, Developer shall provide to the City a Development Permit issued by the Federal Insurance Administration Regional Office accepting said alteration or revision of the Flood Plain. Further, until said Development Permit is provided, Developer shall not proceed with any work affecting the Flood Plain nor will the Final Plat of the Project be approved by the MPC.

40. Developer understands and agrees that the City, in its proprietary function, does not purport to specify the development layout nor the choice of available land uses; nor does the City design, construct, supervise nor certify the adequacy of the drainage improvements.

41. Developer understands and agrees that the City Engineer is not vested with any responsibility for the design of drainage improvements, nor is he required to determine drainage capacities, survey elevation, cross check adequacy nor specify the type and locations of drainage improvements; and in providing technical assistance, planning and review, the City does not commit itself to the construction, improvements or modification of the drainage system within or without the Subdivision.

42. Developer understands and agrees that it is the responsibility of Developer to properly anticipate, survey, design and construct all drainage improvements so that the Subdivision will not increase, alter or affect the flow of surface or channelized waters from or onto any property as to damage or flood any property or contribute to the same.

43. Developer understands and agrees that in providing technical assistance, planning and review, the City seeks to enforce its minimal governmental standards and does not relieve or accept any of Developer's liability and responsibility to properly design and construct the Subdivision.

44. Developer further agrees to indemnify and hold harmless the City and the City Engineer from any loss or damage from any claim, cause of action or liability resulting in whole or part from the design, construction and/or installation of the Subdivision. The aforesaid indemnity and hold harmless agreement include, 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.

45. As long as the City holds Security it reserves the right to use said Security for completion and/or repair of any drainage structure during the warranty period of the Subdivision served by said structure.

46. The Final Plat which is to be recorded shall contain provisions substantially similar to the following if the Subdivision is to be subject to covenants and restrictions imposed by the Developer and/or if any area of the Subdivision is to be maintained at the expense of a property owners association:

"The Covenants and Restrictions set out herein are private in nature and are not subject to enforcement by the City of Lakeland.

The Developer will establish a not-for-profit property owners association ("POA"), which will have total responsibility for maintenance and repair of the common area(s) in the Subdivision after the present owner ceases such function. In the event the present Owner of the property shown hereon fails to organize the POA, or, if, after its organization, it ceases to function or exist, then, in the event the City of Lakeland, in accordance with applicable law and/or ordinances, expends funds to maintain or repair the common area, the expenses thereof plus an administrative fee shall become a lien, on a pro rata basis and severally, on each lot shown hereon and may be enforced in accordance with law. All owners of lots will be required to become members of the POA."

ADMINISTRATIVE FEES

Engineering Review Fee

47. Developer agrees to pay to the City the sum of **Twelve Thousand Three Hundred Dollars ($12,300.00)**, ($300 per lot), which represents the engineering review fee as required by Ordinance 07-105, prior to the execution of this Contract.

Construction Inspection Fee

48. Developer agrees to pay to the City the sum of **Twelve Thousand Eight Hundred Dollars ($12,800.00)**, ($500 base fee plus $300 per lot), which sum represents the construction inspection fee required by Ordinance 07-105, which shall be paid prior to the execution of this Contract. Neither observations by the City Engineer and Construction Inspectors, nor inspections, tests or approvals by others shall relieve the Developer from its obligation to perform work in accordance with the terms of this Contract. Developer further agrees to pay a $50 re-inspection fee for each inspection after a Notice of Violation has issued, payable within ten (10) days of receipt of invoice.

Administrative Review Fee

49. Developer agrees to pay to the City the sum of **Four Thousand Two Hundred Dollars ($4,200.00)**, ($200 1st lot and $100 per lot thereafter), which represents the administrative review fee as required by Ordinance 07-105, prior to the execution of this Contract.

Geographical Information System (GIS) Fee

50. Developer agrees to pay to the City the sum of **Two Thousand Two Hundred Dollars ($2,200.00)**, ($200 plus $50 per lot thereafter), which represents the Geographical Information System (GIS) Fee as required by Ordinance 07-105.

Natural Resources Inventory/Analysis Fee (per acre)

51. Developer agrees to pay to the City the sum of **Seven Hundred Seventy-Two Dollars and Seventy-Five Cents ($772.75)**, ($200 plus $25 per acre thereafter), which represents the Natural Resources Inventory/Analysis Fee as required by Ordinance 07-105.

Parkland Improvement Fee (per lot)

52. Developer agrees to pay to the City the sum of **Four Thousand One Hundred Dollars ($4,100.00)**, ($100 per lot), which represents the Parkland Improvement Fee as required by Ordinance 07-105.

Tree Removal Fee (per acre)

53. Developer agrees to pay to the City the sum of **Two Thousand Three Hundred Ninety One Dollars ($2,391.00)**, ($100 per acre or portion thereof, maximum $10,000), which represents the tree removal fee as required by Ordinance 07-105, prior to the execution of this Contract.

Warning Siren Fee (per lot)

54. Developer agrees to pay to the City the sum of **Two Thousand Fifty Dollars ($2,050.00)**, ($50 per lot), which represents the Warning Siren Fee as required by Ordinance 07-105.

Parkland Review Fee (per acre)

55. Developer agrees to pay to the City the sum of **Eight Hundred Seventy-Eight Dollars and Twenty Cents ($878.20)**, ($400 plus $20 per acre) which represents the Parkland Review/Development Fee as required by Ordinance 07-105.

MISCELLANEOUS CONDITIONS

56. <u>Easements</u>. Developer agrees that it will grant any and all necessary easements and rights-of-way across its property to effectuate the requirements of this Contract. Any off-site easements and/or right-of-way required for the Subdivision must be obtained and furnished by Developer to the City and recorded prior to Contract approval. Said easements and rights-of-way shall be in form, type, size and character acceptable to the City. Developer shall grant and/or obtain and furnish said easements without expense to the City of Lakeland and will waive any claim for damages arising from the granting or obtaining thereof.

57. 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 construction and 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. 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 Developer from or accept any liability from Developer. Developer will provide his own Project Engineer whose duties and responsibilities are explained in the General Conditions of the City of Lakeland Construction Specifications.

58. In situations which may affect the safety or protection of persons, the work, or property at the Subdivision Site or adjacent thereto, Developer, without special instruction or authorization from the City, is obligated to act to prevent any and all threatened damage, injury or loss. If the City has to use its resources to respond to situations which may affect the safety or protection of persons, the work, or property at the Subdivision Site or adjacent thereto, it is agreed that the City will keep a record of costs associated therewith, including without reservation reasonable administrative fees and expenses, and will be reimbursed by Developer.

59. Developer agrees that the City shall have the right to enter the Subdivision Site and make emergency repairs to any improvements when the health and safety of the general public requires it. Developer will reimburse the City for reasonable cost, including without reservation reasonable administrative fees and expenses, incurred by it in making such repairs.

60. Developer agrees to secure all required permits for the demolition of structures on the subject property. Developer further agrees that it will haul all scrap, buildings, materials, trees, debris, rubbish and other degradable materials to a permitted landfill on a timely basis and not bury, burn or cause to be burned, such materials or allow them to accumulate within the Subdivision Site or within the corporate limits of the City.

61. Developer agrees that should it default in performing any of its obligations under this Contract and it becomes necessary to engage an attorney to file necessary legal action to enforce provisions of this Contract or sue for any sums of money due and owing or liability arising incidental to the Contract, Developer will pay to the City reasonable attorney's fees and expenses of litigation.

62. Prior to the release of Security for the Subdivision by the City, Developer shall deliver to the City an affidavit certifying that all subcontractors and material suppliers furnishing labor and/or material for the improvements required under this Contract have been paid in full. The Developer shall also provide a release of all liens, and of the right to claim liens, from all sub-contractors and material suppliers furnishing labor or materials for the development.

63. Developer shall be responsible for the cost of any and all relocation, adjustment, modification, installation and/or removal of utilities, streets, curbs, gutters, sidewalks, drainage and all other improvements made necessary by the development of the Subdivision, both on and off site. All electrical utilities shall be installed underground unless expressly waived by the BOC upon written request to the DRC and after a recommendation by the DRC is submitted to the BOC.

64. Developer agrees to pay a "Payment in-Lieu-of or Dedication for Parkland" in the amount of **Twenty-Four Thousand Six Hundred Seventy-Two Dollars and Thirteen Cents ($24,672.13)** as per Article II Neighborhood Development Regulations, Section D, 4.b. of the Lakeland Subdivision Regulations**.**

65. Gas and Electric Service. Developer shall install underground electric and natural gas service to the Subdivision in accordance with the electric and natural gas service policy specified by the agreement between the City and the Memphis Light, Gas and Water Division of the City of Memphis and City ordinances and/or policies in effect at the time of such installation.

66. Indemnity. Developer will indemnify and hold the City harmless against all claims that may arise out of or result from Developer's performance under this Contract, whether such claims arise out of the actions of Developer, any subcontractor of Developer, or anyone directly or indirectly employed or directed by either of them. This indemnity agreement includes, without limitation, all tort claims, both intentional and otherwise, and all claims based upon any right of recovery for property damage, personal injuries, death, damages caused by downstream deposits, sediment or debris from drainage, damages resulting from Developer changing the volume or velocity of water leaving Developer's property and entering upon the property of others, and claims under any statures, Federal or state, relative to water, drainage and/or wetlands, and reasonable attorney's fees and costs incurred by the City in defending itself as a result of the aforesaid and/or enforcing this Contract.

67. Safety. Developer shall maintain barricades, fences, guards and flagmen as reasonably necessary to ensure the safety of all persons at or near the Subdivision Site during construction. All construction material, including, without limitation, mud, silt, dirt and gravel, shall be kept off existing streets at all times. In the event such mud, silt, dirt, gravel or other construction material is washed, blown or carried into an existing street, Developer shall take immediate steps to remove such materials. If Developer does not remove such materials after notification by the City, and the City deems it necessary to clean the affected streets, the Developer agrees to reimburse the City for all such cleaning expenses.

68. Construction Activity. (a) Developer will not carry on or permit construction activity under this Contract earlier than 6:00 a.m. nor later than 7:00 p.m., Monday through Saturday, and no construction activity, other than emergency repairs, shall be carried out on Sundays.

(b) Developer agrees to include the language "all streets shall be kept clear and free of dirt and debris" in all contracts between Developer and the contractors, subcontractors, builders, etc., unless otherwise authorized in writing by the City Engineer.

(c) Developer shall provide the City with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the requirements set forth above should the occasion arise to do so.

69. The use of any gender herein shall apply to all genders, the singular shall include the plural, and the plural shall include the singular, as the content and context may require.

70. If litigation ensues with respect to this Contract and the City prevails therein, the City shall be entitled to recover from Developer its reasonable attorney's fees and the costs and expenses of such litigation, including reasonable attorney's fees and the costs and expenses of such litigation related to any appeal. The court(s) before which such litigation is pending shall determine whether the City prevailed and the amount of such fees, costs, and expenses to be recovered by the City as a result of prevailing; and, if the City prevails in part, but not in whole, an equitable award of its attorney's fees and expenses shall be made by the court(s). The same provision as immediately aforesaid shall be applicable to any litigation necessary to establish the City's right to recover under the Security. The Security shall cover all Developer's obligations under this Contract, including, without limitation, the obligation of Developer to pay the fees, costs and expenses of the City as provided for in this Section of the Contract.

71. Interpretation and Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under present or future laws effective during the terms hereof, such provisions shall be fully severable and this Contract shall be construed and enforced as if such unlawful, invalid or unenforceable provision was not a part of this contract. Furthermore, if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning that renders it valid.

72. Construction of Contract. Each party has received and had the opportunity to review this Contract, and each party has had the opportunity, whether exercised or not, to have each respective party's attorney review this Contract, and, accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract.

73. No Waiver. The failure of the City to insist upon prompt and strict performance of any of the terms, conditions or undertakings of this Contract, or to exercise any right herein conferred, in any one or more instances, shall not be construed as a waiver of the same or any other term, condition, undertaking or right.

74. Amendments and Modification. This Contract shall not be modified in any manner, except by an instrument in writing executed by or on behalf of all parties.

75. Authority to Execute. City and Developer each warrant and represent that the party signing this Contract on behalf of each has authority to enter into this Contract and to bind the City and Developer, respectively, to the terms, covenants and conditions contained herein. Each party shall deliver to the other, upon request, all documents reasonably requested by the other evidencing such authority, including a copy of all resolutions, consents or minutes reflecting the authority of persons or parties to enter into agreements on behalf of such party.

76. Notices. 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:

(i) CITY
CITY OF LAKELAND
ATTN: CITY MANAGER
10001 HIGHWAY 70
LAKELAND, TN 38002
PH: (901) 867-2717

With Required Copies To:
City Engineer; and
City Attorney
At same address as above.

(ii) DEVELOPER
ASHMONT DEVELOPER, LLC
ATTN: VINCE SMITH
355 TARA LANE
MEMPHIS, TN 38111
PH: 901-489-5896

77. Any party to this Contract may change such party's address for the purpose of notices, demands and requests required or permitted under this Contract by providing written notice of such change of address to the other party, which change of address shall only be effective when notice of the change is actually received by the party who thereafter sends any notice, demand or request.

78. Choice of Law. This Contract is being execute and delivered and is intended to be performed in the State of Tennessee, and the laws (without regard to principles of conflicts of law) of the State of Tennessee shall govern the rights and duties of the parties hereto in the validity, construction, enforcement and interpretation hereof.

OVERALL FEE/COST SUMMARY
(as more specifically set forth in Exhibit A hereto)

(1)	Sewer Development Fee	$127,100.00
(2)	Sewer Lift Station Maintenance Fee	N/A
(3)	Sewer Connection Fee	N/A
(4)	Street Light Fee	N/A
(5)	Road Cut Fee	N/A
(5)	Drainage Control Fee (w/ Basin)	$20,500.00
(6)	Drainage Control Fee (w/o Basin)	N/A
(7)	Engineering Review Fee	$12,300.00
(8)	Construction Inspection Fee	$12,800.00
(9)	Administrative Review Fee	$4,200.00
(10)	Geographical Information Systems Fee	$2,200.00
(11)	Natural Resources Inventory & Analysis Fee	$772.75
(12)	Parkland Improvement Fee	$4,100.00
(13)	Tree Removal Fee	$2,391.00
(14)	Warning Siren Fee	$2,050.00
(15)	Parkland Review Fee	$878.20
(16)	Parkland Dedication Fee	$24,672.13
	Total	$213.964.08

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals at Lakeland, Tennessee, this _____ day of ____________________**, 2024.**

DEVELOPER:
ASHMONT DEVELOPER, LLC

____

CITY OF LAKELAND:

By:____

Date:____

ATTEST:____

APPROVED AS TO FORM:

By:_______________________________________

DATE APPROVED BY BOARD OF COMMISSIONERS:______________________________

DATE APPROVED BY BOARD OF SEWERAGE COMMISSIONERS:__________________

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a notary of public of the state and county mentioned, personally appeared _____________________, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be ________________, the within named bargainer, a corporation, and that such officer, as such _____________, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as managing partner, by himself as ___________.

Witness my hand and seal at office; this is the _____ day of _____, 20___.

____
Notary Public

My Commission Expires:_____________________

EXHIBIT "A"

Subdivision Development Fees Worksheet						
Ashmont Planned Development Area 2			**41**	Lots	23.9	Acres
	Per Lot Fee					
Sewer Development Fee (Dev Charge see Ord 08-119)	$3,100.00		$127,100.00			
Sewer Lift Station Maintenance Fee (per lift station)	$110,000.00					
Sewer Connection Fee (per connection)			N/A			
Drainage Control Fee w/basin (per lot)	$500.00		$20,500.00			
Drainage Control Fee wo/basin (per lot)	$1,000.00		N/A			
Engineering Review Fee (per lot)	$300.00		$12,300.00			
Construction Inspection Fee ($500 plus $300 per lot)	$300.00		$12,800.00			
Administrative Fee ($200 for 1st Lot and $100 per lot thereafter)	Varies		$4,200.00			
Natural Resources Inventory Fee ($200 plus $25 per acre thereafter)	Varies		$772.75			
Street Light Fee	100% of Cost		N/A			
Road Cut Fees	$35.00					
Warning Siren (per lot)	$50.00		$2,050.00			
Tree Removal Fee (per acre or fraction of	$100.00		$2,391.00			
disturbed area - maximum $10,000)						
GIS Fee (per lot)$200 plus $50 per lot thereafter	Varies		$2,200.00			
Parkland Improvement Fee (per lot)	$100.00		$4,100.00			
Parkland Review Fee	400+$20/acre		$878.20			
		Total =	**$189,291.95**			
Acres/Lot =	0.58317073					
Park Land Formula (D=LxAxPxM)						
L=Number of Lots (D.U.)	L =	41				
A=Avg. Family Size - use 2.94	A =	2.94				
P=Parkland Ratio use 0.010 (10 acres per 1000)	P =	0.010				
M=Density Multiplier from Table 2 of Sub. Regs	M =	1.4				
D=Dedication in acres	**D =**	**1.68756**	**Acres**			
Land Appraisal Value (per acre)		$14,620.00	**Payment in lieu of**			
Total Dollar Value Required in Lieu of Dedication		**=**	**$24,672.13**			
Total Amount Due			**$213,964.08**			

City of Lakeland   Developer

MEMPHIS LIGHT, GAS AND WATER DIVISION

DEVELOPMENT ENGINEERNG

Sent Via Email: kakivs@gmail.com

October 8, 2024

Mr. Vince Smith
Ashmont Developer, LLC
P.O. Box 772808
Memphis, TN 38177

RE: Ashmont Area 2
Water Work Order: **WO1461031**

Dear Mr. Smith:

In response to your request, MLGW has prepared the enclosed sketch showing the water extension necessary to serve this subdivision. The total cost of this work is $657,070.64 This quotation expires after January 30, 2025; at that time, your cost can be re-estimated at your request.

Please send your payment to:

Memphis Light Gas and Water Division
Attn: Builder Services NB/01
1665 Whitten Road
Memphis, Tennessee 38134

Your **MLGW-approved contractor** will install these facilities. Your cost to MLGW will be **$113,332.33**, with **$603,336.60** secured by bond. If you have any questions concerning the contracting procedure, please contact MLGW Contracts Management at 528-4020. ***Please note that if a contractor requests for an inspector outside of the normal working hours (7:00 a.m. – 3:30 p.m. Monday through Friday), the contractor will be required to pay an additional labor cost based on the overtime rate for the water inspector.***

Please send the Letter of Credit or Performance Bond to:

Memphis Light Gas and Water Division
David F. Hansen Administration Building
220 South Main Street AB/01
Memphis, Tennessee 38101-0430

Attn: Latausha Kelly Rankin
Contracts Management Department

****If you have any questions, regarding the performance bond or letter of credit, please contact Contracts Management at 901-528-4020.*

Unless stated otherwise in this letter, please note that the cost quoted does not include:

- The cost to perform any unexpected work outside MLGW's normal working hours.
- The cost of any environmental remediation or any special precautions that we may need to take due to site conditions not identified at this time. Any environmental hazards on your site are the customer's responsibility and must be remedied prior to MLGW's construction work and at the customer's expense.
- The cost and performance of erosion control measures for construction activities shall be your responsibility.

If you have questions regarding this design, please contact the Engineer who developed this design at (901) 406.7060. Please contact Mr. Sterling Ford to set up a preconstruction meeting via (901) 348-5128 (office). After the sketch has moved into the construction phase, your contact person will be the Planner-Coordinator at the North Service Center at (901) 348-5106.

We will schedule construction upon receipt of your payment, right-of-way and job site conditions permitting. The construction timetable we anticipate for installation of your utilities indicates that payment must be received as soon as possible if we are to complete our construction work by the need date you have requested. In addition, the builder will have to pay a connection fee for each service**.** These services will be handled on a lot-by-lot basis as requested or received.

Revisions to this design, customer-caused delay of the start of construction for twelve (12) months, or expiration of this quotation could result in a re-estimate of your cost. A full explanation of MLGW's charges and requirements is contained in our Service Policy Manual.

We appreciate the opportunity to serve you, and we look forward to working with you in the coming weeks.

Sincerely,

Mary L Harmon

Mary Harmon
Utility Extension Expediter
Residential Engineering
1665 Whitten Road
Memphis, TN 38134
(901)590-5655
mharmon@mlgw.org

MEMPHIS LIGHT, GAS AND WATER DIVISION
RESIDENTIAL ENGINEERING
ST/01
P.O. Box 430, MEMPHIS, TENNESSEE 38101-0430

RE: TDEC APPROVAL PROCESS

Dear Customer:

This letter is to inform you of the TDEC (Tennessee Department of Environment and Conservation) approval process required for all water projects installed in the State of Tennessee. MLGW is required to submit plans and specifications for all new water projects to TDEC and receive approval prior to construction. TCA 68-221-706 states: "No new construction shall be done nor shall any change be made in any public water system until the plans for such new construction or change have been submitted to and approved by the Department." This means the extension of new lines, regardless of length, must be approved by TDEC. Plans are required for all new construction. This rule also states that projects must be constructed in accordance with approved plans and specifications unless a change order has been approved by TDEC.

Due to this State rule (law), MLGW cannot release a water design to construction until the original plan has been returned with TDEC approval. MLGW will send all new water designs to TDEC for approval within 7 days of the quote. The overall approval time for this process could take up to 45 days upon receipt of the plans by TDEC. Please keep in mind that once a design is sent to TDEC for approval, MLGW has no control over the time required for the approval process. The approved designs will be immediately sent to construction once the approved plans and payment are received.

If you have any questions concerning this process, please contact MLGW's Residential Engineering Department at 901-729-8675.

Accounts Receivable
3009 Davies Plantation Road
Lakeland, TN 38002-8215
P. 901.372.0404

Industrial Development Board of the City of Lakeland, TN
10001 Highway 70
Lakeland, TN 38002
Mr. Michael Walker

Invoice number 63468
Date 10/31/2024

Project **24166 City of Lakeland-LakelandTN-Construction Administration Ashmont Development TIF**

For services performed through date of invoice

Industrial Development Board of the City of Lakeland, TN
Construction Contract Administration
Lakeland Ashmont Development TIF
Lakeland, TN

Description	Contract Amount	Percent Complete	Prior Billed	Total Billed	Current Billed
Construction Administration (Hourly Not To Exceed)	30,000.00	11.00	2,925.00	3,300.00	375.00
Total	30,000.00	11.00	2,925.00	3,300.00	375.00

Construction Administration (Hourly Not To Exceed)

Hourly Professional Fees

	Hours	Rate	Billed Amount
Engineer II			
Bob Watson	2.50	150.00	375.00
Construction Administration (Hourly Not To Exceed) subtotal			375.00

Invoice total **375.00**

LEM

Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
63468	10/31/2024	375.00	375.00				
	Total	375.00	375.00	0.00	0.00	0.00	0.00

EXHIBIT D

Form of Payment Request

PAYMENT REQUEST

To: The Industrial Development Board of the City of Lakeland, Tennessee
c/o President
10001 Highway 70
Lakeland, Tennessee 38002

Re: Development [and Financing] Agreement dated June 15, 2023, between Ashmont Developer, LLC ("Developer"), and The Industrial Development Board of the City of Lakeland, Tennessee, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq*. (the "Board")

Pursuant to Section [4] of the Development Agreement, please disburse the sum of $879,150.83 from the Project Tax Increment Fund. In connection with such disbursement, the undersigned hereby certifies as follows:

(a) All amounts disbursed will be applied to the payment of or the reimbursement to Developer for Eligible Costs (including, without limitation, Transaction Costs), and the Eligible Improvements to which such Eligible Costs relate (if applicable) have been completed in material compliance with the plans and specifications previously provided to the Board or its Construction Consultant, to the extent applicable under the Development Agreement. The Construction Consultant has inspected and approved the Eligible Improvements, to the extent its approval is required under the Development Agreement.

(b) With the delivery of this Payment Request, all requirements for this disbursement under Section [4] of the Development Agreement have been satisfied.

(c) Developer or the Developer Representative has entered into all development agreements with the City of Lakeland or an agency thereof necessary for the construction of the Eligible Improvements to which this Payment Request relates. As of the date of this Payment Request, there are no defaults on the part of Developer or the Developer Representative under any such development agreements.

Please disburse all such amounts to the parties in the manner described on Exhibit A attached hereto.

All capitalized terms used herein and not otherwise defined have the respective meanings given to such terms in the Development Agreement.

Dated as of Nov. 15, 2024.

Signatures on the following page.

DEVELOPER:

Ashmont Developer, LLC

By: Bart Thomas

Name: Bart Thomas

Title: Member

Payment Request reviewed and reimbursement of Eligible Cost recommended **if required under Development** Agreement:

[CONSTRUCTION CONSULTANT]

By: Robert C. [signature] - A2H, Inc.

Title: Director of Construction Admin.

Date: 11/18/2024

A2H
ENGINEERS · ARCHITECTS · PLANNERS

November 18, 2024

Mr. Michael Walker, President
Industrial Development Board
City of Lakeland, TN
10001 Highway 70
Lakeland, TN 38002

RE: **Lakeland Ashmont Planned Development TIF Draw #12 Approval Request**
A2H # 24166

Dear Mr. Walker,

We have reviewed the Payment Request submitted by Ashmont Developer, LLC, for Draw No. 12 dated November 15, 2024, for the Ashmont Planned Development Project. All of the supporting documentation appears to be in order, and all costs and expenses included in the payment request appear to comply with eligibility requirements of the TIF and executed Development Agreement for this project. A2H recommends payment of the requested amount of $879,150.83.

If there are any questions, or any additional information is needed in this regard, please let me know.

Sincerely,

Robert C. Watson

Robert C. Watson, P.E.
Director of Construction Administration
A2H, Inc.
901-487-5502
bobw@a2h.com

CITY OF LAKELAND TENNESSEE

Industrial Development Board

Meeting Cycle: Thursday, November 21, 2024

Subject: **Resolution** - approving payment request 2 in connection with the development agreement by and between the Industrial Development Board of the City of Lakeland, Tennessee, and the City of Lakeland, Tennessee, for the development of the Lakeland Gateway.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION
The IDB President recommends approval of resolution R-171-2024.

BUDGET IMPACT
There is no budgetary impact to the IDB related to this resolution.

DISCUSSION
The attached draw request is the City's reimbursement of eligible infrastructure costs in the Lakeland Gateway, for reimbursement under the TIF Loan with FirstBank dated 11.5.2024, as approved previously by the IDB.

The attached categorization of costs in Exhibit A aligns to the listing of eligible costs in the Economic Impact Plan for the Lakeland Gateway.

RESOLUTION R-171-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING PAYMENT REQUEST 2 IN CONNECTION WITH THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, AND THE CITY OF LAKELAND, TENNESSEE, FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

WHEREAS, The Industrial Development Board of the City of Lakeland, Tennessee (the "Lakeland IDB") has approved an economic impact plan (the "Economic Impact Plan") regarding the development of an approximately 100-acre tract of land located within the northwest and northeast corners of Canada Road and Interstate 40 in the City of Lakeland, Tennessee and in Shelby County, Tennessee, as described in the Economic Impact Plan (the "Plan Area"), and more commonly referred to as the "Lakeland Gateway"; and,

WHEREAS, the development of the Plan Area is expected to create a mixed-use development including retail space, hotels, an independent senior living community and medical office buildings, as more particularly described in the Economic Impact Plan (collectively, the "Project"); and,

WHEREAS, the Lakeland IDB has approved a Tax Increment Financing Application (the "TIF Application") for the Plan Area; and,

WHEREAS, the Economic Impact Plan permits certain tax increment financing (a "TIF Loan") pursuant to Chapter 53, Title 7 of the Tennessee Code Annotated; and,

WHEREAS, the Lakeland IDB reviewed the Economic Impact Plan and the TIF Application in an open public meeting; and,

WHEREAS, the Lakeland IDB conducted a public hearing on the Economic Impact Plan held at least two (2) weeks after public notice of the hearing was published in accordance with the applicable laws of Tennessee; and,

WHEREAS, in connection with a TIF Loan, the City has entered into a Development Agreement with the Lakeland IDB with respect to the Plan Area and the development of the Project; and,

WHEREAS, under the Development Agreement between the Lakeland IDB and the City, the proceeds of the TIF Loan would be used to pay the costs of the eligible public improvements (the "TIF Eligible Costs") relating to the development of the Project and would pledge the TIF Revenues to apply to the debt service of the TIF Loan; and,

WHEREAS, in connection with the TIF Loan, Draw Request 1 was utilized to fund closing, attorney, and interest reserve costs upon execution; and,

RESOLUTION R-171-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING PAYMENT REQUEST 2 IN CONNECTION WITH THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, AND THE CITY OF LAKELAND, TENNESSEE, FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

WHEREAS, in connection with the TIF Loan, the City has submitted Draw Request 2, a copy of which is attached hereto as **Exhibit A**, to use for certain TIF Eligible Costs.

NOW, THEREFORE, BE IT RESOLVED by the Industrial Development Board of the City of Lakeland, Tennessee, that:

RESOLVED, the Draw Request 2 is hereby approved by the Lakeland IDB; and further,

RESOLVED, the directors, officers, agents, and employees of the Lakeland IDB are hereby authorized and directed to do all such things and to execute or accept any and all such certificates or documents as may be necessary to carry out and comply with the provisions of this Resolution and to carry out, give effect to and consummate the transactions contemplated hereby and thereby. All of the acts and doings of the directors, officers, agents and employees of the Lakeland IDB which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved.

APPROVED AND ADOPTED by the Industrial Development Board of the City of Lakeland, Tennessee, this 21st day of November 2024, the public welfare requiring it.

ATTEST:

______________________________ ______________________________

Alan Johnson
Chair

Steve Laster
Secretary

EXHIBIT A

FIRSTBANK AND LAKELAND IDB
LOAN AGREEMENT
LAKELAND GATEWAY IMPROVEMENT PROJECTS
PAYMENT REQUEST

	DRAW 1 ^	DRAW 2	Less: City Fund Balance	TOTAL
PLANNED IMPROVEMENTS *				
b) Existing infrastructure demo	$ -	$ 407,800.00	$ -	$ 407,800.00
v) Acquisition of land	$ -	$ 6,245,390.51	$ (970,180.51)	$ 5,275,210.00
y) Permits, legal, insurance, consulting related to foregoing	$ 66,990.00	$ -	$ -	$ 66,990.00
Interest reserve	$ 250,000.00	$ -	$ -	$ 250,000.00
TOTAL	$ 316,990.00	$ 6,653,190.51	$ (970,180.51)	$ 6,000,000.00
NET DRAW: DRAW LESS FUND BALANCE USED			**$5,683,010.00**	

Existing infrastructure demo:	
Complete Demo - 10.19.2023	$ 113,436.00
Complete Demo - 11.17.2023	$ 107,937.00
Complete Demo - 12.23.2023	$ 99,627.00
GTG Relax Inn Demo - 5.23.2024	$ 86,800.00
	$ 407,800.00

Acquisition of Land:	
Foundation Title - 9.21.2023	$ 507,310.60
Belz Acquisition - 1.12.2024	$ 1,408,115.40
Relax Inn - 3.6.2024	$ 1,704,964.51
Econo Lodge - Deposit - 5.9.2023	$ 2,250,000.00
Econo Lodge Acreage - 7.18.2023	$ 375,000.00
	$ 6,245,390.51

* FROM EXHIBIT C TO THE ECONOMIC IMPACT PLAN FOR LAKELAND GATEWAY
^ TOTAL LEGAL, CONSULTING, CLOSING COSTS AND INTEREST RESERVE

AIA® Document G702® – 1992

PO #: 41023ØØ310

Application and Certificate for Payment

TO OWNER: CITY OF LAKELAND
10001 HWY. 70
LAKELAND, TENNESSEE
38002

PROJECT: BUILDING DEMOLITION

APPLICATION NO: 002
PERIOD TO: November 17, 2023

FROM CONTRACTOR: COMPLETE DEMOLITION SERVICES, LLC
P.O. BOX 176
CARROLLTON, GA. 30116

VIA ARCHITECT:

CONTRACT FOR: General Construction
CONTRACT DATE:
PROJECT NOS: / /

Distribution to:
OWNER: ☒
ARCHITECT: ☐
CONTRACTOR: ☐
FIELD: ☐
OTHER: ☐

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703®, Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM $321,000.00
2. NET CHANGE BY CHANGE ORDERS $0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2) $321,000.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) $245,970.00
5. RETAINAGE:
   a. 10.00 % of Completed Work (Column D + E on G703) $24,597.00
   b. 0 % of Stored Material (Column F on G703) $0.00

   Total Retainage (Lines 5a + 5b or Total in Column I of G703) $24,597.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) $221,373.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) $113,436.00
8. CURRENT PAYMENT DUE $107,937.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) $99,627.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	$0.00	$0.00
Total approved this Month	$0.00	$0.00
TOTALS	$0.00	$0.00
NET CHANGES by Change Order		$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: Date: November 17, 2023

State of: GEORGIA
County of: CARROLL
Subscribed and sworn to before me this 17th day of November 2023
Notary Public:
My Commission expires: November 20, 2027

MANUELA KRAUS NOTARY PUBLIC CARROLL COUNTY GEORGIA MY COMM. EXPIRES Nov. 20, 2027

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED $107,937.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: Date: 11/27/23

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CITY OF LAKELAND
FY2024 Relax Inn Building Demolition Project

5/15/2024

PAY APPLICATION #1
Date - 5/13/2024

Schedule A

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL COST	PREVIOUS TOTAL	QUANTITY THIS PERIOD	TOTAL COST THIS PERIOD	TOTAL QUANTITY TO DATE	TOTAL COST TO DATE
1	Relax Inn Building & Site Demolition	LS	1	$78,800 00	$78,800 00	0.00	1.00	$ 78,800.00	0.00	$0.00
2	Removal and Disposal of Interstate Sign	LS	1	$8,000.00	$8,000.00	0.00	1.00	$ 8,000.00	0.00	$0.00

TOTAL COST	$ 86,800.00	$0.00
LESS RETAINAGE	$ 4,340.00	
TOTAL COST TO DATE	$ 82,460.00	$ -
PLUS PREVIOUS PAYMENTS		
TOTAL THIS PERIOD	**$ 82,460.00**	**$0.00**

Original Contract Price	$90,800.00
Change Order No. 1 Deduction	$4,000.00
Updated Total Project Cost	$86,800.00

CONTRACTOR: Grinder, Taber & Grinder, Inc.
The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief the Work covered by this Application for Payment has been completed in accordance with the Contract

Contractor Signature

5/23/24
Date

ENGINEER
In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Engineer certifies to the Owner that to the best of the Engineer's knowledge the

AMOUNT CERTIFIED $ $82,460.00

Engineer Signature

5/23/24
Date

my Advantage 11/19/2024 1:33 PM

New General Consolidated 8073
6500548073

Amount: $-507,310.60

Statement Description: WIRE TRANSFER DEBIT: FED REF NBR 000123BENF-FOUNDATION TI

Posted Date: 9/21/2023

Type: Debit

Status: Posted

American Land Title Association

ALTA Settlement Statement - Borrower/Buyer
Adopted 05-01-2015

Foundation Title & Escrow Series, LLC
ALTA Universal ID: 1180276
51 Germantown Court
Suite 101
Cordova, TN 38018

File No./Escrow No. :	MEM-2308562BSO
Print Date & Time:	January 11, 2024 9:34 am
Officer/Escrow Officer :	J Kevin Floyd
Settlement Location :	51 Germantown Court, Suite 101 Cordova, TN 38018
Property Address:	0 Beverle Rivera Dr SW Lakeland, TN 38002 0 Beverle Rivera Dr SE Lakeland, TN 38002
Buyer:	City of Lakeland, Tennessee 10001 Hwy 70 Lakeland, TN 38002
Seller:	Belz Investco GP
Lender:	
Settlement Date:	January 12, 2024
Disbursement Date:	January 12, 2024

Description	Borrower/Buyer Debit	Borrower/Buyer Credit
Financial		
Sale Price of Property	1,402,144.00	
Prorations/Adjustments		
City/Town Taxes 01/01/24 - 01/12/24		15.97
County Taxes 01/01/24 - 01/12/24		45.49
Other Loan Charges		
Recording Service Fee to Foundation Title & Escrow Series, LLC	21.00	
Title Charges and Escrow/Settlement Charges		
Settlement Fee to Foundation Title & Escrow Series, LLC	1,600.00	
Shipping/Handling/Courier Fee to Foundation Title & Escrow Series, LLC	65.00	
Wire Fee to Foundation Title & Escrow Series, LLC	30.00	
Owner's Title Insurance to Foundation Title & Escrow Series, LLC Coverage: 1,402,144.00 Premium: 4,278.86	4,278.86	

Description	Borrower/Buyer	
	Debit	Credit
Government Recording and Transfer Charges		
Recording Fees to Shelby County Register of Deeds	38.00	
	Debit	**Credit**
Subtotals	1,408,176.86	61.46
Due from Buyer		1,408,115.40
Totals	1,408,176.86	1,408,176.86

Foundation Title & Escrow Series, LLC
ALTA Universal ID: 1180276
51 Germantown Court
Suite 101
Cordova, TN 38018

File No./Escrow No. : MEM-2308943FC
Print Date & Time: February 29, 2024 4:19 pm
Officer/Escrow Officer : J Kevin Floyd
Settlement Location : 51 Germantown Court, Suite 101
Cordova, TN 38018

Property Address: 3645 Canada Rd
Lakeland, TN 38002

Buyer: City of Lakeland, Tennessee
10001 Hwy 70
Lakeland, TN 38002

Seller: Gangaben Patel
3645 Canada Rd
Lakeland, TN 38002

Lender:

Settlement Date: March 06, 2024
Disbursement Date: March 06, 2024

Description	Borrower/Buyer	
	Debit	Credit
Financial		
Sale Price of Property	1,700,000.00	
Deposit		10,000.00
Prorations/Adjustments		
City/Town Taxes 01/01/24 - 03/06/24		581.77
County Taxes 01/01/24 - 03/06/24		1,657.32
Other Loan Charges		
Recording Service Fee to Foundation Title & Escrow Series, LLC	21.00	
Title Charges and Escrow/Settlement Charges		
Search Service Fee to Foundation Title & Escrow Series, LLC	350.00	
Settlement Fee to Foundation Title & Escrow Series, LLC	1,600.00	
Shipping/Handling/Courier Fee to Foundation Title & Escrow Series, LLC	65.00	
Wire Fee to Foundation Title & Escrow Series, LLC	30.00	

Description	Borrower/Buyer	
	Debit	Credit
Title Charges and Escrow/Settlement Charges (continued)		
Owner's Title Insurance to Foundation Title & Escrow Series, LLC Coverage: 1,700,000.00 Premium: 5,100.60	5,100.60	
Government Recording and Transfer Charges		
Recording Fees to Shelby County Register of Deeds	37.00	
	Debit	**Credit**
Subtotals	1,707,203.60	12,239.09
Due from Buyer		1,694,964.51
Totals	1,707,203.60	1,707,203.60

RESOLUTION R-65-2023

AUTHORIZING CITY ATTORNEY TO FILE AND PURSUE CONDEMNATION PROCEEDINGS CONCERNING A PARCEL WITHIN THE LAKELAND GATEWAY TIF DISTRICT OWNED BY QUANTUM HOTELS, L.L.C. FOR THE NECESSARY CONSTRUCTION OF PARKS AND RECREATION FACILITIES

WHEREAS, pursuant to Tennessee Code Annotated § 7-31-107 and all other applicable statutes of the State of Tennessee and acts amendatory thereof and supplementary thereto, the City of Lakeland has the power and authority to take and condemn property for public uses, as the Board deems necessary; and,

WHEREAS, the Board of Commissioners ("BOC") retained Kimley-Horn to update the City's Parks and Recreation Master Plan by studying existing community facilities and future Parks and Recreation facility needs; and,

WHEREAS, Kimley-Horn generated significant public engagement throughout the Master Plan update and determined that the overwhelming majority of Lakeland residents believe Lakeland needs a community center; and,

WHEREAS, in August 2022, the updated Parks and Recreation Master Plan was officially adopted; and,

WHEREAS, in February 2023, the Lakeland Industrial Development Board, Lakeland Board of Commissioners, and Shelby County Commission each unanimously approved the Lakeland Gateway TIF District which provides an additional funding mechanism for the acquisition of property and construction of certain public facilities; and,

WHEREAS, on February 9, 2023, the BOC officially established "Parks and Recreation Improvements: Create and Expand Parks and Recreation Facilities" as one of the official strategic goals of the City of Lakeland in Resolution R-24-2023; and,

WHEREAS, subsequently, YMCA of the Mid-South approached the City about collaborating with the City to assist in the design and operation of a future public facility within the Lakeland Gateway TIF District; and,

WHEREAS, pursuant to Resolution R-60-2023, the Board of Commissioners formally authorized the City Manager to engage in property acquisition negotiations for parcels within the Lakeland Gateway TIF District; and,

WHEREAS, a parcel of property owned by Quantum Hotels, L.L.C. ("Subject Property") have been identified as the best location for the proposed Parks and Recreation facility within the Lakeland Gateway TIF District; and,

RESOLUTION R-65-2023

AUTHORIZING CITY ATTORNEY TO FILE AND PURSUE CONDEMNATION PROCEEDINGS CONCERNING A PARCEL WITHIN THE LAKELAND GATEWAY TIF DISTRICT OWNED BY QUANTUM HOTELS, L.L.C. FOR THE NECESSARY CONSTRUCTION OF PARKS AND RECREATION FACILITIES

WHEREAS, the Board of Commissioners has determined that acquisition of the Subject Property is necessary in order to provide adequate facilities for the City's growing Parks and Recreation Department and serve as the community center that Lakeland needs; and,

WHEREAS, the BOC has determined that acquisition of the Subject Property consistent with the appraisal and metes and bounds description, is necessary for the accomplishment of the Parks and Recreation facility project; and,

WHEREAS, the proposed Parks and Recreation facility will serve the residents of the City as a community center and the proposed partnership with the YMCA will assist in offsetting the operational costs associated with the same; and,

WHEREAS, the proposed Parks and Recreation facility project, including the necessary property acquisition in fee simple for the Subject Property described in **Exhibit A**, is for public use and is in the public interest because it will permit the continued development of Parks and Recreation activities and accomplish one of the BOC's strategic goals as set forth in February 2023; and,

WHEREAS, the acquisition of the Subject Property, owned by Quantum Hotels, L.L.C., in fee simple is necessary in order to complete the Parks and Recreation facility project; and,

WHEREAS, the City of Lakeland has authorized and received an appraisal in the amount of Two Million Two-Hundred Fifty Thousand Dollars ($2,250.000.00) the Subject Property, owned by Quantum Hotels, L.L.C., in fee simple; and,

WHEREAS, pursuant to Resolution R-60-2023, the City has attempted to acquire the Subject Property in fee simple by agreement through the City Manager; and,

WHEREAS, the owner of the Subject Property is presently unwilling to accept the appraisal amount; and,

WHEREAS, it appears that condemnation proceedings will be necessary in order to obtain the necessary described property in fee simple, owned by Quantum Hotels, L.L.C., in order to complete the Parks and Recreation facility project:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF LAKELAND, TENNESSEE that the City Manager and the City Attorney are authorized to continue with negotiations based on the appraisals referenced herein for the Subject Property in fee simple.

RESOLUTION R-65-2023

AUTHORIZING CITY ATTORNEY TO FILE AND PURSUE CONDEMNATION PROCEEDINGS CONCERNING A PARCEL WITHIN THE LAKELAND GATEWAY TIF DISTRICT OWNED BY QUANTUM HOTELS, L.L.C. FOR THE NECESSARY CONSTRUCTION OF PARKS AND RECREATION FACILITIES

BE IT FURTHER RESOLVED that the City Attorney is further authorized to proceed with the initiation, filing, and pursuit of condemnation proceedings in Court to acquire the necessary Subject Property in fee simple.

BE IT FURTHER RESOLVED that the Board of Commissioners authorizes tender to the Clerk of Court, pursuant to exercise of the power of eminent domain and the initiation of condemnation proceedings, of Two Million Two-Hundred Fifty Thousand Dollars ($2,250,000.00), said amount representing the fair market value of the necessary Subject Property in fee simple for which condemnation proceedings by exercise of the power of eminent domain are hereby authorized.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee on the 4th day of May, 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Debra Murrell

Debra Murrell, *City Recorder*

FS 6754

EXHIBIT "A"

Lot 3, CANADA ROAD/HUFF N' PUFF ROAD COMMERCIAL SUBDIVISION, being all and the same property conveyed to the Grantor herein by Quit Claim Deed of record in the Register's Office of Shelby County, Tennessee, as instrument number #CZ 8672.

Commencing at a concrete right-of-way marker at the northwest corner of Peoples Bank of Lakeland; thence, S23° 18'40" E, along the east right- of-way line of Canada Road, a distance of 449.77 feet to a point; thence S27° 12' 37" E along said right-of-way, a distance of 53.95 feet to a point; said point being the point of curvature of the east right- of-way line of Canada Road; thence in a southeastwardly direction along a curve to the right, a distance of 168.15 feet to a point; said point being on the south right- of-way line of proposed Beverle Rivera Drive, thence N71° 10' 28" E along said right-of-way, a distance of 431.85 feet to the point of beginning; thence N71° 10' 28" E along the south right-of-way line of proposed Beverle Rivera Drive, a distance of 613.32 feet to a point; said point being the point of intersection of the south right-of-way line and the north property line of the Lakeland Inn Motel parking lot property; thence S55° 14' 54" W along the north property line of the Lakeland Inn Motel, a distance of 575.74 feet to a point; said point being the northwest corner of the Lakeland Inn Motel; thence, S34° 45' 06" E along the west line of the Lakeland Inn Motel property, a distance of 289.30 feet to a point; said point being on the north right-of-way line of Huff 'N' Puff Road, thence S68° 03' 11" W along the north right-of-way line of Huff 'N' Puff Road, a distance of 135.21 feet to a point; said point being the southeast corner of the Krasner property; thence N18° 49' 32" W along Krasner's east line, a distance of 432.00 feet to the point of beginning.

SHELBY COUNTY
REGISTER OF DEEDS

FS6754

96 MAR -5 PM 3:14

FS 6754

Pgs. 3
Val 150000
STATE TAX 55500
REGISTER'S FEE 100
RECORDING FEE 1200
WT ☐ MISC FEE
TOTAL 56800
STATE OF TENNESSEE
SHELBY COUNTY
GUY B. GATES
REGISTER

VEN-KEY	VENDOR NAME / ACH VOID DOWNLOAD	INVOICE # / DISCOUNT DESCRIPTION	PO NUMBER	BATCH	BANK / DISC AMT	DESCRIPTION / ADJUSTMENT DESCRIPTION	LQ / FY	S	INV DATE / ADJ AMT	DUE DATE / CHECK NBR	C	NET AMOUNT / INVOICE AMOUNT
SHELBY C001	SHELBY CNTY CIRCUIT CRT CLERK	ECONO LODGE	0000000000	050923	GEN2	Condemnation Proceedings on Econo Lodge		B	05/09/2023	05/08/2023	R	$2,250,000.00
							22-23					$2,250,000.00

NUMBER OF INVOICES: 1 **$2,250,000.00**

TOTAL NUMBER OF BATCH INVOICES: 1 **$2,250,000.00**

1 COMPUTER CHECK INVOICES $2,250,000.00

TOTAL INVOICES: 1 **$2,250,000.00**

BANK TOTALS: BANK	BANK ACCOUNT #	INVOICE AMOUNT	NET AMOUNT
GEN2	*** A 11211 000 000 00000 000	$2,250,000.00	$2,250,000.00

LIQUIDATION STATUS (LQ) CODE LEGEND:

L = LIQUIDATION PENDING C = CLOSED PO/NOT RECEIVING

P = PARTIAL LIQUIDATION F = FULL LIQUIDATION

BLANK = NO LIQUIDATION

************************ End of report ************************

RESOLUTION R-99-2023

APPROVING PARTIAL SETTLEMENT OF THE CONDEMNATION PROCEEDINGS AUTHORIZED BY RESOLUTION R-65-2023 AND AUTHORIZING THE DEPOSIT OF ADDITIONAL FUNDS WITH THE COURT CLERK

WHEREAS, on May 9, 2023, the City Attorney filed a Petition for Condemnation of the Subject Property and deposited the appraised value with the Court Clerk; and,

WHEREAS, on June 28, 2023, the Parties mediated the matter and reached a partial settlement subject to BOC approval; and,

WHEREAS, pursuant to the mediated settlement agreement, Lakeland agreed to have an updated appraisal report generated to account for the additional 1.8 acres that comprise the Subject Property not initially accounted for in the original appraisal report and to deposit the additional valuation in the appraisal report with the Court Clerk; and,

WHEREAS, Quantum agreed to relinquish possession of the Subject Property effective September 1, 2023, and enter an order with the Court to formalize the same; and,

WHEREAS, City of Lakeland staff ordered and received an updated appraisal report valuing the additional acreage at Three Hundred Seventy-Five Thousand Dollars ($375,000.00) (a copy of the appraisal report is attached hereto as Exhibit A); and,

WHEREAS, Quantum is presently unwilling to accept the total appraisal amount and intends to obtain their own appraisal; therefore, the condemnation proceedings will continue for the limited purpose of determining the Subject Property's value; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager and the City Attorney are authorized to continue with negotiations based on the appraisals referenced herein for the Subject Property in fee simple.

BE IT FURTHER RESOLVED that the City Attorney is further authorized to continue the condemnation proceedings in Court and file all necessary pleadings to effectuate this settlement agreement and pursue final resolution of the proceedings.

BE IT FURTHER RESOLVED that the Board of Commissioners authorizes tender to the Clerk of Court, pursuant to exercise of the power of eminent domain and the continuation of condemnation proceedings, of Three Hundred Seventy-Five Thousand Dollars ($375,000.00), said amount representing the fair market value of the additional acreage not originally contemplated by the initial appraisal report for the Subject Property for which condemnation proceedings by exercise of the power of eminent domain are hereby authorized.

EXHIBIT B

BORROWING CERTIFICATE
DISBURSEMENT REQUEST

To:	FirstBank 6815 Poplar Avenue, Suite 100 Memphis, Tennessee 38138 Attention:	cc:	The Industrial Development Board of the City of Lakeland, Tennessee 10001 Highway 70 Lakeland, Tennessee 38002 Attention: President

Re: Loan evidenced by The Industrial Development Board of the City of Lakeland, Tennessee Tax Increment Revenue Note (Lakeland Gateway Development) in the principal amount not to exceed $6,000,000 dated August 16, 2023 (the "Loan"), made pursuant to a Loan Agreement, dated as of November 5, 2024 (the "Loan Agreement"), between The Industrial Development Board of the City of Lakeland, Tennessee (the "Board") and FirstBank ("Lender")

You are hereby authorized and requested to disburse pursuant to Article VI of the Loan Agreement the sum of $5,683,010 from the Lakeland Gateway Development Fund created pursuant to the Loan Agreement. In connection with such disbursement, the undersigned hereby certifies as follows:

(a) All amounts disbursed shall be applied to the payment of or the reimbursement to The City of Lakeland, Tennessee for the payment of costs relating to Eligible Costs.

(b) With the delivery of this Certificate, all requirements for disbursement of amounts pursuant to this request under Article VI of the Loan Agreement have been satisfied.

Please disburse all such amounts to the parties in the manner described on Exhibit A attached hereto.

All capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Loan Agreement.

Dated as of November 21, 2024.

THE CITY OF LAKELAND, TENNESSEE
a municipal corporation organized under the laws of the State of Tennessee

By: [signature]
Name: Michael Walker
Title: City Manager

APPROVED BY:

FirstBank

By: ______________________________
Title: ______________________________

The Industrial Development Board of the City of Lakeland, Tennessee

By: ______________________________
Title: ______________________________

EXHIBIT A

To BORROWING CERTIFICATE
DISBURSEMENT REQUEST

DRAW AUTHORIZATION

TO: FirstBank ("Bank")

DATE:

Please advance $5,683,010 on the Loan evidenced by The Industrial Development Board of the City of Lakeland, Tennessee Tax Increment Revenue Note (Lakeland Gateway Development) in the principal amount not to exceed $6,000,000 dated Nov 5, 2024(the "Loan"). Funds should be wired to:

Account Name: City of Lakeland (Lakeland Gateway TIF)
Bank:
ABA Routing Number:
Account Number:

THE CITY OF LAKELAND, TENNESSEE,
a municipal corporation organized under the laws of the State of Tennessee

By:
Name: Michael Walker
Title: City Manager

4859-3352-0886, v. 1

CITY OF LAKELAND TENNESSEE

Industrial Development Board

Meeting Cycle: Thursday, November 21, 2024

Subject: **Resolution** - approving the Loan Modification Agreement by and between the Industrial Development Board of the City of Lakeland, Tennessee and FirstBank, and joined in by Lakeland Commons, LLC.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION

The IDB President recommends approval of resolution R-172-2024.

BUDGET IMPACT

There is no budgetary impact to the IDB related to this resolution.

DISCUSSION

In the original TIF loan documentation for the Lakeland Commons TIF loan, the initial principal payment of over $1 million would have been due in November 2024. As 2023 was the first year of the TIF activation, the project increment fund had insufficient resources to make this principal payment.

The attached modification allows for the principal to be shifted two (2) years, enabling the project to generate sufficient increment to repay the loan. The principal amounts due in the next year will be paid by Lakeland Commons, LLC.

RESOLUTION R-172-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING THE LOAN MODIFICATION AGREEMENT BY AND BETWEEN THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, AND FIRSTBANK, AND JOINED IN BY LAKELAND COMMONS, LLC

NOW, THEREFORE, BE IT RESOLVED by the Industrial Development Board of the City of Lakeland, Tennessee, that:

RESOLVED, the attached Loan Modification Agreement is hereby approved by the Lakeland IDB and further,

RESOLVED, the directors, officers, agents, and employees of the Lakeland IDB are hereby authorized and directed to do all such things and to execute or accept any and all such certificates or documents as may be necessary to carry out and comply with the provisions of this Resolution and to carry out, give effect to and consummate the transactions contemplated hereby and thereby. All of the acts and doings of the directors, officers, agents and employees of the Lakeland IDB which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved.

APPROVED AND ADOPTED by the Industrial Development Board of the City of Lakeland, Tennessee, this 21st day of November 2024, the public welfare requiring it.

ATTEST:

____________________	____________________
Alan Johnson	Steve Laster
Chair	*Secretary*

LOAN MODIFICATION AGREEMENT
(Loan 1530086089)

THIS LOAN MODIFICATION AGREEMENT is made and entered into effective this the ____ day of November, 2024, by **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, et. seq. (the "Borrower") and **FIRSTBANK**, a Tennessee banking association ("Bank") and joined in by **LAKELAND COMMONS, LLC,** a Delaware limited liability company, ("Lakeland Commons") and the Guarantors of the Loan.

W I T N E S S E T H:

WHEREAS as of November 17, 2022, Borrower executed a Promissory Note (the "Note") in the principal sum of NINE MILLION SEVEN HUNDRED FIFTY THOUSAND and 00/100 DOLLARS ($9,750,000.00) to the order of Bank;

WHEREAS the Note is secured by (a) an Assignment of Tax Increment Revenues dated as of November 17, 2022, between Borrower and the Bank (the "Assignment"); (b) a Collateral Assignment of Development and Financing Agreement dated as of November 17, 2022, between Bank and Borrower (the "Development Agreement Pledge"); and (c) a Deed of Trust, Security Agreement and Fixture Filing dated as of November 17, 2022 from Lakeland Commons in favor of Bank (the "Deed of Trust");

WHEREAS, the terms of the Note are governed by that Loan Agreement dated as of November 17, 2022, as the same may have been or be amended (the "Loan Agreement") (the Note, Assignment, Deed of Trust, Development Agreement Pledge, Loan Agreement, and related loan documents shall be referred to as the "Loan Documents");

NOW, THEREFORE, FOR MUTUAL CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Acknowledgment of Debt. It is acknowledged that the outstanding principal balance of the Note as of November 17, 2024, is $9,750,000.00.

2. Modification of Note. It is agreed that the Note is hereby modified and amended to refer to the Loan Agreement as amended by this Loan Modification Agreement. The Note is not amended in any other respect.

3. Modification of Loan Agreement. The Loan Agreement is amended

(a) to replace Section 2.4(b) with the following:

All accrued and unpaid interest shall be due and payable quarterly in arrears on each Quarterly Interest Payment Date during the term of the TIF Note. Additionally, a payment of accrued interest shall be due on November 17, 2025.

(b) to delete Exhibit D to the Loan Agreement and replace it with the Exhibit D shown on attached Schedule 1.

4. Modification of Loan Documents. All references in the Loan Documents to the Note and Loan Agreement shall henceforth be deemed to refer to the Note and Loan Agreement as herein modified.

5. Reaffirmation of Obligations. All terms and provisions of the Note and Loan Documents, not herein specifically modified or amended, shall remain in full force and effect and are hereby reaffirmed by the parties hereto. Nothing contained herein shall be construed as a novation of the indebtedness evidenced by the Note.

6. No Defenses, Counterclaims or Offsets. The terms of the Note and the other Loan Documents are hereby ratified, confirmed and made a part hereof. The Borrower, by execution of this Agreement, acknowledges that it does not have any defenses, counterclaims or offsets whatsoever to the timely payment of the outstanding balance of the Note and all accrued interest thereon which would preclude or impair Bank's enforcement of the Note and enjoyment or realization of all security given to secure the indebtedness evidenced by the Note and secured by certain of the Loan Documents. It is the intent of the parties hereto that this Agreement shall not constitute a novation and shall in no way adversely affect any lien priority related to a security interest of the Bank or the Loan Documents.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of any assignee and the respective heirs, executors, administrators, successors and assigns of the parties hereto.

9. Agreement Controlling. The Borrower agrees that in the event of any inconsistencies between the terms and provisions of this Agreement and the terms and provisions of the Loan Documents, that this Agreement shall govern.

10. Full Force and Effect. Except for the modifications set forth in this Agreement, the Loan Documents shall remain in full force and effect.

11. Notice of Final Agreement. This written Agreement represents the final agreement among the Borrower and the Bank and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements between the Borrower and the Bank. There are no unwritten oral agreements among the Borrower and the Bank.

12. Counterparts and Delivery. This Agreement may be executed in one or more counterparts and may be delivered by facsimile or electronic mail, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written.

BORROWER:
THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, a public nonprofit corporation

By:____________________________
Name:__________________________
Title:___________________________

BANK:
FIRSTBANK,
a Tennessee banking corporation

By: Mollie Newma
Title: SVP

Lakeland Commons, LLC, a Tennessee limited liability company join herein for the purpose of acknowledging and consenting to the terms of this Loan Modification Agreement.

LAKELAND COMMONS, LLC, a Tennessee limited liability company

By: ____________________________
Title: ____________________________

The undersigned Guarantors of the Note join herein for the purpose of acknowledging and consenting to the terms of this Loan Modification Agreement.

GUARANTORS:

____
Vincent D. Smith, Jr.

____
David Andrews

____
Bart Thomas

Schedule 1
to Loan Modification Agreement

EXHIBIT D

Annual Principal Payments

Payment Due Date	Principal Payment Due
November 17, 2024	$350,000.00
April 17, 2025	$410,000.00
November 17, 2025	$1,250,000.00
April 17, 2026	$440,000.00
April 17, 2027	$470,000.00
April 17, 2028	$505,000.00
April 17, 2029	$545,000.00
April 17, 2030	$585,000.00
April 17, 2031	$625,000.00
April 17, 2032	$670,000.00
April 17, 2033	$720,000.00
April 17, 2034	$765,000.00

4875-1124-7609, v. 1

CITY OF LAKELAND TENNESSEE

Industrial Development Board

Meeting Cycle: Thursday, November 21, 2024

Subject: **Resolution** - adopting a development agreement between the Industrial Development Board of the City of Lakeland, Tennessee, and the City of Lakeland, Tennessee, related to the Safety tax increment financing development area.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION

The IDB President recommends approval of resolution R-173-2024.

BUDGET IMPACT

There is no budgetary impact to the IDB related to this resolution.

DISCUSSION

The attached development agreement is to document the split of the project increment fund and eligible infrastruture costs between the two developers involved in the Safe City TIF, as well as the City of Lakeland.

The percentage splits documented in the developer interest section will equate to approximately $22mm of the $36mm projected TIF project increment fund to go to the developers for the construction of Seed Tick Road north of Highway 70. The remaining funds are accessible by the City of Lakeland through a TIF loan to fund eligible infrastructure improvements.

RESOLUTION R-173-2024

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, ADOPTING A DEVELOPMENT AGREEMENT BETWEEN THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, AND THE CITY OF LAKELAND, TENNESSEE, RELATED TO THE SAFETY TAX INCREMENT FINANCING DEVELOPMENT AREA

WHEREAS, on August 22, 2024, the Industrial Development Board of the City of Lakeland, Tennessee (the "Lakeland IDB") approved an Economic Impact Plan to establish the Safe City (or Safety) Tax Increment Financing ("TIF") project area through its resolution R-113-2024; and,

WHEREAS, the Lakeland IDB desires to enter into a development agreement with the City of Lakeland, Tennessee:

NOW, THEREFORE, BE IT RESOLVED by the Industrial Development Board of the City of Lakeland, Tennessee, that the Development Agreement included herein as Exhibit A is hereby adopted and is authorized for execution.

APPROVED AND ADOPTED by the Industrial Development Board of the City of Lakeland, Tennessee, this 21st day of November 2024, the public welfare requiring it.

ATTEST:

______________________________	______________________________
Alan Johnson	Steve Laster
Chair	*Secretary*

DEVELOPMENT AGREEMENT
(Safe City TIF)

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the _____ day of _____________, 2024 ("Effective Date"), by and between **The Industrial Development Board of the City of Lakeland, Tennessee**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq*. (the "Board"), and **The City of Lakeland, Tennessee**, a municipal corporation organized under the laws of the State of Tennessee (the "City").

W I T N E S S E T H:

WHEREAS, Valleybrook Development LLC, a Tennessee limited liability company ("Valleybrook"), and Scott's Creek Development LLC, a Tennessee limited liability company ("Scott's Creek"), each own property located in Lakeland, Tennessee, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (respectively, the "Valleybrook Property" and the "Scott's Creek Property", and collectively, the "Property"); and

WHEREAS, Valleybrook and Scott's Creek intend to develop the Project, defined below, on the Property in the vicinity of Highway 70 and Seed Tick Road, and the City has been in discussions with Valleybrook and Scott's Creek about ways to improve traffic safety in the vicinity of Highway 70 and Seed Tick Road in connection with such Project; and

WHEREAS, the City has requested assistance from the Board in connection with such Project and necessary infrastructure improvements along Highway 70; and

WHEREAS, in connection with such Project, the Board has approved an economic impact plan attached hereto as Exhibit B (the "Economic Impact Plan") regarding the development of the Plan Area, as more particularly described in the Economic Impact Plan (the "Plan Area"), and the Economic Impact Plan also identifies adjoining areas that will directly benefit the Project, defined below, such areas being referred to in the Economic Impact Plan and this Agreement as the "Development Area"; and

WHEREAS, Valleybrook, Scott's Creek or any other permitted assignee thereof intends to develop the Plan Area pursuant to a planned development for a new mixed-use development on the Property that is expected to include approximately 90,600 square feet of retail space, a boutique hotel, approximately 22 townhouses, and approximately 390 single-family residential units. The development will provide the City with an integrated, pedestrian-oriented community with an emphasis on safety, accessibility, and comfort. The mixed-use development described above, excluding the single-family residential units, is collectively referred to in this Agreement as the "Project." The Project is an eligible "project" within the meaning of Tenn. Code Ann. § 7-53-101(15); and

WHEREAS, the Project, however, is not feasible without extending Seed Tick Road north of Highway 70, improving Highway 70 to increase safety, and making significant investments in new and improved infrastructure and parking in the area, including site design and analysis, grading and drainage improvements, and construction of roads, sidewalks and pedestrian walkways, roundabouts, traffic signals, lighting, water lines, electrical line, gas lines, sewer lines, and parking areas. To make the Project financially feasible, the City and Shelby County Tennessee (the "County"), have approved, as part of the Economic Impact Plan, a plan for tax increment financing through the Board pursuant to Title 7, Chapter 53 of Tennessee Code Annotated to provide funds to pay a portion of the costs of the improvements that are needed to permit the construction and operation of the Project. The proceeds of the tax increment financing are to be used to pay certain eligible costs, in accordance with Tenn. Code Ann. § 7-53-312 and Tenn. Code Ann. §§ 9-23-101 *et. seq*. (collectively, the "Tax Increment Act"), relating to the Project; and

WHEREAS, the incremental property tax revenues attributable to the Plan Area that are allocated to the Board pursuant to the Resolution (as herein defined) (the "Tax Increment Revenues") would be used to pay for Eligible Costs (as herein defined) or to repay the debt (principal and interest) or other financing of Eligible Costs, all as more particularly described in the Economic Impact Plan and this Agreement (the "Tax Increment Incentive"); and

WHEREAS, under Tenn. Code Ann. §§ 7-53-101, et seq., and the Economic Impact Plan, the Board is authorized to use the Tax Increment Revenues to pay for, among other things, the following "Eligible Costs": all costs that are (i) incurred in connection with the development of the Project, public infrastructure in the Plan Area and the Development Area, and the Tax Increment Incentive and (ii) permitted under the Tax Increment Act ("Eligible Improvements"). The term "Eligible Costs" includes, without limitation, (i) the costs of designing, constructing, and installing the Planned Improvements (as defined below), (ii) payments of principal, interest, and other finance charges under any Tax Increment Financing Loan(s), and (ii) the Transaction Costs (as defined below), but does not include the costs of developing any of the single-family units on the Property. Tenn. Code Ann. § 9-23-108 does not permit the application of incremental tax revenues pursuant to the Economic Impact Plan to pay certain costs relating to privately owned land without first receiving a written determination from the Comptroller of the State of Tennessee (the "State") and the Commissioner of Economic and Community Development of the State that the use of tax increment revenues for such purposes is in the best interest of the State. The Board will not apply any tax increment revenues to pay costs as to which a written determination is required by the Comptroller of the State and/or the Commissioner of Economic and Community Development of the State without first obtaining such written determination; and

WHEREAS, for the purpose of establishing the rights and obligations of the parties with respect to the development of the Plan Area and the Development Area and certain terms related to the Tax Increment Incentive, the parties have entered into this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions and mutual agreements by and between the parties, as hereafter set forth in detail, the parties do hereby mutually agree as follows:

1. Definitions. In addition to the terms defined in the recitals above, the following terms have the following meanings when used in this Agreement:

a. "Additional Developer" has the meaning set forth in Section 13 below.

b. "Additional Development Agreement" has the meaning set forth in Section 13 below.

c. "Administrative Fee" means 5% of the excess of property taxes over the Total Base Tax Amount, as defined in the Economic Impact Plan, less the County Trustee Fee (defined below), which shall be payable to the Board as a fee for administering the Tax Increment Incentive. Of the Administrative Fees received by the Board, the Board shall distribute 2% of the share of incremental tax revenue to the Project attributable to Shelby County property taxes to the Shelby County Trustee to administer the Shelby County Tax Increment Incentive.

d. "Affiliate" as to any specific person or entity, a person or entity that directly or indirectly controls, is controlled by, or is under common control with such person or entity.

e. "Allocation Group" has the meaning set forth in Section 2 below.

f. "Allocation Period" means, with respect to each tax parcel within the Plan Area, the 20 year period of time during which the Tax Increment Revenues from such tax parcel will be allocated to the Board for the Tax Increment Incentive, as more particularly set forth in the Economic Impact Plan.

g. "Bonds" means any bonds or similar debt instruments issued by the Board that are secured by and/or payable with the Tax Increment Revenues.

h. "Bond Documents" means the Bonds and all other documents executed or issued by the Board or a Developer in connection with the issuance and offering of the Bonds, including, without limitation, any trust indenture, private placement memorandum, private placement agreement, tax compliance agreement, or similar document.

i. "Construction Consultant" shall mean any licensed engineer or architect located in the County designated by the Board from time to time and approved by the applicable Developer, such approval not to be unreasonably withheld, conditioned or delayed.

j. "County Trustee Fee" means an amount equal to 2% of all of Shelby County property taxes payable with respect to the Plan Area which shall be payable to Shelby County Trustee as set forth in Tenn. Code Ann. § 8-11-110.

k. "Developer" means the City, Valleybrook, Scott's Creek, and any Additional Developer engaged in the development of any portions of the Plan Area or the Development Area.

l. "Developer Representative" means a third-party construction manager, owner's representative, or other third-party representative designated by a Developer from time to time.

m. "Developer Tax Increment Revenues" means a portion of the Tax Increment Revenues equal to 45.8% of the excess of property taxes over the Total Base Tax Amount generated by the Property, less the County Trustee Fee (defined above) applicable to the property taxes from the Property.

n. "Financing Trustee", if applicable, means the trustee designated in any Tax Increment Financing Loan.

o. "MLGW" means Memphis Light, Gas and Water.

p. "Payment Request" means a written request by a Developer for the payment of Eligible Costs substantially in the form attached hereto as Exhibit E.

q. "Planned Improvements" means the planned improvements for the Project described on Exhibit C attached hereto.

r. "Project Tax Increment Fund" means a separate and special fund established by the Board into which will be deposited all Tax Increment Revenues as received. The Project Tax Increment Fund shall, at the City's request, be separated into separate sub-funds in connection with any Tax Increment Financing Loan obtained by Developer. For purposes of clarity, Developer and the Board each may pledge their respective rights to certain of such sub-funds as collateral for different Tax Increment Financing Loans and use other unpledged sub-funds for direct payment or reimbursement of Eligible Costs in accordance with this Agreement.

s. "Public Entities" means MLGW, the City of Lakeland, Shelby County, the State of Tennessee, and any political subdivision or agency of any of the foregoing, and "Public Entity" means any one of such Public Entities.

t. "Resolution" means, collectively, the Resolutions approved by the Board of Commissioners of the City of Lakeland, Tennessee and the County Commission of Shelby County, Tennessee approving the Economic Impact Plan.

u. "Scott's Creek Interests" means (i) a one-half of the Developer's Tax Increment Revenues, (ii) all of the City's other right, title, and interest under this Agreement with respect to the Scott's Creek Property other than the remaining Tax Increment Revenues not described in (i) above, and (iii) all obligations of the City under this Agreement with respect to the Scott's Creek Property.

v. "Tax Increment Financing Loan Documents" means any loan documents evidencing or securing any Tax Increment Financing Loan (including, without limitation, any Bond Documents), which loan documents must be acceptable to the Board in its sole but reasonable discretion.

w. "Tax Increment Financing Loan" means any loan(s) to, and/or Bonds issued by, the Board hereafter arranged by a Developer in connection with the Tax Increment Incentive, which must be acceptable to the Board in its reasonable discretion.

x. “Total Base Tax Amount” has the meaning set forth in the Economic Impact Plan.

y. “Transaction Costs” means those certain costs described on the attached Exhibit D together with all out-of-pocket costs incurred by a Developer or the Board in connection with closing any Tax Increment Financing Loan.

z. “Valleybrook Interests” means (i) one-half of the Developer’s Tax Increment Revenues (ii) all of the City’s other right, title, and interest under this Agreement with respect to the Valleybrook Property other than the remaining Tax Increment Revenues not described in (i) above, and (iii) all obligations of the City under this Agreement with respect to the Valleybrook Property.

2. Designation of Allocation Periods; Calculation of Tax Increment Revenues.

a. The City may designate, by written notice to the Board, that the allocation of Tax Increment Revenues from any tax parcel or group of tax parcels in the Plan Area begin in any tax year within the 7 tax years following the Effective Date (each such designation, an “Allocation Group”).

b. The Board will combine the tax parcels within each Allocation Group into a single parcel for purposes of calculating and allocating the Tax Increment Revenues in accordance with the Economic Impact Plan; provided, however, that if any tax parcel in such an Allocation Group is owned or acquired by a tax-exempt entity, such tax parcel shall, to the extent permitted by applicable law, be excluded from such Allocation Group for purposes of allocating Tax Increment Revenues. Upon receipt of written designation of an Allocation Group from the City, the Board shall give notice of such grouping of tax parcels to the City and the County.

3. Pledge of Tax Increment Revenues to Secure Indebtedness. The Board shall pledge the Tax Increment Revenues generated during the Allocation Period to the payment of the Tax Increment Financing Loan(s), if obtained, incurred to finance Eligible Costs in accordance with the terms of the Tax Increment Financing Loan Documents, the Economic Impact Plan and this Agreement.

4. Disbursement of Tax Increment Revenues to Pay Eligible Costs Directly. The Board hereby agrees to commit the Tax Increment Revenues to the payment of Eligible Costs in accordance with the terms of this Agreement and the Economic Impact Plan. A Developer may from time-to-time request that the Board (or the Financing Trustee, as applicable) pay directly or reimburse such Developer for Eligible Costs from amounts on deposit in the Project Tax Increment Fund. A Developer must make such requests by submitting a Payment Request to the Board or the applicable Financing Trustee, with such Payment Request to be certified as true and correct in all material respects by the Construction Consultant and an authorized representative of such Developer, together with conditional lien waivers from all contractors and suppliers providing work or materials for the Eligible Improvements (or unconditional final lien waivers from the general contractor for the applicable Eligible Improvements) to be paid (or reimbursed) with the Payment Request. Notwithstanding the foregoing, with respect to any public infrastructure to be

constructed by a Developer pursuant to contracts between the Developer and a Public Entity, no certificate from the Construction Consultant shall be required, and the Board will rely on the unrestricted acceptance of such public infrastructure by the applicable Public Entity as the requisite review and written approval. The Board or the Financing Trustee shall, to the extent of available funds then on deposit in the Project Tax Increment Fund, make payment to or at the direction of the Developer in accordance with such Payment Request within thirty (30) days of receiving a correct and complete Payment Request along with such lien waivers. The Board or the Financing Trustee shall not be required to fund Payment Requests more than once per month and/or in an amount less than $25,000.00 as to any single Payment Request (except for the final Payment Request for Eligible Costs for the Eligible Improvements then under construction). If the amount on deposit in the Project Tax Increment Fund and available to pay Eligible Costs (i.e., not pledged to pay any Tax Increment Financing Loan(s)) at the time of any Payment Request is not sufficient to pay all Eligible Costs for all Eligible Improvements then under construction by a Developer, the Developer shall verify to the Board's or the applicable Financing Trustee's reasonable satisfaction that the Developer has sufficient additional funds (which may include loan proceeds) to pay all such Eligible Costs for all such Eligible Improvements then under construction by the Developer.

5. Disbursement of Tax Increment Revenues to pay Tax Increment Financing Loan. As of the date of this Agreement, no Developer has obtained a Tax Increment Financing Loan as part of the Tax Increment Incentive. However, a Developer may hereafter request that some or all of the Tax Increment Incentive be structured as Tax Increment Financing Loan(s), and the Board shall provide commercially reasonable cooperation to such Developer in closing any such Tax Increment Financing Loan(s) pursuant to Tax Increment Financing Loan Documents that are acceptable to the Board in its reasonable discretion. The Tax Increment Financing Loan Documents must provide that the Tax Increment Financing Loan is nonrecourse to the Board, the City, and the County. The Board shall not be obligated to incur any out-of-pocket cost or expense in connection therewith, and the Developer shall pay all such reasonable out-of-pocket costs or expenses incurred by the Board in connection with any Tax Increment Financing Loan arranged by Developer, including without limitation, reasonable fees for consultants and attorneys of the Board; provided, that such costs or expenses shall be included in Transaction Costs eligible for payment or reimbursement as Eligible Costs. At the request of either a Developer or the Board, the parties shall enter into any addendum to (or amended and restated version of) this Agreement or an Additional Development Agreement reasonably requested by either party to further evidence and memorialize the parties' rights and obligations with respect to any Tax Increment Financing Loan hereafter arranged by a Developer as set forth in this Section 5; provided, however, that such addendum, amended and restated agreement, or Additional Development Agreement must be acceptable to the Board in its reasonable discretion. The Board agrees to use the proceeds of any such Tax Increment Financing Loan to pay Eligible Costs in accordance with this Agreement, as amended, and the Tax Increment Financing Loan Documents for such Tax Increment Financing Loan.

6. Developer Obligations.

a. Each Developer shall cause to be prepared and, upon request, submit to the Board conceptual plans for all Eligible Improvements that such Developer elects to construct. Subject to the terms of this Agreement, a Developer may determine the sequencing and timing of construction of the Eligible Improvements in its sole discretion.

Each Developer shall be responsible for obtaining any required approvals of such plans and specifications from the City, MLGW, or any other required approvals in connection with the Eligible Improvements such Developer elects to construct.

b. Each Developer shall cause the construction of the Eligible Improvements that it elects to construct to be in accordance with good construction industry practice, in a workmanlike manner, and cause such improvements to be safe for the general public.

c. Each Developer shall cause the Eligible Improvements that it elects to construct to be constructed in accordance with the applicable plans, specifications, contracts, and applicable law. The Developer shall obtain the appropriate building permits prior to the commencement of any construction for Eligible Improvements. Developer shall provide the Board with copies of all plans submitted for building permits for Eligible Improvements.

d. Until a Tax Increment Financing Loan is in place, each Developer shall cause the Eligible Improvements it elects to construct to be inspected by the Construction Consultant (or by a Public Entity, if applicable) in connection with the submission of Payment Requests to the Board. Until a Tax Increment Financing Loan is in place, such Developer shall provide the Construction Consultant with reasonable access to all plans, specifications and contracts for the Eligible Improvements then under construction.

e. Each Developer shall pay (or cause to be paid) any Eligible Costs incurred for the Eligible Improvements it constructs to the extent such Eligible Costs exceed the amount of Tax Increment Loan proceeds or Tax Increment Revenues then on deposit in Project Tax Increment Financing Fund or otherwise then available, subject to Developer's right to be subsequently reimbursed therefor when adequate Tax Increment Revenues or Tax Increment Financing Loan proceeds are otherwise available. No Developer shall have any obligation to construct (or cause to be constructed) any Eligible Improvements to the extent that the cost thereof would exceed any available Tax Increment Revenues or proceeds of a Tax Increment Financing Loan.

f. Developer may cause some or all of its obligations under this Agreement to be performed by the Developer Representative, and the reasonable compensation and costs due to the Developer Representative shall be included in Transaction Costs and Eligible Costs.

g. Developer shall provide updates to the Board on the status of the Project as reasonably requested by the Board.

7. Board Obligations.

a. The Board shall create and maintain the Project Tax Increment Financing Fund during the term of the Tax Increment Financing, as set forth in the Resolution, to be kept separate and apart from all other funds of the Board, pursuant to the requirements of Tenn. Code Ann. § 7-53-312 and this Agreement. The Board shall deposit all Tax Increment Revenues into such Project Tax Increment Financing Fund and make disbursements therefrom to or at the direction of Developer in accordance with this Agreement.

b. The Board shall from time to time appoint a member of the Board staff, or other third-party representative designated by the Board from time to time, as the Board's authorized representative for all purposes under this Agreement or otherwise in connection with the Tax Increment Financing, subject to such periodic Board oversight as the Board may require.

c. The Board and the County Trustee will receive their respective portions of the Administrative Fee to compensate each for its administrative expenses in connection with administering the Tax Increment Incentive.

8. Future Pledges. The Board covenants and agrees not to pledge the Tax Increment Revenues (other than the Administrative Fee payable to the Board) to the payment of any indebtedness or to apply the Tax Increment Revenues (other than the Administrative Fee payable to the Board) for any purpose other than the payment of Eligible Costs in accordance with this Agreement.

9. Other Tax Increment Financing. The Board represents, warrants, and certifies to the City that the Board currently does not have outstanding any bonds, notes, or other obligations payable from or secured by Tax Increment Revenues derived from the Plan Area.

10. Waiver of Consequential Damages. In no event shall the parties have the right to recover any consequential, exemplary, incidental or punitive damages as a result of any breach or default under this Agreement.

11. Attorneys' Fees. In the event of any litigation brought by either party to enforce this Agreement, the prevailing party will be entitled to recover its attorney's fees and court costs from the other party, including pre-suit and appellate attorney's fees and costs.

12. Assignment. Except as otherwise set forth in Sections 13 and 14 below, the City may not assign or transfer this Agreement or any interest of the City hereunder without the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the City may, without the Board's consent (but with notice to the Board), (i) pledge or collaterally assign this Agreement or all or any portion of the City's rights under this Agreement as collateral for any Tax Increment Financing Loan(s) and (ii) freely assign this Agreement or all or any portion of the City's rights under this Agreement to Valleybrook and/or Scott's Creek. The Board may not assign or transfer this Agreement or any interest of the Board hereunder without the prior written consent of the City.

13. Partial Assignment to Developers. Subject to Section 14 below, the Board agrees that the City may partially assign its rights under this Agreement (including, without limitation, portions of the Tax Increment Revenues) and delegate its duties under this Agreement to Valleybrook, Scott's Creek and any other developers engaged by the City for the purpose of separately developing, financing, constructing, owning, or operating components of the Project (each, an "Additional Developer"). If the City intends to partially assign its rights under this

Agreement as set forth above, and such assignment will result in an Additional Developer incurring Eligible Costs, upon request from the City, the Board and the City will work with the Additional Developer in good faith to approve a development and financing agreement between the Board and the Additional Developer for the portion of the Eligible Costs for which the Additional Developer shall be responsible (an "Additional Development Agreement"), such Additional Development Agreement to be in a form and substance reasonably satisfactory to the Board and the Additional Developer. An Additional Development Agreement may provide for Tax Increment Financing Loan(s) that will be secured by the portion of the Tax Increment Revenues assigned to the Additional Developer under the Additional Development Agreement. The Board and the City acknowledge and agree that no default under an Additional Development Agreement will constitute a default under this Agreement, and a default under this Agreement will not constitute a default under any Additional Development Agreement.

14. Partial Assignment to Valleybrook and Scott's Creek. By execution of this Agreement, the City hereby assigns, transfers, and delegates (as applicable) the Valleybrook Interests to Valleybrook and the Scott's Creek Interests to Scott's Creek. The Board hereby consents to the foregoing assignments. As soon as Scott's Creek or Valleybrook (as applicable) has arranged a Tax Increment Financing Loan for its respective portion(s) of the Project, the Board and Scott's Creek or Valleybrook (as applicable) shall execute an Additional Development Agreement setting forth Scott's Creek's or Valleybrook's (as applicable) rights and obligations with respect to the Scott's Creek Interests or Valleybrook Interests (as applicable). Each of Valleybrook and Scott's Creek is a third-party beneficiary of this section and the other provisions of this Agreement related to the Property.

15. Successors and Assigns. Subject to Sections 12 through 14 above, inclusive, this Agreement shall inure to the benefit of and be binding upon the parties hereto and the permitted successors and assigns of the parties.

16. Notices. Any notice, request, demand, tender or other communication under this Agreement shall be in writing, and shall be deemed to have been duly given at the time and on the date when personally delivered, or upon the business day following delivery to a nationally recognized commercial courier for next day delivery, to the address for each party set forth below, or upon the third business day after being deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, or immediately when delivered via electronic mail sent during normal business hours, or immediately when delivered via electronic mail sent during normal business hours, in each case to the address for each party set forth below.

If to Developer to:

The City of Lakeland, Tennessee
c/o Michael Walker, City Manager
10001 Highway 70
Lakeland, Tennessee 38002

with a copy to (which shall not constitute notice):
Patterson Bray PLLC
8001 Centerview Parkway, Suite 103

Memphis, TN 38018
Attention: Will Patterson
E-mail: wpatterson@pattersonbray.com

If to the Board to:

The Industrial Development Board of the
City of Lakeland, Tennessee
c/o Michael Walker, President
10001 Highway 70
Lakeland, Tennessee 38002

with a copy to (which shall not constitute notice):
Bass Berry & Sims PLC
100 Peabody Place, Suite 1300
Memphis, TN 38103
Attention: Al Bright, Jr.
E-mail: al.bright@bassberry.com

Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such communication. By giving prior notice to all other parties, any party may designate a different address for receiving notices. Notwithstanding the foregoing, Payment Requests may be submitted to the Board via email at the email address above.

17. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee. Venue for any action arising out of this Agreement shall be exclusively in Shelby County, Tennessee.

18. Further Assurances**.** The parties hereby covenant and agree to perform such other acts and to execute, acknowledge, and deliver such additional documents as may be necessary to effect the provisions of this Agreement in its entirety.

19. Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Board and the City with respect to the Tax Increment Incentive. This Agreement contains the sole and entire agreement between the Board and the City with respect to the transactions contemplated by this Agreement.

20. Amendment. This Agreement may not be modified or amended in any respect except by written agreement executed by the parties to this Agreement in the same manner as this Agreement is executed.

21. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

22. Captions. All captions, headings and section and paragraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement. All references to particular sections, paragraphs or subparagraphs by number refer to the particular section, paragraph or subparagraph so numbered in this Agreement unless reference to another document or instrument is specifically made.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which constitutes an original and all of which together constitute one and the same Agreement. Delivery of executed copies of signature pages to and/or signatures to this Agreement transmitted by Electronic Transmission (as defined herein) shall have the same effect as physical delivery of the paper document bearing the original signature. As used in this Agreement, the term "Electronic Transmission" means and refers to any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication and that may be directly reproduced in paper form by such a recipient through an automated process.

24. Inspection Rights. Upon reasonable prior notice, the Board may inspect the Eligible Improvements to assure that the terms of this Development Agreement are being satisfied by a Developer.

25. Term. This Agreement shall be effective as of the date hereof and shall remain in effect until the earlier to occur of (i) the date that is six (6) months after the expiration of the final Allocation Period or (ii) completion of all Eligible Improvements and final payment of all Eligible Costs in connection therewith and, if applicable, final repayment of any outstanding Tax Increment Financing Loan(s).

26. No Government Limitation. This Agreement between the City and the Board shall not be construed to bind any other agency or instrumentality of federal, state, or local government in the enforcement of any regulation, code, or law under its jurisdiction.

27. Time of the Essence. Time shall be of the essence in the performance of the terms and conditions of this Agreement.

[Signatures to follow on next page]

IN WITNESS WHEREOF, the Board and the City have caused this Agreement to be duly executed as of the date first above written.

The Industrial Development Board of the City of Lakeland, Tennessee, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq*.

By:____
Name:______________________________________
Title:_______________________________________

ATTEST:

____
Secretary

The City of Lakeland, Tennessee, a municipal corporation organized under the laws of the State of Tennessee

By:____
Name:______________________________________
Title:_______________________________________

EXHIBIT A

Valleybrook Property Parcel ID Numbers

1. L0140 00299
2. L0150B C00001
3. L0150B C00002
4. L0150B C00003
5. L0150B C00004
6. L0150B C00005
7. L0150B C00006
8. L0150B C00007
9. L0150B C00008
10. L0150B C00009
11. L0150B C00010
12. L0150B C00011
13. L0150B C00012
14. L0150B C00013
15. L0150B C00014
16. L0150B C00015
17. L0150B C00016
18. L0150B C00017
19. L0150B C00018
20. L0150B C00019
21. L0150B C00020
22. L0150B C00021
23. L0150B C00022
24. L0150B C00023
25. L0150B C00024
26. L0150B C00025
27. L0150B C00026
28. L0150B C00027
29. L0150B C00028
30. L0150B C00029
31. L0150B C00030
32. L0150B C00031
33. L0150B C00032
34. L0150B C00033
35. L0150B C00034

Scott's Creek Property Parcel ID Numbers

1. L0150 00541
2. L0150 00286
3. L0150 00542

<u>EXHIBIT B</u>

Economic Impact Plan

[See attached]

EXHIBIT C
Planned Improvements

The following improvements in the Plan Area and Development Area:

a) Clearing, excavation, and erosion control
b) Existing infrastructure demo and construction or reconstruction of public infrastructure
c) Storm water drainage, detention ponds, and flood control
d) Water system infrastructure
e) Water features
f) Public sewer infrastructure and improvements
g) Electrical system
h) Utility relocation, installation, replacement and placement
i) Natural gas
j) Public roadways, curbs, grates, gutters, medians, speed bumps and traffic calming devices, including (without limitation) construction of Seed Tick Road north of Highway 70, roundabout intersections on Highway 70, and improvements to Old Brownsville Road
k) Pedestrian crosswalks, sidewalks and pedestrian safety features
l) Bike lanes and bike racks
m) Landscaping, irrigation, fencing, and street furnishings
n) Traffic signals, street signs, wayfinding, district branding signs and transit stops
o) Street lights and other safety lighting
p) Street signs
q) Street trees and site preparation
r) Public parking lots
s) Public park area amenities
t) Walking and running trails
u) Pedestrian bridge to connect walking trails to the adjacent middle school and high school
v) Public common areas
w) Acquisition of land for public right of ways
x) Security enhancements
y) Clearing, grading, excavating, retaining walls and site work
z) Pollution prevention for Scott's Creek
aa) Permits, legal, insurance, consulting, construction management fees and architectural, civil engineering, traffic engineering, landscape architecture consulting fees for specific planning, design and construction services reasonably required to accomplish any of the foregoing.

As used above, "public infrastructure" has the meaning given to such term in Tenn. Code Ann. § 9-23-102.

<u>EXHIBIT D</u>

Transaction Costs

1. All attorney's fees and expenses incurred by the Board and each Developer related to the negotiation and delivery of the Development Agreement, the Economic Impact Plan, any Additional Development Agreement, or any Tax Increment Financing Loan.

2. Subject to the limit on the Administrative Fee set forth in the Development Agreement, all other attorney's fees and expenses incurred by the Board and related to the Tax Increment Incentive.

3. Subject to the limit on the Administrative Fee set forth in the Development Agreement, all fees and expenses incurred by the Board associated with providing information required by the City and the County to identify and transfer the Tax Increment Revenues.

4. All out-of-pocket fees and expenses for attorneys, accountants, appraisers, surveyors, environmental consultants, engineers, and other professional advisors incurred by Developer in connection with the Tax Increment Incentive and the negotiation and execution of this Agreement.

EXHIBIT E

Form of Payment Request

PAYMENT REQUEST

To: The Industrial Development Board of the City of Lakeland, Tennessee
c/o President
10001 Highway 70
Lakeland, Tennessee 38002

Re: Development [and Financing] Agreement dated ______________, 2024, between ____________________________ ("Developer"), and The Industrial Development Board of the City of Lakeland, Tennessee, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq*. (the "Board")

Pursuant to Section [4] of the Development Agreement, please disburse the sum of $_____________ from the Project Tax Increment Fund. In connection with such disbursement, the undersigned hereby certifies as follows:

(a) All amounts disbursed will be applied to the payment of or the reimbursement to Developer for Eligible Costs (including, without limitation, Transaction Costs), and the Eligible Improvements to which such Eligible Costs relate (if applicable) have been completed in material compliance with the plans and specifications previously provided to the Board or its Construction Consultant, to the extent applicable under the Development Agreement. The Construction Consultant has inspected and approved the Eligible Improvements, to the extent its approval is required under the Development Agreement.

(b) With the delivery of this Payment Request, all requirements for this disbursement under Section [4] of the Development Agreement have been satisfied.

(c) Developer or the Developer Representative has entered into all development agreements with the City of Lakeland or an agency thereof necessary for the construction of the Eligible Improvements to which this Payment Request relates. As of the date of this Payment Request, there are no defaults on the part of Developer or the Developer Representative under any such development agreements.

Please disburse all such amounts to the parties in the manner described on Exhibit A attached hereto.

All capitalized terms used herein and not otherwise defined have the respective meanings given to such terms in the Development Agreement.

Dated as of ______________, 202__.

Signatures on the following page.

DEVELOPER:

____

By:_____________________________________
Name:___________________________________
Title:___________________________________

Payment Request reviewed and reimbursement of Eligible Cost recommended if required under Development Agreement:

[CONSTRUCTION CONSULTANT]

By:_______________________________
Title:_____________________________
Date: _____________________________

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